



Fair Recovery Paths Virtual Dialogues - 2021

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Recovering the Maritime-Terrestrial Zone

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Presentation

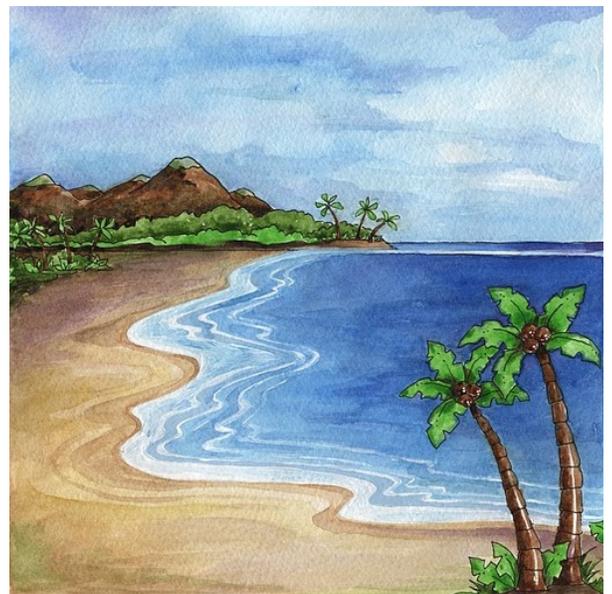
Within the Natural Heritage of the State are the coastal areas. Technically known as the Maritime Terrestrial Zone (ZMT), it is a strip of 200 meters (m) defined from the high tide line. The first 50 m from the sea is known as the Zone Public and the remaining 150 m as the Restricted Area.

In this newsletter you will find information on the current situation of the Maritime Terrestrial Zone, which is under high pressure from commercial interests of all kinds, which seek to capitalize on the landscape, the strategic location and the resources in this strip of public domain.

The content is guided by the reflections of the Virtual Dialogue held in June on the energy issue. With presentations by Ethel Araya from the Nosara Civic Association, Luis Monge from Ríos Vivos and FECON, as well as Arturo Silva, representative of the AlbaSud research agency

The coastal situation of Costa Rica

Our country has 212 km of coastline in the Caribbean and 1016 km on the Pacific coast. All this extension is under the Maritime Terrestrial Zone (ZMT) regime; therefore, it is Natural Heritage of the costarican State. The islands are also subject to this patrimonial domain regime. Mangroves and estuaries correspond without exceptions to the Public Zone (FAO, 2000).



The ZMT Law was established in 1977 and includes all the indications on prohibition and regulation of activities in the corresponding 200 m.

Article 12.- In the maritime-terrestrial zone it is prohibited, without due legal authorization, to exploit the existing flora and fauna, to demarcate with fences, lanes or in any other way, buildings or facilities, cut trees, extract products or carry out any other type of development, activity or occupation.

The main purpose of the ZMT strip is to protect the coastline from irresponsible use of landowners registered before 1977, or from granting irregular permits by public institutions, forcing them to carry out a proper regulation territorial in order to adjust the management of the ZMT.

Who administers the ZMT?

In the ZMT, the coastal Municipalities and the Costa Rican Tourism Institute (ICT) have special relevance. This is indicated in article 36 of the Law. The purpose of conservation pursued by the ZMT regime, article 17 reads as follows:

Article 17.- The respective municipality, the Costa Rican Institute of Tourism and the corresponding authorities and agencies must dictate and enforce the measures they deem necessary to preserve or prevent damage to the original conditions of the maritime-terrestrial zone and its natural resources.

Municipalities have the power to give concessions permits in the ZMT, which has been associated with irregular situations in the past, either for prioritizing concessionaires, for failing to comply with due process in the granting, or for not responding effectively to complaints.



The National Institute of Housing and Urbanism (INVU) also has powers over the plans developed by both municipalities and ICT according to articles 25, 31, 37, 38. There is a cross-control between the three institutions in any type of urban or tourist development that is intended in ZMT.

A void as far as the administration of this area is concerned is the absence of powers from the Ministry of the Environment (MINAE) over the ZMT. In article 22 it indicates that the criteria requested from the Ministry of Agriculture and Livestock (MAG) on the ecological consequences of urban planning on mangroves and estuaries.

MINAE is never mentioned in the ZMT Law and its Regulations. It doesn't seem a lone drafting omission because it's from 1977. It has not been incorporated into any reform with explicit role in the development of ZMT management plans, despite the conservation purposes pursued by the state domain regime.



It is worth mentioning that laws on environmental matters such as Forestry Law, Biodiversity Law, Agreement of Wetlands, Conservation of Life Wild and Organic of the Environment positioned the National System of Areas Conservation (SINAC) in the inspection and management of mangroves (PGR, 2005).

Coexistence of the public domain and private property

The Attorney General's Office indicates that the only private properties that it is possible to admit within the maritime-terrestrial zone, are those that were duly registered when Law 6043 of March 2, 1977 was enacted (PGR, 2005).

Pressure on resources

Urban growth within the Maritime Terrestrial Zone (ZMT) is a constant challenge for existing resources in maritime ecosystems, in the 200 meters and beyond this area, due to the demands of water and materials that are generated with the growth of human activities.

An example of how the establishment of tourist centers legally approved by institutions generate pressure outside the ZMT, this is the case of the real estate development in El Coco and Ocotal, which triggered a conflict with the communities over the Sardinal aquifer, in Carrillo de Guanacaste.

Another example is the case of the Nimboyores aquifer, located in Lorena of Santa Cruz, which although it is outside the ZMT, was the object of demand for large volumes of water by the tourist development poles in Conchal-Flamingo, where large hotel chains are located.



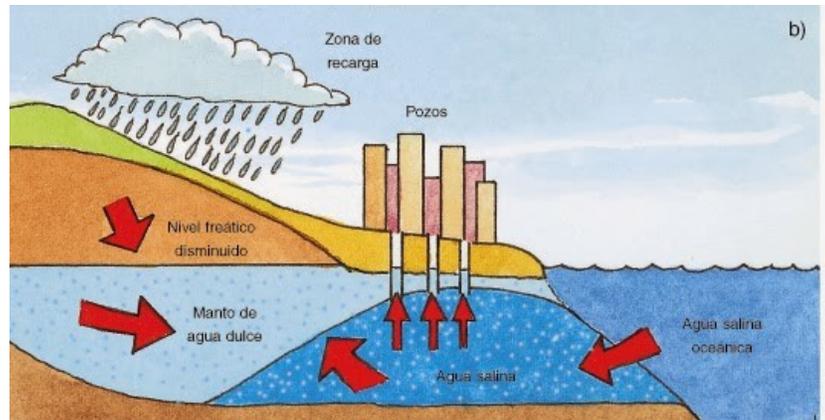
Photo of the mural Lorena (Guanacaste). Agua, territorio y espacios de representación. Arturo Silva, 2018

The marginalization of local communities has been a historical problem in the ZMT. While the State consolidates legislation related to encouraging tourist activity and foreign investment, the inhabitants of coastal towns experience the constraints to coexist with environmental conservation established by law.

Vulnerability of coastal aquifers

In addition to the inland aquifers, the aquifers also wear out near the coast due to its high exploitation near areas with tourist poles in operation. Such is the case of the aquifers that have become salinized, such as that of Playa Panamá, linked to the supply of large hotels in the Papagayo tourist center (AlbaSud, 2016).

Also, a hydrogeological vulnerability study carried out in Jacó Beach (2019) determined that most of the urban projects and productive activities are located in the moderate vulnerability sector. Its point out how aquifer pollution is not yet an issue weight in local regulation.



Another big problem within the ZMT is the destruction of its forests. Above all impacts the destruction of the remaining coastal dry forest in Guanacaste. It has been observed how the trees are poisoned to dry up the wooded patches where it will be built in the future, avoiding any impediment of the forest legislation to the constructions.

Although 2% of this ecosystem remains on the planet, Costa Rica decides to cut it down, giving way to hotel expansion and golf courses. Local populations do not play golf in hotels and rather have more and more difficulties in accessing the beaches, which are supposedly publicly accessible by law (Julio Abarca, 2011).

Ecological fragmentation

There is also a widely studied and scientifically recognized problem: light pollution as a disturbing factor of the reproductive dynamics of sea turtles, which come to spawn on the warm sands of tropical beaches, having in Guanacaste one of their favorite epicenters.

Costa Rica has repeatedly turned its back on protecting the reproductive cycle of sea turtles. An emblematic case is that of Moín beach, where the transnational APM Terminals was established, which was part of the neoliberal agenda to weaken the management of the national company Puerto de la Vertiente Administrative Board Atlantic (JAPDEVA).

All warnings about the environmental impact of ATM Terminals in a site of high ecological vulnerability were omitted by the Government. Even in this area, the murder of environmentalist Jairo Mora took place in 2013, which is associated with the context prior to the construction of the APM mega-terminal.



Illustration in memory of Jairo Mora

Sea pollution

The high loads of human activities, especially in high tourist investments niches, generate therefore high dose of waste that impact the quality of the seawater, degrading their functions as ecosystems. This effect is noticeable in port cities such as Limón and Puntarenas.

Also, where the tourist poles are located, the change can be perceived by effect of sewage. Obviously, where there are hundreds and even thousands of people living or vacationing, environmental deterioration will be generated.

Recently the Costa Rican Institute of Aqueducts and Sewers (AyA) and Nicoya Península WaterKeeper published the results of a study in which they carry out samplings in various bodies of water on the Nicoya Peninsula, testing the existence of highly polluted beach environments.

Some notable cases for their high tourist influx are Malpaís, Manzanillo and Carmen beach in Santa Teresa, as well as Guiones beach and Nosara river in Nicoya. This last recognized destination for surfers, with the presence of fecal coliforms in sufficient

Territorial planning

The 200 m that comprise the ZMT must be subject to management plans participatory territorial. At the moment, there are 99 approved coastal regulatory plans and 4 in process (INVU, 2021), but a large part of the areas still lacks guidelines, which generates critical situations due to pressure from development groups that want to continue privatizing the coasts.

A case in which it has been promoted regulatory environmental measures with eagerness to put in order the use of the area is in the Buffer Zone of the Ostional Wildlife Refuge, in Nicoya. There, several parameters have proposed to serve as a limit to urban development around the Refuge.



The people of Nosara and Guiones have defended the Construction Regulations developed jointly by local organizations, representatives of SINAC and the Municipality. They have even carried out social mobilizations to support the Regulation that mitigates the environmental impacts of overdevelopment in this Nicoya sector (image).

The process is currently in the Contentious Administrative Court, which hears a complaint from the developers of the area, who want to avoid any regulations to be put into practice, demonstrating the strong interest of tourism realtors in controlling public issues and the territory.

Another case where people participate in the recovery of the ZMT is in the canton of Osa, in the South Pacific of Costa Rica. Local communities are participating in a scientific technical analysis in order to take measures to ensure that human activities are harmonious with the natural coastal environment.

ZMT Recovery

Can we then recover the ZMT? First, it should be clear that the 200 m is a public patrimony of the State and inalienable territory, which will always be subject to the regime of domain and public interest even when it is being occupied by concessions or rights of use.

The Office of the Attorney General of the Republic is conducting a various dispute process to try to put in order the situations in which individuals have taken advantage of loopholes or legal ambiguities and try to manage at will and under privately owned some land within the ZMT.

FECON will help in this process so that the ZMT is recovered in all its dimensions, as this is a vital need for historic communities to stop being subjected to pressure by private interests, which play against the community social organization and against the environment.

No foreign investment is more important and takes priority over the coastline. Use rights should not become enclaves where developers or realtors can move their businesses at will, especially when situations of exploitation are known, or the development of illicit businesses is encouraged.

Environmental regulations and the public domain of the ZMT must be respected by all the actors, for the healthy enjoyment of all the people to whom our territorial patrimony is destined by Law.

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