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‘Globalisation and decentralisation: the role of legal frameworks’

Central America

Globalization, Poverty, Protected Areas: In search of a legal framework

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Central America is a bridge between North and South America. It is a region with a great biological and cultural wealth which is part of the Central American Protected Areas System (SICAP¹, for its Spanish Acronym) it is made up of a total of 554 protected areas, with an extension reaching 12,964,026 hectares. Protected areas in Central America represent 24.8% of the total area; 60% of these areas are found under flexible management categories which allow certain uses.

This region has a population of 38.7 million people, of which 60% lives in poverty, 40 % being extremely poor. It is estimated that nearly 71% of the people living in protected areas or nearby lands are poor.² Proof of this is that in 1996, 92% of the total production of wood was used for lumber and only 8% for industrial use, nowadays it is estimated that there is deforestation of nearly 400.000 hectares annually.

The global processes are the evidence that a new economical order has become stronger. Globalization has caused a legal framework review, which most of the time implies changes on national and international legislation, in aspects such as commerce, environment, labor and human rights.

The legal schemes for these protected areas have given to date good results, opening a pathway for the conformation of different management categories. Nevertheless, protected areas and their people face great legal challenges due to the trend of globalization that forces to establish new frames for management issues of ecosystems.

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¹ SICAP is formally constituted after the ratification of the Central American Convention in Biodiversity and Wild Protected Areas. 1992.

² UNDP. The State of the Region in Central America. 1999.

Some new legal development has been taking place, as an example, in some protected areas where the public dominion no longer prevails on the property but the private dominion (Private Wildlife Refuges). This has been due to severe financial restrictions that the protected areas administrations encounter in the different countries in the region. Also in foreign investment where the landowners and the companies located in key sectors make voluntarily private protected areas to assure the conservation of biological diversity. In some of these cases, the protection is often associated with tourism, science or residence.

The decentralization of the natural resources management has also taken place by conferring administration roles on non governmental organizations or on local governments with quantifiable results in many degrees of success. The legislation has had to adjust to new demands searching for new figures that have been shaped in legal texts such as co-management or co-administration of natural resources.

The efforts in privatization continue which add pressure to protected areas, for example throughout an unplanned tourist development, the countries try to respond to poverty challenges, in this case turning on many occasions the rural population into cheap manual labor such as waiters/waitresses, bell boys or even associating tourism to prostitution. The question facing these realities and before thinking in a new environmental legislation is in defining what is the kind of development wanted and what is the type of development that promotes globalization? Taking into account that, it shouldn't prevail the economic benefit against the social or environmental interest in a region where 60% percent of the population lives in poverty .

On the other hand, the Central American countries have started to strengthen the legal system and the application of environmental impact assessments, strategic environmental assessments and urban and regional planning: instruments that can help improve the decision making on the best development path.

At this time Central America is negotiating the Free Trade Agreement with the United States (CAFTA) and also the Plan Puebla Panama (PPP), both agreements will bring important changes to the region. If the governments are looking for alternatives to poverty, sadly the environmental issues have been reduced in importance, with an almost null representation of society, like a ship without an environmental flag that seeks for development and where the word sustainability shipwrecks.

It is essential to make a good negotiation in which the countries acting with dignity and with mutual cooperation can try to fulfill sustainable development. Protected areas are the lungs and center of biological resources not only of Central Americans, but also of the whole world. Environmental Law can become a main instrument in this process. For that it is essential to make a review of the management of protected areas, legislate when appropriate in protected areas communitarian management, strengthen the legal frameworks of environmental impact assessments, legal protection of traditional knowledge of our people. It also results necessary to encourage investment including the environmental variable as well as public participation.

However, as it is known legislation isn't the only issue, it has to be bonded to an understanding process and political will. It is precise to surpass the idea that we will get rid of poverty with just a good economic policy. It is necessary to understand that the environmental component on any negotiation will bring subsistence of many natural resources and of the people in which this economic expansion is developed.

Indigenous people's and local communities, which most of them are located in protected areas, today have free access to biological diversity for their medicines and provisions. We have to avoid them to become affected by the globalization effect and avoid them to become simple material suppliers for the world economy. After all, the settlements and communities depend on biodiversity and their knowledge to survive and this cannot be the cost of globalization.

The relationship between economic globalization and environment is more evident that it is recognized at the time.³ It is possible to stand out so that this worthy step is given. We have a long way of dialogue and negotiation. The environmental legislation will be a key instrument to go from dialogue to practice.

I cannot say more than to include a reference from a Costa Rican Nobel Prize award winner, Mr. Oscar Arias Sanchez when he stated:

“Central America is liberated from an armed conflict, but the great majority of families has lost the fight against poverty. The transition to globalization cannot ignore the pain of our people; we need more than commerce, but in hand with cooperation for development. The solidarity of the rich with the poor has never been so assessed as it is today”⁴

To legislate for the future protected areas it will require a new vision set with public participation, the search for new ways to face poverty, self-financing mechanisms of protected areas, prevention instruments for the environmental damage such as environmental impact assessment (EIA) and Strategic environmental assessment (SEA), as well as a big share of political will among countries.

It is also necessary to make an effort to help communities to understand the implications of the global processes in the environment and the development of their interests. The environmental legislation shall promote the increase of capacities of the poor communities taking the advantage that environment and the development of global processes can promote for their interests. Including the maximization of the payment for environmental services as well as obtaining compensation for the local-environmental consequences of decisions that take place in these processes.

It is necessary to have in mind that globalization in Central America is given in a poverty context. Inequity and environmental degradation goes in hand with a Central America that is rich in biodiversity and culture, also filled with people with a overcoming spirit.

Globalization must be referred also to cultural and natural diversity and poverty relief, the environmental legislation understood as an instrument for this outcome will be the key for the permanence of protected areas.

³ The United Nations Commission on Human Rights is trying to make the environmental human rights issue a permanent focal point of their work. In 1994 a group of experts produced a draft “Declaration of Principles in Human Rights and Environment”. See Dr. Alfred Res. Improved Environmental Protection through and expanded concept of human rights in Europe?

⁴ Oscar Arias Sánchez. Newspaper La Nación . Costa Rica, August 10th, 2003. Page 19 A.