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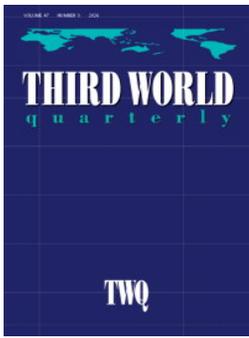
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Ecological labour law, just transition and extractivist constitutionalism: Argentina in light of Inter-American jurisprudence

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ABSTRACT

This article examines the prospects and limits of developing an ecological labour law within Argentina's extractivist constitutional order. Argentina constitutes a paradigmatic case of structural contradiction, where a robust tradition of social constitutionalism coexists with a political economy deeply dependent on large-scale resource extraction. The article argues that, notwithstanding the 1994 constitutional recognition of environmental rights, the Argentine legal framework has largely facilitated extractivist policies. Judicial interventions by the Supreme Court to curb environmental harm, while normatively significant, remain exceptional and have not displaced the prevailing productivist logic underpinning labour regulation and development policy. Against this backdrop, the article explores whether an ecological reconceptualisation of labour law is conceivable within existing legal constraints. It situates just transition, approached from a workers' rights perspective, as a pivotal yet under-theorised component of ecological labour law, particularly in contexts marked by informality. The analysis then turns to the recent jurisprudence of the Inter-American Court of Human Rights, with particular emphasis on Advisory Opinion OC-32/25. Although still fragmented, it opens a normative space for integrating labour rights, climate protection and just transition within the Inter-American framework and the Argentine legal order, offering pathways for rethinking labour law beyond its traditional productivist foundations.

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Introduction: ecological labour law in an extractivist constitutional order

Argentina exemplifies the structural contradictions confronting resource-rich economies in the Global South. Endowed with vast agricultural land, hydrocarbons, minerals and, more recently valued, lithium reserves pivotal to the global energy transition, the country has long relied on extractivist development strategies to generate economic growth, foreign exchange and employment. Yet these strategies have consistently produced profound socio-environmental harms: ecosystem degradation, territorial dispossession, water scarcity and labour regimes characterised by informality and precarity. The contemporary turn towards

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'green' extractivism – most visibly through lithium mining framed as central to decarbonisation – has not displaced these dynamics but has reconfigured them, reproducing patterns of inequality under new ecological discourses.

This article takes Argentina as a critical case study to interrogate a broader legal and political dilemma: whether ecological labour law is conceivable within a constitutional and economic order structurally orientated towards extractivism. The central research question is whether, and to what extent, labour law can be reconceptualised ecologically in a system where both nature and work have historically been subordinated to accumulation imperatives. Addressing this question requires attention to Argentina's 'dual constitutional dimension'. On one level, the national constitution, despite incorporating social and environmental rights, has largely functioned as an enabler of extractivist policies by successive governments. On another level, the 1994 constitutional reform, which incorporated the American Convention on Human Rights (American Convention) as a constitutional instrument, embedded Argentina within the Inter-American Human Rights System (IASHR), establishing a framework in which environmental and labour rights are directly justiciable. This duality produces both constraints and openings for rethinking labour law along ecological lines.

Methodologically, the article adopts a critical legal approach, engaging with recent scholarship that interrogates the productivist foundations of labour law and its uneasy accommodation with environmental protection. By critically dialoguing with this literature, the analysis examines how labour law might actively contribute to eco-social transformative strategies rather than functioning merely as a mechanism to mitigate the social costs of environmental policies. The study situates Argentina's legal order as illustrative of a persistent contradiction: a robust social constitutionalism, which recognises workers as subjects of preferential protection and enshrines environmental and social rights, coexists with an economic and legal framework structurally dependent on extractivist, growth-orientated development. Simultaneously, the article engages with the jurisprudence of the Inter-American Court of Human Rights (IACtHR), the judicial organ of the IASHR, which has progressively articulated a more eco-centric approach to environmental and labour rights. In particular, through Advisory Opinion OC-32/25 on *Climate Emergency and Human Rights* (adopted on 29 May 2025 and published on 3 July 2025), the IACtHR has introduced the notion of just transition, albeit in a tentative and piecemeal manner (IACtHR 2025). This jurisprudence both reveals and circumscribes the normative possibilities for reconfiguring labour law along ecologically and socially sustainable lines. Taken together, this dual focus enables a critical examination of the labour-environment nexus within an extractivist political economy, with particular attention to structural inequalities and informality in a Global South context.

The analysis also foregrounds *just transition* as an essential yet under-theorised component of ecological labour law. Environmental and climate debates often marginalise workers' rights, treating employment as collateral damage or as a bargaining chip in the transition to net-zero economies. This article instead situates just transition as a constitutive principle of ecological labour law, ensuring that ecological restructuring does not reproduce patterns of social exclusion or labour precarity.

The article proceeds in several steps. Following this introduction, it outlines the emerging doctrine of ecological labour law, identifying its core elements and normative ambitions, including the recognition that labour law must actively shape development strategies while respecting planetary boundaries. It then examines the Argentine legal order as structurally conducive to extractivism, highlighting constitutional provisions, ordinary legislation and

extractive policies since the 1970s, while situating these within the broader framework of social constitutionalism that privileges workers as subjects of constitutional protection. This dual perspective illuminates the tensions between rights-based social constitutionalism and development models that externalise ecological harm. The analysis then turns to the jurisprudence of the IACtHR, focusing particularly on OC-32/25, which explicitly frames the climate crisis as a human rights emergency. This Opinion recognises the right to a healthy climate and opens a normative space for embedding workers' rights and just transition as integral to ecological restructuring. In doing so, it situates labour protections and the governance of ecological transformation within a legally enforceable human rights architecture.

Ecological labour law: disrupting productivist foundations

Labour law and nature: the historical construction of an extractive blind spot

Labour law has historically been constructed as a regulatory response to the social disruptions generated by industrial capitalism. Its core concern has been the asymmetrical relationship between labour and capital, crystallised in the wage-work bargain that exchanges remuneration for subordination. Within this paradigm, labour law has developed a sophisticated normative architecture to protect workers against exploitation, insecurity and inequality. Yet this protective framework has been built upon a narrow ontological foundation: the regulation of human labour conceived in isolation from the ecological systems that sustain production and social reproduction. Although nature is indispensable to all forms of work, it has been systematically marginalised within labour law's conceptual architecture and excluded from its normative horizon. As Zbyszewska (2018) has persuasively argued, this separation of labour and ecology can be traced to the rise of laissez-faire capitalism and the dual commodification of labour and land. While both were rendered market objects, they were simultaneously disentangled, producing a legal imaginary in which labour law came to regulate labour power as a social relation, while land and nature were governed through property and environmental law.

This conceptual exclusion is reproduced in labour law scholarship and policy, where analytical priority is consistently afforded to the employment relationship and the exchange of wages for work performed under conditions of subordination. As Tham (2024) notes, the wage-work bargain leaves no conceptual space for nature; environmental conditions are treated as external constraints or collateral considerations rather than as constitutive elements of work itself. The result is a legal framework that implicitly accepts a hierarchical relationship between humanity and nature. Labour law, understood in this way, has not merely failed to address ecological degradation; it has actively contributed to it by anchoring worker welfare to continuous economic growth and increasing productivity (Tham 2024).

This productivist orientation has profound consequences. As Rätzel, Stevis, and Uzzell (2021) have shown, if workers conceptualise nature as 'labour's other', environmental protection is easily framed as antagonistic to job security. This framing reinforces the dichotomy between jobs and the environment, legitimising extractivist development strategies that promise employment while externalising ecological costs. In this sense, labour law's silence on nature is not neutral: it shapes the political economy of work by rendering ecological destruction legally invisible.

More broadly, labour law forms part of what Dermine and Dumont (2022) describe as the legal infrastructure of the productivist model. Alongside social security law, it is embedded in an ideology of economic growth that treats production expansion as both inevitable and desirable. Within this framework, labour law's protective function is contingent upon growth, and its distributive aspirations are subordinated to the imperatives of competitiveness and accumulation. The ecological crisis thus exposes a fundamental limitation of traditional labour law: a regulatory system designed to humanise industrial capitalism is ill equipped to confront the socio-ecological contradictions of the Anthropocene.

Ecological labour law and the redefinition of work and protection

A growing body of scholarship (Barca 2024; Carelli 2024; Routh 2018; Saave and Muraca 2021; Zbyszewska 2018; Zbyszewska and Maximo 2023; Zekić 2024) calls for a rethinking of labour and labour law's epistemological foundations and normative purposes. This article aligns with those contributions that advocate the development of an 'ecological' labour law. Carelli's (2024) proposal provides a useful point of departure. He argues for a purposive reorientation of labour law that balances its traditional social goals, reducing inequality and guaranteeing human dignity, with ecological imperatives aimed at preventing planetary collapse. These objectives are not mutually exclusive but deeply interconnected. Ecological crises cannot be addressed without confronting the social relations that produce them. For the purposes of this article, *ecological labour law* is understood as a normative and institutional framework that reorientates labour law towards the protection of both social justice and ecological sustainability. It departs from a purely productivist regulation of the employment relationship by situating work within socio-ecological systems and planetary boundaries.

Secondly, ecological labour law would entail a *material redefinition of work*, whereby legal protection is orientated towards activities that contribute to social reproduction and ecological viability rather than to environmentally destructive accumulation. Activities that are socially meaningless or environmentally destructive cannot claim the same normative protection as those that sustain human and non-human life. By expanding the analytical lens from paid employment to work more broadly, including reproductive and care activities, ecological labour law exposes forms of exploitation that traditional labour law has long ignored. As Saave and Muraca (2021) argue, recognising work as embedded in socio-ecological relations allows for a more comprehensive critique of both economic and environmental injustice. This is not to deny the social costs of transitioning away from harmful industries, but to insist that labour law must engage with the purposes of work, not merely its conditions.

A third defining feature of ecological labour law is the expansion of its personal scope. Traditional labour law, shaped by the standard employment relationship of the Global North, excludes vast categories of workers who are central to extractive economies, particularly in Latin America. Informal workers, subcontracted workers, Indigenous livelihoods and those engaged in reproductive and care labour remain marginal to labour law's protective reach. Such an expansion has significant epistemological implications. As McHugh-Russell (2019) notes, informality 'sits uneasily in law' because it disrupts the conceptual boundaries upon which labour regulation is built. Yet informality is not a residual category; it is a structural feature of contemporary capitalism, particularly in the Global South. Inclusive labour law approaches, such as those examined by Gomes, Verma and Guimares (2023), demonstrate

that extending protection to informal workers is both normatively necessary and practically feasible. Furthermore, this approach also resonates with ecofeminist and environmental labour studies, which conceptualise work as a central mediator of socio-ecological metabolisms. Barca's (2019) analysis highlights how work is gendered and racialised, structuring power relations not only between labour and capital but also within households and communities, and between humans and nature. For ecological labour law, this inclusivity is indispensable: without it, the costs of ecological transition will be disproportionately borne by those already excluded from legal protection.

Ecological labour law, (de)growth and the centrality of just transition

A central tension confronting ecological labour law concerns its relationship with economic growth. Historically, labour law has been deeply embedded in growth-orientated development models, relying on expanding production to deliver employment, wages and social protection. This structural coupling presents a profound challenge for ecological objectives, as continuous economic growth is increasingly recognised as incompatible with planetary boundaries and ecological limits. Against this backdrop, labour law has been identified as a potential driver of a sustainable development agenda (Novitz 2025). Others, however, argue that sustainable development remains insufficiently transformative. From this perspective, degrowth is framed not only as an ecological necessity, but also as a 'unique opportunity for a liberation from alienation and oppression and a path towards a better life for all beyond the diktat of productivism that structures the wage labour system and precludes alternative imaginaries' (Saave and Muraca 2021, 747).

Within this debate, ecological labour law is increasingly understood as having a role in supporting a transformative reconfiguration of the relationship between labour and nature. Some scholars maintain that such transformation is only achievable within post-growth or degrowth strategies (Carelli 2024; Zekić 2024). Policy proposals associated with degrowth, including reductions in working time, redistribution of work and the expansion of public goods, resonate with long-standing labour law objectives. Yet from a labour perspective, degrowth also raises concerns. The contraction or closure of ecologically destructive industries will inevitably generate job losses, particularly in extractive and carbon-intensive sectors. While degrowth scholarship acknowledges these distributive risks, concrete legal and political strategies for governing such transitions remain comparatively underdeveloped (Zekić 2024).

These difficulties are further compounded by entrenched global inequalities and the international division of labour. A persistent question concerns how countries in the Global South can expand production and consumption to meet basic social needs while the Global North pursues deliberate degrowth strategies. Structurally positioned as suppliers of raw materials, energy and increasingly 'green' inputs such as lithium, copper and rare earths, many Global South economies remain locked into extractivist roles within global value chains. This article does not deny that the so-called 'jobs versus environment' dilemma is often discursively constructed by corporate and state actors to position employment and environmental protection as mutually exclusive goals (Satheesh 2025). Nevertheless, a rapid contraction or restructuring of extractive industries, whether 'brown' or 'green', would carry profound social risks for workers and communities whose livelihoods depend on these activities. In this context, a post-growth labour law pursued in isolation

offers limited answers to the immediate challenges of employment insecurity, social reproduction and resource scarcity faced by the Global South. This highlights the need for transition frameworks that explicitly address global asymmetries and labour vulnerability.

It is precisely at this juncture that just transition becomes indispensable. This article shares the view that *just transition* should form part of a broader transformative ecosocial strategy attentive to both the ecological fabric of the planet and the social fabric of societies, an ambition that traditional approaches to sustainable development often leave implicit. Such a strategy entails addressing inequality, strengthening welfare systems that guarantee access to health, education and care and, crucially for the purpose of this article, ensuring decent work for all (Räthzel and Stevis 2025). The article advances a cautious but firmly normative claim: any ecological labour law capable of functioning as a constitutive element of an eco-social transformation, whether within a growth, post-growth or degrowth framework, must be anchored in just transition as a constitutive principle. Just transition is not merely a complementary policy tool, but a foundational legal mechanism for ensuring the protection of workers' rights amid ecological restructuring.

At its core, just transition begins from the recognition that ecological transformation generates social costs and insists that these costs must not be externalised onto workers and their communities. It rejects both the deferral of ecological imperatives in the name of job preservation and the sacrifice of workers in pursuit of aggregate environmental welfare. Instead, just transition seeks to reconcile ecological necessity with social justice through a rights-based legal framework governing transitions away from extractivist and carbon-intensive development models in a socially legitimate and politically sustainable manner. In doing so, it directly challenges the entrenched jobs-versus-environment dichotomy that has long constrained both labour and environmental regulation.

A labour-centred conception of just transition foregrounds both distributive and procedural justice and, as this article argues, must also be understood through the language of rights. As per the former, just transition requires robust legal mechanisms to protect livelihoods, redistribute wealth, and secure alternative forms of income and welfare as carbon-intensive activities are phased out (Barca 2024). The protection of the right to work and job stability is not a residual concern, but a core element of any credible just transition framework (Canalda Criado 2022). Procedurally, just transition demands that workers and affected communities enjoy meaningful participation in decision-making processes shaping the conditions of transition. This includes collective bargaining, social dialogue, and, where necessary, the effective exercise of collective action (Doorey and Eisenberg 2022). Absent such guarantees, transition policies risk reproducing existing power asymmetries and legitimising new forms of socio-environmental exclusion.

As shown in [Figure 1](#), from a regulatory standpoint, just transition has gained increasing recognition in international legal and policy instruments. The Preamble to the 2015 Paris Agreement and the Solidarity and Just Transition Silesia Declaration adopted at the Conference of the Parties (COP) 24 in 2018 affirm that a just transition of the workforce and the creation of decent and quality jobs are integral to achieving low-emission and climate-resilient development, as well as to securing public support for climate action (UNFCCC 2018, 2015). Similarly, the International Labour Organization (ILO)'s Centenary Declaration for the Future of Work (2019) mandates the promotion of a just transition as part of sustainable development in its economic, social and environmental dimensions.

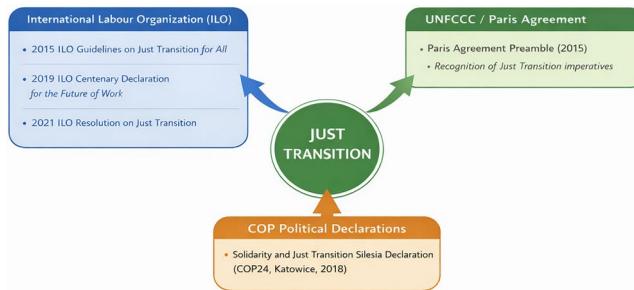


Figure 1. Key international legal instruments and normative documents on just transition. ILO: International Labour Organization; UNFCCC: United Nations Framework Convention on Climate Change; COP: Conference of the Parties.

Source: Author's elaboration.

While these instruments signal an important shift in international discourse, the most comprehensive and operational framework remains the ILO's *Guidelines for a Just Transition towards Environmentally Sustainable Economies and Societies for All* (ILO 2015). Although formally classified as soft law, the Guidelines articulate a dense normative architecture central to the development of ecological labour law. They reject a 'one size fits all' approach and instead emphasise context-sensitive strategies grounded in fundamental principles and rights at work, gender equity, social dialogue, decent work, environmental sustainability and international cooperation. The 2023 ILO Resolution on Just Transition further reinforces this orientation, insisting that climate action must be firmly rooted in workers' rights, decent work and social justice (ILO 2023). Recent initiatives, such as the emerging COP30 Just Transition Work Programme, echo this labour-centred approach, albeit with uneven legal precision and normative coherence.

In this sense, just transition functions as the critical bridge between the protection of present workers' rights and the pursuit of future socio-ecological transformation. It does not eliminate the tensions inherent in moving towards post-growth or post-carbon societies, particularly in contexts marked by deep structural inequalities. However, it provides a normative compass for navigating these tensions through law. For ecological labour law, just transition is not an optional policy add-on, but the mechanism through which ecological ambition is translated into socially legitimate, rights-based, and legally defensible governance. Without it, ecological labour law risks reproducing the very injustices that it seeks to overcome.

Extractivist constitutionalism in Argentina: law as an enabler of the Anthropocene

The legal architecture of extraction

As Merino (2022) argues, extractive constitutionalism sustains a mutually reinforcing relationship between the state and extractive capital: governments depend on extractive rents for fiscal stability and macroeconomic management, while corporations rely on legal certainty, investor protections, and permissive regulatory frameworks. This structural interdependence has persisted across neoliberal, post-neoliberal and contemporary administrations, insulating extractivism from meaningful constitutional disruption.

Extractivist development in Argentina is neither accidental nor merely policy-driven; it is underpinned by a dense legal and constitutional architecture that has historically enabled large-scale resource exploitation while conferring institutional legitimacy upon it. The foundations of this framework can be traced to Argentina's constitutional origins. The 1853/1860 constitution, deeply influenced by the liberal thought of Alberdi, institutionalised a development model centred on private property, free enterprise and export-led growth (Gargarella 2010). Subsequent constitutional reforms have not fundamentally unsettled this paradigm. While the 1957 reform incorporated social rights, and the 1994 reform introduced environmental constitutionalism through Article 41, the core liberal structure of the constitution remained intact. Article 14 continues to safeguard property rights and economic freedoms, and no structural reconfiguration of the economic model has occurred.

Article 41 recognises the right to a healthy and balanced environment, imposes duties upon authorities to ensure the rational use of natural resources and embraces the language of sustainable development. However, its anthropocentric orientation leaves ample interpretive space for governments to pursue resource-intensive growth strategies. As Pescader (2019) observes, the constitutionalisation of environmental rights does not, in itself, secure their effective enforcement when they collide with dominant development paradigms. This tension is exacerbated by Article 124 of the constitution, which grants provinces *original ownership* (*dominio originario*) over natural resources. While the federal state retains competence to establish minimum environmental standards, provinces exercise control over concessions and regulatory enforcement. In practice, this allocation has produced regulatory fragmentation and competitive deregulation, as provinces, often constrained by fiscal dependence and political pressure, prioritise extractive investment over environmental protection (Cáceres, Ferro and Forcinito 2024).

The General Environmental Act (Ley 25.675) of 2002 sought to operationalise Article 41 by introducing minimum environmental standards, environmental impact assessments and participatory mechanisms. Nevertheless, these instruments have not prevented the expansion of open-pit mining, intensive agribusiness or unconventional hydrocarbons. The 1994 reform unfolded within a global neoliberal context that reinforced Argentina's insertion into the world economy as a primary commodity exporter. International financial institutions further promoted legal and institutional reforms aimed at attracting foreign direct investment, including tax exemptions, currency incentives and diluted environmental obligations (Lander 2022).

Against this structurally permissive framework, the Argentine Supreme Court has only intermittently articulated judicial limits to environmental harm. In *Mendoza v. National State* (Argentine Supreme Court of Justice 2008), concerning the severely polluted Matanza-Riachuelo basin, the Court ordered comprehensive remediation measures, inter-jurisdictional coordination and public health interventions, holding federal, provincial and municipal authorities jointly responsible. This ruling constituted an exceptional judicial response to ecological harms, primarily aimed at correcting prolonged state inaction rather than reconfiguring the underlying development model. Its apparent radicality was relatively swiftly tempered in *Salas* (Argentine Supreme Court of Justice 2009), where the Court rejected a rigid opposition between environmental protection and development, affirming their complementarity instead and grounding its reasoning in intergenerational justice. As Saulino (2019) notes, this balancing approach sought to reconcile environmental protection with continued economic activity, thereby preserving developmental continuity. More

tentatively, in *Provincia de La Pampa v. Provincia de Mendoza* (Argentine Supreme Court of Justice 2017), the Court referred to the eco-centric character of water regulation, albeit in obiter dicta, signalling an incipient shift in environmental reasoning without elevating it to a binding doctrinal standard.

A more recent development can be found in the *Delta del Paraná* case (2025), in which the Court ordered the national state, several provinces and local authorities to effectively implement the long-neglected interjurisdictional environmental plan. This decision reflects a stronger willingness to enforce environmental planning obligations and intergovernmental coordination. Nevertheless, taken together, these rulings remain isolated judicial interventions rather than evidence of a coherent or systemic reorientation of Argentine constitutional law towards an eco-centric paradigm.

In sum, Argentina's constitutional and legal framework, despite incorporating progressive environmental language and episodic judicial interventions, continues to facilitate extractivism. The persistence of anthropocenic governance is the result not of normative absence, but of a legal architecture that accommodates environmental protection only insofar as it does not disrupt resource exploitation. As Pescader (2019) aptly concludes, the 1994 reform could have rearticulated nature as *patrimonio* to be preserved for future generations, but instead consolidated its treatment as a commodity subject to regulated exploitation; a framework within which governments retain wide latitude to pursue extractivist policies, as explored in the following subsection.

From commodities to decarbonisation: extractivist policies across political cycles

Since the 1970s, development strategies across political regimes have been anchored in the extraction and export of natural resources. Agribusiness, hydrocarbons, large-scale mining and, more recently, lithium have constituted the backbone of economic policy. This reliance intensified during the Commodities Consensus of the early 2000s, when high global commodity prices enabled progressive governments to finance redistributive policies without challenging export-led growth (Svampa 2019; Veltmeyer and Ezquerro-Cañete 2023). The Kirchner administrations (2003–2015) epitomise these contradictions. While advancing a discourse of social inclusion and national sovereignty, they simultaneously consolidated extractivism as a structural pillar of macroeconomic stability.

The expansion of *Vaca Muerta* – a geological formation in Argentina's Neuquén Basin, holding some of the world's largest unconventional oil and shale gas deposits – in the 2010s and today illustrates this dynamic. Framed as essential for energy self-sufficiency and fiscal sustainability, the project relied on hydraulic fracturing techniques associated with significant environmental and social risks (Cantamutto 2020). In parallel, the promotion of soy monocultures reinforced land concentration, intensified pesticide use and marginalised small-scale producers (Toledo López 2017). In both cases, environmental safeguards and labour protections were subordinated to investment imperatives and geopolitical considerations, while labour precarity persisted.

Under President Javier Milei, extractivism has been further radicalised. The *Ley de Bases* adopted in 2024, ostensibly designed to enhance Argentina's attractiveness to foreign capital and to reorientate the domestic economy towards a markedly pro-business stance, introduced an expansive investment promotion regime – the *Régimen de Incentivo para Grandes Inversiones* (RIGI). This framework grants far-reaching fiscal, regulatory and judicial privileges

to large-scale investors, thereby substantially weakening democratic control and environmental safeguards. Crucially, this project is underpinned by an explicit denial of the ecological crisis and a conception of nature reduced to a mere commodified asset (Cáceres, Ferro and Forcinito 2024).

Finally, the global turn towards decarbonisation has reconfigured, rather than displaced, extractivism. In Argentina, lithium extraction has emerged as a new extractive frontier legitimised by the discourse of the energy transition. Far from constituting a rupture, this form of 'green extractivism' reproduces the socio-environmental harms of earlier cycles: territorial dispossession, the erosion of Indigenous rights and acute ecological degradation. Most notably, lithium brine extraction has generated severe water stress due to its intensive reliance on groundwater, threatening fragile ecosystems and the livelihoods of Indigenous communities in arid regions (Díaz Paz et al. 2025).

From a legal standpoint, the 2023 constitutional reform in Jujuy – home to some of Argentina's largest lithium reserves – marked a significant escalation of this trajectory. By weakening preventive environmental safeguards and circumventing meaningful participation by Indigenous communities, trade unions and environmental organisations, the reform lowered legal barriers to extractive expansion and facilitated the eviction of communities from untitled public lands (Fernández Almeida 2025).

Decarbonisation discourse has thus become a new legitimising frame for extractivism, reproducing environmental degradation and territorial dispossession under the banner of sustainability. As Dorn, Hafner, and Plank (2022) argue, this climate change/decarbonisation consensus constructs normative justifications for intensified resource extraction while displacing its social and ecological costs onto marginalised communities. 'Green extractivism' risks deepening dependency and reinforcing sacrifice zones rather than enabling just transitions (Bringel and Svampa 2024).

Argentina's constitutional order through an ecological labour law lens

Workers' rights and the 'productivist' constitutional approach

Argentina's constitutional history reveals a persistent ambivalence in the legal construction of labour. On the one hand, workers have been recognised as subjects deserving heightened constitutional protection, most notably through the social constitutionalism of the 1949 constitution and the subsequent incorporation of labour rights in the 1957 and 1994 constitutional reforms. On the other hand, successive waves of labour law reform, particularly under neoliberal governments in the 1970s and 1990s and under the current administration, have reconfigured labour as an economic cost to be reduced in the pursuit of competitiveness, investment and development (Lobato 2024). From the perspective of ecological labour law, however, these seemingly antagonistic approaches share a deeper and more consequential limitation. Both are grounded in a conception of labour that is confined to a bilateral relationship between labour and capital, thereby systematically excluding nature from the constitutional grammar of work and foreclosing a socio-ecological understanding of labour relations.

The emergence of social constitutionalism in mid-twentieth-century Argentina marked a decisive shift in the juridical status of labour, elevating it from an object of ordinary legal protection to a constitutionally central category. The 1949 constitution enshrined an

expansive catalogue of social rights, including dignified work, fair remuneration, social security, housing and health, and explicitly subordinated economic organisation to the pursuit of social justice (Herrera 2014). Article 40 articulated a robust conception of national sovereignty over strategic resources and placed economic activity at the service of the common good. In this framework, labour was no longer conceived as a mere factor of production, but as a foundational pillar of political, social and economic organisation. This constitutional moment, however, proved short-lived. The 1955 military coup dismantled the social constitutional project, repealing the 1949 constitution and restoring the liberal architecture of the 1853 text through the 1957 reform. While the inclusion of Article 14 bis preserved a core set of individual and collective labour rights, such as job stability, collective bargaining, and the right to strike, it did so within a markedly narrower normative horizon. Article 14 bis retained a protective logic, but severed it from the broader political economy of social justice that had characterised the 1949 constitution. Nevertheless, it became the constitutional bedrock of Argentina's labour law system, underpinning the relatively robust protections later consolidated in the 1974 Employment Contract Act (*Ley de Contrato de Trabajo*).

The 1994 constitutional reform partially revitalised labour's constitutional standing by incorporating international human rights treaties with constitutional hierarchy under Article 75(22), including the International Covenant on Economic, Social and Cultural Rights and the American Convention, amongst other human rights instruments. This opened the door for a more expansive interpretation of labour rights, most notably through the Argentine Supreme Court's recognition of workers as *sujetos de preferente tutela constitucional*. In *Aquino v. Cargo Servicios Industriales S.A.* (Argentine Supreme Court of Justice 2004), the Court affirmed that the structural asymmetry inherent in capitalist labour relations justified heightened constitutional protection for workers. During the so-called *primavera laboral* (2004–2015), relying on international human rights standards, the Court considered unconstitutional several neoliberal labour reforms adopted during the 1990s Menem administration (Maza 2021).

Even at its most progressive, Argentine labour law – whether legislative or jurisprudential – has largely confined itself to the protection of infringed workers' rights within a development paradigm orientated towards economic growth and full employment. Its interventions have been predominantly defensive, aimed at mitigating the most egregious effects of market deregulation rather than interrogating the ecological and material conditions under which work is organised. Workers' rights may have been elevated to a constitutionally protected interest, but nature remained largely invisible within the legal grammar of work. From the perspective of ecological labour law, this omission is not accidental. It reflects a deeper epistemological separation between labour and nature that circumscribes the constitution's capacity to respond meaningfully to the ecological crisis and to the socio-environmental contradictions of extractivist development.

This limitation becomes even more pronounced when labour is explicitly reframed as a cost to be minimised. From the 1970s onwards, workers' rights were increasingly interpreted through an economic lens that subordinated rights to macroeconomic imperatives and market rationality (Cook 2007). The transformative aspirations of social constitutionalism were thus progressively hollowed out. Since the mid-1970s, successive governments – the 1976–1983 civic–military dictatorship, the Menem administration in the 1990s, and more recently the Milei government – have advanced deconstructive labour reforms justified by fiscal discipline, investor confidence and the demands of extractive competitiveness.

Influenced in significant measure by international financial institutions, labour protections were recast as regulatory rigidities incompatible with growth (Recalde 2014; Reinsberg et al. 2019). While the dictatorship dismantled collective bargaining and repressed union activity through authoritarian governance without formally suspending the constitution, the Menem era consolidated this trajectory via privatisation, deregulation and labour flexibilisation, particularly within extractive sectors. In both cases, labour was further abstracted from its ecological conditions, reinforcing a constitutional and legal architecture in which work is severed from nature and subordinated to accumulation.

Under the Milei administration, this economic logic has been further radicalised. Emergency Decree 70/2023 and the *Ley de Bases* have dismantled, and seek to deepen, a deconstructive approach to labour law by weakening core labour protections, such as unfair dismissal compensations and the expansion of legal self-employment, eroding collective bargaining structures, and restricting the right to strike, all while subordinating constitutional guarantees to executive discretion under the rhetoric of economic emergency (Ackerman 2024). Although trade unions and labour organisations have succeeded in obtaining partial judicial injunctions against some measures, the broader deregulatory agenda illustrates the fragility of labour rights when they are framed as impediments to investment and competitiveness. This dynamic is likely to intensify further with the labour reform bill introduced by the Milei administration in December 2025, which proposes a far-reaching restructuring of employment relations in the name of productivity and market efficiency, without any meaningful engagement with climate obligations or ecological limits.

Crucially, whether labour is framed as a constitutionally protected subject or reduced to a cost of production, the underlying constitutional relationship remains predominantly anthropocentric. Even the 1994 constitutional reform, which formally recognised the right to a healthy environment in Article 41, has not altered the foundational separation between labour and nature. Environmental protection operates as a parallel normative track, imposing external constraints on economic activity, rather than reshaping the legal conception of work itself. In the domain of industrial and employment relations, nature continues to be treated as an object of exploitation or regulation, not as a constitutive element of productive activity. This shared blind spot helps to explain why Argentine constitutionalism has struggled to meaningfully constrain extractivism: labour rights are either defended or dismantled within a productivist paradigm that leaves the ecological foundations of production – and the climate crisis itself – largely untouched.

Extractivist development, precarious work and socio-environmental exclusion

This constitutional limitation is starkly illustrated in Argentina's contemporary extractivist development strategy, particularly in relation to Vaca Muerta and lithium extraction. These projects are routinely justified as engines of employment, energy sovereignty and fiscal stability. Yet from an ecological labour law perspective, they reveal how extractivism simultaneously undermines workers' rights, degrades ecosystems and marginalises local and Indigenous communities.

The hydrocarbon boom associated with Vaca Muerta has indeed generated employment. In Neuquén, oil and gas sector employment more than doubled, from an estimated 33,500 workers in 2004 to over 71,000 by 2024, based on indicative figures drawn from specialised press sources and trade union data (Argentina 2025; Gestión Sindical 2025). However, this

quantitative expansion has been accompanied by a qualitative deterioration of working conditions. The 2017 *Acuerdo para la mejora de la productividad sectorial*, promoted under the Macri administration, exemplifies how labour rights were traded for competitiveness. Working days were extended to 12 hours, rotating shifts intensified, night work and operations under extreme weather conditions were authorised, and compensation for travel and climate-related delays was eliminated (Pérez Trento 2022).

These reforms normalised temporary and discontinuous contracts, institutionalised wage disparities between core and peripheral tasks, and restricted the right to strike. Extensive subcontracting chains (*cuarterización*) fragmented responsibility and obscured accountability for occupational risks, complicating enforcement and access to remedies (Landriscini 2019). As drilling intensified and crews were reduced, workers faced longer hours, heightened accident risks and growing physical and psychological strain (Martine 2025). Labour, in this context, is systematically reconfigured as a variable cost to be optimised rather than as a bearer of constitutional rights.

A similar pattern emerges in lithium extraction, particularly in provinces such as Jujuy. There, the expansion of 'green' extractivism has been accompanied by institutional reforms designed to secure investor confidence at the expense of collective rights. The 2023 provincial constitutional reform, framed as a prerequisite for sustainable development, triggered widespread protests by Indigenous communities and workers, which were met with repression and legal rollback. The reform entrenched a governance model that prioritises mineral extraction over territorial rights, access to water and democratic participation (Warnecke-Berger, Burchardt, and Dietz 2023).

Despite record levels of commodity exports, Argentina's extractive enclaves have conspicuously failed to deliver inclusive or sustainable development outcomes. Informal employment remains structurally entrenched, while wages for non-registered workers continue to lag behind historical benchmarks, reproducing long-standing patterns of labour segmentation and social inequality (Cazón, Kennedy, and Lastra 2016; Pérez Trento 2022). At the same time, the expansion of fracking and lithium extraction has intensified pressure on ecologically fragile territories, particularly water systems, deepening socio-environmental conflicts and undermining the material conditions of life for local and Indigenous communities. These impacts are compounded by the growing prominence of transnational corporate actors and global value chains, especially in the case of lithium, now framed as a strategic input for the global energy transition. So-called 'green extractivism' thus reproduces, and in some respects intensifies, earlier extractive logics, weakening local regulatory capacity and exacerbating power asymmetries between global investors, the state, workers and territorial communities. In this context, employment creation is repeatedly mobilised to legitimise environmental degradation, while environmental protection is portrayed as a threat to jobs, thereby manufacturing and entrenching a false yet politically potent antagonism between labour and nature (Ramón and Argento 2026).

These dynamics lay bare the core contradiction of Argentina's extractivist constitutionalism. While the constitution formally recognises labour as a source of dignity and mandates state protection, extractive development strategies routinely reframe workers' rights and environmental safeguards as obstacles to competitiveness and investment. Both labour and nature are treated as expendable inputs in pursuit of short-term growth, even when extraction is rebranded as environmentally progressive or indispensable to the global energy transition. From the perspective of ecological labour law, this is not merely a problem of

weak enforcement or regulatory failure, but a structural limitation of a constitutional framework that has yet to articulate an integrated understanding of work, environment and development. As long as labour and nature remain conceptually and normatively separated, constitutional guarantees will continue to coexist with socio-ecological degradation, reinforcing the very tensions that ecological labour law seeks to overcome.

Climate emergency, eco-centric rights and just transition in inter-American jurisprudence

The eco-centric turn

The IASHR has emerged as a leading normative forum for articulating an eco-centric reconfiguration of rights in response to the climate emergency. Through a line of jurisprudence culminating in – thus far – OC-32/25, the IACtHR has progressively moved beyond an anthropocentric conception of environmental protection, advancing towards a legal paradigm that recognises the intrinsic value of nature and the climate system. From the perspective of ecological labour law, this jurisprudence is significant not only for its contribution to environmental rights, but also for how it begins to unsettle the entrenched separation between work, nature and development that continues to underpin extractivist constitutionalism in Latin America.

The foundations of this shift were laid in Advisory Opinion OC-23/17, where the IACtHR recognised the right to a healthy environment as an autonomous human right, independent of its instrumental relationship to other rights such as life or health (para. 62). The IACtHR characterised this right as both individual and collective, extending to present and future generations, and acknowledged that environmental harm may be legally relevant even in the absence of identifiable individual victims (paras. 57–60). This reasoning was subsequently operationalised in *Lhaka Honhat v. Argentina* (IACtHR 2020a), where the IACtHR affirmed that environmental protection is not merely derivative of human use, but relates to the preservation of ecosystems as such. This eco-centric trajectory was further consolidated in *La Oroya Population v. Peru* (IACtHR 2023), where the IACtHR explicitly distinguished between anthropocentric and eco-centric dimensions of environmental protection. It differentiated the right to water as a social right centred on human access from water as a component of the right to a healthy environment, protected as part of an ecosystem with value in itself (paras. 119–125). This doctrinal move disrupts the traditional human–nature binary and affirms a relational understanding of rights in which human well-being is inseparable from ecological integrity (Trincado Vera 2024).

OC-32/25 represents a qualitative leap in this jurisprudential evolution. For the first time, the IACtHR recognises the right to a healthy climate as a distinct, though interrelated, dimension of the right to a healthy environment (paras. 298–304). Responding explicitly to the climate emergency, the IACtHR acknowledges that anthropogenic climate change constitutes a grave and systemic threat requiring urgent mitigation, adaptation and rights-based sustainable development (paras. 183, 205–216). A healthy climate is defined as one free from dangerous human interference, necessary not only for human life and dignity but also for the integrity of Nature as a whole. Most strikingly, OC-32/25 advances towards an explicitly eco-centric paradigm by recognising nature, including the climate system, as a subject of rights. While not unanimously endorsed, the IACtHR argues that transcending the conception

of nature as a mere object of ownership or exploitation is essential to preventing irreversible ecological harm (paras. 279–286). By doing so, the IACtHR aligns human rights law with Indigenous cosmologies and alternative epistemologies that conceive humans as embedded within ecological systems. Although the suggestion that the prohibition of irreversible environmental harm may be approaching *jus cogens* status remains contested (see para. 33 of the dissenting opinion of Judge Nancy Hernandez López), the recognition of nature’s legal standing marks a decisive expansion of normative protection beyond anthropocentric limits (Borràs-Pentinat 2025).

In this context, states are required to act with reinforced diligence, guided by the best available scientific evidence and the precautionary principle, particularly in high-risk sectors such as fossil fuel extraction and industrial agriculture. Domestic legal orders must be restructured to eliminate norms and practices that undermine environmental and human rights and to adopt legislative and institutional measures capable of providing effective protection (paras. 244–246). For extractivist economies, this jurisprudence poses a potentially transformative challenge to prevailing development models.

Crucially, the IACtHR situates this eco-centric turn within a robust conception of sustainable development. Development is framed not as a programmatic aspiration but as an immediate legal duty aimed at the constant improvement of the well-being of the entire population. Sustainable development requires the integration of environmental protection, social justice and economic activity within ecological limits. Social development necessarily incorporates human rights as a central objective, while economic development is conceived as a means for achieving rights, rather than an end in itself. The IACtHR further emphasises the obligation of progressivity and the prohibition of unjustified regression in both environmental and social matters (paras. 210–211 and 369–370).

Yet this eco-centric advance is accompanied by a persistent conceptual ambiguity. While the IACtHR repeatedly affirms that development must integrate environmental, economic and social dimensions and must promote ‘sustainable development’ (paras. 210 et ss.), it simultaneously seems to leave intact the economic rationalities that have historically underpinned ecological harm. The IACtHR identifies the need for an ‘open international economic system’ as an instrument for achieving sustainability (para. 262), a formulation that risks re-legitimising market-driven growth models closely associated with environmental degradation, social inequality and extractivist expansion. This rhetorical openness sits uneasily with the IACtHR’s eco-centric commitments, revealing a latent tension between a *modelo económico abierto* premised on competitiveness and accumulation, and an ecologically grounded conception of sustainability that prioritises qualitative well-being, social reproduction and ecological limits over quantitative growth.

Just transition and workers’ rights: a fragmented but transformative normative horizon

A just socio-ecological transition requires more than technological innovation or market-based climate governance. In regions such as Latin America, where extractivism has long structured development strategies, decarbonisation cannot be pursued at the expense of workers’ livelihoods, territorial justice or democratic participation. The transition away from fossil fuels and other carbon-intensive activities must therefore be legally framed not only as an environmental necessity but as a social and labour question. OC-32/25 represents

a significant – though incomplete – normative opening within the IASHR. Building on its expanding jurisprudence on economic, social, cultural and environmental rights under Article 26 of the American Convention, the IACtHR explicitly recognises climate change as a structural and systemic threat to the enjoyment of human rights, including labour rights. For the first time, the IACtHR establishes that climate disruption threatens the effective enjoyment of the right to work, fair and satisfactory working conditions, and social security (paras. 377–378, 441).

OC-32/25 expressly references the ILO's 2015 Guidelines, incorporating them into the IACtHR's interpretative framework (para. 160). This marks the first explicit acknowledgement by the IACtHR that climate action must be accompanied by labour and social protection measures. The IACtHR specifically recognises that decarbonisation policies may result in job losses, displacement and economic disruption, and calls on states to adopt just transition strategies that protect employment, promote retraining, ensure income support and mitigate social harm (paras. 441–447). This framing is doctrinally important: it situates labour law within the climate emergency rather than treating it as an adjacent or secondary concern.

OC-32/25 exhibits the IACtHR's greatest doctrinal precision in the field of occupational safety and health. Building on its substantial jurisprudence in *Spoltore v. Argentina* (2020), *Workers of the Santo Antônio de Jesus Fireworks Factory v. Brazil* (IACtHR 2020b), and *Miskito Divers (Lemoth Morris et al.) v. Honduras* (2021), the IACtHR interprets the right to fair and satisfactory working conditions through the prism of climate-induced risks. In doing so, it effectively recalibrates its Occupational Safety and Health (OSH) doctrine to address the material realities of the climate emergency (paras. 443–445). Extreme heat, pollution, vector-borne diseases and climate-related disasters are no longer treated as externalities, but as foreseeable harms that states have a duty to prevent through regulation, inspection and enforcement. This move is highly consequential. It signals that labour protection in the twenty-first century cannot be disentangled from environmental change and that climate inaction may amount to a breach of positive human rights obligations. From the perspective of ecological labour law, this is a critical advance: it situates the workplace within broader socio-ecological systems and recognises that environmental degradation directly reshapes the conditions under which work is performed.

By contrast, the IACtHR's treatment of the right to work and job stability remains strikingly underdeveloped. Despite its own robust jurisprudence since *Lagos del Campo* (IACtHR 2017), which recognises job stability as a core component of human dignity, OC-32/25 approaches labour market transitions largely as a matter of policy design rather than rights protection (para. 446). The Opinion acknowledges the risks of job loss associated with decarbonisation and gestures towards retraining and job creation, but it does not articulate clear obligations to prevent unjustified dismissal, regulate restructuring processes, or guarantee livelihood security for displaced workers. This omission is not merely technical. It risks legitimising transition pathways that generate 'green' employment while treating existing workers and communities as disposable. A more coherent jurisprudence of just transition would require the IACtHR to explicitly link climate-induced restructuring to states' duties under Article 26 of the American Convention, thereby framing job stability, redeployment and income protection as matters of justice rather than discretion.

Contrastingly, the IACtHR devotes sustained attention to vulnerability as a central organising principle of climate justice. In paragraphs 595–616, it reiterates the categories of 'traditional' vulnerable groups – children, Indigenous communities, Afro-descendant

populations, persons with disabilities, older persons, migrants and rural communities – while simultaneously expanding the concept beyond fixed classifications. Drawing on substantive equality and structural discrimination, the IACtHR adopts a dynamic and contextual understanding of vulnerability, affirming that it is ‘not static’ but emerges from the interaction between social structures and environmental conditions (paras. 628–629). Within this broader framework, the IACtHR makes a cautious but noteworthy move by briefly acknowledging informal workers as a group requiring special protection and support in transition processes (para. 447). This recognition is significant in a Latin American context where informality constitutes a structural feature of labour markets and affects a substantial share of the workforce, even under progressive governments (Balza 2020). It is also particularly relevant in extractivist economies, where global competitiveness fuels outsourcing and subcontracting practices that concentrate environmental and economic risks on informal and precarious workers. Yet this acknowledgement remains fragmentary. Informal workers are neither systematically incorporated into the IACtHR’s vulnerability analysis nor recognised as a distinct group triggering differentiated state obligations. This is a notable omission in a region where informality is the dominant mode of labour market insertion and a primary vector of socio-economic vulnerability. As has been argued, informal workers should be understood as vulnerable groups in their own right (Pucheta and Kalil 2025); in the context of the climate crisis, their heightened exposure to occupational hazards, livelihood loss and exclusion from transition policies makes this recognition not only doctrinally coherent but normatively imperative.

A similar limitation emerges in the Opinion’s procedural architecture. While OC-32/25 develops in considerable depth the participatory dimension of environmental governance – drawing on the Escazú Agreement and the IACtHR’s established environmental jurisprudence to emphasise access to information, consultation and participation in climate-related decision-making (paras. 530–539) – it stops short of integrating collective labour rights into this framework. This omission is striking given the historical and normative foundations of Just Transition. The 2015 ILO Guidelines identify social dialogue as an ‘overarching and cross-cutting principle’, indispensable for designing climate and employment policies that are equitable, democratic and effective. By contrast, the IACtHR merely notes, in passing, that workers should be included in decision-making processes concerning climate policies and transition strategies (para. 446), without articulating this participation in collective or institutional terms.

Trade unions and workers’ organisations are thus largely absent from the Opinion, despite the IACtHR’s own rich jurisprudence recognising collective labour rights as fundamental democratic guarantees. In *Advisory Opinion OC-27/21* (IACtHR 2021), in *Case of the Former Employees of the Judiciary* (IACtHR 2021b) and in *SUTECASA v. Peru* (IACtHR 2024), the IACtHR affirmed that collective bargaining and the right to strike are not peripheral labour entitlements but essential mechanisms for democratic participation and for correcting structural power imbalances. There is, therefore, significant room for jurisprudential development without doctrinal rupture. Read together, the IACtHR’s case law on participation in public affairs, trade union rights, and environmental decision-making provides a solid basis for requiring meaningful and institutionalised worker participation in climate and development policymaking, including in energy, industrial and land-use decisions.

Conclusion

This article has examined the prospects and limits of ecological labour law within an extractivist constitutional order, using Argentina as a critical case study. It has shown that, notwithstanding strong constitutional commitments to labour protection and the explicit recognition of environmental rights since the 1994 reform, the Argentine legal order has remained structurally aligned with extractivist development. Across political cycles, natural resource exploitation has been relied upon as a central strategy for securing growth, employment and fiscal stability, while the environmental and social costs of extraction have been systematically externalised. The contemporary turn to 'green' extractivism has not disrupted this trajectory but has instead rearticulated it, legitimising new forms of dispossession and labour precarity through the language of decarbonisation.

The analysis of domestic jurisprudence reveals the ambivalence of constitutional environmentalism in this context. While landmark decisions of the Argentine Supreme Court demonstrate that judicial intervention can, in exceptional circumstances, curb environmental degradation and state inaction, such rulings remain episodic and defensive. They do not amount to a structural reorientation of the legal and economic framework that sustains extractivism, nor do they systematically integrate labour concerns into environmental governance. By contrast, the jurisprudence of the IACtHR points towards a more expansive normative horizon. Since 2017, the IACtHR has progressively consolidated the justiciability of labour and environmental rights under the American Convention, culminating in OC-32/25, which frames the climate crisis as a human rights emergency and tentatively incorporates the notion of just transition. Although fragmented and still largely anchored in a 'traditional' sustainable development paradigm, this evolving body of law opens space for rethinking the relationship between work, environment and development in more ecologically attuned terms.

From the perspective of ecological labour law, the article has argued that just transition constitutes the critical bridge between ecological imperatives and the protection of workers' rights. Neither constitutional environmentalism nor human rights adjudication alone can overcome the structural drivers of extractivism. Yet the growing recognition of climate-labour linkages and worker vulnerability provides important normative footholds for reimagining labour law beyond its traditional productivist and anthropocentric foundations.

Ultimately, the development of an ecological labour law in Argentina, and in comparable Global South contexts, cannot be achieved through doctrinal refinement alone. It requires confronting the political economy of extractivism and re-embedding labour and nature within a shared socio-ecological framework. The legal openings identified in this article are necessary but insufficient; their transformative potential lies in their capacity to support broader struggles for post-extractive, rights-based futures in which work, environment and dignity are no longer treated as expendable costs of development.

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