

# Environmental Impact Assessment and Biodiversity in Venezuela

Legal Framework

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# Introduction

- From the historical Decree of Chuquisaca, emitted by the Liberator Simón Bolívar in 1825, to the Law on Biological Diversity (2000), recently approved by the Venezuelan Government, Venezuela possesses an extensive legal framework to assist all policies concerning conservation and use of biological diversity, established in the New Constitution issued on December 15th, 1999.
- In Venezuela, conservation, defence and environmental improvement have constituted strategic objectives for developing plans in the country. Venezuela is located amongst the top ten countries with largest biological diversity on the planet, and sixth in the Americas. This condition is owed largely to the convergence of four important biogeographic regions: the Amazon, the Andean, the Caribbean and the Guianese, that confer a wide biological diversity on it, represented in the different natural counties.

# Constitution of the Bolivarian Republic of Venezuela

- The Constitution of the Bolivarian Republic of Venezuela, in force since 1999, points out in Article 127 that “The State will protect the environment, the biological and genetic diversity, the ecological processes, the national parks and natural monuments and other protected areas of special ecological importance”. Article 129 points out that “all activities susceptible of generating damage to the ecosystems should be previously accompanied by environmental impact and social cultural studies.

- In consequence, the State is responsible for the protection of the environment, and should issue rules concerning its conservation, as well as implementing the necessary policies to fulfill this objective. Those who seek to carry out activities that are susceptible to degrading the environment will undergo the legal provisions that force them to execute the necessary actions to protect, palliate and restore the ecological damages, produced by these activities. It is worth saying that they have the responsibility for carrying out the corresponding environmental impact studies.

# Environmental Organic Law

- This Organic Law also makes special reference to those activities susceptible to degrading the environment, and that present a risk for certain environmental elements; such as water, soil, flora, fauna, air, topography, climate, landscape, health, tranquility, well-being and all the natural ecosystems that are the object of protection (Art. 20).

# New project of organic Law for Environmental Conservation

- This bill is in discussion in the National Assembly. It establishes guidelines that determine the natural resource and biodiversity conservation policies; economic assessment; and the recognition of rendering the fundamental environmental services which they offer for the maintenance of ecological processes, for human life and that of all other living beings.

# Organic Law for Territorial Planning

- Its main object is to establish the provisions that will rule the process of territorial planning, in agreement with the strategy of long-term economic and social development of the Nation. Its importance is based in the definition of Areas Under Special Administration Regime (AUSAR), which are Protected Natural Areas destined for the conservation of biodiversity. Among the most important are National Parks, Natural Monuments, Sanctuaries of Fauna, Biosphere Reserves, etc.

# NEW PROJECT OF ORGANIC LAW FOR TERRITORIAL MANAGEMENT AND PLANNING

- This project establishes the process of territorial planning and management. It states that it is obligatory to carry out environmental and socio-cultural impact studies in all activities susceptible of generating damage to ecosystems, in order to determine preventative, corrective and mitigating measures and to restore the areas. Likewise, this project establishes the information, consultation and civic participation.

# Environmental Penal law

- The main object of the Environmental Penal Law is to classify things that violate the provisions concerning the conservation, defence and improvement of the environment as crimes, and to establish the corresponding penal sanctions, which implies the privation of freedom for those guilty of the attempting facts against the environment. Biological diversity is protected by its provisions, as long as, and as soon as the facts that degrade environmental components containing biodiversity are sanctioned.
- It is applicable to all natural and juridical persons for crimes established in the law itself, and committed inside the national territory, and even abroad when the fact has injured or endangered a juridical good protected in Venezuela's provisions.

**Partial Regulation of the Organic Law for Territorial Planning on the Administration and Management of National Parks and Natural Monuments (Decree 276 of Jun. 09, 1989)**

- This regulation contains the general provisions and procedure for the creation of national parks.
- Its basic objective is to establish the regulating norms for the use and exploitation of these Areas Under Special Administration Regime (AUSAR), as well as to establish the contents of the Zoning and Management Plans and Regulations. According to Decree 276, it is obligatory to develop zoning and management plans and regulation of each area.

- On the other hand, the Decree establishes the use, zoning and restrictions in the system, as well as the regime of the populations living in the parks and its use from third parties. Zoning is compulsory in the regulations on the use of parks and natural monuments. These regulations point out which are the forbidden, permitted and restricted activities in the different areas of the park or monument.

# Tourism Organic Law

- Published in Official Gazette N° 5,555 Extraordinary, it contains the norms guided to regulate activities of tourism, as a factor of economic and social development in the country, through the establishment of norms that guarantee, among other things, the development and the facilitation of tourism.
- Eco-tourism activities, such as tourism in natural areas, in areas of scenic beauty or adventure tourism, are not regulated by the Law. However, from its provisions we can realize the importance of natural spaces and the scenic beauties of the Bolivarian Republic of Venezuela, as propitious places for tourism.

# Biological Diversity Law 2000

- In force in Venezuela since May 24th, 2000, it aims to establish the guidelines for knowledge, conservation and sustainable management of biological diversity. It establishes that the Venezuelan State exercises rights and obligations on biological diversity resources, and states as a public utility the conservation and the sustainable use of biological diversity, its restoration, the maintenance of essential processes and the environmental services that they render.

# Decree 1,257

- Decree 1,257 points out those activities of programmes and projects that are susceptible of degrading the environment in Article 6°, particularly the following activities:
  - 1. - Mining
  - 2. - Exploration or production of hydrocarbons
  - 3. - Forestry
  - 4. - Agro-industry
  - 5. - Aquaculture
  - 6. - Energy production or industries
  - 7. - Transportation

- 8. - Waste disposal
- 9. - Development of tourist or residential infrastructure works
- 10. - Development of other infrastructure works

The decree indicates in each case, which are the activities that require an Environmental Impact Study in a specific way, depending on the magnitude of the environmental damages they may cause.

International regulations related, subscribed and approved by Venezuela

- Convention for the Protection of Flora, Fauna and Natural Scenic Beauties of America (October 12th, 1940, Washington D.C., United States).
- Convention concerning Wetlands of International Importance Especially as Habitat of Aquatic Birds (February 2nd, 1971 Ramsar, Iran).
- Biodiversity Agreement. 1993.