
Colombia: By law, the forest must disappear

The disappearance of the forest would seem to be the premise in the various political instruments created in Colombia for the forestry sector. However, most of them euphemistically set out objectives for conservation and protection.

Official forestry policy declarations have been issued in the country in 1974, 1984, 1989, 1993, 1996 and 2000, in addition to the signature of various international conventions and treaties aimed at forest conservation. However the present circumstances involving forest cover and the populations closely related to it show that their objectives have only partially been achieved. This is one of the conclusions of one of the reports by the Audit Office of the Republic on the state of natural resources and the environment (General Audit Office of the Nation, 2002). In this way, the State auditing bodies themselves have reported on the inefficiency of the policies, resulting -in addition to other factors- in deforestation and degradation of the country's forests.

The above mentioned policy declarations, together with the National Forestry Development Plan were the background documents for the preparation of law 1021, or the general forestry law, issued in April 2006, governing activities geared towards the forestry sector which, as we will see further on, is facilitating actions to the detriment of forests and of the communities who live therein. This is further aggravated by the national policy for the promotion of agro-fuels, in force since 2002.

The present situation of Colombia's forests is a matter for concern and its similarity with what is happening in other countries of the inter-tropical zone responds to an extractivist rationale, which is limited to the consideration of nature as a source of wealth and accumulation, revealing great disregard for forest peoples and environmental rights. It is thus that the country has a considerable package of rules promoting forest exploitation and the establishment of plantations, many of them copied from the forestry model of countries shown as a prototype, as for example, Chile.

The first laws formulated affecting Colombian forests, show the imprint of this noxious rationale. Such is the case with the 1936 law 200 on land regime, which stipulates as private property "the estates owned by private parties, in the understanding that this possession involves economic exploitation of the soil by means of positive actions carried out by the owner, such as plantations or agricultural crops, occupation with cattle and others of similar economic importance." (Colombian Senate, 1936). Thus deforestation is clearly promoted together with plantations as a positive action, a notion perpetuated to our days, although the drafting of texts resorts to euphemisms to indicate the contrary. This same consideration of ecosystem destruction as an improvement, is promulgated by the International Monetary Fund in its manual on public finance statistics (IMF, 2001).

In the manner described above, the way to acquire land ownership has been regulated and following this it has never ceased, with Colombia reaching one of the highest levels of private property concentration in the world, amassed in the hands of five thousand large landowners (Mondragón, 2003). It should be noted that this concentration has been achieved through a process of violence, ranging from dispossession of indigenous peoples' lands, to paramilitarism and the rule of drug lords (Mejía, 2007).

However, national policy guidelines have not been limited to the level of resource use -meaning exploitation- but have also included the promotion and creation of agro-industrial investment companies largely responsible for devastating ecosystems and violating human and environmental rights in the country, as in the case of the violent appropriation of community land in the Chocan Pacific for oil palm crops (Mejía, 2007). An example of such policies is the 1995 CONPES 2786 document. In his 2007 paper, Mejia makes the following inventory of the promotions, incentives and exemptions seeking to encourage late yielding, export and fuel crops, based on documentation from the Ministry of Agriculture:

CIF – Forest Incentives Certificate: Law 139 of 1994: donation of up to 75% of plantation establishment costs and 50% of maintenance costs from the second to the fifth year.

ICR – Rural Capitalization Incentives: up to 40% of the loan for rural modernization, establishment and sustenance of small farmers.

AIS – Safe Agro Income: for small farmers, covers up to 100% of the project. For medium-sized farmers, up to 80% of the direct costs, with low interest rate, for a 15 year period and 3 years grace.

FAG, that endorses the re-discounting of credits submitted to FINAGRO when the farmer does not give the guarantees required by normal banking.

Decree 1970 of 2005: exemption of net income tax for ten years for late yielding crops.

Rubber promotion according to Law 686 of 2001, on the basis of a fund set up with 3% of sales.

Fund for Stabilizing palm oil prices, Law 101 of 1993

Law 788 of 2002 exonerating ethanol from value added tax – VAT – and from taxes and surcharges on fuels. These exemptions have been estimated at 100 million dollars per year (Mondragón, 2007, quoting Aurelio Suárez Montoya).

In addition to the above, the tax exemptions for reforestation contained in the Colombian tax regulations should be noted. They reduce taxes to such a low amount that the major plantation companies such as Smurfit-Kappa prefer to apply to these exemptions rather than use the other list of incentives, as they are more profitable. (CORPOCALDAS official, personal communication).

All this set of promotional measures for the forestry sector and its undertakings are placed in a general framework provided by the present forestry law which, as has been mentioned before, is highly damaging to Colombian forests and to communities. This may be seen on examining the law from different perspectives, for instance, the social, cultural and even the legal position, explaining why two lawsuits have been filed against the law. The public actions of unconstitutionality against the law seek, in the first case, that the totality of the law be declared unenforceable and the second that several of its most damaging articles should be eliminated. At a given time this gave rise to declarations by different sectors of the Colombian population, among them environmentalists, Afrocolombians, Indigenous peoples, peasants and academics.

Some of the more serious implications of this law are related with the promotion of renewable energies (agro-fuels), setting down conditions making the communities authorize exploitation on their collective territories; eliminating the functions of regional environmental authorities to exert control and monitor monoculture tree plantations, which is what is in fact happening with carbon sink

plantations; defining forests as mere stocks of timber and facilitating their being granted as concessions; using forest certification to award more benefits and exemptions to timber companies; promoting illegal logging; weakening the rights of peoples, communities and ethnic groups, acquired through historical struggles and now being decimated by the law.

Given the evident inadvisability of this law, particularly in terms of community rights, the responses requested by the Constitutional Tribunal to entities as relevant as the Office of the Attorney General of the Nation, ask for the entire law to be declared UNENFORCEABLE (Attorney's Office, 2007), thereby ratifying the validity of the complaints made by diverse social sectors.

Once that legal channels are no longer considered to be the only way to achieve the demands of social movements and affected peoples, these have joined their efforts and work to resist the aggression of the forestry model and its plantations, setting up the "Front for Life and Against the Green Desert," a movement that is linked to the struggle in defence of the territory, the peoples and their heritage, promoted in the continent by groups involved in the Latin American Network against Monoculture Tree Plantations (Red Latinoamericana contra los Monocultivos de Árboles - RECOMA).

This group comprises grass-roots organizations, peasant communities, social organizations and indigenous councils from the Southwest of the country, a region where pine and eucalyptus tree plantations are concentrated in the middle Cordillera zone, attacking and threatening the territory, water, traditional ways of life and indigenous and peasant cultures. From this movement, the resistance of the Colombian people is moving forward, against a model we do not accept and which consequently lacks legitimacy. At the same time, this movement builds up proposals that make it possible to recreate life in a way we imagine from day to day.

It is bitterly concluded that, in the case of Colombia, as in so many others, legislation, standards, exemptions and incentives designed for the forestry sector contribute to forest destruction and degradation, and therefore to worsening the living conditions of the peoples and communities that live in the forest and depend on it for their survival.

By: Diego Alejandro Cardona, CENSAT, e-mail: selvas@censat.org