

**COASTAL CONFLICTS IN COSTA RICA AND THE  
TERRITORIOS COSTEROS COMUNITARIOS LAW PROJECT  
(TECOCOS)**

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**Abstract:** This work aims to contribute to the debate on social conflicts generated by coastal development and the process of land tenure reform as a conflict resolution mechanism. We will present the case of the Territorios Costeros Comunitarios reform movement (TECOCOS) currently mobilized in Costa Rica and integrated by over 60 coastal communities. This reform movement initiated in reaction to a recent wave of planned evictions threatening specific coastal communities on the Pacific Coast of Costa Rica, following a decade of aggressive coastal tourism development. The TECOCOS movement has produced two historic law projects that are currently in the Legislative Assembly of Costa Rica.

Since the majority of the social conflicts on the coasts of Costa Rica find their roots in the legal and regulatory framework (which includes the coastal land tenure system) and tourism policies, this thesis will attempt to demonstrate how the legal and institutional arrangements as well as the international trends in the tourism industry have led to unsustainable coastal development triggering the creation of a unified front of coastal communities demanding for social change and the recognition of their economic, social and cultural rights.



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## **Chapter One: Introduction**

Coastal communities, from the Garífunas in Honduras and Guatemala to the fisherfolk of Sri Lanka, are severely impacted by aggressive tourism development policies and the degradation of marine ecosystems. The coastal communities in Costa Rica are similarly affected, facing threats of evictions and processes of community disintegration due to the rapid gentrification of the coastal zones. The Costa Rican coastal communities have, however, stood out these past four years due to their sustained mobilization and their innovative legislative bill currently being debated in the Legislative Assembly. If approved, this bill would create a historic precedent and be a potential inspiration for many other coastal communities around the world. The aim of the law project is to accommodate the needs of the coastal communities, respect their cultural, economic and social rights within a non-discriminatory legal and regulatory framework. The main law project is called the “Ley de Territorios Costeros Comunitarios” (hereafter TECOCOS) or the “law of the Communal Coastal Territories”, N° 18.148.

### **Costa Rica**

The Republic of Costa Rica has two coastlines measuring a total of ~1'228km, with a 212km Caribbean Sea coastline to the east and a 1'016km Pacific Ocean coastline to the west. Costa Rica has 309 km border with Nicaragua to the north and a 330 km border with the Republic of Panama to the south. The country has a population of 4'615'518 and a surface of 51'100 km<sup>2</sup> (Morales Ramírez et al., 2008).

The country is organized into seven provinces (Figure 1 and Annex A), four non-coastal provinces, Alajuela, Cartago, Heredia, San José and three coastal provinces, Guanacaste, Limón, Puntarenas. These are subdivided into 81 cantons and the cantons in 463 districts. Costa Rica has six regions (Annex A), four coastal

regions consisting of Chorotega, Pacífico Central, Brunca, Huetar Atlántico, and two regions without a coastline, Huetar Norte and Central. From an environmental standpoint, the country is organized into 11 conservation areas with over 25% of the territory protected by natural reserves and wildlife refuges administered by the National System of Conservation Areas (SINAC). The SINAC is managed by the Ministry of Environment, Energy and Telecommunications (MINAET) (Morales Ramírez et al., 2008).

In Costa Rica, there are three branches of government. The executive branch, which consists of the President and head of government elected for four years. The legislative branch is composed of a unicameral Legislative Assembly with 57 deputies elected by direct popular vote for a period of 4 years. The third branch, the judiciary, consists of the Supreme Court at the top of the hierarchy and four other courts including the Sala I (for civil and administrative matters), Sala II (for civil matters related to employment and family affairs), Sala III (criminal court) and the Constitutional court (Sala IV) (Morales Ramírez et al., 2008).

Figure 1: Political Map of Costa Rica



Source: Ezilon.com

Figure 2: National Parks of Costa Rica



Source: Costa Rica Trade Winds

## SECTION 1.1 PROBLEM STATEMENT

There is no consensus with respect to the current coastal development and the tourism industry's socio-economic benefits, their impact on poverty and the efficiency of the current coastal legal and regulatory framework. Since 2008, the coastal communities in Costa Rica have mobilized themselves into a conflict interest group aiming to reform the coastal land tenure and allow for a more flexible system taking into consideration the needs of the communities already present on the coasts living

from fishing, the sustainable extraction of marine resources, rural tourism and other activities. There are several antagonistic positions pertaining to the normative vision of coastal development therefore it is crucial to study the impacts of coastal tourism development and the conflicts that arise, as well as, assess the legal framework and the coastal communities' law project initiatives.

## **SECTION 1.2 RESEARCH QUESTIONS**

This dissertation will attempt to answer the following two sets of interrelated questions:

1. In what ways do the current tourism trends, the coastal land tenure arrangement and coastal development policies contribute to the emergence of social conflicts on the coast involving the local communities?
2. How is the Territorios Costeros Comunitarios reform movement contributing to the non-violent resolution of these conflicts? What alternative solutions are they offering and what have been the dynamics of the conflict thus far?

## **SECTION 1.3 LIMITATIONS OF THE STUDY**

There are several limitations in this study. Firstly, the four coastal regions of Costa Rica (or the three coastal provinces) are at different stages of tourism development, therefore not all regions face the same impacts from this industry. Nevertheless, if a region or province is in a more advanced state of tourism development, other coastal areas can avoid repeating the same counterproductive strategies and policies. For example, many attribute the launch of the Liberia International Airport to greater coastal development and massive unsustainable tourism in Guanacaste and are criticizing or mobilizing against the opening of another international airport in Palmar, a short distance from the Osa Peninsula (home to a

significant percentage of the world's biodiversity). Many stipulate that such an act would lead to the reproduction of the same trends of tourism development in the Osa Peninsula. Although, every region is different, the scarcity of land, the search for new speculative coastal land markets and the international tourism models promoted will lead to a very similar type of coastal development on all coasts of Costa Rica and have the potential to reproduce similar conflicts. Secondly, the TECOCOS law project is currently in the legislative assembly therefore this conflict is still unresolved. Any future event may support or contradict certain arguments or interpretations made in chapter four of this study. Lastly, it is important to note that although the coastal communities share many similarities, they also share many differences in respect to their capital assets, their relative remoteness, their livelihood strategies and the basic services they receive from the government etc. It is important to note that not all coastal communities have had the resources or capabilities to be involved with the same intensity. Since the conflict is still active, certain aspects of the internal dynamics of the TECOCOS movement and certain of its weaknesses will not be overtly described. In certain cases, they may not be relevant if overcome or resolved internally.

## **SECTION 1.4 DEFINITIONS AND KEY THEMES**

### **Coastal Tourism**

Coastal Tourism is a form of tourism dating back to the 19th century; it is now one of the biggest segments of the tourism industry. It has become a widely popular form of tourism since the 1950s, 60s and 70s with the technological advances of air travel and the progression of paid vacations. Coastal Tourism is, according to Miller et al. (2002), a process involving the tourists, the people and the coastal destinations they visit. These coastal destinations consist of environments composed of social,



cultural, historic and natural resources that the tourists come into contact with during their visit.

Tourists are no longer satisfied with the 3S (sea, sand and sun) that coastal tourism destinations traditionally offered. They expect upon their arrival, an easy access to many coastal and marine related activities such as kite surfing, jet-skiing, hiking, scuba diving, fishing etc. (Robinson and Picard, 2006). All of these activities can substantially increase the tourists' impact on the coastal ecosystems. Coastal tourism is usually classified as a form of mass tourism since many tourists enjoy the same marine and coastal resources at the same time (Honey and Krantz, 2007, pp. 28).

Coastal destinations follow a "urban-rural continuum", with, on the one hand, destinations such as Rio de Janeiro, Miami Beach and New York which consists of major cities and ports with their historical, cultural and economic importance, and, on the other hand, paradisiac beaches in relatively remote areas such as the beaches of Punta Marenco in the Osa Peninsula (Miller et al., 2002). Getting to tourism destinations has become either a means or an end in itself; planes, cars, buses and boats will take you to these destinations but spending a vacation on a cruise boats with only sporadic stops has become part of the touristic experience and a multi-million dollar industry (Miller et al., 2002).

Including environmental degradation, the major impediment to achieving harmonious coastal tourism development is that even though the rural pristine beaches seem isolated, there are often the homes of fishermen communities and indigenous populations. As a result, coastal tourism development becomes a zero-sum game where many diverging interests and power struggles are at play (Cañada, 2010). Social and environmental conflicts arise from the tourism industry's continual need to convert pristine coastal land into "pleasure peripheries" or escape locations for tourists. Some authors, such as Sharpley (2010), argue that there is a myth of

sustainable tourism and a great gap in between theory and reality. Since tourism is very resource and land intensive, sustainability is difficult to achieve in absolute terms. As Cater (1995, pp. 22) states: “given the multitude of interests involved, (...) a completely sustainable outcome is likely to remain more of an ideal than a reality”.

## **Conflicts**

Conflicts can be defined as a situation that arises when two or more parties have antagonistic goals or interests. Conflict, in sociological conflict theory, assumes the following (Ritzer and Ryan, 2011, pp. 81):

- “conflict or struggle between individuals and groups who have opposing interests or who are competing for scarce resources is the essence of social life;
- competition and conflict occur over many types of resources in many settings, but power and economic resources are the principal sources of conflict and competition;
- conflict and struggle typically result in some individuals and groups dominating and controlling others, and patterns of domination and subordination tend to be self-perpetuating;
- dominant social groups have a disproportionate influence on the allocation of resources and on the structure of society”.

## **Land Tenure**

Land tenure systems define who and how land resources may be used, regulate human behavior and the competition for land resources. A land tenure system, its governance and administration can either minimize the risk of conflicts related to land or on the contrary be its root or contributing cause. The FAO (2007) defines land tenure as “the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land”. [...] Rules of tenure define how property

rights to land are to be allocated within societies. [...] In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions” (FAO, 2007). Land tenure can be segregated into several categories: private, State, communal and open access.

Land tenure systems influence and have an impact on the social, cultural political and economic dimensions of society by defining who and how actors may use land according to a predefined set of norms, laws and a normative concept of development. Law makers, if not taking a holistic approach in the creation of land tenure laws, can therefore set the grounds for one group to have a disproportionate influence on how the land resources are distributed. It can be argued that in certain instances, land tenure laws can encourage the domination of certain groups over others and reproduce patterns of domination and subordination (historic national patterns or global patterns). An appropriate land tenure system should have incorporated socio-cultural, economic, legal and political perspectives.

The State has several functions, its functions range from defining (through legislation), interpreting (through the judicial system) and enforcing (through law enforcement police) the land or property rights defined in the land tenure system (Alston and Mueller, 2005). The administration and governance processes of land tenure follow three axes comprising of: land rights, land-use and spatial planning regulations, and land valuation and taxation (FAO, 2007).

Lastly, according to the European Conference of Ministers responsible for Regional Planning (CEMAT), spatial planning "gives geographical expression to the economic, social, cultural and ecological policies of society. It is at the same time a scientific discipline, an administrative technique and a policy developed as an interdisciplinary and comprehensive approach directed towards a balanced regional development and the physical organization of space according to an overall strategy” (Council of Europe, 2010).

## **The Coastal Communities and the Coastal Zone**

With respect to the coastal communities, Pearson (2006) claims that “there is such a thing as (a) littoral society, that is, that we can go around the shores of an ocean, or a sea, or indeed the whole world, and identify societies that have more in common with other littoral societies than they do with their inland neighbors. Location on the shore transcends differing influences from an inland that is very diverse, both in geographic and cultural terms, so that the shore folk have more in common with other shore folk thousands of kilometers away on some other shore of the ocean than they do with those in their immediate hinterland”. The coastal communities are influenced by their coastal environment, livelihood strategies and have their distinct cultural traits that need to be accommodated within the land tenure system in order to preserve a country’s socio-cultural diversity. Coastal land provides a source of livelihood for these communities and its equitable access has the potential to stimulate sustainable economic growth. The need to reform land tenure and/or to establish effective property rights (as well as governance) to ensure its equitable access and effective use is crucial to development (FAO, 2007). In contrast, getting land tenure laws wrong (e.g. legal transplants) could have the effect of deepening poverty, intensifying social exclusion and inequalities as well as the destruction of fragile ecosystems.

## **Integrated Coastal Zone Management System and Coastal Communities**

Concerning the protection of coastal communities, the 1992 Rio Earth Summit defined certain objectives in the Agenda 21 relating to an Integrated Coastal Zone Management (ICZM) system. The ICZM would be a process promoting sustainable development by guiding policy-making and governance through standards and methodologies. Some of its aims are to promote effective coastal land tenure systems and the protection of environmental and cultural resources by balancing objectives

and the multitude of activities and interests present in the coastal zone. In chapter 17 of Agenda 21, it states that countries should: “take into account traditional knowledge and interests of local communities, small-scale artisanal fisheries and indigenous people in development and management programs; [...] Recognize the rights of small-scale fish workers and the special situation of indigenous people and local communities, including their rights to utilization and protection of their habitats on a sustainable basis” (U.N. Conference On Environment and Development, 1992).

## **SECTION 1.5. THESIS OUTLINE**

In Costa Rica, oppressive structures and institutionalized forms of moral exclusion are denying the local coastal communities from participating in the decision-making processes, and maintaining a land tenure system with zoning laws and procedures that further exclude them. These communities are vulnerable to the institutional goals of Costa Rican Tourist Board<sup>1</sup> (ICT) and the international trends in tourism that create commercial pressures on lands or provide the necessary incentives to legally or illegally evict these communities. There has been an ongoing trend of land dispossession due to the urbanization of the coast which has led to the inability of communities to practice their trade, threatens their culture and lifestyle and as a result, leads to an increase in inequalities and the impoverishment of the coastal inhabitants.

This oppression is maintained and/or supported by the complex and inefficient legal, regulatory and administrative framework; the contradictory and unsustainable policies that fail to integrate social, cultural and environmental perspectives as well as local decision-making mechanisms in the elaboration of national, regional and local coastal development plans. Furthermore, the strong growth of Costa Rica’s tourism

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<sup>1</sup> Instituto Costarricense de Turismo

industry, its transnational practices and the sharp increase in FDI investments in residential tourism have created many incentives for the preservation of these oppressive structures by facilitating moral justifications by the dispossessing parties, creating conflicts of interests among the political class and increasing political corruption.

A mobilized conflict has taken shape with the conjoined efforts of the coastal communities and their Territorios Costeros Comunitarios law project. It opposes on one side, the demand for social justice/social change by breaking down the oppressive structures and the institutionalization of the moral/social exclusion of coastal communities, and on the other, those who request the status quo and the continued use of the coast primarily for tourism development which has led, until now, to unhindered urbanization.

The reform movement Territorios Costeros Comunitarios (TECOCOS) has led the dispersed and morally excluded coastal communities of Costa Rica into forming a conflict interest group. Through increased critical awareness and mobilization, as well as the formulation of rational goals and the use of non-violent conflict resolution mechanisms to achieve those goals, the latent conflicts mainly related to land tenure and land dispossession in many coastal communities, were transformed into a “manifest” or “open and active” conflict. This conflict group demands the recognition and the preservation of coastal culture, the right for coastal communities to legally live on the coast and pursue their livelihood strategies. This is to be achieved through legal reform and the creation of new laws securing their land tenure rights and the implementation of participatory local development mechanisms and programs as well as diminishing the dominant authoritative position of the ICT on coastal development.

In the next chapter, we will present the coastal context within which this conflict takes place. We will describe the coastal tourism development trends and

indicators as well as explore the main socio-economic impacts of coastal tourism and real estate development. Afterwards, we will introduce the legal and regulatory framework that has shaped development and policy-making. In chapter three, our aim is to critique the land tenure system as well as the Costa Rican Tourist Board (ICT) policies and their propensity to create conflict. In chapter four, after the current legal and regulatory framework weaknesses have been explained, we will describe how the law project is answering the call for the reform of the law N° 6043 and how it proposes to protect the coastal communities and their economic, social and cultural rights. Finally, we will analyze and describe the dynamics of the TECOCOS conflict and its maneuverings within the legislative process.





## Chapter Two: Coastal Development in Costa Rica

*“No maten la gallina de los huevos de oro.” “Don’t kill the goose that lays the golden eggs.”*

– Aesop (620–564 BC)

Costa Rica has become very popular as a tourist destination. For a country with approximately 4.7 million inhabitants, approximately two million tourists have been visiting the country each year since 2007 (ICT, 2010a). Certain tourism development models have been very popular but have also attracted their fair share of criticism from human rights and environmental activists as well as government agencies. In this chapter, we will present the major development models for the coast, macro-economic indicators, trends and impacts. According to surveys, 46% of all tourists realized a “sun, sea and sand” activity during their stay. With a total of 950’000 tourists having spent time on the coast in 2011, coastal tourism is therefore an important part of Costa Rica’s tourism product (Lizano, 2011, pp.10-12). Using the same figures, it was calculated that the spending of tourists at the beach aggregated to approximately \$USD 1’716’000’000 at an average of \$USD 1’219 per tourist. By 2016, the ICT is aiming to attract 2.7 million tourists per year or an increase of 4%-5% per year (Lizano, 2011, pp.10-12; ICT, 2010a).

### **SECTION 2.1. COASTAL TOURISM DEVELOPMENT MODELS, MACROECONOMIC INDICATORS, TRENDS AND IMPACTS**

In this section, we will first present the various coastal tourism models present on the coast as well as the macroeconomic trends and indicators. Secondly, we will describe the various socio-economic trends present on the coast and linked to the coastal development and tourism activities.

### **2.1.1. Coastal Tourism Models, Industry Trends and Macro-economic Indicators**

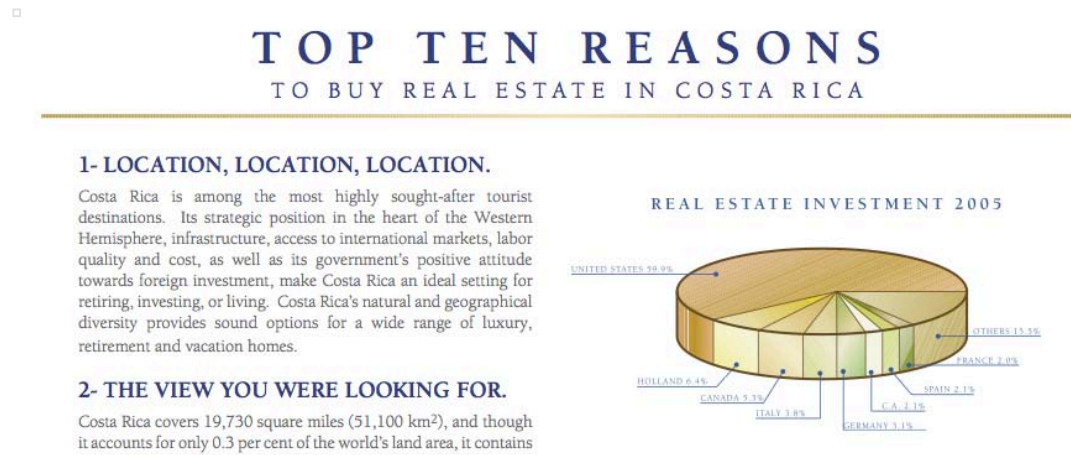
#### **Tourism Models: Residential, Lodging and Hotels**

From secluded gated communities consisting mainly of foreigners living in their secondary homes for short, medium or long stays, rural tourism housing options and beach resorts owned by transnational corporations (TNC), coastal development models have evolved to include numerous types of options for tourists and foreigners looking for more than just a short vacation: a lifestyle, a place to retire, a new home. Each tourism model evolves within, takes advantage of, or is shaped by country specific legal and regulatory frameworks, as well as the international trends and habits of the tourism industry. These legal and regulatory frameworks in question have shaped, constrained and given opportunities for certain models to flourish and others to diminish but, all in all, have permitted for the economic concentration and accumulations of resources and land by some actors over others. According to UNEP (2012), a very high percentage of hotels are owned by foreigners.

Within coastal tourism, we can divide various tourism models linked to accommodations in two groups: 1. Residential Tourism; 2. Hotel and Lodging Tourism. Infrastructures such as golf courses and marinas may be found nearby. We will not include cruise tourisms but will present an overview of the different types of accommodations and their contribution to coastal development.

## Residential Tourism

Illustration 1: Ten reasons to buy real estate in Costa Rica by Coldwell Banker (2007)

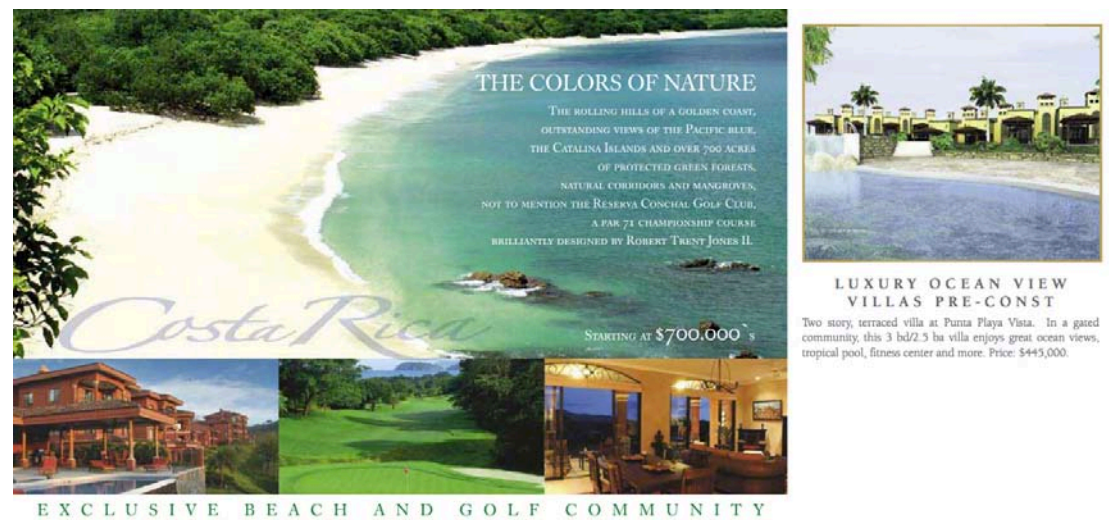


In Central America and Costa Rica, residential tourism has been growing fast and is highly popular among foreigners. Its chaotic expansion in Costa Rica's Pacific coast has been the subject of many denunciations due to its negative impacts on the environment, the strain exerted on the allocation and use of natural resources, on the local infrastructure (e.g. sewage system). Residential tourism and coastal real estate development, measured in FDI inflows, sharply rose starting 2003 primarily on the Pacific Coast of Costa Rica. As it is the case in many countries, when villas and condominiums are rented to tourists, they are denounced as unfair competition by the small and medium sized hotels and lodges.

## Condominium and Vacation Home Communities

These types of communities offering condominiums in apartment complexes or vacation homes are usually gated and foreigner enclaves. These condominiums or vacation home are mostly owned by foreigners as secondary homes and can be rented as alternatives to hotels.

Illustration 2: Pacific coast gated communities advertising



Source: Coldwell Banker (2007)

### Individual coastal vacation ranches, homes and villas

This category consists of houses, villas or ranches built in proximity to the sea, are often rented out to tourists or owned as secondary houses by foreigners or wealthy locals.

### High Rise Apartments

More popular in neighboring Panama, these tall buildings offer opportunities for real estate developers to maximize their investments. Certain of these high rises are being built near Jacó, Puntarenas and in cities of the province of Guanacaste. The erection of these high rise buildings increase the density of human presence and activities in the coasts and thus requires more resources such as water and electricity and require an adapted water and sewage infrastructure.

Illustration 3: Jacó, Puntarenas



Source: <http://jacobeachnightlife.blogspot.fr>

### **Hotel & Lodging Tourism**

Hotel and Lodging Tourism is the alternative to residential tourism and includes conventional tourism lodging, eco-lodges, rural community accommodations as well as international hotels and resorts.

Illustration 4: Playa Langosta, Puntarenas: resorts and conventional lodging



Source: Wiki Commons



## **International Hotels and Brands**

Four Seasons, Riu Resorts and Barceló among others, are internationally recognized resort brands with an international presence and these transnational corporations have combined revenues that rival small countries. These resorts usually offer the “All Inclusive” packages that the tourists buy in their home countries. As a result, the tourists will usually spend most of their time inside the resort complex and spend very little money in the local economy since most of their needs are already met. Pools, Marinas and Golf Courses are usually found nearby.

Illustration 5: Riu Resort, Guanacaste province



Source: Riu Hotels

## **Conventional Tourism Lodging**

Lodging for foreign and national tourists, the prices varies from low end to mid range prices.

Illustration 6: Sano Banano Hotel, Montezuma, Puntarenas



Source: Sano Banano Hotel

### **“Eco-Lodging”**

Illustration 7: Selva Bananito Eco-lodge, Cahuita, Limón



Source: Selva Bananito Eco-lodge

Eco-lodges are a type of lodge with a relatively low environmental impact that can be associated to ecotourism. Although they can be considered as “environmentally-friendly”, these businesses can still have a socio-cultural impact. These eco-lodges can range from low to high end.

### **“Rural Tourism Accommodation”**

These are accommodations within a rural setting and/or community. It can be considered as a form of eco-tourism or community-based tourism lodging. Two 2007 decrees have created the base for Rural Community Tourism and a 2009 law has enabled for its promotion as a national tourism product and its expansion. The limitations relating to rural coastal community tourism will be explained in the next chapter, section 3.2.

### **Golf Courses and Marinas**

Often accompanying the transnational hotel brands and high-end real estate developments are Signature Golf Courses and Marinas. The development of these two types of structures often create uproar among environmental groups due to their high impact on marine ecosystems (marinas) and their high consumption of water (golf courses) and pesticide use (golf courses). A CREST report has determined that their presence in proximity to condominiums and hotels can increase their price significantly and bolster coastal development (Vargas, 2008, pp. 10).

### **Golf Courses**

Signature golf courses designed by pro golfers like Arnold Palmer, are, according to certain standards, the ultimate luxury and a way to attract certain tourists or real estate buyers. Golf, a sport born in the northern parts of the United Kingdom with heavy rainfall, requires much water for the maintenance of the grass fields manicured at different heights. A signature golf course can use as much water per day as a town of 5’000-10’000 inhabitants (Honey et al., 2010, pp. 14). In Costa Rica, they are mainly found in the driest province: Guanacaste. As the CREST (Honey et al., 2010, pp. 6) report notes, in a 2007 ICT survey: “slightly over 2% of international tourists play golf, but the rule of thumb is that houses built around a golf course can



sell for 20% more. So golf courses are being built not to meet tourist demand, but to increase the value of condos and vacation homes”.

Illustration 8: Arnold Palmer signature golf course, Guanacaste



Source: Four Seasons

## **Marinas**

Like golf courses, marinas can significantly increase the price of real estate even if relatively used. Marinas have an important impact on coastal ecosystems and are strictly regulated in Costa Rica through the “The Marinas Concession and Operation Law N° 7744”. The marinas meet the demand of tourists who want rent or bring their boats and yachts to their vacation spot. As of 2007, there were two-dozen marina projects underway in Costa Rica, however according to Vargas (2007, pp. 10), it is not clear whether it matches a real demand. There were many attempts made to soften the legislation and regulations relating to the granting of permits to build marinas such as the 2002 Law project N° 14.836 which was approved in 2011 and aimed to simplify the procedures and create incentives for tourism marinas and docks (Rodríguez Valverde, 2011).

Illustration 9: Marina in the Golf of Papagayo, Guanacaste



Source: Marina Papagayo

## » Industry & Macroeconomic Indicators and Trends

The key macroeconomic indicators for the tourism industry are presented in the tables and graphs below. The pronounced growth of coastal real estate development and FDI since 2003 is presented in the figure 3 and table 3.

### **Growth of the Tourism Industry and contribution to GDP**

The table 1 demonstrates the strong growth of the tourism industry; in between 2000 and 2011, tourist visits have more than doubled (100.63%). For a country with a population of 4.7 million and fragile ecosystems, this sharp rise in tourism activities has had its share of social and environmental impacts due to the aggregate behavior of individuals and the increase in mass tourism models promoted. Spending per tourist has decreased which can be interpreted as the effect of a “massification” of tourism (CEPAL, 2007, pp. 12), different than the high value-added nature based ecotourism Costa Rica has been famous for in the 1990s (Honey et al., 2010, pp. 6). Mass tourism is not a sustainable and desirable model of tourism to follow due to its high impact. Tourism’s contribution to the country’s GDP is high (14.3%) however these figures do not explain how the money circulates within the economy and how profits are redistributed; often profits of the tourism industry made by TNCs return to the home countries or go to “fiscal paradises”. This can partly explain the contradictions observed in some countries; areas with strong tourism growth are also areas with high poverty rates (Buades, Cañada and Gascón, 2012, pp. 14).

Table 1: Tourist arrival and yearly growth (2000-2011)

Year	Tourists	Variation	
2000	1'088'075	56'490	5.5 %
2001	1'131'406	43'331	4.0 %
2002	1'113'359	-18'047	-1.6 %
2003	1'237'948	124'589	11.2 %
2004	1'452'926	214'978	17.4 %
2005	1'679'051	226'125	15.6 %
2006	1'725'261	46'210	2.8 %
2007	1'979'789	254'528	14.8 %
2008	2'089'174	109'385	5.5 %
2009	1'922'579	-166'595	-8.0 %
2010	2'099'829	177'250	9.2 %
2011 (approx.)	2'183'000	83'171	4.0 %

Source: Instituto Costarricense de Turismo (ICT)

Table 2: Tourism industry macroeconomic indicators (2003-2008)

Contribution to GDP Annual Average	Contribution to Employment Annual Average	Contribution to Exports annual Average	Real Growth in Tourism GDP Annual Average
14.3%	13.9%	18.9%	6.2%

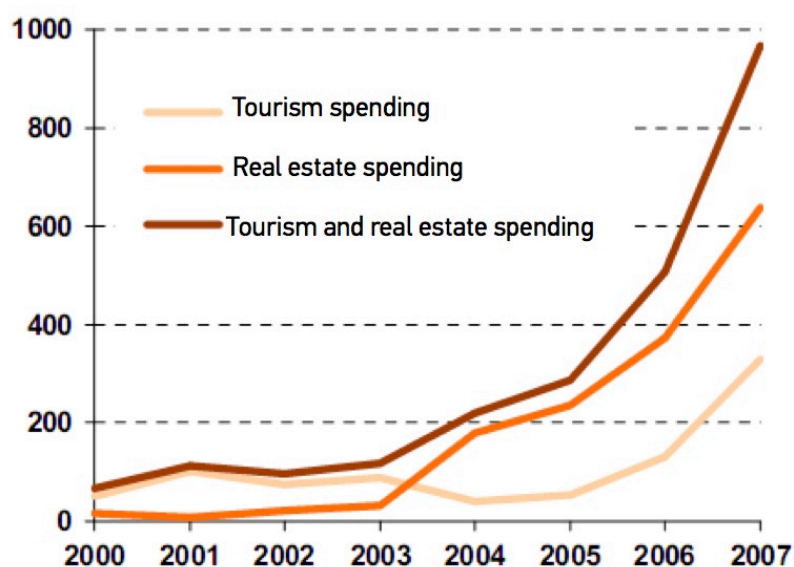
Source: Cañada, E. (2010, 2011)

### FDI and Real Estate Investment Increase

Starting 2002-2003, FDI has risen sharply. According to Cañada (2010, pp. 12), this sharp growth is linked to speculative money available after the dot-com burst, also coinciding with the real-estate speculative bubble in the United States, an

increase in financing available to foreigners in Costa Rica, the GATS agreement (General Agreement on Trade in Services) signed by countries members of the WTO, an increase in money laundering and the geostrategic location of Costa Rica. Its proximity to the United States and Canada has made it a desirable destination for north American retirees and tourists wanting to invest in a stable country (Figure 3, Table 3 and 4). The provinces of Guanacaste and Puntarenas are the principal receivers of FDI funneled towards real estate development and the construction of resorts. The Liberia International Airport built in 2002 has been a key logistical tool that helped attract FDI in the province of Guanacaste.

Figure 3: Foreign tourism and real-estate investment in US\$ millions (2000-2007\*)



Source: Costa Rica Central Bank (BCCR) taken from Cañada (2010)

\*2007 numbers are estimates

Table 3: Foreign real estate spending by province in US\$ millions (2004-2007\*)

	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>	<b>Subtotal 2004-2007</b>	
Guanacaste	64.4	82.8	131.5	127.4	406.1	29%
Puntarenas	39.8	56.6	90.8	214.4	401.6	29%
San José	37	37.8	45.5	89.3	209.6	15%
Alajuela	13.5	15.7	45.9	103.1	178.2	13%
Heredia	13.3	17.2	23.8	18.6	72.9	5%
Cartago	5	9.6	10.9	15.6	41.1	3%
Limón	3.5	4.9	15.6	51.7	75.7	5%
<b>Total</b>	<b>176.5</b>	<b>224.6</b>	<b>364</b>	<b>620.1</b>	<b>1385.2</b>	<b>100%</b>

\* Estimate

Source: Costa Rica Central Bank (BCCR) taken from Cañada (2010)

## » Tourism Industry Trends

Many of the Tourism Industry trends for Costa Rica's Pacific coast follow the same international trends of that have led to the urbanization and development of coastlines. These main trends are centered on the growth of all-inclusive resorts and vacation homes (Honey et al., 2010, pp. 14).

### **Resort Tourism, the Golf of Papagayo and the Liberia airport**

The Polo Turístico Golfo de Papagayo (PTGB) was a government tourism development project launched in the late 1970s with its own coastal legal framework (law N° 6370 of 1979, law N° 6758 of 1982) and declared as a public interest project with a Master Plan. The initial Master plan "called for a "reasonable" prevention of environmental and social impacts" (Honey et al., 2010, pp. 36). By 2008 or four Master Plan revisions later, the PTGB project increased in proportions and had become the symbol for Costa Rica's high-end tourism resort model. For others, it represented a darker symbol of its unsustainable policies. The PTGB has had its share of controversies surrounding its environmental impacts and the poor treatment of

workers on construction sites, as well as the failed promise of job creation and the projects marginal impact on local communities (Honey et al., 2010, pp. 44). Tourist resorts are mostly located in Guanacaste and Puntarenas province (Chorotega and Pacífico Central Region) not just in the Papagayo Golf. With the Liberia airport built in 2002, tourists now only take 20 minutes by bus to get their resort complex, a great deal shorter than if they arrived by plane in the capital of San José.

### **Residential Tourism Boom starting 2002-2003**

Starting 2002-2003, the purchase of land, homes and the construction of real estate projects soared. By 2007, residential construction “accounted for 74% of all new constructions along the entire Pacific Coast” which quickly surpassed tourism development (Honey et al., 2010, pp. 47). As we notice in the table below, the FDI distribution per sector changed structurally with a sharp rise in FDI going to the real estate sector. In figure 4 and 5, many multinational real estate companies from the United States (Coldwell Banker and Century 21) have promoted the real estate market in Costa Rica under very attractive selling points, many real estate projects were sold before construction started, with project plans and composites.

Table 4: Foreign Direct Investment (FDI) distribution per sector (2002-2007)

<b>Sector</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Agriculture</b>	-1.3%	-6.3%	6.4%	4.3%	4.5%	-0.5%
<b>Commerce</b>	0.4%	1.5%	0%	3.4%	-0.2%	0.9%
<b>Industry</b>	73.2%	67.2%	57.4%	40.1%	29.6%	36.7%
<b>Services</b>	8%	14%	2%	9%	4%	3%
<b>Financial Sector</b>	3%	0%	3%	5%	23%	1%
<b>Tourism</b>	12%	15%	5%	6%	9%	17%
<b>Real Estate</b>	3%	5%	22%	27%	25%	34%
<b>Others</b>	0%	1%	0%	0%	0%	2%

Source: CINDE



Figure 4: 2007 promotion pitch for real estate development in Costa Rica (Coldwell Banker, 2007)

## TOP TEN REASONS TO BUY REAL ESTATE IN COSTA RICA

### 1- LOCATION, LOCATION, LOCATION.

Costa Rica is among the most highly sought-after tourist destinations. Its strategic position in the heart of the Western Hemisphere, infrastructure, access to international markets, labor quality and cost, as well as its government's positive attitude towards foreign investment, make Costa Rica an ideal setting for retiring, investing, or living. Costa Rica's natural and geographical diversity provides sound options for a wide range of luxury, retirement and vacation homes.

### 2- THE VIEW YOU WERE LOOKING FOR.

Costa Rica covers 19,730 square miles (51,100 km<sup>2</sup>), and though it accounts for only 0.3 per cent of the world's land area, it contains 6 per cent of its biodiversity. Whether you are looking for an ocean, city or mountain view, there is something for everyone in Costa Rica.

### 3- OWNERSHIP RIGHTS.

Unlike in Mexico and other countries, the Costa Rican government allows foreign investors to hold fee simple titles. Local banks make financing available to qualified foreign buyers. Title insurance also is available.

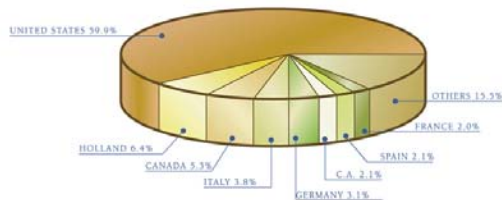
### 4- POLITICAL STABILITY = SAFE INVESTMENT.

Costa Rica has a long democratic and world renowned tradition, which has more than 115 years of history. Such respect for political and peace processes was evidenced by the abolition of the military in 1948 and acknowledged internationally in 1987 when then-President of the Republic, Oscar Arias Sánchez, was awarded the Nobel Peace Prize.

### 5- WHEN THE TOURISM INDUSTRY GROWS, SO DOES THE REAL ESTATE INDUSTRY.

Leading brands such as Four Seasons, Saint Regis, and Marriott have chosen Costa Rica for its great potential to attract foreign investment. The U.S. is among the countries most interested in investing in Costa Rica. Tourism is the main economic activity in Costa Rica. The country receives 1.6 million tourists annually, which generates \$1.6 billion in earnings.

REAL ESTATE INVESTMENT 2005



### 6- STRATEGIC LOCATION.

(Three hours from the U.S.): Costa Rica is located in the center of the Americas, with two major airports providing excellent international access. Most citizens from the U.S., Canada and countries in Europe do not need a visa. Seventy-six per cent of passengers arriving at the Daniel Oduber Airport in Guanacaste are North American, providing the primary market for developments in the area.

### 7- COMPETITIVE CONSTRUCTION COSTS.

It's relatively easy to develop in Costa Rica. A good work force comes at a fairly low cost compared to that of the U.S. A home costing \$100 per square foot to build in Costa Rica could cost \$250/sf (Columbus), \$350/sf (Dallas or Atlanta), or even more than \$500/sf (San Francisco, Los Angeles, or Miami).

### 8- LOW TAXES.

Under Costa Rican tax law, you must declare the value of your home to the Costa Rican Municipal Government every five years. An annual flat rate of 0.25 percent is charged, calculated on the declared land and house value combined. Owners of homes within the Maritime Zone or of concessions near national parks pay property tax only on the value of the house, not the land itself. For example, property taxes on a home in Dominical outside the Maritime Zone, with a combined land and house value of \$300,000, would be approximately \$750.

Figure 5: 2007 promotion pitch for real estate development in Costa Rica (Coldwell Banker, 2007)

#### 9- EXCELLENT QUALITY OF LIFE.

Stability and economic growth reflect relevant social achievements. Among them is the reduction of poverty from 40 per cent to 20 per cent over the last 20 years. In addition, Costa Rica has achieved the highest education and health levels in Latin America and has been able to provide the population with wide access to health services, social security, potable water, and basic public services. Costa Rica's literacy rate of 95.8 percent is comparable even to those of highly developed countries, and the workforce is becoming increasingly bilingual.

#### 10- YOU HAVE A PERFECT PARTNER IN COSTA RICA.

Coldwell Banker offices in the country can guide you with confidence to your dream investment in Costa Rica. We provide clients interested in Costa Rican real estate with the resources they need to insure that the process of investing in or purchasing land or a home runs as smoothly as it would in their home country.



### **2.1.2. Socio-Economic Trends and Impacts**

Many coastal level key indicators are not easily available or do not exist. The opaqueness and unavailability of indicators inhibit us from identifying the extent of the socio-economic and environmental costs of human activity on the coast. As a result, the Costa Rican Tourist Board (ICT) does not have a set of indicators that permit it to measure the social and environmental impacts on the coast of its own industry (ICT, 2006). Current inefficiencies in the environmental protection mechanisms has enabled the construction of many infrastructures not meeting the environmental standards. As Vargas (2010, pp. 108) explains, in many circumstances authorities have arrived after the fact, after environmental damage.

#### **» Socio-Economic Trends**

The development of residential tourism and the traditional sea, sun and sand tourism in Guanacaste, Puntarenas and Limón (to a much lesser degree) has had the following well documented socio-economic consequences: there has been several changes in the economic structures of the province and the associated land uses, tourism has created numerous jobs in the construction and the hospitality service industry and could have contributed to the decrease in poverty of the coastal pacific regions (there is no coastal-level data available however). There has been a change in the patterns of ownership of land and the concentration in ownership of business and land in the hands of foreigners or Costa Ricans with high disposable incomes.

The massive inflows of FDI and the explosion of construction on the coasts has led to an increase in land speculation, increased the cost of living and has contributed to the rise of conflicts of interest and corruption. Opposite positions are taken on tourism and its impact on poverty and inequalities, with the Costa Rican Tourist Board (ICT) praising the socio-economic benefits of tourism while NGOs, the catholic clergymen of Guanacaste (CECOR) and other groups are less optimistic of its

ability to reduce poverty, and denouncing the chaotic development, its impact on the environment and the local communities (Fernández Guillén et al., 2009).

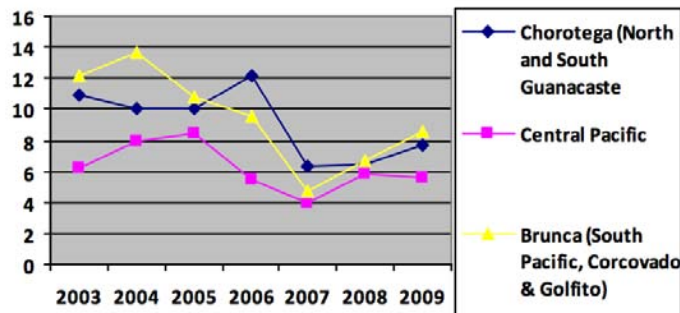
### **Poverty and Extreme Poverty**

As noted in the INEC poverty indicators found in the CEPAL (2007) report on Tourism and Poverty and the CREST (Honey et al., 2010) report on the impacts of tourism-related development on the pacific coast of Costa Rica; it is difficult to isolate and measure the effect of tourism on poverty and inequality as well as study these impacts at the coastal level. For example, in between 2000 and 2012 there has been both a tourism boom and overall economic growth in Costa Rica as well as a global economic crisis. According to CREST, two other factors that impact poverty levels need to be considered: changes in government spending in “infrastructure and social services” as well as internal migrations of workers and the immigration of foreign workers. Consequently, CREST argues that it is difficult to “draw firm conclusions or suggest relationships between an increase in tourism development and a reduction of poverty along the Pacific coast” (CREST, 2010, 74-75).

The four coastal regions, Pacífico Central (West), Brunca (South-west), Chorotega (North-West) and Huetar Atlántico (East) are coastal regions that differ in their stages of coastal development, with different types of tourism and residential projects. For example, the Chorotega region and the Pacífico Central regions have witnessed a sharp rise in the construction resorts or residential projects while the Osa Peninsula (Brunca) has not; but poverty has declined in all three regions in between 2003 and 2007. The Huetar Atlántico region (Caribbean side) has not experienced the same popularity as a tourism destination and is not as developed for tourism, nevertheless, it has overall lower extreme poverty levels compared to the other three regions and lower poverty levels compared to the Brunca and Chorotega regions (Table 4, 5 and Figure 6). These four regions have all had indicators showing a rise

and fall of poverty and extreme poverty. Using 2011 INEC indicators, poverty indicators went up for all coastal regions.

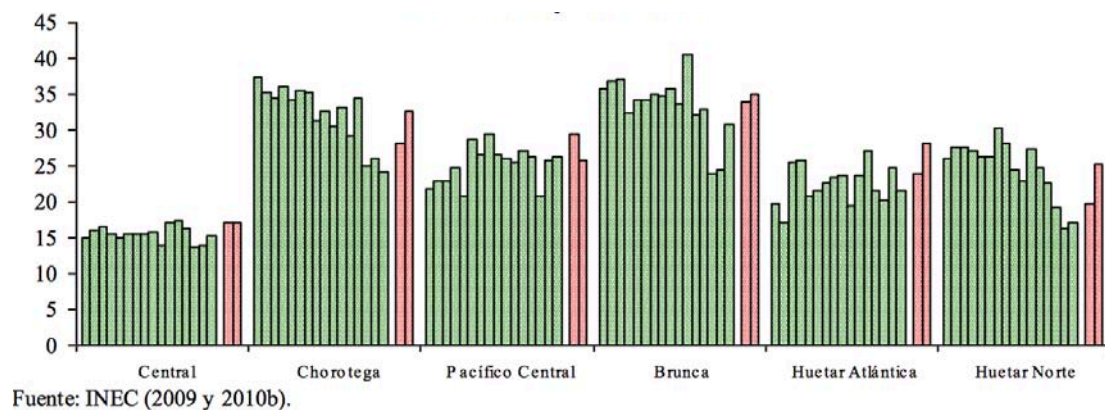
Figure 6: Percentage of households in extreme poverty (2003-2009)



Source: INEC, 2003, 2007, 2009 taken from Honey et al., 2010

There is a duality of opinions pertaining to the benefits of tourism. On the one hand, we have the president of the Guanacaste Tourism Chamber, Ana Soborío, who said in September 2009 in Liberia: “Tourism in Guanacaste has enabled the drastic reduction of poverty, unemployment, social inequality, “housing deficit” and deforestation”. On the other hand, there are public figures like Monsignor Vittorino Girardi, who retorted that her “optimism was questionable” and along with two other clergymen have authored of an open letter denouncing the impacts of tourism in Guanacaste’s coastal zone (Córdoba Morales, 2009; Hernández and Picón, 2011, pp. 34)

Figure 7: Incidence of household poverty per region (1994-2009) and (2009-2010)



Source: INEC data presented by Estado de la Nación (Sauma, 2011)

### Change in the Economic Structure and Land Use

With the debt crisis of the early 1980s, Costa Rica had implemented a set of structural adjustment programs (deregulations, privatizations, opening of borders etc....) that have provoked profound changes in the economic structures of provinces like Guanacaste. The farming sector based on traditional agriculture exploitations shifted to non-traditional export based farming with an increased land concentration (Cañada, 2010, pp. 4; Cañada, 2011, pp. 3-5). With the increase of tourism activities, the coastal zone during the late 1980s, early 1990s, the once low-density land of relative low market value, saw its population increase along with the value of land. There was thus a second change in the economic structures with the emergence of a service-based economy linked to tourism and leisure activities. These two changes in economic structures were responsible for the migration of people to the coasts (Alba Sud, 2010, pp. 6-7) and the change in the classification of numerous land plots that were originally registered for agriculture use (Román, 2007, pp. 16; Honey et al., 2010, pp. 18-19).

## **Employment**

With the rise in resort tourism and the explosion of residential tourism, the job market has gone through many changes. As table 5 illustrates, in the Provinces of Guanacaste and Puntarenas, the employment rates in construction and hotel and restaurants represented 15.3% and 12.7% of total employments in 2003 and 36.8% and 32.9% of total employments in 2006. The real estate bubble in Costa Rica and the increase in tourism visits have created a large proportion of the new employment in construction through the high demand in unskilled labor. The local labor did not always suffice and jobs were filled using Costa Ricans from other provinces. In 2007, 10'000 Central American workers were allowed in the country to work (Honey et al., pp. 71). Nevertheless, jobs in construction are not permanent and depend on the real estate market. Since the countries hit hardest by the global economic crisis were the same countries that massively invested in and visited Costa Rica (USA, Spain), from 2007-2012 employment opportunities in the construction and hotel sector were affected (ICT, 2010a, pp. 90).

Before an important social security law passed in 2009 that made health coverage mandatory, a study in 2006-2007 found that 75% of construction workers in Guanacaste did not have health insurance. There have been many reports of worker abuse and dangerous working conditions (Cañada, 2010, pp. 34; Honey et al., pp. 72). During the construction of Hotel Riu in November 2008, one Nicaraguan worker died from intoxication and approximately 300 other workers became sick suffering from intestinal and respiratory ailments. As a result, the Ministry of Health (MINSa) temporarily shut down the construction site (Cañada, 2010, pp. 34). According to CREST, CCSS inspectors concurrently found 200 workers in unsanitary conditions in a residential development project construction site in Costa Esterillos (Honey et al., 2010, pp. 72). It is important to note that the tourism industry does not always offer

secure, stable employment and often offers jobs paying under the minimum wage (CEPAL, 2007).

Table 5: Employment by province and sector (construction, hotels and restaurants, real estate activities, business and rentals % of total)

Branch of Activity	Total	Province						
		San José	Alajuela	Cartago	Heredia	Guanacaste	Puntarenas	Limón
2003								
Total	554,036	296,118	66,424	40,888	56,971	19,683	29,528	44,424
Construction	7.1%	7.6%	5.3%	8.1%	6.3%	12.7%	8.6%	2.5%
Hotels and Restaurants	6.2%	6.7%	5.8%	7.0%	6.2%	2.6%	4.1%	5.2%
Real Estate Activities, Business and Rentals	11.0%	15.0%	5.5%	9.3%	10.3%	4.0%	3.2%	3.4%
2006								
Total	662,261	346,008	80,409	44,884	75,077	28,850	37,582	49,451
Construction	7.3%	7.0%	6.5%	9.2%	4.5%	15.5%	15.3%	2.0%
Hotels and Restaurants	5.9%	5.0%	4.6%	2.2%	4.3%	21.3%	17.6%	2.7%
Real Estate Activities Businesses and Rentals	13.3%	17.8%	6.5%	10.7%	15.7%	5.8%	4.2%	3.4%

Source: Translated table from PROCOMER (2008) using data from the Costa Rica Social Security (CCSS)

A CEPAL (2007) study on tourism and social conditions confirmed that employees in the tourism sector were on average less insured than the rest of the active population (table 6).

Table 6: Social security insurance coverage overall and tourism sector as % of total employment (2002)

	With Social Security Insurance	Without Social Security Insurance	Total
Men	75.25	24.75	100
Women	84.04	15.96	100
Men employed in Tourism	69.54	30.46	100
Women employed in Tourism	74.31	25.69	100

Source: CEPAL, 2007.



Lastly, many jobs created as result of the tourism boom were often not available to the local workforce as they required a certain level of education and proficiency in foreign languages. As a result, many skilled jobs are or were filled by nationals from the Central Valley or foreigners (Honey et al., 2010, pp. 72-73).

### **Gentrification, Speculation, Land Ownership and Inequality**

There has been a shift in the patterns of ownership of land and businesses on the coasts. From the 1980s to the 1990s, we have witnessed the shift from a mainly endogenous tourism (national tourists staying in Costa Rican owned hotels) to a tourism industry increasingly composed of businesses financed by international or transnational capital. The former model permitted the revenues and profit to stay in the local economy, but the latter one is systemically prone to import and export leakage (UNEP, 2012). According to UNEP, foreigners own 65% of hotels and most of the high-end resorts belong to foreign corporations. Although this number seems quite high, foreign ownership in the hospitality businesses is widespread and coastal zones have become areas where alien cultures and the English language dominate.

With the rise in land prices and the increase in real estate development there have been many incentives for locals to sell land or instances of forced or distressed sale of land to foreigners and real estate companies. Finally, another downside of land speculation is the financial incentives for the clearing of forests, the filling up of creeks and the drying of marshes and mangroves.

Illustration 10: Coldwell Banker (2007) advertising beach front properties

*"We are mainly targeting upper-middle-class USA end users who want turnkey, built units with all the amenities. They lead an active, family-oriented, outdoors lifestyle. They are into horses, kayaking, mountain biking, hiking and surfing. They tend to prefer a quieter community instead of beach resorts," Langston says.*

Coldwell Banker Loring Costa Rica lists various types of properties for sale. For example, investors can purchase one-half share of a TIC investment lot – either ocean view or walking distance to the beach – for \$15,000 to \$50,000.

Beachfront concession lots and ocean-view condos are listed for \$200,000 to \$300,000. Larger tracts of undeveloped land for segregation into individual lots are priced from one million to eight million dollars.

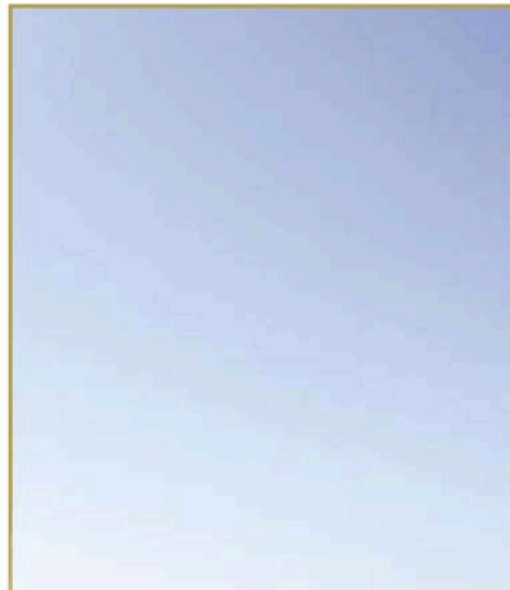
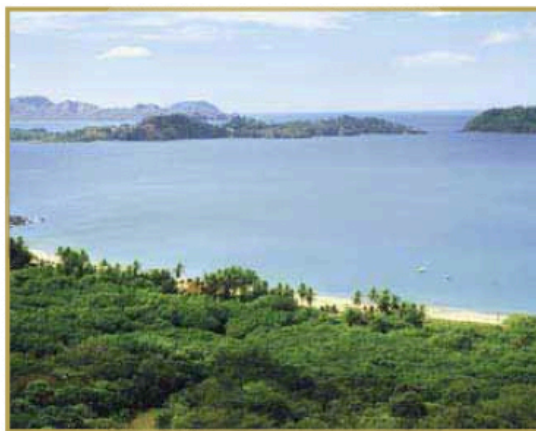
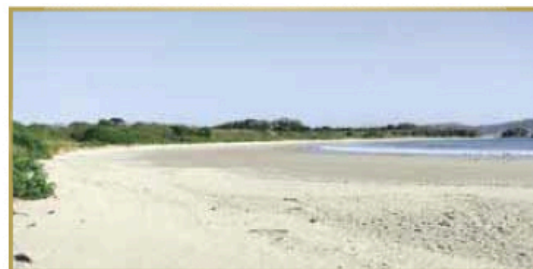


Illustration 11: Coldwell Banker (2007) advertising beach front properties



### PREMIUM OCEAN VIEW PROPERTY

On a bluff, 200 meters above Penca beach, 13.25 acres, tiered parcels, panoramic views, and an ideal hotel site at top level. Price \$ 11,099,970.



### PLAYA VENTANA

1,200 m<sup>2</sup> single family home lot on one of the most stunning beaches in Costa Rica. Surrounded by lush vegetation, only 15 minutes from Tamarindo and Flamingo. If you want oceanfront property, look no further. Priced at \$650,000.

## **Corruption and Conflicts of Interests**

There are many instances of conflicts of interests and corruption found in coastal tourism destinations, speculative land markets, and countries with slow bureaucratic processes, as it is the case in Costa Rica. When it comes to obtaining construction permits and other related official documents, processes are slow. The first conflict of interests generally found is linked to the desire of the municipalities to increase their land tax revenues by having wealthier inhabitants in the ZMT thus failing to protect the local populations by discriminating citizens based on wealth and nationality (since foreigners have more disposable income). In certain situations, the local government can see eye to eye with national tourism strategies and big developers plans because of the future taxes that will be collected. Salaries of municipal government bureaucrats can be positively affected by an increase in property tax and concession revenues. This can incentivize the removal of local communities or specific individuals from the coast. This perversion of incentives is confirmed in the FAO (2006) document on legislative studies N° 93: “In many countries, terrestrial zoning and land use restrictions are administered at the local government level and are consequently frequently affected by local politics and the desire to increase municipal revenues by encouraging developments which would increase local property values and rates payable to municipalities” (FAO, 2006, pp. 187).

There are also corruption activities that have surged from coastal tourism development related to the facilitation of construction permits, “closing one’s eyes” to environmental degradation caused by construction, procedural omissions, officials demanding or accepting bribes, and officials being accomplices in the illegal transactions of land. The following two cases are exemplary of recent corruption and conflict of interests in municipalities. Corruption is not limited to coastal land managed by the municipalities; coastal land managed by the MINAET is also under

intense scrutiny and there are many cases that have been reported in the press (e.g. corruption case of ACT director Emel Rodríguez Paniagua of the MINAET).

In August 2011, the mayor, Dailon Gerardo Arroyo Blandón, and two other officials from the Municipality of Golfito (Golfito has one of the lowest Social Development Indexes in Costa Rica) were caught red-handed in a luxurious hotel trying to charge a foreign couple \$USD 100'000 for a concession in Playa Pavones (Hulda Miranda, 2011).

In 2010, the mayor of the Municipality of Carillo, Carlos Cantillo Álvarez, was questioned about hidden bank accounts holding more than \$USD 11'000'000 by the Comptroller General of the Republic. His case is also linked to other cases of perjury of bureaucrats from the same municipality, a municipality that is criticized and accused of being complicit in the environmental degradation (destruction of mangroves, the filling up of a creek and the destruction of coastal forest) caused by the construction of Costa Rica's biggest hotel and beach resort: the RIU resort (Spanish TNC) without the proper permits and environmental impact assessments. The second stage of RIU construction is to be completed in November of 2012 and more controversy surrounds the new land use plan that is being approved (Chavarría Hernández, 2009).

The claims that coastal development attracts this sort of opportunistic and illegal behavior are supported by national statistics that have shown higher instances of the perception of corruption in coastal provinces and a higher instance in rural settings. In a 2011 study, the Guanacaste Province came in 2<sup>nd</sup> place followed by Puntarenas (Poltronieri, 2011). More perturbing is the regional risk that Costa Rica will increasingly be affected by drug-trafficking criminality from Mexico and Colombia. The head prosecutor of Costa Rica issued a statement warning of the rise of drug-trafficking related corruption in coastal municipalities and the lack of resources that were available to tackle the issue (Oviedo, 2011).

### **Criminality, drug trafficking and use**

A 2010 CREST study states: "that Pacific coast communities with intense tourism development have also experienced increases in illegal drugs, sex tourism, pornography, and delinquency. For example, the Estado de la Nación reported that around both La Fortuna and Arenal, drug trade and consumption has grown as a result of increased tourism, and in Tamarindo, prostitution was cited as an additional problem facing the town. [...] In addition, beach communities including Tárcoles, Herradura, Jacó, Hermosa, El Coco, and Tamarindo have experienced an increase in robberies, assaults, and other crimes against tourists. Local Chambers of Commerce and municipalities are working together with residents to provide better security" (Honey et al., 2010, pp. 77).

### **SECTION 2.2. UNDERSTANDING THE LEGAL, REGULATORY AND INSTITUTIONAL FRAMEWORK FOR COASTAL DEVELOPMENT**

In this section, we will present the important laws and regulations and institutions involved in coastal development and in the next chapter cover the deficiencies of the coastal legal framework that impact the coastal communities and their right to live on the coasts of Costa Rica. While analyzing the legal and regulatory framework for the coast, it is important to note that the explosion in tourism and construction on the coast has strained the institutions whose duties was to supervise and regulate coastal activities (Vargas, 2008). Finally, due to the overlap of institutional mandates, the lack of resources and, in some instances, the unclear procedures (Vargas, 2008, pp. 115) both the legal, regulatory framework and the various institutions involved have garnered an equal amount of criticism.

### **2.2.1 Legal and Institutional Framework for Tourism Development and the Coastal Land Tenure System**

#### **» The “Ley sobre la Zona Marítimo Terrestre” or “Law of the Maritime and Terrestrial Zone” of March 2<sup>nd</sup> 1977**

The Costa Rican coastal regulatory framework is a complex framework defined by over 25 laws and four decrees. The Law of the Maritime and Terrestrial Zone N° 6043 of March 2<sup>nd</sup> 1977 is the core of the Costa Rican “integrative coastal management legislative framework”. The law defines a fringe of land 200 meters wide as the “Zona Marítimo Terrestre” or “Maritime and Terrestrial Zone” (ZMT), part of the “national heritage” and inalienable property of the State. The ZMT is measured inland from the mean high tide line (“pleamar ordinaria”) or from the land and rocks not covered during the low tide (Atlantic and Pacific). The law does not apply to the following littoral cities: Jacó, Puntarenas, Limón, Quepos, Golfito y Ciudad Cortés.

The first fifty meters inland is designated as the “Zona Pública” and the rest of the ZMT as the “Zona Restringida”. The Zona Pública or Public Zone is destined for public access and pedestrian transit and cannot be appropriated or developed, except for infrastructure in the public interest or summer tourism facilities approved or executed by institutions in accordance to the law in effect.

In the 150 meters of the “Zona Restringida”, a concession system is used to distribute land under a hierarchy of land use plans, usage and size requirements (Annex E). Concessions are granted for a duration of five to twenty years and are renewable. Concessions are granted by the municipalities but require approval from the ICT and/or other departments depending on the intended usage and the status of the coastal land. Concession fees are collected by the municipalities and vary depending on planned usage: 3% and 4% of the land value for residential use and commercial use respectively.

Figure 8: Concessionable land in the Terrestrial and Maritime Zone (ZMT)



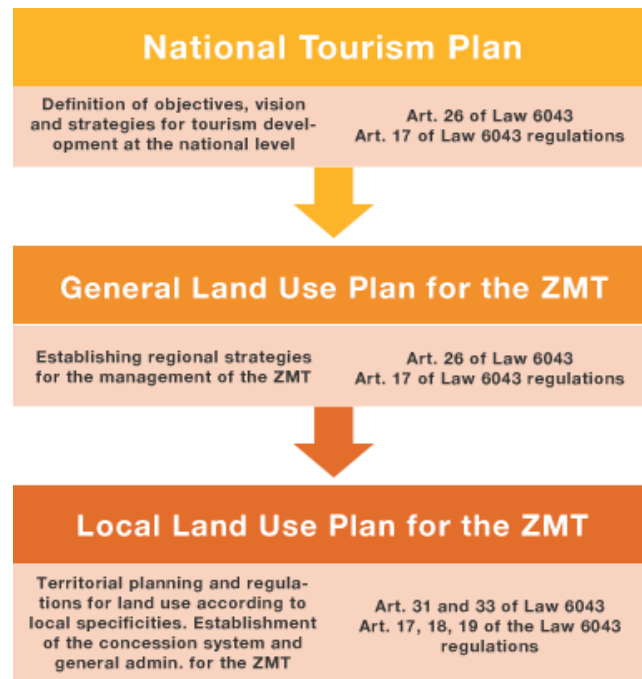
Source: ICT

Figure 9: Concessionable land in the Terrestrial and Maritime Zone (ZMT)



Source: ICT

Figure 10: Levels of planning dictated by law N° 6043.



Source: ICT, 2010a translated from Spanish

The specificity (and the main area of friction) of the law N° 6043 is that it defines the mandate of the Costa Rican Tourist Board (ICT) and its supremacy on a number of important decisions regarding the coasts and its development. Article two states: “It corresponds to the Costa Rican Tourist Board (ICT), in name of the State, the superior and general vigilance of all that refers to the maritime terrestrial area”. The ICT plays the supervising role in the land use planning of coastal sectors that have been defined as an “Area of Tourist aptitude” and functions at three different planning levels:

- the national level (article 26 of the ZMT law, art 17 of the Regulations of the ZMT law); the planning instrument is the "National Tourism Plan" (the latest plan was released in 2010).



- the regional level with ten planning units are called "Unidad de Planeamiento". The planning instrument is the “general plan for land use and tourism development”. Cabuya, for example, is located in the "Unidad de Planeamiento" of Puntarenas y Islas del Golfo and its plan was released in 2007
- the local level, the areas of tourist aptitude are defined as “sustainable tourism centers” and the planning instruments are the ZMT land use plans (ZMT) and may complement existing local developments and regulatory frameworks.

On the 22nd of April 1970, the Law 4558 (Urbanization Law of the ZMT) came into effect and established the qualifications of “touristic areas” to be prioritized for the promotion of tourism. After only three sessions in between August and November 1970, the Costa Rican Tourist Board (ICT) declared a significant amount of coastal zones of "tourism value" in the ZMT. The law 4558 was short-lived, the law 6043 of 1977 then introduced the regulations pertaining to land use planning and approval of tourism concessions in the ZMT. Today, there are approximately 300 areas that have been declared “tourist aptitude” and over 100 that have been defined as non-touristic areas. Cabuya, for example, was defined as a “Tourism Center” along with Montezuma in 1970. The "Area of Tourist aptitude" was granted to Montezuma and Cabuya according to the agreement N° 1913 in the Session 6 of August 26, 1970. Since then however, Cabuya and Montezuma still do not have a land use plan.

## **IGN**

The National Geographic Institute or “Instituto Geográfico Nacional” (IGN) is responsible for delineating the ZMT’s “Public Zone”; a requirement before any concession may be granted. The ZMT’s public zone is delineated by placing “mojones” or concrete landmarks inside the ground. In certain cases, the IGN may

charge individuals for the installation of the “mojones”. Note: “Mojones” have to be relocated when the sea level rises.

### **2.2.2. Legal and Institutional Framework for Environmental Protection**

The Ministry of Environment, Energy and Telecommunications (MINAET) is a complex ministry that includes the following departments or agencies: SINAC, SETENA, TAA, Water and Mines. The MINAET must assure that all of these departments coordinate among themselves and the other public entities (ICT, MINSA<sup>2</sup> etc.). Furthermore, there are several important laws that have, throughout the years, refined institutional mandates, created regulatory bodies and judicial agencies with the aim of developing a more efficient system for the protection of the environment and the management of natural reserves. These laws include the General Environmental Law (Ley Orgánica del Ambiente) and the two Biodiversity laws (Ley de Biodiversidad).

The environmental impacts linked to human activity in the ZMT and the rest of the country is regulated since 1995 by SETENA (a division of MINAET) which was created by the General Environmental Law. SETENA is in charge of approving the environmental feasibility of construction projects based on technical studies. Specific measures are required by the developer to meet the SETENA standards. The environmental feasibility (“viabilidad ambiental”) is “a permit or license that approves development plans based on the assumption that developers will implement a series of specific measures to minimize or mitigate environmental impact” (Vargas, 2008, pp. 9).

The Tribunal Administrativo Ambiental or Environmental Administrative Tribunal (TAA) is a judicial body within the MINAET created in 1995. It has been responsible for the enforcement of the country’s environmental law since 1997. The article 105 states that all decisions are binding, final and may not be appealed. It is responsible for processing all complaints against private and public entities as well as imposing sanctions, measures and monetary sanctions. The head of the TAA received

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<sup>2</sup> Ministry of Health

numerous death threats due to the numerous warnings and stop-work orders issued to coastal development projects disrespectful of the law (Ulloa, 2011). As seen earlier, the Ministry of Health (MINSA) can also shut down construction site. The Constitutional Court, the Environmental Prosecutor's Office of the Public Ministry and, more recently, ordinary tribunals (Tribunals Contencioso Administrativos) can also handle complaints of an environmental nature (Honey et al., 2010, pp. 27).

The SINAC (National System for Conservation Areas) was created by the Biodiversity law in 1995. The law integrated the responsibilities of various government bodies (Wildlife Department, State Forestry Department and the National Park Service) and separated the territory into eleven conservation areas.

### **SECTION 2.3. SUMMARY**

Tourism represents a significant part of the Costa Rican economy. There are over two million tourists visiting the country each year and spending on average \$USD 1'219 during their stay. Coastal development is a highly lucrative segment of the economy and has seen a rapid expansion due to the fast growth of the influx of FDI going towards resort and real estate development on the Pacific Coast. There is no consensus on the socio-economic benefits of tourism, especially concerning its impact on poverty and extreme poverty. There are, however, many international coastal destinations that bear similar negative impacts from tourism and the presence of foreigners. There are no exemptions in Costa Rica, these impacts include gentrification and land speculation, positive correlations in between tourism activity and inequality, and criminal activity including drug trafficking, theft etc.

Tourism is not inherently bad if basic policies are put in place to limit its downsides. As we will see in chapter three, the current legal and regulatory framework for the coast has not been able to provide proper territorial planning and

takes a sectoral approach to planning. In addition, policy-making has focused solely on the needs and priorities of the tourism industry and international investors while excluding the coastal communities and not giving its support to small and medium size businesses.



### **Chapter Three: Social Impacts of Coastal Territorial Planning and Tourism Development Policies**

*“When you travel, remember that a foreign country is not designed to make you comfortable. It is designed to make its own people comfortable.”*

– Clifton Fadiman (1904-1999)

There can be no sustainable coastal development without concerted efforts to integrate local stakeholders at various levels of the decision-making processes. Robinson and Picard (2006) state that local participation is a key factor in sustainable development and that "for tourism to be sustainable and to be harnessed as a means of targeted development, local communities need to be closely involved in the planning process". The UNWTO (quoted on UNEP, 2012) also argues that sustainable tourism models should “respect the socio-cultural authenticity of host communities, conserve their built and living cultural heritage and traditional values, and contribute to inter-cultural understanding and tolerance”. Furthermore, the UNWTO (quoted on UNEP, 2012) suggests that “sustainable tourism development requires the informed participation of all relevant stakeholders, as well as strong political leadership to ensure wide participation and consensus building. Achieving sustainable tourism is a continuous process and it requires constant monitoring of impacts, introducing the necessary preventive and/or corrective measures whenever necessary”.

On the coasts of Costa Rica, the local populations’ cultures and rights are recognized to a bare minimum, the populations are not informed nor are they closely involved in the planning process. As McLeod (2001) confirms, too often when it comes to planning, communities are the "objects of the plans and aspirations of others”. Furthermore, the coastal development strategies lack an integral vision and are defined by a top-down approach by the ICT. The ICT collaborates with local-level governments, who themselves usually do not consult (and have not consulted in the

past) with the overall local population. Information about future development is scarce or not well communicated and there are situations where members of a community do not want to get involved because they do not want to legitimize the planning process. Due to the unequal power structures defined by the law, conflicts of interests, and local governments unaware of the extent of their authority, coastal tourism plans rarely meet any official opposition.

Although there have been many efforts in Costa Rica to develop an integral coastal zone management system; the main drawback to devising a truly holistic system lies with the law N° 6043. The law prescribes the power and authority to the ICT with respect to setting strategies at the national, regional and local level including the territorial planning for the coast. As a result, development has been lopsided and has given preference to economic policy over policies favoring social development and protecting Costa Rica's cultural and environmental diversity.

Territorial planning has proven to systematically exclude or ignore local communities from coastal development due to the asymmetric power relations and the priority given to tourism development over all other types of productive activity on the coast. Equally important, since the development models are tokenistic, the ICT shows no political will to favor pro-poor coastal tourism programs or rural coastal tourism but instead sustains policies that are aimed to attract FDI and urbanize the coast. Small and medium local business initiatives face difficulties due to the economically discriminate zoning rules and regulations and land speculation that has driven land prices up. The same rationale is found behind the decision making processes relating to the allocation of natural resources such as water, favoring its distribution and use in large coastal development projects. In many cases, the distribution of water produces frictions in between the various social actors on the coast. In Sardinal, an intense conflict arose in 2009 when communities were not notified that their water supply from an aquifer was going to be partly deviated to the



El Coco beach. The community realized what was happening when large machinery were in the process of installing aqueducts (Luis Araya, 2012).

### **SECTION 3.1. BIASED TERRITORIAL PLANNING AND ITS IMPACTS ON COASTAL COMMUNITIES**

In this section, we will demonstrate how the rules and regulations as well as policies that shape territorial planning have a poor record, are discriminatory, allow for the systematic removal of coastal communities, the gentrification of coastal zones and only target areas of strategic importance for tourism. Secondly, we will focus on how coastal land tenure planning doesn't take into consideration the socio-cultural, economic and environmental landscape but is mainly intended to allow for the exploitation of the coast for tourism without being a motor for integral development. Lastly, we will also describe how territorial inequalities within the country affect the remote coastal communities.

#### **3.1.1. Inefficient and Discriminatory Territorial Planning Excluding the Coastal Communities**

##### **» Poor Record for Territorial Planning and Management of the Coast: ICT and Municipalities**

Approximately 300 coastal zones have been attributed the status of an “Area of Tourist Aptitude” since the 1970s while other coastal areas have been converted into natural reserves (Ostional, Gandoca-Manzanillo) as part of the environmental policies that have delineated approximately a quarter of the territory for the preservation of the countries flora and fauna. Communities have thrived and anchored themselves in many remote coastal areas living from agriculture, artisanal fishing and/or rural tourism (La Paz de los Humildes, 2009) and, in certain cases, live inside

the natural reserves. Communities are often composed of a core group of natives (over three or four generations living in the area) and new occupants.

Within the many reports on coastal development or national development, the recurring conclusions and recommendations focus on the many weaknesses in coastal territorial planning (MIDEPLAN, 2010; Miranda, 2007). These territorial planning weaknesses coupled with the deficiencies in environmental control have led to the chaotic and destructive process of coastal development in the past twenty years. The causes of these weaknesses in territorial planning vary among the institutions and parties who write these reports.

There are two polarized positions however, the first position affirms that the rules and regulations relating to planning are effective but not well applied. Municipalities are responsible for the procedural omissions, the lack of oversight of the ZMT and do not stop the invasion of the ZMT by illegal occupants. The second position is more critical and attempts to focus on the underlying issues of the coastal problems. It affirms that the rules and regulations guiding the coastal planning are unsustainable and favor the indiscriminate development of the coast. It also states that the local populations living in the ZMT are not “invaders” or illegal occupants, but part of the socio-cultural fabric of the littoral environment and contribute to the cultural diversity of Costa Rica. The second position insists on the fact that the livelihoods of coastal communities are sustainable and/or cause relatively little impact to the environment and should be protected (La Paz de los Humildes, 2009).

In the 2010-2016 National Tourism Plan, the ICT acknowledged the chaotic management of the ZMT but places the blame for the illegal occupancy of the ZMT on the local municipalities as well as “other factors” (ICT, 2011, pp. 76). In addition, Rodolfo Lizano, the Director of Planning and Development of the ICT asserts that the need to have territorial plans for the whole coastal territory is a myth (Lizano, 2011, pp. 14). He explains that the “plan regulador” or local land-use plan is a tool to

“promote development” and that the execution of these plans needs to follow regional and national plans (figure 11). Referring to the article 26 of the law N° 6043, Mr. Lizano also explains that activity in the ZMT needs to be anchored in tourism activity before any other productive activity, therefore, if there is no plan to develop the coast for tourism, then no territorial plan is needed. This logic fails to acknowledge that coastal communities have lived in certain coastal areas for numerous decades or in Ostional and Isla Caballo, 70-100 years (Campbell, 1998; La Paz de los Humildes, 2009). N°

The article 26 of the law N° 6043, when used as an argument in a debate on the normative concept and vision for the development of the coast, starts a dialogue of the deaf. The article of the law does indeed give much power to the ICT but the law is losing its legitimacy due to its absence of holistic vision for the development of the coast, compounded with the frustrations of many individuals disapproving to the negative impacts of tourism, the land tenure insecurity, the lack of territorial planning or land use plans favoring certain economic interests.

Figure 11: Development centers of the ZMT and their geographic locations



Source: (ICT, 2010a)

The ICT is the highest-ranking institution for the management and planning of ZMT therefore, they are responsible for the mismanagement of the coast. Regarding this mismanagement, there are certain facts that should not be ignored: they failed to increase the rate of creation of land use plans even though many coastal areas were showing signs of tourism activity and human activity, they allowed private parties to sponsor the creation of multitudes of partial coastal land use plans. With regard to the role of municipalities, faced with community members living in the ZMT, many were often obliged to issue land use permits in order to create a certain order before land-use plans would be eventually be developed by the ICT (Miranda, 2007). These land use permits are only temporary and precarious solutions but highly necessary. In contrast, Miranda (2007) comes to the conclusion that the municipalities should be the

only institutional actors to “elaborate”, “execute” and “manage” the coastal territories in accordance to the national tourism plans.

As mentioned above, the lack of zoning plans has obliged coastal residents to live inside the ZMT with or without special land use permits or special municipal authorizations (“uso de suelo”). Under the law, occupants of the ZMT fall in four categories: owner occupants (for those having a land title registered before 1977), occupants with a concession, occupants with land use permits and illegal occupants. Many of the communities have been, or are, living illegally or with insecure land tenure rights by having only land use permits issued by the municipality. For the communities living inside the ZMT without a “land use plan”, its members are in a state of insecurity linked to land tenure. Some are prohibited from making important roof repairs on their houses, others have the false expectations that they will be able keep their land once the land use plans are created by the ICT and most appear misinformed about their rights within the coastal legal framework.

According to reports made by the Comptroller General of the Republic in 2006 and 2008 in 8 cantons, a severe lack of coastal zoning plans was recorded. Out of the 129.97km<sup>2</sup> of the ZMT of these cantons only 13% had zoning plans (17.16km<sup>2</sup>) (Fernández Guillén et al., 2009, pp. 80). In the Nicoya peninsula, the communities of Cabuya-Montezuma still do not have a land use plan for the ZMT, 42 years after it has been declared of an “Area of Tourist Aptitude”. There are many businesses striving in the ZMT of Montezuma and residents in the community of Cabuya living in the ZMT. The creation of the land use plan was only started in 2009/2010.

The tourism boom intensified the need to develop zoning plans. In 2003, up to 138 plans were in vigor and in 2006 there were approximately 200 land use plans in use (Miranda, 2007). The turn of events have shown that these plans were made hastily and contained many irregularities and many were found favoring and promoting the gentrification of the area, the destruction of mangroves, the destruction

of coastal forests, often lacked the requisite of holding an open public consultation prior to its application and even, in some cases, the approval of the municipality as required by law (Miranda, 2007). Until recently, private parties were allowed to create land use plans. Many plans have assured that the interests of certain developers were favored. As a result, these plans have failed to meet standards and are far from fostering local human development (Miranda, 2007, pp. 10).

**» The law N° 6043 and the guidelines for territorial planning are not tools that promote sustainable human development**

The law N° 6043 as well as the other rules and regulations guiding territorial planning cannot promote an integral development of the coast. The territorial planning tools lack the holistic vision comprising of social, cultural and environmental perspectives in planning. They have difficulty adapting to the social and economic needs and characteristics of local communities. As long as there is no change in the method of developing land use plans, the coastal communities will continue to be socially and economically excluded from the development processes. In 2005, the DEMUCA Foundation along with Spain's Cooperación Española pointed to the lack of integral or holistic vision of the "plan regulador" for territorial planning and coastal zone management. In addition, they argued that these plans are far from responding to local sustainable development policies and in the majority of cases, respond to the needs and wants of developers and the parties that elaborate them (Miranda, 2007, pp. 10).

In essence, the law N° 6043 was created to permit the commercial exploitation of the coast, supervised by the ICT. It can be considered as a legal transplant (Cañada, 2009) or an attempt to be a "progressive" law (Cordero and Bonilla, 2006, pp. 95). Regardless of the novelty or its foreign concept, it failed to consider the local needs and the evolution of the types of human activity present on the coasts at the time. The

deficiencies of this law can be explained by the absence of the concept of sustainability in the discourse and policy-making at the time and the fact that tourism did not represent a big part of the economy. The law is therefore still destined (and has been used thus far) for the exploitation of the coastal zone for tourism and there are very little development alternatives of the ZMT authorized by law or capable of being conceived by the ICT with its own institutional goals and priorities.

A ministry of Tourism is often relegated with the task of a) marketing a country's image and tourism products abroad to guarantee a "healthy growth" in tourist visits b) monitor the local tourism industry, define its standards and fair practices, c) guarantee legislation that favors and protects investments in the tourism sector d) define national, regional and local strategies for the tourism industry e) and support tourism-related businesses so they can offer better products and services to tourists. It is also expected that the ministry promotes sustainable practices. As it is the case in many countries and industries, sustainable policies are usually sacrificed for pro-growth policies and given the variety of interests involved, the task at hand is difficult.

Given the qualifications and expertise that the ICT has, as well as international trends, it is very unlikely that it can, on top of its mandate, attempt to integrate fair human development policies, respect positive human rights and be at the forefront of innovative sustainable tourism policies. Given the position taken on a number of issues, many local and regional actors argue that the ICT favors the liberalization of the land, the attraction of FDI, and transnational capital, by giving them special incentives while not offering support to small and medium sized national businesses (Cañada, 2009, 2010).

Within the National Tourism Plan for 2002-2012 and 2010-2016, the advised reader is left with the impression that the ICT uses the term "sustainable" for marketing purposes or as a habitual prefix giving the appearance that the ICT has

innovative policies for tourism development. The same holds true for the terms “social”, “cultural”, “environmental” used superficially all throughout the plans. The ICT has a very polished discourse and “PR” however, as a FLASCO report notes (Cordero and Bonilla, 2006, pp. 97), the “irresponsible use” of terms such as Ecotourism for promotional use may affect Costa Rica’s image if the reality doesn’t match the discourse. In the FAO legislative study N° 93 (FAO, 2006, pp. 186-190), a similar remark is made about the ICT and its ability to promote sustainable development: “the law (N° 6043) itself does not halt construction activities; the emphasis is on orderly, planned development of tourism facilities. Whereas the municipalities of the cantons are the primary administrators of the areas of the ZMT within their jurisdiction, the overall authority for the law does not fall on environmental authorities, but on the Costa Rican Institute for Tourism (ICT). The latter reportedly is neither equipped nor authorized to do anything beyond the promotion of tourism. This becomes even clearer when considering that the development plans in the ZMT are only mandatory for concession areas designated as tourism zones by the ICT” (FAO, 2006).

The law N° 6043, the zoning plan guidelines coupled with the goals of the ICT are incompatible with local specificities. For example, the law N° 6043 defines the inhabitant (“poblador”) of the coastal zone as an individual living inside the ZMT for more than 10 years (article 70). That person has the right, once a local zoning plan has been created, to stay in his/her lot if the zoning plans allows it and will be prioritized in the process of claiming a concession. Although this appears to protect the local populations, understanding the complexity of the procedures for a concession, the costs of the concession as well as the minimum requirements on size allotments of 500m<sup>2</sup> does not function within the social and cultural conditions of the local communities. The land use plans can dictate that the location of a plot where the settler has lived is destined for another use, and as a result, the settler will be relocated



in or out of the ZMT. According to the Association for Rural Community Tourism (ACTUAR) and Wilmar Matarrita of FEDEAGUA, the minimum size requirement should be closer to 200m<sup>2</sup> (Cañada, 2011, pp. 6; Cañada, 2011a, pp. 9). These constraints on the local populations as well as the hikes in land value due to speculation and increases in demand, often guarantee the forced or distressed sale of land leading to the gentrification of the coastal territories. In the islands, the problem is quite different, concessions can only be granted with the approval of the legislative assembly. In the islands, there has been a planned effort to “buy” land from island residents in the event that a zoning land use plan would be devised and concession procedural restrictions, eased (Arrieta, 2007).

### **The Land Use Plan Manual**

The land use plan manual was published on March 16, 2010 in the La Gaceta Diario Oficial # 52 (ICT, 2010c). This 17-page manual is explicit in the fact that land use plans are created with the sole objective of serving national tourism interests. In Section 2, Sub-section 4 it states that: “The purpose of a coastal land use plan is to create a planning tool by which: (1) to implement development policies of the National Tourism Development Plan, (2) promote the objectives and goals of the General Land Use Plans of Use and Tourism Development Plans and (3) address the unique social and tourist attraction to boost the image of the tourism product desired in the region”.

As mentioned above, the social components within the coastal zones are to be considered in the land use plans only if they serve as tourist attractions or boost Costa Rica’s “image” as a tourism destination. They are instrumentalized to serve tourism development and for enjoyment of tourists. According to the definitions section, tourism attractions are described as: “natural, cultural elements or social events that

can, by their very nature, be designed and used to encourage travel” (ICT, 2010c). The objectification of social, cultural elements or the interest in culture in its folkloric form is common in tourism; therefore it is not surprising to find this rhetoric in the manual objectifying culture or social life. When it comes to territorial planning, this manual partly demonstrates the ICT’s inability of placing the interests of other institutions, organizations, and the inhabitants of the coastal zone at the same level as its own or demonstrates that it is reaffirming its power and authority given by law N° 6043 without compromise. As a result, the ICT’s policies inevitably produce a zero-sum game on the coast.

#### **» Discrimination and the privatization of public beaches**

The coastal communities are being discriminated and denied the access and enjoyment of certain beaches. This trend is very preoccupying for environmental activists, Human Rights NGOs and think tanks. The privatization of beaches impedes on the rights of citizens to access the public zone and the beaches of Costa Rica. The article 23 of law N° 6043 states that national roads leading to the beach are of national interests, must stay open and intact and therefore have to appear in the zoning plans. It also states that the beach is public domain (article 20) and its access should not be restricted (article 23).

The government is to be held accountable; newspapers, think tanks and NGOs have warned about this growing trend and have published many reports describing in which ways beaches have been made less accessible or inaccessible to local populations. This phenomenon is a clear symptom, as noted by Susan Opatow, of moral exclusion. Three symptoms of moral exclusion are evident: the “dehumanization” of the coastal communities which is linked to the denial “of rights, entitlements, humanity, and dignity”; “double standards”, when there are different norms for different groups when it comes to enjoyment of certain resources, and the

“fear of contamination” where the perception of contact or alliances with the coastal communities are posing as a threat to oneself (or tourists) (Opotow, 2001).

The most insidious way that beaches are being privatized is when roads are deviated and rerouted in steep hills (Playa Blanca, Papagayo) making the access tiring, long and even dangerous for the elderly or during rainy seasons. These efforts are made to discourage local communities from accessing the beaches and disrupt the continuity of territory. In another coastal area, the roads leading to the beach were deviated and elongated, a shuttle bus system was established but this still angered the local communities and activists. In other cases, the roads leading to the beaches are simply closed off with fences or gates, while others “disappeared” during the creation of the land use plans.

Local fishermen from the islands of Isla Caballo and Isla Venado reported that their boats were not allowed to accost certain beaches patrolled by private security guards (Carranza Maxera, 2008). The Arrieta (2007) report denounced the occurrence of this phenomenon on the beaches of Jesusita y Violín. The situations in the Islands in the Golf of Nicoya demonstrate a concerted effort to “privatize” the islands and develop them for tourism. These scenarios generate a special resentment among locals and reinforce the general feeling that many Costa Ricans have, the feeling of losing the beaches to foreigners (Cañada, 2011).

### **3.1.2. Territorial Inequalities and the Abandonment of the Coastal Communities**

Geographic exclusion of coastal communities is another contributing factor to the difficult conditions in which communities live as well as their vulnerabilities as a social group. The causes are straightforward, the farther a community is located, the less likely it will receive certain services from the government. In the towns of Cabuya and Ostional, doctors come only once every 8 days and the nearest hospital is 3-5 hours away. There are no policemen, no ATMs, schools have a reduced amount of

classes in comparison to urban areas (no arts classes, sports classes etc...), and public transportation is reliable but infrequent. In Ostional and Islands in the Golf of Nicoya, not all houses have electricity or running water.

The geographic inequality in services received may be reinforced when the communities are in a state of land tenure insecurity. Government resources are spent in the construction of roads in remote areas with tourism development while the roads and bridges, in remote coastal communities with little tourism, are often not repaired or maintained. This physical distance places the communities outside the scope of justice and the communities' needs thus become less crucial, reducing or hindering the amount of government services they receive. There is a recurrent argument present in the national tourism plans that tourism development benefits local populations because it brings in infrastructure investments, however, to provide a sane living environments for the coastal communities (article 9 of the constitution) there should be infrastructure investments regardless of tourism development (Hernández and Picón, 2011, pp. 34).

Negative feelings are shared by the members of coastal communities with respect to the absence of State or the perception that local governments and institutions are persecuting them. Community members from Ostional have commented that they seem to only see politicians during election time. Many communities have had to build their own medical centers (e.g. Ostional and Cabuya), bridges (Ostional) and childcare centers such as the SEN-SINAI (Ostional). Although, these communities take great pride in their collective efforts to meet certain of their needs, these expenditures put a strain on the communities' resources.

This feeling of abandonment is in some cases compounded with the feeling of being persecuted or witnessing land encroachment by foreigners. The case of the American Project next to Ostional and surrounding Nosara is a sterling example of foreigners purchasing and living on a large surface area of land (Annex F). With a

narrow scope of vision however, certain locals can see the presence of foreigners as a factor for job creation. Some communities or individual feels persecuted or verbally abused by the municipal governments that would like to see the land up for sale. Due to their vulnerability and remoteness, political-businesses alliances have profited, in certain cases, from some coastal communities' naïveté in order to take over their land. Furthermore, coastal community members have reported that they are verbally abused by being called "precaristas" (slum dwellers) with condescension and derogation.

There are, however, cases where communities relatively close to tourism resorts live in the same dire situation. The Responsible Development Front (2011) presents a study done by university students in Playa Panama and "survey findings reveal the main concerns of the residents of Playa Panama all have to do with access to basic resources. When asked "What is/are the main problem(s) facing your community?" 35% of the respondents listed unemployment, 30% listed lack of a health clinic (there is not a health clinic in Playa Panama town), 16% mentioned lack of development". It was also mentioned that "when asked to rate the role of municipality, 65% of the respondents answered the municipality does not promote social development, 62% answered the municipality does not invest in projects for the town".

Playa Panama is located in the Tourism Pole of the Golf of Papagayo Guanacaste (PTGP) where in 2007 revenues from businesses were reported to have surrounding US\$1.894 Million in 2007.

According to the Responsible Development Front, investment in tourism has not been met with investment in basic social goods. The ICT "has invested 547 million Costa Rican colones (\$USD 100 million) in infrastructure for PTGP, but the government of Costa Rica has not invested back in the local communities". The role

of the municipalities has been overshadowed by the ICT thus creating an “institutional vacuum” (Responsible Development Front, 2011a).

### **SECTION 3.2. TOKENISTIC TOURISM POLICIES PRIORITIZING GROWTH AND FDI ATTRACTION**

Coastal territorial planning and tourism policy-making are interlinked which make it difficult to discuss the two separately. Along with the limitations of the planning mechanisms and guidelines described in the previous section, the ICT's policies do not foster local entrepreneurship and do not empower the local communities. There is the existence of institutional and legal biases that exclude coastal communities from taking an active part in development initiatives and plans except as pawns within the tokenistic models of tourism. These institutional and legal biases are linked to the growth-paradigm and FDI obsession dominating policy making within the tourism industry and the ICT's plans and strategies. This obsession with GDP growth and FDI is often justified by overestimating the socio-economic benefits of tourism (Mangalassery, 2012).

#### **3.2.1. Lack of Empowering Plans and Policies for Coastal Communities and Tokenistic Tourism Development Plans**

The ICT's socio-economic policies on the coast are not empowering the local communities and fail to tackle the downsides of tourism development. This is best exemplified by the lack of plans that integrate socio-economic perspectives and local realities, the absence of pro-poor tourism programs or rural community tourism programs for the coast but, on the contrary, the presence of explicit local plans that promote a tokenistic model of coastal tourism development that do not adapt to the geo-specific conditions of the areas. The ICT promotes tourism development models that prioritize the attraction of foreign capital and leads to gentrification; it lacks specific plans to promote local entrepreneurship. Coastal development is a zero sum game benefiting the highest bidder.

As we have seen in chapter two, there are three levels of planning for tourism development defined by law N° 6043: the national level, the regional level and the local level. At each stage, the ICT is in control of the planning process and partners with other institutions such as the National Housing and Urbanism Institute (INVU) and other competent official organizations. In the following paragraphs we will present four strategic plans and demonstrate how there is an absence of empowering policies but the promotion of tokenistic policies. At the national level, we will critique the two national tourism plans of 2002 and 2010 (ICT, 2006, 2010a). At the regional level, we will review the 2007 Tourism Development and Territorial Plan for the Planning Unit of Puntarenas and the Islas del Golfo (ICT, 2007). At the local level, we will assess the ten-year Human Development Plan for the Cóbano district (Consejo Municipal de Cóbano, 2010) and the 2010 Local Tourism Development plan for Cabuya-Montezuma (ICT, 2010b). The documents are complementary; Montezuma and Cabuya are located in the Cóbano district, and in the Regional Planning Unit of Puntarenas and the Islas del Golfo. Tourism in Cabuya-Montezuma does not reflect all tourism destinations in the country but it is qualified by the ICT as a low-end to medium-end tourism destination and a sun-sea-sand destination. Cabuya and Montezuma are neighboring communities; Cabuya is not highly developed while Montezuma is a very popular destination on the Pacific coast.

## **» National Tourism Plan**

### **Lack of Perspective on the Socio-economic Realities of the Coastal Zones**

In the 2002-2012 plan (revised in 2006), the ICT concedes that it does not have adequate indicators for the social and environmental impacts of tourism development all while constantly using the adjective “sustainable” as a prefix to all its plans and tourism development strategies. With respect to the negative social impacts of tourism, the plan has a short phrase written about tourism-related prostitution and



drug trafficking matters but this theme fails to appear in the subsequent plan. In the 2010-2016 tourism plan, there are almost no mention of social issues and social impacts of the tourism industry. Major socio-economic and environmental trends such as the increase in coastal land speculation, land concentration and environmental degradation are also not mentioned in the National Tourism Plan. In the latest 2010-2016 national plan, there are two paragraphs on tourism, poverty and employment (ICT, 2010a, pp. 22).

In both the 2002-2012 and the 2010-2016 national tourism plans, there are 11 programs, but none actively engaged in promoting human development, empowering local communities or fostering small and medium businesses (in all regions or on the coasts). The sustainable development program is only geared towards the promotion of recycling, waste management, the blue flag certification for beaches and the Sustainable Tourism Certification (CST) for businesses. The local governments and other institutions should be responsible for the human development policies in coastal zones but since the legal framework is different, there is a need for specific human development policies and targeted initiatives.

### **Rural Tourism and Local Entrepreneurship**

In 2007, the decree N° 33536-MP-TUR published on 17<sup>th</sup> of January declared of public interest Rural Community Tourism. Another decree N° 34717 – MEIC-TUR, has eliminated the need for a lodging to have a minimum of 10 rooms to have the status of “decláatoria turística” (“declaratory of tourism”); it was reduced to three rooms and has added the term Rural Tourism Lodging in the legal framework pertaining to tourist accommodation. These decrees are made for the rural setting but its not clear if it applies to the ZMT. Regardless, territorial planning guidelines for the coastal zones make it impossible for a local to own a hotel in the ZMT due to size restrictions. In order to have a lodging business in the ZMT you need to have a

concession of 5000m<sup>2</sup> minimum in the TAP zone with the concession fee of 4% on the value of the land (Annex E). The community zones include the communal area, communal residence zone and cooperative zone but do not allow lodging activities.

The law project for the promotion of Rural Communal Tourism was approved on April 2009 (“Ley de Fomento de Turismo Rural Comunitario”); it is a 15 article law that required over four years of advocacy (Cañada, 2009) and over 2 years (September 2007-April 2009) in the legislative assembly to be approved. With this new law, the National Tourism plans have inserted this concept into its tourism legal framework and strategies.

For a country that prides itself on Ecotourism and nature based tourism, there is an impression that the ICT will not actively engage in the creation pro-poor policies and socio-culturally sensitive tourism products unless imposed by law or advocacy. The Rural Community Tourism program is not geo-specific and the concept isn’t applied to coastal zones and the ZMT in the National Tourism Plan. The ICT sees the coast as exclusively for traditional tourism development (ICT, 2011, pp. 76).

An interview of the vice-mayor of Perez Zeledon and carried out by Miranda et al. (2007) exemplifies how “legal occupants”, as described in the previous section, are not empowered by the coastal legal and regulatory framework and the ICT policies. Luis García explains that his “case is very representative of a reality that exists in the ZMT in Costa Rica. Having paid fees for many years to the Municipality of Osa, I built a small family run business catering to domestic and foreign tourist “backpackers” in Dominical beach since the mid 1980s. Although I requested, I never managed to get a concession due to the absence of a master plan. Today, after two decades, working for many years, (my business) is at risk; in the same situation are entrepreneurs of tourism micro businesses in the ZMT. We risk losing the buildings constructed because they do not meet the expectations of the ICT. In addition, there is great pressure to sell the land rights (we have) to large investors. This goes against

local development because we are being converted from business-owners to gardeners, housekeepers, kitchen helpers etc. This is very serious because a country is great when there are many small and medium sized business but the politics here is to eliminate them... " Luis Garcia, Vice Mayor Perez Zeledon (original citation in Spanish), June 2007 (Miranda et al., 2007)

### » **Regional Level Tourism Plan**

The “Tourism Development and Land Use Plan for the Puntarenas and Islas del Golfo Planning Unit” allows the reader to better understand the regional tourism plan and its socio-economic and environmental initiatives. Within the plan, can be found the territorial planning initiatives along with the violations of the ZMT, the socio-economic strategies and objectives for each coastal area of interest (Cabuya-Montezuma, Tárcoles, Tambor, Jicaral, Islas del Golfo). This plan only sets the strategic direction and offers a better understanding of what is being planned locally. These strategies guide the local land use plan and tourism development plans.

There are two pages that define the socio-economic objectives and strategies within the tourism development plan, a short socio-economic analysis of the region with a table indicating the social development indexes for all of the districts in the tourism planning unit and various initiatives presented (Table 7). The key issues in this plan relate to security and the low social development indexes that affect the integration of the active population within the tourism sector. The social development indexes do not differentiate coastal data from non-coastal data, rural from urban. Nonetheless, the relative position of each district compared to all districts in Costa Rica is disconcerting and demonstrates the state of social development in coastal provinces such as Puntarenas and the dire need for targeted initiatives (Annex D).

Table 7: Social development initiatives for the tourism planning unit of Puntarenas and the Islas del Golfo (ICT, 2007)

<b>Social Development Initiatives</b>	
<b>Cabuya-Montezuma</b>	<b>Tárcoles-Puntarenas</b>
<ul style="list-style-type: none"> <li>• Implement a Travel Safety Program</li> <li>• Develop training programs for tourism businesses, communities, municipalities and the local population</li> <li>• Promote initiatives or activities for the recovery of traditional values</li> <li>• Support the development of cultural groups in the area</li> <li>• Promote the development of traditional productive activities that preserve culture and the identity of the area</li> <li>• Development of rural community tourism and eco-tourism</li> <li>• Development of scheduled sports activities</li> </ul>	<ul style="list-style-type: none"> <li>• Establish a training strategy to support the reconversion of fishermen of the Gulf of Nicoya into tour guides</li> <li>• Promote the tourist police at the municipal level</li> <li>• Develop infrastructure for recreation in the city of Puntarenas and its vicinity</li> <li>• Promote the development of red snapper and shrimp production to reduce pressure on the gulf</li> <li>• INCOPECA should control companies that trawl and their fishnet mesh dimensions.</li> </ul>
<b>Tambor</b>	
<ul style="list-style-type: none"> <li>• Implement rural community tourism initiatives and eco-tourism in the area</li> </ul>	

Source: ICT

These local initiatives are loosely organized around the issues mentioned in the overall strategies but are still vague. Each of these initiatives could be valid for any coastal zone in Costa Rica or Central America.

#### » **Local Level: Cóbano District Human Development Plan and the Cabuya-Montezuma Tourism Development Plan**

The Strategic Municipal Plan for the District of Cóbano (Consejo Municipal de Cóbano, 2010) was prepared by the Municipal Council and is part of the project for the strengthening of Municipal Capacity for Human Development. This 10 year strategic plan for the Cóbano district of over 120 pages was published in 2010 and was written with the support of local and international institutions and organizations such as the UNDP, the MIDEPLAN (Ministry of Planning), IFAM. It presents a

complete plan for local human development for the district, a sound analysis and many propositions for targeted development in areas ranging from education, healthcare, infrastructure development and sets strategies for environmental protection and sustainable development. The district of Cóbano like many other coastal districts comprises in its majority of non-coastal land. The plan doesn't present, however, any specific measures for the ZMT because it cannot set strategic directions for the development of the coast. In this effect, the local municipality actions are restricted within the coastal zone and national tourism policies can be in direct contradiction with municipal plans and objectives.

Given the previous trends in tourism development recorded in the past 20 years, it appears to be highly likely that the creation of the implementation of the land use plan for Cabuya-Montezuma in the Cóbano district will allow for foreigners and non-natives to buy land, increase the value of land and increase business and land concentration by non-natives. Since the territorial planning tools are not holistic in their vision and the national tourism policies are not adapted for targeted social development, the municipalities will have to manage the negative impacts of tourism or benefits derived from the tourism industry.

#### **» Cabuya-Montezuma Tourism Development Plan**

In the different levels of planning, local development plans present the priorities of tourism development at the local level. It is important to note that, in these plans, development is qualified as local irrespective of whether or not the actors doing business locally are from Costa Rica or the surrounding areas.

The local government and the Costa Rican Tourist Board have never developed a land use plan for the ZMT of Cabuya and Montezuma. Even though the ZMT law states that no construction is permitted without a land use plan, there are

many houses (Cabuya) and thriving tourism businesses (Montezuma) that have been built with "the approval of the local government" over the past decades. Since 2009, the local government and the Costa Rican Tourist Board have been working on the ZMT land use plan for Montezuma-Cabuya and are in process of setting a date for a public audience for its approval. The communities of Cabuya and Montezuma are currently divided concerning the new land use plan being designed (confirmed in the regional tourism plan), part of the community wants its release at all cost or are indifferent (such as the Montezuma Chamber of Tourism or individuals not living in the ZMT). Community members are afraid that the coastal land use plan will have a negative impact on the communities and that many will be obligated for financial reasons to relocate while others will be evicted from the land due to infractions of the ZMT law N° 6043. The law forbids constructions in the Public Zone and certain livelihood strategies/Home-based enterprises are at odds with the land use plan guidelines. The proposed zone areas used in the plan, their area and their proportions are resumed and can be found in the table eight.

For this strategic plan, a census of the population was not taken but 2006 data from the INEC was used. The great majority of people living in the ZMT of Cabuya are residents, however, the plan only proposes a 4% exclusive zone for the community. Observing the maps, the fishermen base is moved over 1km from its current prime location to a plot that appears to be situated an area covered with dense vegetation and trees. In illustration 13, the turquoise colored zone is the Artisanal Fishermen's Base Zone. One key informant related to the leader of the fishermen association contacted him about the land use plan for the purpose of this study. It was reported that the municipality offered the fishermen 5000m<sup>2</sup> (0.5 hectare) and offered to build their artisanal fishermen base in order to gain support from this group. In the proposed zoning plan, the area dedicated to the artisanal fishermen is 0.11 hectare

(approximately 75% less than the 0.5 hectare allegedly promised) and there hasn't been any official or proposed plan that will cover the costs for the new fishing base.

In this plan, the community areas are never adjacent to the public zone (beach front) except in two small areas in Montezuma (illustration 15). These community zones are also strangely shaped and located far from the center of Cabuya and Montezuma (illustrations 12, 14 and 15). The blue-hashed colored zones in the illustrations below are "community zones", the darker blue color zones are community residential zones and the turquoise zone is the community fishermen zone. The green areas are areas covered in forests, the yellow areas are the beaches, the light blue areas are the sea and the white areas is land located outside the ZMT.

Table 8: Zoning distribution in the proposed coastal land use plan for Cabuya-Montezuma

<b>Zones Cabuya-Montezuma</b>	<b>%***</b>	<b>Hectares</b>
1. Tourism Development Zone [T]		
a. Core Tourist Area Facilities (TAN)	6.02	7.41
b. Planned Area for Tourism Development (TAP)	29.54	36.33
2. Mixed zone [M]		
a. Joint Area for Tourism and the Community (MIX):	23.81	29.28
3. Area for the Community [C]		
a. Core Areas for the Community (CAN):	1.94	2.39
b. Community Residential Area (CAR):	2.2	2.71
c. Fisher folk Base (CBP):	0.09*	0.11
4. Other areas [O]		
a. Area for Cooperatives (OAC):	0.88	1.08
b. Area for roads and transit (FVO)	9.1	11.26**
5. Future Zone [F]		

a. Future Development Area (FAD):	0	0
6. Protection Zone (P)		
a. Protection Area (PA):	26.3	32.40
Total	100	80.95***

Source: Instituto Costarricense de Turismo (ICT, 2010b)

\* The cooperative land is located in the area of Cabuya near Montezuma

\*\* There are two hectares of road inside of the Public Zone (Zona Pública) not included in this number.

\*\*\* There is 80.95 hectares of coastal land for concessions. The total area of the sector is 122.97 hectares that include 42.02 hectares of "Natural State Heritage" (forests, mangrove, wetlands, creeks etc.... and the Public Zone)



Illustration 12: Section (plan sheet 14) of the proposed coastal land use plan for Cabuya-Montezuma.



In this section, we can see that community zones (blue hashed) are not adjacent to the public zone, are small and oddly shaped.

Source: (ICT, 2010d)

Illustration 13: Section (plan sheet 15) of the proposed coastal land use plan for Cabuya-Montezuma.



In this section, we can see that the fisherman base (turquoise) is located behind a forest (green).

Source: (ICT, 2010d)

Illustration 14: Section (plan sheet 16) of the proposed coastal land use plan for Cabuya-Montezuma.



In this section, we can see that the community residential areas (solid blue) are oddly shaped and far from the community centers.

Source: (ICT, 2010d)

Illustration 15: Section (plan sheet 3) of the proposed coastal land use plan for Cabuya-Montezuma.



In this section, we can see that the areas when the community zones (blue hashed) are adjacent to the public zone they are oddly shaped and thin.

Source: (ICT, 2010d)

Among the high priorities listed in the proposed land use plan (ICT, 2010b), there is the high priority of "reclaiming" "cleaning" the Public Zone (pp. 74) a medium priority to promote "sustainable development" and low priorities of promoting social and cultural development (pp. 75). It also states, that the needs of the local population will have to be "balanced" with the needs of the tourism sector (pp. 10). In another section, the plan states that the town of Cabuya will need to see its population increase (higher density) and its geographic placement will play a strategic role due to its vicinity with Mal País and Santa Teresa. The density will be drastically increased as the plan wishes to see hotels of 20-40 room and 40-60 rooms opened in the area (pp. 47) to meet the planned national growth trends for rooms offered to tourists. The plan does not show any specific type of social development initiative, doesn't present any plan to foster local entrepreneurship nor does it show any concern for the local population because it is guided only by its national and regional plans as well as its growth goals.

The coastal land tenure and its concession system is expensive for the local population because it is based on the value of the land and has minimum requirements of 500m<sup>2</sup> for lots dedicated to residential use. There is a high likelihood that it will exclude the poor due to its complexity, the rise in the price of land, and the concession price valuation scheme. Since much of the zoning is either for tourism development (TAP, TAN) or mixed (MX) and the tourism strategies are to transform the tourism of the area into a medium-high quality touristic area, there is going to be increase competition and concentration of land that will drive up prices. The TAN, TAP, MX zone allow up 6 hectare lots in a sector were there only 80 hectares (including Montezuma). Using the financial projections of the local development plan, the concession fees per hectare were calculated at approximately \$3000 USD per year in the basic valuation with a yearly increase if the land is reevaluated each year. It is highly plausible that it is a very conservative number and that the

concession fee will be higher. In Cabuya-Montezuma, there are approximately 80 hectares that may be granted as concessions and the conservative concession revenue projections are estimated at 107'457'393.41 Costa Rican colones (approx. 215'000 \$USD) for year 3. Using the forecasted revenues, the price per hectare/per year of a concession will be worth 750'000 \$CRC or 2687.5 \$USD. If business patents and other sources of revenues for the municipality are included in this number however, we should multiply by three this basic conservative projection.

Due to zoning laws, the current inhabitants of the ZMT will see many of their livelihood strategies become illegal. All inhabitants in the ZMT who run Home-based or informal enterprises such as cabinas owners, renting an adjacent house or room, will no longer be able to do so or will have to pay expensive concessions and dedicate their future lot exclusively to their business. A lot needs to be destined exclusively for one purpose (e.g. one hotel, one residence etc.). The majority of the Cabuya ZMT will be of the Mixed (MX) or Touristic Zones (TAP and TAN) which will not be favorable for small locally owned businesses. The land uses permitted are strict and if not respected, can serve as a reason to cancel a concession. Lastly, by looking at the minimum lot sizes, it becomes apparent that local entrepreneurial ventures will be stifled by the high costs of the minimum lot sizes.

#### **» Tokenistic Policies and the lack of a diversified local economy**

The socio-economic plans devised for the coastal zones do not empower the local communities but promote generic scenarios that allow for the gentrification of land since rural coastal tourism and local entrepreneurship is not promoted. As some locals have already witnessed in the past, foreigners will come in, start businesses, buy land adjacent to the ZMT or get a concession and develop the coast all while the coastal communities will feel helpless watching changes arise in their communities. This exogenous growth comes with the associated impacts of the rise of

individualistic values and the eventual disintegration of the community or at the very least the loss of community values. Furthermore, because of lack of capital, many will end up becoming peons of these tourism businesses and move farther away from the coastal zone.

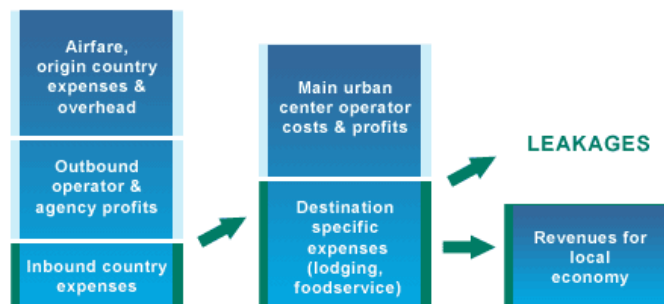
There are no real plans to diversify the local economy or support small businesses. The lack of diversification in coastal development renders communities defenseless against cyclical variations in the world-economy. There was recently a law project in the legislative assembly aiming to reduce the amount of concession prices for small and medium companies and individuals residing in the ZMT but the ICT was formally against it, claiming that businesses should not be discriminated or treated differently because of their size (Voz Liberationista, 2011). In contrast, we have seen in 2008, an executive decree profit the transnational hotel corporations in the Golf of Papagayo; a decree that has greatly reduced their concession fees.

### **3.2.2. FDI and Pro-Growth Objectives Overestimating the Positive Impacts of Tourism**

As Mangalassery (2012, pp. 61) notes, tourism promoted as a model of development is often simply justified by pointing towards its contribution to GDP and growth. The tourism industry, however, is often an extension of the “uneven and unequal development paradigm” often structurally benefiting the companies from the north and the “elites in the destinations”. In Costa Rica, the strong presence of American, Canadian and Spanish corporations is felt with the “Century 21s” of real estates, the “RIUs” and the “Four Seasons” of resorts increasingly present and imposing their vision of tourism and coastal development.

As many events have shown us, the Papagayo decree for example, the TNCs are benefitting from special treatments from the government but the impact of their businesses on the economy is over-valuated. The relentless pursuit by the ICT to increase tourism visits and tourism development on the coast without offering the local economy the tools to be competitive, the resources to start businesses is contributing to the rise in inequalities on the coast. The negative impacts of tourism are well known, the UNEP (2012) presents several of them which include leakage (import and export), the low integration of enclave tourism in the local economy, price hikes for land and goods, infrastructure costs for local governments and lack of diversification which makes local economies dependent on tourism. None of these subjects seem to be discussed by the ICT, on the contrary the debate is avoided.

Illustration 16: Leakage in tourism operations



Source: UNEP, 2012

For \$100 spent, \$5 dollars on average stays in the local economy, this amount can vary from country and tourism models promoted (UNEP, 2012).

The growth goals may also be contradictory to the environmental policies put in place. The CESD report entitled “Global Trends in Coastal Tourism” (Honey and Krantz, 2007) reveals the contradictory objectives of the Arias administration in 2007. Oscar Arias announced his peace with nature initiative (“Paz con la Naturaleza”) but at the same time set ambitious growth objectives for the tourism industry. In the report, CESD considers that the Arias administration had a “bipolar strategy” by encouraging both ecotourism and mass coastal tourism at the same time. In March 2007, the tourism objectives were as follows: an 4% annual increase in tourist visits, a 4% annual growth cruise ship visits (cruise ships are considered as a form mass tourism with a high environmental impact), a 12% increase in the hotel rooms and a 40% increase of the companies “awarded the Sustainable Tourism Certification (CST)”.

These claims and positive causal relationships in between tourism and socio-economic development are prevalent and are negatively affecting the coastal communities and the environment by creating smokescreens and “Greenwashing” the public and policy makers (Cañada, 2010). The claims are not easily verifiable since experts have admitted the complexity of calculating the effects of tourism on poverty.

Furthermore, the ICT doesn't have coastal level indicators themselves and rely on macro-economic indicators to state these claims. Regardless of all the alarms being sounded by other institutions and think tanks, no plans to limit the impacts of tourism are actively pursued. On the contrary, the continual promise made of a "better tomorrow" generalize the attitude that the "end justifies the means", funneling massive investments in tourism infrastructure which could have also been used to fund others programs.

Costa Rica needs an honest national debate on human development and sustainable coastal development. There are two incidents that are representative of the lack of an open and honest debate among all the actors involved in tourism. The first incident was reported by ex-deputy and ex-first Lady Margarita Penón in 2011 and written in an op-ed of the La Nación newspaper (Penón, 2011). During a 4 day conference on sustainable tourism, with world renowned expert Erika Harms, Executive Director of the Global Council on Sustainable Tourism (GSTC), no ICT representative, nor any government representative were present at the conference with the only exception of the minister of culture present at the closing ceremony. The conference was attended by participants from five continents and was centered on global trends and sustainable tourism.

In 2009, when the Pastoral letter written by Guanacaste clergymen was released as an open letter denouncing the negative impacts of coastal development on the local populations, the rise in poverty in Guanacaste and environmental degradation; a conference was swiftly organized by the ICT three days later in a San José 5 star hotel praising tourism development in Guanacaste. This conference was entitled "How the tourism dollar is well distributed within the province of Guanacaste".



The Polo Turístico Golfo de Papagayo (PTGP) is a good example of promises not being met and the overestimations of socio-economic benefits made by the governments and businesses. The project has promised 50'000 jobs in the region but created only 1400 (Honey et al., 2010, pp. 45) and ended up disserving the local communities because of the all-inclusive segregated models of tourism development and the empirical data showing the high environmental impacts of this major tourism development project. Furthermore, the 2008 presidential decree reducing the concession fees to 0,0001% of the land value of the ZMT in PTGB instead of the 4% stated in the law N° 6043 is depriving the local municipalities of much needed revenues (approximately 1 Million \$USD per year according to Frente Amplio (2011)).

### **SECTION 3.3. SUMMARY**

The coastal territorial planning guidelines and tools as well as the land use plans already in place have been major impediments to sustainable coastal development by not acknowledging the social, cultural and environmental realities present in the coast. The land tenure system lacks an approach that balances human activities but rather prioritizes traditional forms of tourism and sets high financial barriers that do not allow for local communities to legally live in the ZMT or start businesses. Furthermore, the communities are also discriminated and partly excluded from enjoying the access to certain beaches; insidious strategies by the private sector, condoned or ignored by the public institutions, make it difficult for locals to access certain beaches. Although this phenomenon is not generalized, this trend is preoccupying for Costa Ricans since the beach can be seen as a symbolic good and represents national heritage.

The ICT doesn't find the need to develop coastal plans in areas that are not a priority for the tourism industry thus leaving many local coastal communities in a state of land tenure insecurity, living as illegal occupants in the ZMT. In other cases, these communities are present as "legal occupants" but are still vulnerable because they can be relocated if the land use plans created and implemented have zoning restrictions making their livelihood strategies incompatible with the tourism development plans or the high concession costs.

The local and national government often does not provide adequate social services to coastal communities and in some cases harasses and threatens them in order to develop the coastal area. The communities have the impression of being abandoned by the State and need to be resourceful in order to meet certain of their own needs. It is not uncommon for coastal communities to build their own schools and medical centers as well as maintain their own small bridges or water infrastructure systems.

The ICT policies along with the coastal land use plan guidelines do not empower the local communities or create diversified local economies but rather promote generic tokenistic models of tourism that objectify locals by integrating them in plans as low paid peons in the tourism service economy or construction. The tourism growth obsession leads to an overestimation of the benefits of tourism and the promotion of contradictory and unsustainable policies. Lastly, the tourism industry intensifies the competition for resources and fosters conflictual environments due to the antagonism in between the industry's desired uses for coastal areas and the locals' current land use practices and customs.

Conflicts have arisen sporadically in reaction to events and environmental crises, however the oppressive economic and social structures on the coast could have lead to a sustained mobilized conflict at any time. Conflicts have risen but often died out due to the lack of resources, organization etc.. Since 2008, there has been a conflict group mobilized with explicitly stated rational goals, well organized and visible. They have

transformed their situation as victims and objects of many economic injustices to a situation where they are actors using conflict resolution mechanisms to induce coastal land tenure reform and social change.



## Chapter Four: Territorios Costeros Comunitarios Movement

*“Power concedes nothing without a demand. It never did and it never will.”*

– Frederick Douglass (1817-1895)

In this chapter, we will examine how the Territorios Costeros Comunitarios movement (TECOCOS) enabled the escalation of the coastal conflicts relating to land tenure, coastal land dispossession and gentrification. Using basic terminology and concepts from conflict theory, we will describe how the TECOCOS has mobilized the dispersed and vulnerable coastal communities into a conflict group, has formulated rational goals and a non-violent agenda to achieve those goals.



Illustration 17: Territorios Costeros Comunitarios logo

As we have noted earlier, the many coastal policies and trends, with negative ecological and social impacts, have contributed to the sustained frustration of environmentalists, religious groups, human rights activists, and at times, the indignation of the national population. Since 2008, the TECOCOS movement has worked towards offering a non-violent resolution of these conflicts through reform; seeking to find an alternative to the oppressive economic and legal structures as well as the indiscriminate policies of the Costa Rican Tourist Board (ICT). Many crucial events have lead to the creation of the Territorios Costeros Comunitarios law project (N° 18.148) and the RNVSO<sup>3</sup> law project (N° 17.512) currently in the legislative

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<sup>3</sup> Refugio Nacional De Vida Silvestre Ostional or Ostional National Wildlife Refuge

assembly and fostered the birth of a movement requesting fair participatory development as well as a more appropriate land tenure system for the coastal communities. The series of events are historic and in this chapter, we will describe the origins of this movement and the triggers that have allowed for this movement to gain momentum, mobilize itself and enter into an open and active conflict.

First, we will present the initial events that have led to the writing of the law projects using an open participatory methodology and the overall organization of the movement. Afterwards, we will describe the content of the two law projects (N° 18.148 and N° 17.512) stemming from the TECOCOS movement, and explain what they seek to change within the Costa Rican coastal legal framework and future policies. Afterwards, we will concentrate on the conflict dynamics and the positions of various actors opposing or giving to their support to this law project.

### **Recent News**

On July 25th 2012, president Laura Chinchilla publicly defended the coastal communities and vowed that under her watch, no family was going to be evicted. She applied the necessary pressure needed to insert the law project into the extraordinary legislative assembly sessions for debate in the 13<sup>th</sup> place after a deal was negotiated on July 16<sup>th</sup>, 2012 with the TECOCOS leaders to cancel the mobilization scheduled on the day she spoke in Nicoya during the national holiday of the 25<sup>th</sup> of July (Ministerio de la Presidencia, 2012). The debates during the extraordinary sessions of the Legislative Assembly (fall 2012) will determine whether the current law project will be approved or archived as well as the maneuvering within the legislative process.

## **SECTION 4.1. THE BIRTH OF THE TERRITORIOS COSTEROS COMUNITARIOS MOVEMENT**

There are approximately 50'000-60'000 families living in the ZMT at risk of being evicted (Bill No. *18.148*, 2011). An editorial from the newspaper *La Nación* (2012) specified that the Vice-President Alfio Piva calculated an estimated of 400'000 Costa Ricans concerned by future evictions in the ZMT. It is difficult to calculate the exact number of inhabitants living in the coastal zone but the use of this number has not garnered much criticism. Due to the current lack of legal protection, the communities and the 50'000-60'000 families are potential targets or have been targeted by the institutions that are supposed to protect them: the local municipalities and in other cases, the Ministry of Environment, Energy and Telecommunications (MINAET). In this section, we will first present the key dates and initial events leading to the first steps of a mobilized conflict group and the process that enabled the collaborative drafting of the law project.

### **4.1.1. The Beginning and Key Dates**

With the adoption of the law N° 6043 “Ley sobre la Zona Marítimo Terrestre” on March 2<sup>nd</sup> 1977, all the inhabitants of the coastal zone were invited to register their property within six months. Unfortunately, but to no surprise, this valuable information was never relayed to the coastal zones and was only published in media hardly accessible to the coastal populations (Quirós, 2012).

### **Inter-american Development Bank Loan**

A crucial event dating back to the year 2000 has contributed to the precipitation of the conflict and needs to be explained in detail. Subsequent events are related to the Inter-american development Bank's (IDB or BID) \$USD 65 million loan to Costa Rica approved in 2000 (BID, 2000) and made official with the law N°

8154 of November, 27<sup>th</sup> 2001 (Bill 17.512, 2009). The loan contract (reference: BID 1284/OC-CR) and its binding program to modernize the land tenure and administration systems aim to “improve the climate for public and private investment by strengthening the legal security of real property rights” (BID, 2012). The total cost of the program is \$USD 97 million (BID, 2000) and consists of three components: (1) “establishment of the National Cadastre and its reconciliation with the Real Property Registry;” (2) “prevention and resolution of disputes over real property rights” including areas of special regimes (the ZMT, indigenous land and natural reserves); and (3) “municipal strengthening in the use of cadastral information” and tax collection (BID, 2012). A detailed explanation can be found in Annex J.

Wilmar Matarrita<sup>4</sup>’s perception and suspicion of this program was shared in an interview with Cañada (2011):

*“International cooperation comes in with a cadastral program and then they come to support the ZMT land use plans. Eventually, they want to map all the resources we have and (see) how they will distribute it in between the oligarchs of this country allied with transnational capital. They are “preparing the table” to which they will spread the wealth of Costa Rica.”*

In chapter three, the coastal legal and regulatory framework was critiqued and the dire need for reform implied. In contrast, this reform is, according to the TECOCOS movement and albeit its good intentions, the modernizing of a system in place that is inequitable and will intensify the process of land dispossession that has partially contributed to inequalities and poverty on the coast. The suspicion shared by individuals like Wilmar Matarrita is based on the Latin American countries’ heritage of the Washington Consensus that has anchored a suspicion of International Finance

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<sup>4</sup> Wilmar Matarrita Matarrita is the general coordinator of the TECOCOS movement



Institutions (IFIs) such as the World Bank/IFC, the IMF and the BID. In sum, the funds made available for the creation of new coastal land use plans contribute to the coastal communities' perceived urgency in finding ways to stop mass evictions that will ensue from the release of these new coastal land use plans.

### **Key Dates**

On March 2008, FEDEAGUA (Ecumenical Federation of Guanacaste) was approached by several coastal communities and the “Frente Nacional de Comunidades Costeras Amenazadas por Políticas de Extinción” (National Front of Coastal Communities Threatened by Policies of Extinction) was born. The movement started with six communities, grew quickly to 32 and now has over 60 communities within it. The initial communities were from the Pacific Coast and the Nicoya Peninsula because the threats of eviction were the greatest; soon afterwards the aims of this movement quickly established the need to defend all coastal communities.

In July 2008, the first of three “Coastal Community Forums” or “Foros Costeros Comunitarios” was organized involving the first six coastal communities. This forum had allowed the communities to discuss about legal actions that would have the potential of resolving many of the coastal communities' plights. The next step for FEDEAGUA was to approach the local municipalities in order to gain another perspective on the problem and receive advice as well as recommendations (October-November 2008). By January 2009, another Coastal Community Forum (second of three) was organized in the headquarters of FEDEAGUA in Nicoya, Guanacaste to discuss of current and potential political alliances in the legislative assembly.

February 12th, marked the first community mobilization at the legislative assembly, the reception by deputies and the discussion regarding the viability of the law project plan (according to FEDEAGUA an estimated 2000 people were

mobilized). A meeting was set for the 13th of March in the Nicoya Park to present a proposal for the drafting of the law project's methodology and the overall organization for the months to come.

The collaborative process for the TECOCOS movement was presented, as planned, on March 13th 2009 and thus marked a crucial date in this struggle. The planned meeting with five deputies of the legislative assembly was held in the Nicoya Park and a strategy document presenting the methodology for the participative writing of the law project as well as the action plan was distributed. Teams, commissions would be created in order to implement the plan (Annex G: Declaración de Nicoya).

On April 15th 2009, the last Coastal Community Forum was held to elect the commission in charge of writing the law project. At the end of the month of April, on the 29th & 30th, the first TECOCOS congress (first of three as of August 2012) approved the law project "base document". Less than one month later on May 28th, the law project was presented at the legislative assembly and signed by 11 deputies. It entered the "Comisión Permanente de Gobierno y Administración" (Government and Administration Permanent Commission) in the 99th place of the agenda on June 18th and was published in the La Gaceta Diario Oficial #130 on July 7th. There was an attempt to have a special commission created in the legislative assembly to manage this law project however it only got 37 out of 57 votes. For this reason, the law project entered the Government and Administration Permanent Commission (Vargas Araya, 2012).

The march 13th document entitled the Declaration of Nicoya ("Declaración de Nicoya") issued a warning that if the law project did not advance at an appropriate pace, the first national mobilization of the coastal communities would be carried out on July 25th in Nicoya, Guanacaste province. The date chosen for this mobilization is very symbolic as it marks a national holiday celebrating the annexation of Guanacaste from Nicaragua by Costa Rica in 1824. The first national protest did take place on the

185th anniversary of this event and an important agreement with the government allowed the law project to be moved from the 99th place to the 2nd place in the sub-commission's agenda. At the event, a copy of the law project was also handed to President Oscar Arias Sánchez (2006-2010) in person, present in Nicoya, as the custom dictates (Matarrita, 2010)

### **Key Dates for the Ostional National Wildlife Refuge (RNVSO)**

In 2007, the Ostional National Wildlife Refuge (RNVSO), situated inside the ZMT where part of the Ostional community resides, was chosen for a cadastral survey pilot project related to the BID program. In August 2007, after meetings with the communities living in the Refuge, it was made evident that a severely conflictual situation existed due to the precarious situation and legal insecurities of the community members (Bill 17.512, 2009). This precarious situation is created by the legal and regulatory framework and will be explained in detail in section 4.2.2. Due to these conflicts, a legal alternative was taken; in February 2008, the Consejo Interinstitucional Asesor Del Refugio Nacional De Vida Silvestre Ostional<sup>5</sup> (CIMACO) was created by the Executive Decree N° 34590-MINAE signed on February 14, 2008 and published in the La Gaceta Diario Oficial N° 127 on July 2<sup>nd</sup>. This Council is composed of over 15 representatives from community organizations to the MINAET/ACT, Municipalities and the UCR department of Biology. Tensions in the community continued and on December 14<sup>th</sup>, 2008, a protest was organized in Ostional with over 350 families, FEDEAGUA, the Ostional community local association (ADIO) and the deputy José Merino del Río (1949-2012) of the Frente Amplio party. The families walked towards the installations of the Ministry of the Environment, Energy and Telecommunications (MINAET) in protest of the persecutions they perceived were coming from that institution.

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<sup>5</sup> Inter-institutional Council Advising the Ostional National Wildlife Refuge

In the beginning of 2009, a law project draft aiming to solve the conflicts in the Ostional Wildlife refuge was developed by various actors including the CIMACO and actors (Bill 17.512). Before the end of the year, the law project N° 17.512 “Ley de Refugio Nacional de Vida Silvestre Ostional” (Law of the Ostional National Wildlife Sanctuary) was published in the La Gaceta Diario Oficial on September 18<sup>th</sup>, having passed in the “Comisión Permanente Especial de Ambiente” (Permanent Special Environmental Commission) on September 7th. This law project complements the TECOCOS law, the two law projects are meant to be complementary and have similar aims.

#### **4.1.2. The Drafting of the TECOCOS Law Project and the Initial Support**

The collaborative process was designed to integrate actors from the coastal communities and other actors from civil society interested in the aims of the movement. Since the beginning, the concepts of participatory decision-making and gender equality were central to the law project’s goals and were applied. The law project quickly appeared legitimate since it was started by the coastal communities and thus garnered much support from a variety of actors. Including the communities themselves, many actors from civil society were or are still actively engaged in this law project, directly and indirectly. Some of the Costa Rican actors present from the start: a division of the catholic church of Guanacaste (Caritas-Pastoral Social de la Iglesia Católica), departments of universities and/or universities themselves, teachers unions, human rights groups and political parties. There were no international actors present, the TECOCOS movement is a homegrown and self-sufficient movement with the capabilities of carrying out its mission.

Every actor involved came with its own expertise and its own perspective on the issues and conflicts relating to the coastal zone. For example, since most coastal

communities have churches and schools, the APSE (Secondary School Teachers' Associations) and the division of the catholic church of Guanacaste were part of the project since the start. In addition, the universities with field experience as well as an understanding of the legal, territorial planning or political processes were also valuable during the drafting of the law project.

Support from the organizations also came in the form of financial contributions for specific actions such as paying for the costs of a workshop in a community, printing pamphlets, paying for transportation etc. Meeting spaces and the free use of photocopy machines for specific needs were also offered. The support of such a diverse group of organization has added legitimacy and strength to this movement but also demonstrates the wide variety of interests it garnered due to the dire need to find viable alternatives to the current development of the coast.

Table 9: Actors involved in the initial stages of the TECOCOS movement

<b>Actors involved in the initial stages of the TECOCOS movement</b>
<ul style="list-style-type: none"> <li>• FEDEAGUA as the organization accompanying and guiding the community processes and coordinating the Frente Nacional de Comunidades Costeras Amenazadas por Políticas de Extinción. FEDEAGUA based in Nicoya, Guanacaste has as its director: Lic. Wilmar Matarrita Matarrita.</li> <li>• The local development associations of the coastal communities such as the ADIO (Asociación de Desarrollo Integral Ostional or Ostional Integral Development Association) and its community leaders such as Magdalena Lara Vega.</li> <li>• The Catholic Church of Guanacaste (Caritas-Pastoral Social de la Iglesia Católica) in the promotion of support of the coastal communities and TECOCOS among faith-based groups and the communities themselves. They are also the authors of one of the Pastoral Open Letters, published in 2009 and criticizing the socio-environmental</li> </ul>

impacts of coastal tourism, which included a paragraph in support of TECOCOS.

- Frente Universitario de la Universidad de Costa Rica (UCR) or the University Front of the Costa Rican University which has given legal and political support since the start (not the university itself).
- The Universidad Nacional de Educación a Distancia (UNED) or the National University of Distance Education and their education program for local governance that provided tutorials on land tenure and territorial planning. UNED has also released a documentary on the culture and lifestyles of the communities living in the islands of the Gulf of Nicoya in 2009 as well as the risks that they face. The documentary was entitled “the Peace of the Humble” (La Paz de los Humildes, 2009).
- La Red Activa de Derechos Humanos of ACODEHU (the Human Rights Active Network of ACODEHU) as a national platform for Human Rights and their workshops with Coastal Communities. ACODEHU is the Costa Rican Human Rights Association (president: Ana Cecilia Jiménez) working closely with the Centro de Amigos para la Paz (president: Francisco Cordero Gené).
- La Asociación de Profesores de Segunda Enseñanza (APSE) or the Secondary School Teachers’ Association who have created awareness and communicated on local needs and local organizational issues through their teachers living and/or teaching in the communities.
- La Red Nacional de Organizaciones Campesinas e Indígenas (COPROALDE) or the National Network of Indigenous and Farming Organizations who have helped in grassroots organization and mobilization.

In 2009, there were 20 organizations<sup>6</sup> that indirectly supported the TECOCOS project in its position documents entitled “10 Measures to Confront the Economic

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<sup>6</sup> Official Position of: Iglesia Luterana Costarricense (ILCO), Unión Nacional de Pequeños y Medianos Productores Nacionales (UPANACIONAL), Federación Costarricense para la Conservación del Ambiente (FECON), Unión Nacional de Empleados de la Caja y de la Seguridad Social (UNDECA), Consorcio de Gestión de la Economía Social (CONGES), Frente Universitario de la Universidad de Costa Rica (UCR), Sindicato de Trabajadores de Japdeva (SINTRAJAP) Mesa Nacional Indígena,

Crisis with Social Inclusion and Productive Inclusion” (“Diez Medidas para Enfrentar la Crisis Económica con Inclusión Social y Productiva”) presented to Oscar Arias. The position paper emphasized on the importance of creating communal property in the coastal communities and to provide alternative forms of access to property. The position statement also insisted on ending coastal land evictions and the development of tourism “Mega-projects” (Iglesia Luterana Costarricense et al., 2009). The Frente Nacional de Comunidades Costeras Amenazadas por Políticas de Extinción was part of the twenty signatory organizations, however, it was important enough for the other 19 organizations to be inserted in the ten measures.

The presence of political parties and/or individual deputies in support of the TECOCOS has been crucial to its initial success. The deputies of the Legislative Assembly served as gatekeepers and insiders of the legislative process and sponsored the initial law project. In the drafting of the law project, advisors to the deputies were appointed into the movement’s commissions. Lastly, these deputies have a duty as elected officials, representing many coastal communities and concerned citizens, to find solutions to the coastal development conflicts.

#### **SECTION 4.2. THE LAW PROJECTS**

In this section, we will present the two law projects. The articles of the law project N° 18.148 have been translated, resumed, and commented (when necessary) in order for the reader to better understand the clearly defined coastal development strategies and the vision for coastal community areas.

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Unión de Cooperativas de Cartago (UNCOOCAR), Unión de Cooperativas del Sur (UNCOOSUR), Unión de Cooperativas de Guanacaste (UCOOGUA), Asamblea de Trabajadores y de Trabajadoras del Banco Popular y de Desarrollo Comunal (ATBP), Asociación Nacional de Empleados Públicos y Privados (ANEP), Asociación Sindical de Empleados del Instituto Costarricense de Electricidad (ASDEICE), Cámara de Empresarios Pro Costa Rica (CEPCR), Federación Frente Interno de Trabajadores del ICE (FIT-ICE), Movimiento de Agricultura Orgánica Costarricense (MAOCO), Central Social Juanito Mora Porras (CSJMP), Frente Nacional de Comunidades Amenazadas por Políticas de Extinción, Plataforma Campesina-Indígena de Desarrollo del Territorio Norte-Norte, Asociación Nacional de Mujeres Productoras Agroindustriales Rurales (ANAMAR), Plataforma Sindical Común Centroamericana Capítulo Costa Rica (PSCC-CR)

#### 4.2.1. Ley de los Territorios Costeros Comunitarios N° 18.148

Illustration 18: TECOCOS banner of the community of Tárcoles, Puntarenas



Source: Stella Chinchilla

The law project “Ley de Territorios Costeros Comunitarios” entered the Government and Administration Permanent Commission on May 28<sup>th</sup>, 2009 and was published in the La Gaceta Diario Oficial N° 130 on June 7<sup>th</sup> under the reference N° 17.394. Due to a lack of advancement in the legislative process, interpreted by some as the result of the “waiting game tactic” or lack of political will; the law project was reentered on June 21<sup>st</sup>, 2011 in the Permanent Special Environmental Commission composed of deputies favorable to the law project’s advancement. The new version of the law project was published in the La Gaceta Diario Oficial N° 128 on July 4<sup>th</sup> 2011 with the reference N° 18.148. In the transition to the new sub-commission many of the valuable criticisms and recommendations made by institutions and experts were taken into account and added into an updated version of the law project.

The law project contains 10 chapters, 48 articles, and transitory provisions. This law project seeks to recognize and protect the coastal populations, their culture



and history, as well as, offer a solution to the systematic exclusion of the coastal communities caused in part or wholly by the high levels of poverty on the coast and land tenure insecurity. In addition, the project's aim is to enhance the quality of life of coastal communities through environmentally and socially sustainable development programs respecting the cultural heritage and the rights of these inhabitants to live in a sanitary coastal environment with the freedom and the ability to practice their trades.

In order to achieve this goal, a new category of environmental protection called the "Territorio Costero Comunitario" (translation: Coastal Communal Territory) would be created and added to the General Environmental Law (Ley Orgánica del Ambiente), modifying article 32 and 35. The consideration for culture, its respect and preservation within development is already present in the article 30 of the General Environmental Law.

This new category will be dedicated to protecting culture, customs and local traditions. This territory will be defined as a coastal area where local communities live and dedicate their lives to the sustainable extraction of resources (e.g. artisanal fishing, legal rational extraction of turtle eggs in Ostional, mollusks extraction in Isla Venado), rural tourism and other commercial activities such as family businesses contributing to the local economy. In addition, its aim is to increase the types of programs dedicated to these coastal communities, programs promoting the education, training and workshops, as well as the active and informed participation of these populations in the decision-making processes affecting their lives and future, in compliance with article nine of the Constitution. Lastly, it will promote gender equality with respect to all resources distributed and provided in the articles of the law.

Table 10: Law project N° 18.148 articles by chapter

<b>Chapter I - General Dispositions (article 1 to 10)</b>
<ul style="list-style-type: none"> <li>• <b>Article 1:</b> This article defines the general purpose of the law project and its aims to give recognition to and protect the ancestral customs of the coastal communities, enhancing the quality of life of the inhabitants of the ZMT and adjacent coastal land, and developing specific programs promoting sustainable human development.</li> <li>• <b>Article 2-4:</b> These articles define the legal status of the Territorios Costeros Comunitarios, explains the public utility of the law and the general definitions.</li> <li>• <b>Article 5:</b> Delineates the TECOCOS that will be regulated by the law including the ZMT of the mainland, and the islands. There are 50 territories that will managed by the local municipalities and seven communities defined in article 44 that will be managed by the MINAET. Since communities have been contacting the Special Permanent Environmental Commission to be added to the list of communities, the actual number may be higher (Annex C).</li> <li>• <b>Article 6 &amp; 7:</b> These articles explain that the law allows for the creation of new TECOCOS, the expansion, elimination and reduction of existing TECOCOS according to a set of procedures such as technical studies which will need to be coordinated with the local communities and their respective municipalities.</li> <li>• <b>Article 8:</b> This article gives an extended definition and description of the inhabitant or settler. In order for the inhabitant to benefit from the content of the TECOCOS law and be protected, he or she should have lived in a permanent or stable way in the territory occupied by the community for at least 10 years. The law may also protect inhabitants, who, because of their living or working conditions own a house or a business used on a non-permanent basis as long as the infrastructure is over 10 years old. It is also stated in this regard that proof or testimonials will be required to verify that the requirements are met. Associations, non-profit associations, religious and</li> </ul>

state institutions that are active in community and active within the territory, also receive protection and the benefits provided by this law. Lastly, the article also states that no individual, regardless of gender or marital status, meeting the requirements of this law may be discriminated against or excluded arbitrarily from the TECOCOS.

- **Article 9 & 10:** These articles define the rights and responsibilities of the inhabitants of the TECOCOS. Their main rights include: the respect for cultural diversity, the protection of one's cultural heritage and traditional knowledge associated with the use and conservation of natural resources, gender equity, the right to participate actively and being informed ahead of time of decisions about the development of the communities and the use of strategic natural resources. It also includes the right to participate and vote when there are consultations held in the TECOCOS.

The main responsibilities include: respecting the country's environmental legislation, prioritizing the protection of the environment and natural resources, protecting the heritage of the community and the community assets, respecting the rights of other members and promoting the equitable distribution and access to the land and its natural resources. Each member will be expected to contribute to, and promote, the common welfare of the community, its development and be actively engaged in the management and protection of the territory.

## **Chapter II - Administration of the Coastal Communal Territories (article 11)**

- **Article 11:** This article states that TECOCOS will be managed and administrated by the local municipalities with the active participation of the local communities.

## **Chapter III - Participatory Territorial Planning (article 12 to 17)**

- **Article 12-16:** These articles define the territorial planning mechanisms. The

TECOCOS will have their own land use plans elaborated, approved and executed in a participatory way. The article reaffirms that the TECOCOS will be included as a new category of protection.

- **Article 17:** The article prohibits the development of mega tourism projects within the Territorios Costeros Comunitarios.

#### **Chapter IV - Land Tenure and Special Concessions (article 18 to 34)**

- **Article 22:** In this article, the allocation of concessions in between the local community members will respect equity and the fair distribution of land as defined in the participatory land use plans. The aim is to avoid land concentration in the hands of few. Respecting the original delineation of the territory, all residents of the local communities will have access to a concession but none will have the right to own more than one Territorio Costero Comunitario concession.

- **Article 23:** This article states that if at least 80% of the registered community members are in favor of an alternative to the individual concessions; they may grant a community concession to a non-profit association, cooperative or community development association open to the participation of all community members and have that entity proceed with the equitable distribution of land in accordance with article 22.

- **Article 24-28:** All concessions are non-transferable. This can be interpreted as a way to protect the communities from being fragmented and gentrified due to the distressed or forced sale of land or having their land used as collateral to debt and seized as the result of non-payment. In this regard, the movement believes that is important to protect communities who do not have a culture of debt. The concessions will be transferable only by inheritance if the inheritor meets the definition of an inhabitant. Concessions were initially set to be granted for a lifespan of 70 years and

renewable when necessary, however negotiations are currently bringing down the duration to less than half. The law project allows all communities to own concessions for recreational and communal centers. Lastly, these articles also define the administrative details, usage limitations etc. for concessions.

- **Article 29:** The special concessions in the Territorios Costeros Comunitarios will not be taxed if the houses or constructions meet the disposition of the article 4 subsection e) of Law on Real Estate Taxes N° 7509. The real estate property must be the unique property of the “individual owner” and must not have a value over 45 times the base salary in Costa Rica. In other cases, the municipalities or the MINAET will fix the concession fees based on technical criteria related to the cost of the home and the socio-economic situations of the inhabitants of the area. All abusive or excessive price structures with the objective of evicting a concessionary will be prohibited. In other scenarios, article 49 of the law N° 6043 will dictate the cost of the concession.

- **Article 30:** No concession as ever been granted on an island because the law N° 6043 stipulates that concessions granted on islands must be approved by a vote in the legislative assembly. In the case of the Territorios Costeros Comunitarios, such vote of approval will not be required.

- **Article 31:** This article defines the cases where special permissions are given to certain existing structures within the 50 meters of the Public Zone or “Zona Pública”. In certain scenarios, communities living within the 50 meters or partly within the 50 meters of the public zone will be allowed to stay if the houses cannot be displaced within the 150 meters where concessions are granted. Communities such as the one situated in Muelle de Tambor in the Nicoya Peninsula are concerned by this clause.

## **Chapter V - Social Development (article 35 to 38)**

- **Article 35:** This article states that, in order to increase the well-being of coastal communities, the State, municipalities, institutions and public companies will put in place affirmative action plans to stimulate social development in respect of the article 50 of the constitution.

- **Article 36-38:** These articles aim to assure that the communities will have access to public services regardless of the presence of territorial management plans; have access to loan guarantees and have the INA (Instituto Nacional de Aprendizaje – National Institute for Learning) and ICT provide support to develop community-based tourism and ecotourism.

#### **Chapter VI - Environmental Protection (article 39 to 41)**

- **Article 39-41:** These articles contain measures to protect the environment of the Territorios Costeros Comunitarios by stating that the appropriate institutions shall develop special training programs and training of residents, in order for the communities to serve as “guards” of the coastal territories’ natural resources. Finally, the delineation and protection of coastal forests and wetlands will be a priority.

#### **Chapter VII - Protection of the Cultural Heritage (article 42 to 43)**

- **Article 42 & 43:** The Ministry of Culture, Youth and Sports will create and fund programs and special projects, as well as, put in place actions to rescue, preserve, promote and share the heritage, traditions, customs and cultural diversity of the local communities or coastal fishing communities. The Ministry will ensure the mainstreaming of these measures to preserve the coastal community culture in all public projects aimed towards these populations. Educational programs for schools and residents of the territories will incorporate the history of the social and environmental reality of the local coastal communities and encourage the preservation

of their cultural heritage. These programs should promote a sense of belonging and attachment to the land and the community.

**Chapter VIII – Coastal Communal Territories management by the Ministry of Environment, Energy and Telecommunications (MINAET) (article 44 to 46)**

- **Article 44-46:** These articles define the coastal community land that will become Territorios Costeros Comunitarios managed by the MINAET due to their location within wildlife refuges. Similarly to previous articles, the participation of the communities alongside the MINAET in the decision-making will be required. In the case of Ostional, collaboration with institutions for the protection of the beaches turtle nesting grounds has been fruitful and demonstrates the viability of the participatory decision-making initiatives promoted by this law project. The concessions may be granted after final approval of the respective land use plan devised using a participatory process based on requirements of the TECOCOS law and after the MINAET has devised the technical studies to determine that the occupation of these local communities is consistent with the protection of the environment and its natural resources.

**Chapter IX - Reform of other laws and Derogations (article 47)**

- The General Environmental Law N° 7554 will have two articles modified: articles 32 and 35.

If the law is approved, the regulations for the Territorios Costeros Comunitarios law will be written.

#### 4.2.2. Ley del Refugio Nacional de Vida Silvestre Ostional (RNVSO) N° 17.512

Illustration 19: Section of the ADIO banner representing Mother Nature



Source: [www.acodehu.com](http://www.acodehu.com)

Ostional is located in Santa Cruz, Guanacaste; its beaches are world-renowned as the privileged location site of the olive ridley sea turtle arribadas<sup>7</sup>. The founders are believed to have arrived in the area in the early 1900s and the population of Ostional has been steadily growing since the 1940s-50s, including times of accelerated growth with the arrival and inclusion of new families. In 1983, the ZMT extending from the right bank of the estuary of the Rio Nosara to Punta India (figure 12) was declared a Wildlife Refuge even though there were populations living inside the ZMT (since approximately 26% of the territory is protected, this case scenario is not isolated). With minimal presence of the MINAET, the community and the households continued to grow and the community pursued the legal and rational extraction of turtle eggs permitted after 1985, when scientific study demonstrated that the controlled harvest and sale of turtle eggs (in Ostional only) increased the average

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<sup>7</sup> The arribada means “arrival” in Spanish and is a phenomenon where there is a synchronized arrival of the Lora turtle on beaches for nesting.



hatching rate<sup>8</sup>. The community's integral development association (Asociación de Desarrollo Integral Ostional - ADIO) is legally entitled to harvest and sell the eggs; its members also supervise day and night, clean the beaches as well as collaborate with the University of Costa Rica's marine biology department and the MINAET.

Since the late 1990s, the community of Ostional increasingly felt threatened by the MINAET's presence (Campbell et al., 2007). Starting the year 2000<sup>9</sup>, the MINAET had forbidden any of the families living in the ZMT to repair or renovate their houses. On February 13<sup>th</sup> 2009, the ACT<sup>10</sup> (Area de Conservación Tempisque or the Tempisque Conservation Area) was ordered by the constitutional court to evict and destroy all infrastructures located inside of the ZMT except for the houses built before 1983 (order 2009-2020). This court decision threatened a large part of the community of Ostional because many had either, arrived after 1983, built their houses after 1983 or weren't legally living inside the ZMT before 1983 (no property title). The constitutional court order of February 2009 was taken in response to a writ of Amparo against the director of the ACT, Emel Rodríguez Paniagua<sup>11</sup> for his inaction in controlling the "invasion" of the ZMT/Wildlife Refuge. The writ of amparo sent to the constitutional court also denounced the "intentional" absence of a "Management Plan" for the Wildlife refuge by the Director of the ACT. The Sala IV court order later stated that the ACT had wrongly interpreted the legal status of the Refuge as Mixed and not of State property and allowed businesses and houses to be constructed inside the refuge. With the pressure exerted from the support of political parties, the writs of amparo sent to the Sala IV with the help of the Red Activa de Derechos

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<sup>8</sup> Since the turtles come in multiple waves, there is over-nesting. Furthermore, the community protects the eggs from predators and poachers and clear the beach of debris.

<sup>9</sup> according to the writ of amparo 2001

<sup>10</sup> one of the 11 conservation areas part of the National System of Conservation Areas (SINAC)

<sup>11</sup> Emel Rodríguez Paniagua is currently (2011) under investigations for severe charges, including but not limited to worker persecution, harassment, abuse of power, gender discrimination, fund mismanagement. The denunciations have been summarized into 16 pages of twenty-page document and supported by dozens of documents. In these denunciations, only 1 case pertains to Ostional

Humanos - ACODEHU in December of 2009 as well as the two law projects in the legislative assembly, all evictions were halted by January 2010.

Confusions arose in the classification of the wildlife refuge. The Refugio Nacional de Vida Silvestre Ostional (RNVSO) was created and ratified by several laws (N° 6919 of 1983 and N° 7317 of 1992) that situated it within the 200 meters of the ZMT. When the current wildlife conservation law (N° 7317 of 1992) established the three classifications for wildlife refuges: state, mixed or private; it also ratified the "transitory" article of law N° 6919 (1983) that created the RNVSO but never specifically defined in which of the three categories the refuge would be placed in.

The classification of the refuge was finally interpreted in a constitutional court order of 2003 as a state refuge in relation to a first writ of amparo it received in 2001. The writ of amparo was initiated against the ACT and challenged the classification it gave to the refuge (mixed) as well as denounced the land use permits it granted ("uso de suelo") to individuals and businesses. The interpretation by the court that the RNVSO was a state refuge came from the fact that the refuge was created inside of the ZMT and according to the law N° 6043, the 200 meters of the ZMT are inalienable property of the State. To add complexity to the matter, the constitutional might have let room for interpretation by allowing the people with land titles issued before 1983 to continue living undisturbed in the refuge. Nevertheless, according to the ZMT law, the State would still be legally permitted to expropriate their houses/land in exchange of fair compensation.

The current occupation of Ostional can be narrowly interpreted as an "invasion of the ZMT", however, it is important to differentiate in between two types of occupants. There has been, as the official reports declare, the permission for businesses<sup>12</sup> "to invade" the ZMT as well as the building of secondary homes for non-

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<sup>12</sup> Ostional Development S.A., Fondos Agropecuarios del Oeste, Infin S.A., Sueños del Océano Pacífico S.A., Royal Falcon International S.A., y First Light S.A.

Ostional natives such as a famous heart surgeon (Longino Soto Pacheco) and two politicians of the Movimiento Libertario political party (Otto and Peter Guevara) (Salazar Fernández, 2012). Among the houses that were ordered to be destroyed were thatched houses of natives, a local church, a communal center for the community members living from the supervision of the beaches and the rational extraction of turtle eggs. A cemetery is also adjacent or partly located within the national refuge.

The areas around Ostional and Nosara are highly gentrified (Annex F), in between the American project and the acquisition of land by corporations and foreigners, there is no land for the locals to be relocated to. For example, the website of Coldwell Banker and other real estate websites are currently advertising coastal land of 3.6 ha adjacent to the ZMT of Ostional at 1'800'000 \$USD (illustration 20).

Illustration 20: Land encroachment by TNC and rising land prices

The screenshot shows a real estate listing on [www.luxuryrealestate.com/residential/1677208-playa-ostional-costa-rica](http://www.luxuryrealestate.com/residential/1677208-playa-ostional-costa-rica). The main text describes a 35,999 m² (3.6 ha) property adjacent to the Ostional National Refuge, offering a spectacular view of the ocean and coastline. It mentions a 7m wide, 135m long access road and a 200m internal road. The property is suitable for residential, recreational, or commercial use. A mortgage calculator is provided with the following details:

MORTGAGE CALCULATOR	
Purchase Price:	\$1,800,000 USD
Down Payment:	20 %
Interest Rate:	4.5 %
Loan Term:	30 Years
Monthly Payment:	<b>\$7,296</b>

Additional information includes contact details for Coldwell Banker Vesta Group Escazú:

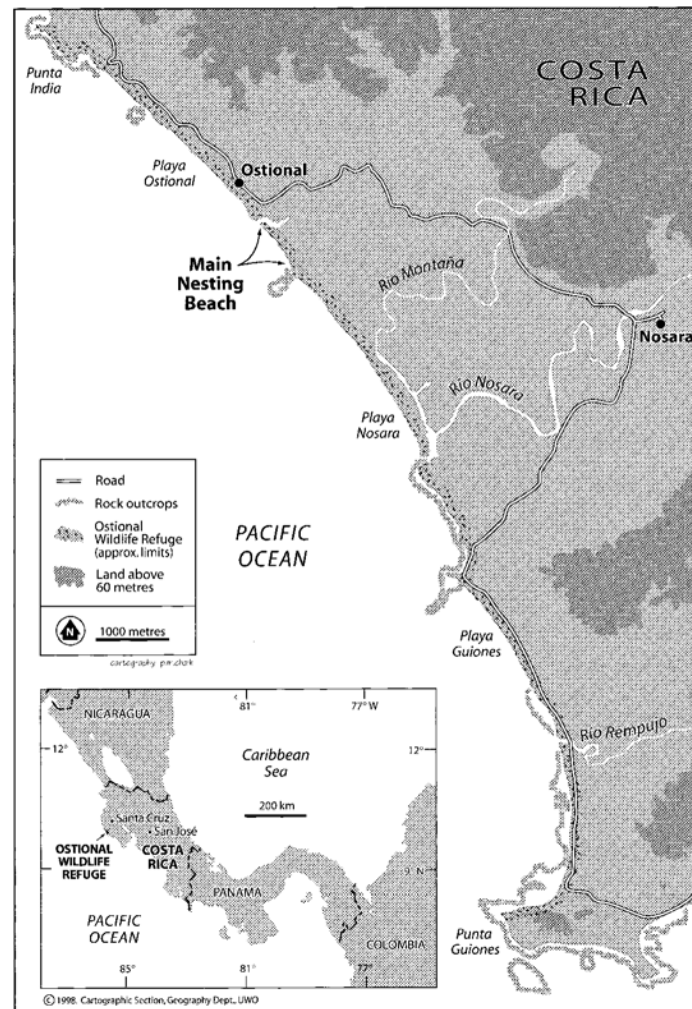
Main	+506 2288 2268
Toll Free	+1 877 309 9238
Fax	+506 2288 2270

A 'VIEW PROFILE' button is also present. Below, a section titled 'PEOPLE WHO VIEWED THIS ALSO VIEWED' lists three other properties:

- Luxury Contemporary Home**: Santa Ana, Costa Rica, \$1,800,000 USD
- Contemporary Estate on the ...**: Santa Ana, Costa Rica, \$1,700,000 USD
- Luxury Colonial Style Home**: Santa Ana, Costa Rica, \$1,650,000 USD

Source: Screenshot of [luxuryrealestate.com](http://luxuryrealestate.com)

Figure 12: Ostional National Wildlife Refuge, Costa Rica



Source: Cartographic Section, Geography Dept. UWO taken from Campbell (1998)

On September 18<sup>th</sup>, 2009, the law project N° 17.512 “Ley de Refugio Nacional de Vida Silvestre Ostional”, published in the La Gaceta Diario Oficial and entered in the Permanent Special Environmental Commission on September 7th 2009; it contains six chapters, seventy-five articles, four transitory articles. The purpose of this law project is to establish the specific legal framework applicable to the Ostional

National Wildlife Sanctuary (RNVSO)<sup>13</sup>. Its aim is to permit the creation of land use plans and natural resources plans for the Refuge (RNVSO) and allow it to meet its conservation objectives with the active participation of the local communities and assure the social and economic stability of these communities. The law project intends on defining the legal uses permitted within the sanctuary and seeks to give land tenure security to the inhabitants of the refuge. The community of Ostional will also become a Territorio Costero Comunitario if the law project N° 18.148 is passed at the legislative assembly.

### **SECTION 4.3. MOBILIZATION AND CONFLICT DYNAMICS**

Contemporary conflict sociologist Ralf Dahrendorf contends that there is only one primary scarce resource in society: political power and authority. According to Dahrendorf (Allan, 2006), in order to understand a social conflict, the key is to look at the distribution of authority. Those who have power and authority want to keep it and maintain the status quo, while those who lack it, seek to acquire it in order to change the status quo. Randall Collins on the other hand, follows the basic outline of Weber and his three-component theory of social stratification. There are three basic scarce resources: status, political influence (party) and economic resources (class). “Class, status and party are each aspects of the distribution of power within a community” (Collins, 1993, pp. 290) or a society, and power is derived from these social resources. Every conflict is, as a result, partially an economic conflict, a power conflict, and a status conflict in between the haves and the have-nots.

The coastal conflict, spearheaded by the TECOCOS movement, can also be interpreted as having a combination of these three elements. The coastal populations

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<sup>13</sup> The Wildlife Sanctuary was created by Law of Conservation of Wildlife Act 6919, to November 17, 1983, extended by Executive Decree N° 16531-MAG of 18 July 1985, ratified by Law of Wildlife Conservation N° 7317, of October 30, 1992, and expanded again by the Executive Decree N° 22551-MINAE of 14 September 1993.

are a status group mobilized to defend and demand recognition of their lifestyle, values, culture; they are looking to preserve their land resources and the ability to practice their trades (economic resources). They also need to redistribute the political influence (power resources) that is held exclusively by the tourism ministry, who by law, has the ability to develop the coast exclusively for tourism and exclude economically the individuals and groups that do not have the financial resources to pay the price of a concession to live or do business on the coast.

Both Ralf Dahrendorf and Randall Collins explain that there are a certain number of requirements and conditions that need to be met for a conflict to arise and escalate. Dahrendorf argues that there are three conditions (technical, political and social) needed for an interest group to become a conflict group. Collins includes that “mobilization depends upon both (1) conditions of ritual solidarity within a conflict group and (2) material resources for organizing” (Collins, 1993). Collins adds the theory of emotional solidarity taken from Durkheim, and the concept of interaction ritual from Goffman; he focuses on the micro-conditions and on the macro conditions of a conflict.

#### **4.3.1. Coastal Communities, Mobilization and Conflict Group Formation**

In order to create a conflict group and sustain its mobilization throughout a conflict, basic conditions need to be met. Up until 2008, the conflicts arising from coastal development and the ICT’s policies were sporadic, in reaction to specific or a series of events, evictions, an environmental crisis, the allocation of water resources etc. The conflicts are often of a socio-environmental nature and these incidents usually ended staying unresolved, or lead to the opening of judicial cases in the constitutional court or the TAA environmental court where private parties were attributed fines and/or stop-work orders were issued. Before the TECOCOS law

project, universities, environmentalists, politicians, local associations and church groups (e.g. Caritas) took on the responsibility of defending the coastal communities. There are many instances where environmentalists and NGOs such as the Asociación Confraternidad Guanacasteca, Bosques Nuestros, FECON, had the double task of defending the environment and the coastal communities that faced evictions, poor working conditions etc. In many cases, these groups were targeting the same root issues affecting the social and cultural coastal landscape and the environment: unsustainable development stemming from business standards and/or ideologies that didn't take into consideration the impact of their actions on the coasts, policies or government inefficiencies favoring opportunistic and destructive behavior such as land dispossession, speculation, conflicts of interests, corruption and environmental contamination. Destructive behavior is best exemplified by the case of the TNC resort Allegro Papagayo in 2008 caught dumping their raw sewers in the sea (Angela Avalos, 2008). These NGOs have been very active in providing information to the press and performing investigations on the numerous unsustainable coastal development projects in Costa Rica.

The “Frente Nacional de Comunidades Amenazadas por Políticas de Extinción” was the building block in the creation of a conflict group where common interests could be defended. The explicitly stated rational goals aim for the recognition of the coastal culture, the ancestral coastal lifestyles and values and could only be defended by a change in legislation. In order for this conflict group to be formed from the myriad of small local interest groups (or quasi groups) located on the coasts, a certain number of conditions had to be met and events had to take place.

As Dahrendorf explains, there are three conditions that must be met for a group to become active in a conflict: technical conditions, political conditions and social conditions. The technical conditions are a set of ideas, an ideology and norms that set the group apart; political conditions consist of the ability to meet and organize

and lastly the social conditions concern communication and the structural patterns of recruitment for the conflict group.

**Technical Conditions: a set of ideas, an ideology and norms that set the group apart**

The TECOCOS movement meets the technical conditions for the formation of a conflict group. There are many actors from the coastal zones and from non-coastal zones that share unifying ideas and beliefs. The core ideas and beliefs can be summarized as follows: after twenty years of uncontrolled tourism growth, there has come the time to find concrete solutions protecting the environment, cultural diversity and preventing the further gentrification of the coast.

This conflict group has found allies in actors with different ideologies and political inclinations. The TECOCOS bill has garnered the support of deputies from various political parties and a diverse group of individuals: lawyers, activists from the coastal communities and major cities, educated coastal residents, local leaders with no formal high school education, entrepreneurs and environmentalists. This law project has also raised the interest of students. In 2011, students from the University of Costa Rica (UCR) in their fifth year of social work studies wrote their own position statement in support of this movement.

With respect to the coastal communities, there is a set of ideas, values and norms that set them apart: the coastal lifestyle, the livelihood strategies and the deep-rooted attachment to the littoral environment. The coastal communities do not form a monolithic bloc however, there are coastal communities living in different regions, on the mainland coast and in islands, some that have more exposure to tourism, and some that have specific trades that define them. Generally speaking, the coastal communities can be considered as a fragmented social group, dispersed, and lacking unity as well as self-awareness. Nevertheless, these communities share many



collectivistic values and cultural traits that have been shaped by years of forced self-reliance and livelihood strategies that favored cooperation over competition. These communities share, or have shared, many livelihood strategies comprising of fishing, aquaculture and agriculture. For the past two decades, these livelihood strategies have incorporated paid work provided by the construction and tourism industry.

Older residents in tourism destinations have complained about the impact that tourism has had on younger generations. Some state that it has made them more individualistic and interested in money. Although some coastal communities may start showing more differentiating signs because of their proximity to tourism or because of their remoteness; they are today well aware of their vulnerability and have very similar interests.

Finally, it is important to note that in certain cases, the community natives or non-natives that do not have the most to lose with regard to the law 6043's application in their ZMT, have been as effective and eager to defend this law project.

### **Political conditions: the ability to meet and organized**

Due to Costa Rica's overall political stability and the fact that no singular private interest group is being directly targeted, the TECOCOS movement was able to gain momentum within an environment where the actors could meet and organize themselves without danger. As mentioned earlier, there have been many resources provided to the TECOCOS movement in the form of meeting spaces (Centro de Amigos para la Paz located next to the Legislative Assembly), the FEDEAGUA headquarters, universities and within each communal meeting place in the communities involved. Due to the size of the country, albeit the conditions of the roads, access to the communities is possible within a day with private transportation or with the reliable Costa Rican public transportation system. Lastly, there have been

many meetings held in the legislative assembly, in the offices of deputies and their advisors.

**Social conditions: communication and the structural patterns of recruitment**

- Social networks and telephone communication: the penetration of the internet and/or mobile phones is high among the coastal communities therefore the majority of the communities can be easily contacted. Most communities will either have, easy access to the internet and a mobile phone signal (likely, e.g. Cabuya and Montezuma) or mobile/home phone access (very likely: e.g. Islas del Golfo, Ostional). Social media use in Costa Rica is very high and it is an important tool for Human Rights and environmental activists. The penetration rate for the internet is amongst the highest in Latin America along with affordable cell phone plans with free incoming calls. Facebook groups and personal Facebook profiles are used to share important information to the TECOCOS members or supporters: achievement, future congresses, mobilizations and online newspaper articles.
- Network of collaborators, communication and patterns of recruitment: The network of collaborators and supporters have permitted at the initial stages for an increase in communication in between the various groups interested in the TECOCOS as well as relay of important messages and concepts relating to the goals of the Frente Nacional de Comunidades Costeras Amenazadas por Políticas de Extinción through APSE, ACODEHU, churches, local leaders etc. The method of recruitment for coastal communities was simple, during the initial stages of the law project, community members were told about the law project plans and, if interested, had to write their names, provide their I.D. numbers and sign to confirm that they wished to be included in the Territorios Costeros Comunitarios

law project. After the law project had been created, formal correspondence with the law project's commission on behalf of the community was sufficient to have the community entered into the law project (a change in the law project's list of communities is approved during a motion for change). The ACODEHU as well as other leaders such as Ricardo Araya have been touring the coastal communities to perform workshops on the law project and its content, on human rights and the writ of amparo process. These workshops are a more personal way of communicating and have enabled the strengthening of links in between the communities and the general coordination of the law project. In some cases, it has facilitated the recruitment of individual members and sections of communities less aware of the movement. Furthermore, the individuals with the interest, will and capacity to act as leaders could be identified and act as intermediaries or promoters of the law project within the communities.

### **Mobilization and Ritual Solidarity**

The TECOCOS movement has already completed the difficult task of bringing together the coastal communities. As Durkheim and Collins explain, the “more a group is able to physically gather together, create boundaries for ritual practice, share a common focus of attention, and common emotional mood the more group members will 1. Have a strong and explicit sense of group identity 2. Have a worldview that polarizes the world into two camps (in-group and out-group) 3. Be able to perceive their beliefs as morally right 4. Be charged up with the necessary emotional energy to make sacrifices for the group and cause” (Allan, 2006).

The TECOCOS movement inspires and promotes solidarity in between the communities and has offered them the possibility of being defended through the work of a common front. As mentioned above, after four years of struggle, individuals and communities need to be energized and reenergized in order to continue their

collective action. The TECOCOS movement has continually attempted to create rituals in order to strengthen the emotional solidarity in between the communities, to energize them and have them apply constant political pressure. Such rituals took the form of frequent (sometimes monthly) TECOCOS mobilizations at the Legislative Assembly, mobilizations on the 25<sup>th</sup> of July at the Nicoya Park, through recurrent workshops in the communities, and finally the TECOCOS forums and congresses.

These meetings and workshops have permitted for the coastal community members or leaders to better understand the law project, inspire hope and attempt to energize the communities so that can continue their efforts to get the law project approved. The importance for continual mobilizations is not understated by Collins (Allan, 2006): “if collective rituals aren’t continually performed, people will become discouraged, lose their motivation, will entertain alternatives views of meaning and reality, and become incapable of making the necessary sacrifices”.

Lastly, irrespective of age and education, natural leaders have emerged within the communities and are responsible for motivating the communities and creating ritual solidarity at the local levels. It is important to mention that not all individuals integrated within the movement have had a stimulating effect and some failed to motivate and get individuals rallied to the TECOCOS cause. The leaders who have had the most success are the ones who have taken the time to explain in detail the specifics of the law project to the coastal communities, reaffirm the key human rights defended in this project and genuinely showed respect while doing so.

The participation of the ACODEHU has been fruitful in this regard due to their emphasis on training, workshops and the explanation of the law project to the local community members (Annex I). The philosophy behind the ACODEHU’s contribution to the TECOCOS movement is as follows: a movement or collective action should not be looking for picket holders but should invest resources to

transform the individuals involved into critically aware individuals. This process is best explained in the book of Paolo Freire, “The Pedagogy of the Oppressed”:

To explain their own actions *“is to clarify and illuminate that action, both regarding its relationship to the objective facts by which it was prompted, and regarding its purposes”* (Freire, 1970).

Although the resources needed for training is almost always insufficient, the efforts made by the ACODEHU and other collaborators, has been, according to the author’s views, well received by the coastal communities and the time taken by the ACODEHU to explain the law project, interpreted as showing a high degree of respect towards the communities.

#### **4.3.2. Position of the Political Actors: ICT and Deputies of the Legislative Assembly**

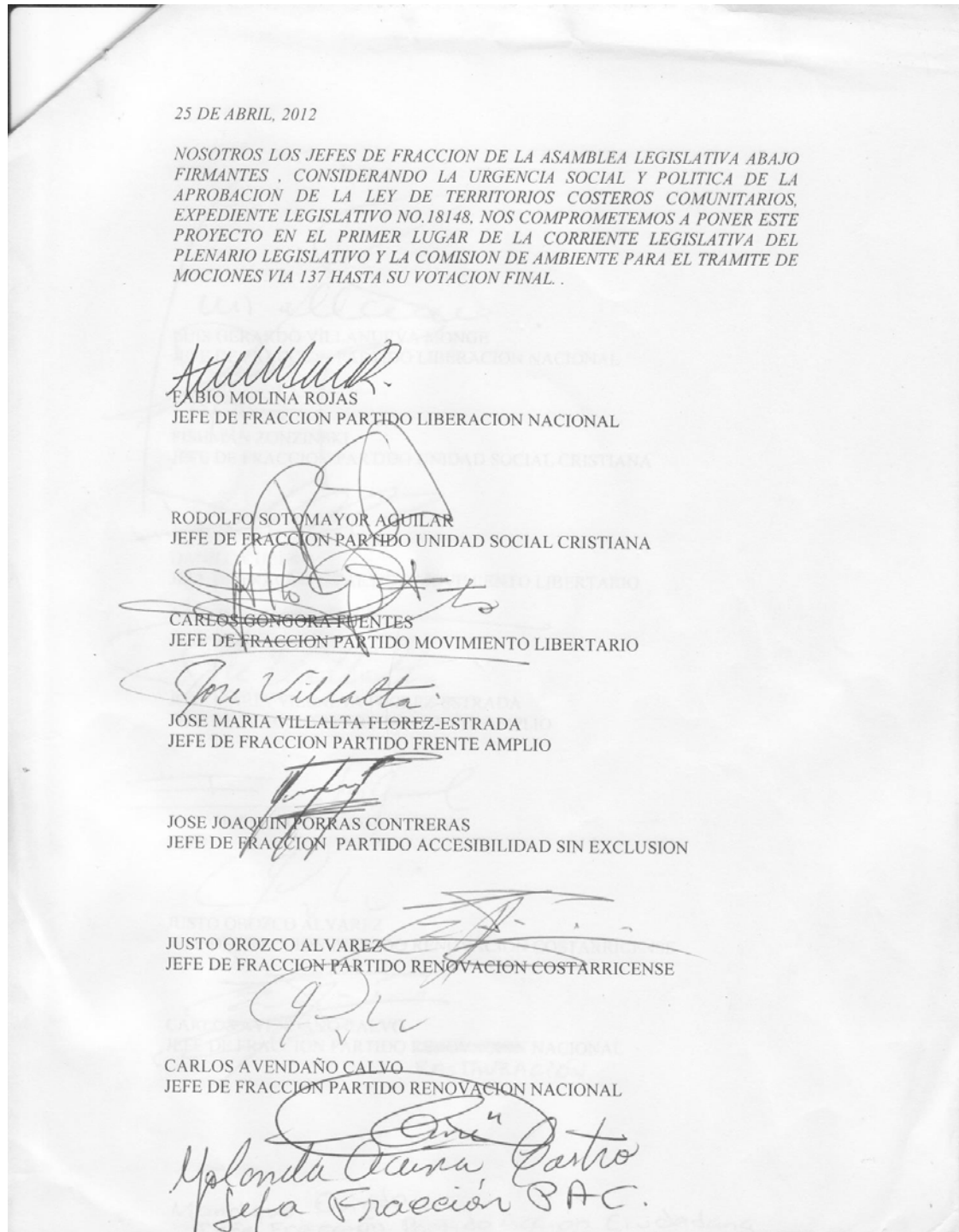
There are several actors that have publicly positioned themselves against the TECOCOS law project, many others who have considered it a viable solution to the current coastal conflicts and land tenure insecurity of coastal communities and finally, there are politicians that have changed their position on the issue or expressed doubts at one time or another.

The most ardent opponent of the law project is the Costa Rican Tourist Board (ICT). Within the legislative branch, there are four parties with over 4 seats as of September 1<sup>st</sup> 2012 have taken a party stance: the Partido Acción Ciudadana, the Partido Unidad Social Cristiana, the Partido Movimiento Libertario and the Partido Accesibilidad sin Exclusión; the two parties with 1 seat have also taken a party stance: Frente Amplio and Partido Renovación Nacional. The only party that has not positioned itself on the issue is the Partido Liberación Nacional. Positions within the

deputies have shifted, and until a vote at the legislative assembly is held, it will be difficult to know exactly who will vote in favor or against the law project.

There are three deputies from non-coastal provinces (Alicia Fournier, PLN, Alfonso Pérez, PLN and Carolina Delgado Ramírez, PLN) who voiced their opposition to the law project being debated in the extraordinary legislative assembly sessions of 2012 and voted against on 7<sup>th</sup> of May. There has been much public support for the law project but not much priority given to its debate on the floor or its mobility within the legislative process in the past three years. In contrast, on the 22<sup>nd</sup> of April, 2012, all the leaders of political parties in the assembly signed a document stating that they would give their support to the project and acknowledged the urgency of its approval (illustration 21).

Illustration 21: Document signed on the 25<sup>th</sup> of April, 2012 by the legislative assembly faction leaders recognizing the urgency of the TECOCOS law project



## » The Costa Rican Tourist Board (ICT)

### The ICT's Official Position

The ICT (2010, pp. 76) defines the coastal zone as an important part of its overall strategy and competitiveness. It has taken a stand and offered its criticism of the law project within the legislative assembly sub-commissions and in official correspondence with the sub-commission (Legislative Assembly Government and Administration Permanent Commission, 2011, pp. 5-10).

In its correspondence with the Legislative Assembly, the ICT categorically rejects the law project claiming that: 1. It will pave the way to illegal construction in the public zone, 2. it violates constitutional norms, 3. it violates the law N° 6043 and its regulations as well as the Law for the Operation and Concessions of Tourism Marinas, 4. it lacks requirements, process methodologies, a system of evaluation and approval for the granting of concessions and 5. it doesn't take into consideration the good image of economic and legal security that was generated by the coastal land use plans, also giving rights to inhabitants having lived in the ZMT (with proof) for more than ten years to be relocated, and 6. it will "distribute the ZMT in a way that the ZMT appears to belong to nobody" (Legislative Assembly Special Permanent Environmental Commission, 2011, pp. 27).

The ICT rhetoric is centered around three arguments: 1. the coastal land use plans (planes reguladores costeros) work; 2. the ZMT is for tourism exploitation; 3. the coastal land use plans incorporate the communities needs through the community area zones.

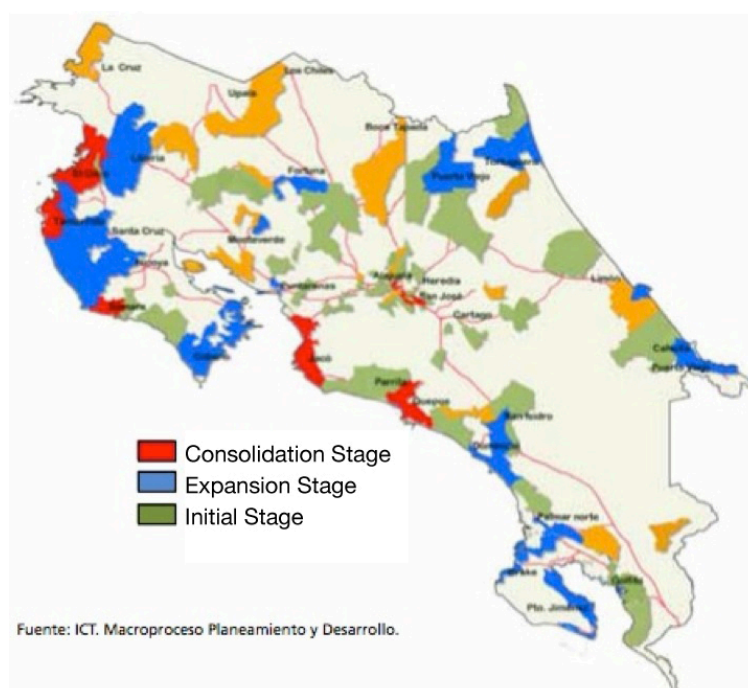
### Interpreting the ICT's Position

Legitimacy and authority of the ICT is derived from the law N° 6043. Any attack, criticism on the effectiveness of the law or initiatives to reform the law N° 6043 is, a direct attack on the ICT's legitimacy and power. The ICT has ambitious



growth goals therefore any project hindering the planned development of the coast is attacking its ability to meet its growth goals and “institutional responsibilities”. The ICT firmly believes that the TECOCOS will negatively impact the “tourism product” that Costa Rica has to offer.

Illustration 22: Tourism development stages per district (expansion, consolidation and initial development)



Source: ICT

## » Legislative Assembly Deputies

All fifty-seven deputies of the National Legislative Assembly were elected in 2010 for a period of four years. The deputies are only elected for one term therefore the handful of deputies who sponsored the original law project N° 17.394 are currently not elected deputies in the current legislative assembly. The law project needs 48 votes to be approved.

At the first stages of the law project, the ardent supporters inside the legislative assembly were of all political parties: Jose Merino del Rio of Frente Amplio (1949-2012), Leda Zamora of PAC, Guyon Masey of RN, Saturnino Fonseca of PLN, Xinia Nicolas of PLN, Bienvenido Venegas of PUSC, Jose Manuel Echandi of PUN<sup>14</sup>, Jose Rosales of PAC. In 2010, as new deputies were elected, the law project received support from deputies who had campaigned supporting the law project (e.g. Agnes Gómez of Puntarenas, PLN) and deputies who were supporting it because of its objective to provide a healthier social and natural environment on the coasts (e.g. Jose Maria Villalta of Frente Amplio and Claudio Monge of PAC).

The Legislative Assembly (2010-2014) is currently composed of the following parties:

- National Liberation Party (Partido Liberación Nacional - PLN): 24 seats
- Citizens' Action Party (Partido Acción Ciudadana - PAC): 12 seats
- Libertarian Movement Party (Partido Movimiento Libertario – PML): 9 seats
- Social Christian Unity Party (Partido Unidad Social Cristiana - PUSC): 6 seats
- Accessibility without Exclusion Party (Partido Accesibilidad Sin Exclusión): 4 seats
- Costa Rican Renovation Party (Partido Renovación Costarricense - PRC): 1 seat
- Broad Front (Frente Amplio - FA): 1 seat

In the composition of the Legislative Assembly, a majority coalition was born from the alliances of the PUSC, PAC, ML, FA, PASE. Some TECOCOS members believed it offered a better chance of success since the PLN wasn't the majority party at the Assembly.

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<sup>14</sup> Partido Unión Nacional

Since the early start of the law project, there has been constant pressure placed on the legislative assembly deputies by the TECOCOS movement. Frequent mobilizations were organized at the legislative assembly, regular meetings with the deputies or their advisors were held and members of the coastal communities would come to attend the commission proceedings (in an area for the public behind plexiglas). As Francisco Cordero Gené of the Centro de Amigos para la Paz noted, it represented a new trend in Costa Rican politics where individuals and various social groups would more easily “occupy” the legislative assembly to petition their cause directly within the walls of the legislative assembly building. With valid identification, a citizen can in the matter of minutes, if the timing is right, approach and speak to a deputy.

### **Competing Law Projects**

Up until September 2012, there have been many initiatives within the legislative assembly, interpreted by supporters of the TECOCOS law project, as direct attempts to either undermine, eliminate the support of part of the coastal communities, create confusion or directly compete against the TECOCOS law project. Four law projects, sponsored by deputies, will be discussed below.

The first law project N° 17.715 of June 2011 consists of one article reforming the Fishing and Aquaculture law and aimed to allow small artisanal fishing boats to fish in the marine reserves and was partly an initiative of Agnes Gomez (Figuerola, 2011). This action was interpreted by the TECOCOS movement as a way to “divest” the support of artisanal fishermen and in the process weaken the law project. It is not hard to imagine that this initiative was categorically rejected by the fishermen themselves, the environmentalists and marine biologists or individuals with a basic understanding

of the function of a wildlife/marine reserve. This law project initiative creates confusion on Agnes Gómez' position in regards the TECOCOS.

The second law project N° 17.701 of April 2011 (*Ley para Promover el Desarrollo Social, Económico y Ecoturístico de las Islas del Golfo de Nicoya Mediante Concesiones*<sup>15</sup>) aimed at easing restrictions on the concession system and tourism development on the islands of the Gulf of Nicoya (Islas Chira, Bejuco, Venado, Caballo, Jesusita, Cedros y Tortugas). The showcase objective for the law project is to favor the inhabitants of the islands, give them the right to own a concession and seeks to promote “socio-economic development” in the islands. The underlying reason can be interpreted as an attempt to create a dynamic land market for the islands, soften the restriction on island concession and finally, commercially develop the islands into exclusive getaway destinations. Since the 1990s, many foreigners and corporations have “bought” land from locals and sponsored the creation of land use plans for some of these islands (e.g. Isla Caballo). Many law projects have been created to develop these islands but all have been rejected. In a 2006 article from the UNA (National University), Molina Ruiz (2006) states that in two years, five law projects have attempted to develop the islands of the Gulf of Nicoya (Islas del Golfo) but the UNA University Council (Consejo Universitario de la Universidad Nacional), supported by the expert opinion of their academics and scientists, told deputies they completely opposed the processing and approval of these bills. The University Council considered this bill as “being adverse to the public interest of the country and in particular the coastal and island communities in the Gulf of Nicoya”.

The third law project N° 18.207 (*Ley de Reconocimiento de los Derechos de los Habitantes del Caribe Sur*<sup>16</sup>) is a two-article law project that was approved in August 2012 for debates during the extraordinary Legislative Assembly sessions (fall 2012).

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<sup>15</sup> Law to Promote Social Development, Economic and Ecotourism of Nicoya Gulf Islands through Concessions

<sup>16</sup> Law Recognizing the Rights of the Settlers of the South Caribbean

Its title is bolder than its aims. It seeks to benefit the occupants of the Wildlife Refuge of Gandoca – Manzanillo in the Caribbean by reducing the size of the national refuge. The majority decision was described by José María Villalta of the Frente Amplio as "hasty" because it did not take into account a possible constitutional breach. He states that the law project should have been named “Amendment of the limits and reduction of the Wildlife Refuge Gandoca Manzanillo”. On September 3<sup>rd</sup>, a group of over 15 organizations<sup>17</sup> and 100 individuals signed a manifesto to oppose this law project (Asociación Ambiental Del Norte De San Rafael De Heredia et al., 2012). We will translate and summarize the manifesto’s relevant points.

Point six states: *“With the approval of this project, the social and economic problems are not solved, they are aggravated. The bill N° 18.207 has only two items. The first item modifies the boundaries of the Refuge and reduces it. Article two states: “The zone of recognition of the legitimate rights of the people and the coastal towns of the Southern Caribbean, will be governed by the provisions of the Law on the Maritime Zone-Terrestrial N° 6043 of March 2<sup>nd</sup>, 1977”. This means that the land intended to divide the Refuge would become part of the ZMT and therefore will be a "de facto privatized" through concessions granted to individuals on regulatory plans designed to meet the demands of tourism projects residential and not respecting the environment and local populations, which are eventually excluded and impoverished because they have no financial or organizational capacity, as has happened in several parts of the country. Additionally, the area would be left under the Municipality of Talamanca and not the MINAET, which cannot be characterized by anybody as defending the natural resources of that canton. Should this change occur, people*

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<sup>17</sup> Asociacion Ambiental del Norte de San Rafael de Heredia - Asociacion de Iniciativas Populares Ditsö - Asociacion Bosques Nuestros - Asociacion Red De Coordinacion en Biodiversidad - Coecoceiba/Amigos de la Tierra Costa Rica - Colectivo Meg - Comisión de Asuntos Ecologicos de la Feuna - Comité Bandera Azul Ecológica de San Miguel - Confraternidad Guanacasteca - Fundacion Neotropica - Grupo Civico Domingueño - Isv Costa Rica - Llamado Urgente por el Pais - Miramar al Grano - Pastoral de las Gentes del Mar (Diocesis de Puntarenas) - Preserve Planet - Pretoma - Red Internacional de Foresteria Analogica - The Leatherback Trust

*would be forced to apply for concessions to the Municipality and no guarantee is given that they will be granted. If the concessions are granted but they do not meet the conditions of tourism development of the area then they will be at risk of losing their rights and being expelled from the place in order to grant concessions to other parties. Currently in the refuge, this problem does not exist”.*

Point eight states that it “*is possible to create special regimes for people living in the Refuge without reducing the Refuge. The Refuge as established today allows the accommodation of the original inhabitants. There is no need for a new law. In addition, it is possible to create special regimes for people to stay there and perform various activities, adjusted to environmental requirements that allow them to develop fully as individuals and as communities, validating their roots and respecting their culture, as indigenous territories have shown us is possible or like the bill N° 18.148 Ley de Territorios Costeros Comunitarios”.*

The fourth law project N° 18.440 (Ley de Protección a los Ocupantes de Zonas Clasificadas como Especiales<sup>18</sup>) is a seven article law project that has gained national spotlight and press coverage in August 2012 as it was promptly and unanimously approved within the Tourism Commission of the Legislative Assembly by the seven deputies in the commission and entered in the extraordinary sessions. The seven deputies in the commission are: Luis Alberto Rojas Valerio (PUSC), Jorge Alberto Gamboa Corrales (PAC), Agnes Gómez Franceschi (PLN), Carolina Delgado Ramírez (PLN), Gabriela Chaves Casanova Rita (PASE), Adonay Enriquez Guevara (ML), Xinia María Espinoza Espinoza (PLN). Within this commission, it is important to note that Carolina Delgado Ramírez of the PLN was in 2006 and 2007 the Advisor to the Executive President of the Costa Rican Tourist Board (ICT). She has also chaired the Interagency Commission of Tourism Marinas and Docks (CIMAT),

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<sup>18</sup> Law Protecting Occupants of Areas Classified as Special

representing the ICT. Carolina Delgado Ramírez voted against having the TECOCOS law project debated in the extraordinary legislative assembly sessions.

This law project does not offer a solution to the land tenure problem in the coastal area and ZMT but offers a delay of two years to “find a solution”. The timing before the extraordinary debates is interpreted, by activists and supporters of the TECOCOS, as suspicious. The danger will be that, according to José Maria Villalta, the law is looking to “demobilize communities and prevent the assembly from approving the law (of TECOCOS) that would solve the problem”. Deputy Villalta said that he would “not obstruct a vote, but warns that it is likely that the Constitutional Court will declare it unconstitutional” (Francia, 2012; Salazar Fernández, 2012b).

Furthermore, it might justify the negative vote of deputies by offering an alternative to TECOCOS (a second option that is not really a solution). The law project’s “*états des lieux*” doesn’t have a critical perspective on the current land tenure system; it only states that the current land tenure system takes time: “Obviously, the process of land planning is not given overnight” (Bill N° 18.440, 2012).

A recent article by former priest and activist has raised two important doubts (Vargas Araya, 2012): 1. Should one be suspicious that this moratorium has been devised within the tourism commission of the legislative assembly and not another commission? and 2. Should one be suspicious that this two year moratorium will end in time for the next 2014 presidential elections where the coastal provinces are key provinces for reelection?.

#### **4.3.3. Contentious Issues relating to the TECOCOS law project**

There are several contentious issues and articles or controversial events that arose with regard to the law project, its supporters or detractors. These issues and events

range from public allegations that the law project's aims are unconstitutional, to the voiced concerns of the ICT on the law project, matters relating to specific articles and responses to criticism.

- **Non-transferability of Concessions:** Land ownership within a liberalized and “speculative” market rarely works to the advantage of local coastal communities with a small capital asset base. Proponents of land ownership are quick to advance the benefits of being able to hypothec land, or one's infrastructure without considering the downside of community fragmentation linked to forced and distressed sales. Distressed or forced sale can be the result of some community members not accustomed to the culture of debt, the attractiveness of getting a lump sum of money that, as some local community leaders have commented, will usually be spent unwisely and lead these individuals into a deeper state of poverty. There is a story that is often heard in Costa Rica and is told by a local eco-lodge owner in the documentary Quebrando los Huevos de Oro: Turismo en la Costa del Pacífico de Costa Rica (2010). The story is about a person that sells his land to foreigners and ends up becoming the foreigners' gardener or groundskeeper. Although this story may sound like a wives' tale, such situations are quite common.

With the aim of protecting communities and coastal culture (that can only thrive within a non-fragmented community), the law project offers a solution to the scenarios described above by creating, in a broad sense, community rights in the form of Territorio Costero Comunitario. The issue goes past the simple ownership of concessions.

- **Unconstitutionality:** The Planning Director of the ICT, Rodolfo Lizano, spoke in the Government and Administration Commission on July 20th, 2011 offering his



concerns and defending the current coastal land tenure system. Soon afterwards, Agnes Gómez (PLN) declared publicly that the law project had unconstitutional aims (Voz Liberacionista, 2011). She didn't precise any specific articles of the constitution and has since taken a stand in favor of the law project. Deputy Jose Villalta of the Frente Amplio, has defended the possibilities of creating a legal framework for TECOCOS by stating that it is as legitimate as the separate legal framework that was created in the ZMT for the Polo Turístico Golfo de Papagayo (PTGP).

- **Territorial Limitations of the TECOCOS and the creation of future Territorios:** When Rodolfo Lizano spoke in the Government and Administration Commission on July 20th, 2011, he expressed his concern at the fact that the delineation of certain communities were not included and rendered the geographic dimensions of the Territorio Costero Comunitario vague (Legislative Assembly Government and Administration Permanent Commission, 2011). This point is important and will need to be resolved during the implementation of the law project or during the debates. Extensive studies will need to be performed and a collaborative process within communities and respective institutions will need to decide on the delineation of each Territorio Costero Comunitario. Furthermore, Mr. Lizano claimed that there would be “legal insecurity” if no one knew where the next Territorio Costero Comunitario would be located because of the article six and seven of the law project. The ZMT where a community lives is not a vague geographical space, however coordinates can easily delineate these zones. The TECOCOS would be delineated using the same procedures that the ICT and MINAET use to define the coastal zones of “Touristic Aptitude” and the wildlife refuges (table 11). There is obviously a need to preserve the territorial continuity of the Territorio Costero Comunitario; it would be unmanageable if the Territorios

Costeros Comunitarios were thousands of little clusters of houses. In contrast, the law project has only defined over 60 areas in a span of 1200km of coastline.

Table 11: Coastal areas legally defined as “Areas for Tourist Aptitude”

*Cuadro 2. : Declaratoria Turística en el Área de Estudio (Anexo 8)*

SECTOR COSTERO	SESION				COORDENADAS	GACETA	
	No.	Art.	Inc.	Fecha		No.	Fecha
CABUYA	1913	6		26-Ago-70	N Lat. 1/75.05 Long. 4/12.6 Lat. 1/79 Long. 4/18.1	220	02-Oct-70
MONTEZUMA	1913	6		26-Ago-70	N Lat. 1/81.95 Long. 4/18.1 Lat. 1/83.3 Long. 4/20.3	220	02-Oct-70
ROCA LAS MANCHAS (incluye Playa Cedro)	4791	5	11	12-Ene-98	181.950 N-419.100 E 179.000 N-418.100 E	39	25-Feb-98

Fuente: Instituto Costarricense de Turismo (ICT), 2007.

Source: ICT, 2010b

- **Tourism in the province of Limón and the law project:** An article dating May 8<sup>th</sup>, 2012 by journalist and activist Archer Moore of Afro-Caribbean descent and native of the Province in Limón had reservation of the article 17 of the TECOCOS law. The article 17 states that there can be no mega-projects in the Territorio Costero Comunitario. Mr. Moore thinks that this clause is not appropriate for the Caribbean side given the little tourism development and infrastructure. He states that: the Caribbean coast “lacks any coastal tourism infrastructure competitive in the world market” (Moore, 2012).

The Caribbean side only has 212km, representing 1/5<sup>th</sup> of the pacific coast and is also composed of natural reserves (figure 2). Given the current tourism products already offered on the pacific coast, Limón should diversify and offer a non-competing tourism product. He states that this article also “prohibits anything that will permit the creation of new jobs”, “all that gives value to land and territory but will condemn the population to basic subsistence activities and will have to wait for the promises of government’s investments”. Lessons should be learned from

the tourism activity on the Pacific side, the low socio-economic impacts and high environmental costs of mass tourism as well as the fact that jobs created do not always benefit the local workforce.

- **TECOCOS impeding the ICT's development strategy:** Since the ICT and the TECOCOS have antagonistic interests; some of the ICT's strategic coastal zones are included in the law project. The fact that these coastal communities might be affected by the ICT's priority tourism development goals is correlated with the need that the communities have to be represented by the TECOCOS movement.
- **The ZMT belongs to the State and is National Heritage for Tourism:** There is a recurrent problem with governments; they often forget that they work for the people and not for themselves. If the ZMT belongs to the State, and the State represents the Costa Ricans citizens, then the ZMT belongs to the citizens of the country and should be used to promote sustainable human development benefiting Costa Ricans according to what they believe are legitimate development paths. The logic of the ICT is fallacious and self-serving, it believes that since it is part of the State apparatus and since the land is inalienable property of the State, then the ZMT should be used exclusively for tourism, for the benefit of foreigners.
- **The law N° 6043 and the coastal land use plans “work”:** This is the centerpiece of the ICT's argument against the TECOCOS. As demonstrated in chapter three, the local coastal land use plans (plan regulador) are tools destined to promote the touristic exploitation of the coastal zone but not a diversified local economy. Furthermore, as Miranda (2007, pp. 6) notes, the law 6043 has many loopholes that may be used to the advantage of private and political interests. She also notes that these loopholes have been frequently used by political powers aiming at

“marketing” the ZMT going directly against Costa Rican “institutionality”. Miranda (2007, pp. 18) also concludes that the land use plans only benefit tourism development companies. The many loopholes in the law N° 6043 have also allowed individuals and companies with the legal know-how to own more than one concession as limited by the law (Miranda, 2007). Some renowned politicians have, with foreigners, created numerous corporations to bypass that limitation (Monge, 2011).

Arrieta (2007) concluded that the coastal land use plan and the law N° 6043 are too rigid given the social, cultural and economic realities present. There are incompatibilities in between the rigid legal framework and the economic and cultural specificities of the coastal communities. For example, it is important that fishermen be able to guard their boats and motors at night as they represent most of their physical capital. It is thus crucial for them to live close to shore but under the law N° 6043 this would not neither be allowed nor financially possible for the artisanal fishermen.

- **Tourism and Poverty in Guanacaste:** There are two main positions on the impacts of tourism on poverty. The position that tourism creates inequalities on the coast is an argument that may be used in favor of TECOCOS or against assigning a big proportion of the coast for tourism development using the current territorial planning tools and policy initiatives from the ICT. On August 2<sup>nd</sup> 2009, a twenty-one page open letter written by three catholic clergymen criticized the coastal development path chosen by the tourism industry and commented on its socio-economic and environmental impacts. The letter openly supported the Territorios Costeros Comunitarios law project and denounced the increase in poverty in Guanacaste. On August 6<sup>th</sup>, in response to the Carta Pastoral

(Fernández Guillén et al., 2009), the ICT organized a conference on Tourism in Guanacaste entitled “Impacts of Tourism in Guanacaste: A sign that the Tourism Dollar is better distributed”. The Conference was not held in Guanacaste but in a five-star hotel in San José with the following participants Carlos Ricardo Benavides, minister of Tourism; Roberto Gallardo, minister of planning and economic policies and Ana Saborío, vice president of the Guanacaste Chamber of Tourism (Elpais.cr, 2009). The two different perspectives can be coined as “poverty besides tourism” or “poverty because of tourism”.

- **The Partido Movimiento Libertario:** The track record of certain ML politicians include corruption charges, and the attempts of the founder of the party to privatize indigenous land. In 2000, Otto Guevara tried to push for the creation of a law project allowing for land titling of collective indigenous land. This move was seen as the first step towards a scheme to have a dynamic indigenous land market (Figuerola, 2011a). The same Otto Guevara was allegedly accused of corruption relating to election funding (Martínez, 2012) and is one of the two politicians with land in Ostional ordered to be evicted. These two scenarios may have been extrapolated against the TECOCOS, however, the ML party is not the instigator of the TECOCOS law project therefore charges against ML and the Guevaras should not be used against the TECOCOS.

- **Private property in the ZMT**

Comments at the end of online newspaper articles show the misunderstanding that some Costa Rican readers may have of the law project (Annex H). Some state that the TECOCOS is trying to create a regime of private property within the ZMT and the Wildlife Refuges, some even state that there is an alliance in between the “communists” and “neoliberals” for the creation of private property on the coast.

Another article quoting an ML politician might create confusion, ML politician Carlos Góngora stated that the TECOCOS project is aligned with the objective of the ML party and is part of “the fundamental ideological principle of liberals and their respect for private property” (ElPais.cr, 2012). The aim of the TECOCOS is not to create owners “per se” because the ZMT is the inalienable property of the State and because the TECOCOS concessions will be non-transferable. The aims are to add community and cultural rights within the legal framework of the coastal land tenure system.

- **TECOCOS will create “amnesty for MINAET’s corrupt bureaucrats”:** An article written by Salazar Fernández (2012), a journalist who has written many articles on corruption and environmental degradation, was not well received by some members of the TECOCOS movement because it was critical of the law project. Given the difficulty that the movement faced, it seemed an unfair attack to certain members. Salazar Fernández (2012) is, nevertheless, putting his finger on an important issue that was covered earlier, the failed management of the Refugio Ostional by MINAET bureaucrats. Carlos Salazar wrote another article where a marine biologist shared her concern that Ostional would be overdeveloped and will have an impact on the “arribadas” (Salazar Fernández, 2012). The aim of TECOCOS in the national refuges is to have the communities continue their low impact lifestyles and therefore not promote residential tourism and the urbanization of the area. The low impact of the residents of Ostional and other refuges will have to be sustained and this might signify that construction requirements should be defined for the Refuges.
- **The duration of the legislative process:** There is a recurrent question within the TECOCOS movement concerning the appeared immobility of the law project.

Any major reform takes time. In this case, the lack of advancement can be resumed in four points: 1. the law project started in 2009 with the previous deputies of the legislative assembly 2. the TECOCOS law project entered a second commission due to the interpreted waiting game tactic observed in the Government and Administration commission 3. there are timetables and procedures to respect, a set agenda order in the different stages of the legislative assembly that can be influenced in favor or in disfavor of the law project 4. some deputies have not kept their promise dating April 25<sup>th</sup> 2012 to act urgently on the matter. There has been tremendous pressure exerted on the deputies and one can easily imagine at what stage the law project would be in if there were less mobilizations and overall support from the coastal communities.

#### **SECTION 4.4. SUMMARY**

The TECOCOS movement has managed to bypass the variety of coastal conflicts and redirect the focus on the root of the issue: land tenure. While doing so, the TECOCOS movement is offering a concrete solution through the TECOCOS law project N° 18.148. The coastal communities and activists have moved passed reacting toward certain activities or unsustainable behavior of businesses on the coast and took the initiative to reform the legal system and, in the process, limit the ICT's authority and power. This perspicacity has permitted the TECOCOS movement to directly tackle the economic and social structures discriminating the coastal communities as well as the one size fits all system that has had the record of promoting a gentrified coastal zone and the unsustainable urbanization of the coast.

An important achievement in the TECOCOS movement has been the “politicization” of the coastal communities by integrating them into the inner workings of the legislative processes through mobilizations at the assembly and

through the workshops done in the communities. This conflict has given visibility to the dispersed coastal communities and given them a louder political voice. In addition, as Coser (1956, pp. 34) explains, conflicts “sets boundaries between groups within a social system by strengthening group consciousness and awareness of separateness, thus establishing the identity of groups within the system”. The TECOCOS conflict has had this ability of fostering group consciousness and establishing a clearly defined conflict group. Furthermore, the TECOCOS permitted the coastal communities to centralize their power structure and permit them to be more efficient in dealing with external threats and negotiations.

The conflict has evolved however, to the point where the legislative process that serves as a conflict resolution mechanism has become a means to demobilize the coastal communities. The opponents of the TECOCOS have used the waiting game tactic and held ambiguous positions by sponsoring competing law projects that appear to be working for the coastal communities but lack the sophistication and a critical perspective on the current coastal legal and regulatory framework.



## **Chapter Five: Conclusion**

Tourism and Globalization continually attempt to create new markets in remote areas of the planet and integrate them within the world-economy. Traditional tourism and residential tourism are highly land and resource intensive and in order for the global capitalist system to meet its need of continual growth within a finite planet, the most remote places become areas of struggle in between those who traditionally lived on the land and those who want to acquire it for development. As international capital pours into Costa Rica in the form of FDI and foreigners are encouraged by the legal framework and agencies to buy land as well as build secondary homes, perverse incentives build around the discrimination and exclusion of local communities. A process starts, allowing certain groups to accumulate land while others are dispossessed, redefining territory and leading to an increase in gentrification to the degree where foreigner enclaves become common sightings and alien cultures, dominant.

In Costa Rica, the tourism industry has gotten its grip upon a big proportion of the coastal land with the backing of the ICT and the law N° 6043. There are several models of development that have gained momentum on the coasts of Costa Rica following the international trends of the tourism industry and real estate speculation: coastal resort tourism and vacation homes/residential tourism. Due to a substantial increase in FDI inflows since 2002-2003, the creation of a second international airport; Costa Rica, a country marketed as a safe investing environment by the many foreign real estate corporations, has seen a boom in coastal real estate development along with its many associated socio-environmental impacts. It is important to note that this boom also coincided with the real estate speculative bubble in the United States.

With such precipitated growth, Costa Rica was not able to create orderly and balanced development on the coast due to the inappropriate institutional arrangements and legal frameworks.

The current tourism development is being justified or “touted” for the benefits that are allegedly, directly and indirectly, benefiting locals, and by the amount of export dollars the industry is generating. The downsides of tourism however, are rarely discussed and the ICT appears to be shying away from an honest national discussion about tourism, environmental degradation and the exponential use of national resources by foreigners. The lack of an open discussion is a consequence of the many antagonistic interests the ICT has with other members of the Costa Rican society including the local coastal communities, environmental and Human Rights NGOs. The lack of honest debates is best exemplified in the opinion article written by ex-deputy and ex-first Lady Mrs. Penón in *La Nación* (Penón, 2011) disapproving the fact that no government officials<sup>19</sup> or ICT official participated in an international conference held in Monteverde on global trends and sustainable tourism with a world-renowned speaker and an international crowd in attendance.

The main area of contention is the law N° 6043 and the power given to the Costa Rican Tourist Board (ICT). This law put in place a concession system prioritizing the use of coastal land for tourism activities. The majority of land use plans implemented are not tools for integral development of the coast but promote a lopsided development favoring economic growth policies, foreigner enclaves and foreign owned business. This lopsided development has created many conflicts including conflicts related to the recognition of coastal culture and the right for communities to live on the coast. The ICT, however, only recognizes coastal communities to a bare minimum and doesn’t recognize the specificity of their culture nor does it value their right to live on the coast. The tourism-related conflicts are

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<sup>19</sup> besides the minister of culture present at the closing ceremony

sustained by the lack of honest debates and transparency on important issues relating to coastal development.

The ICT's main stance contends that the coastal zone needs to contribute to the "tourism heritage" of the country and serves to complement Costa Rica's tourism product by offering the 3S (Sea, Sun, Sand) to tourists. The ICT often reaffirms its legitimacy given, although contested by actors of civil society, from the legal framework established by the law N° 6043 of March 2nd 1977. This is the reason why the law N° 6043 and the institutional goals of the ICT are central to the debate of the preservation of coastal communities and their cultural heritage.

The TECOCOS reform movement started in 2008 with the creation of Frente Nacional de Comunidades Costeras Amenazadas por Políticas de Extinción. This group of coastal communities decided that the legislative process was the best solution towards protecting the interests of the coastal communities. Since 2008, coastal communities have combined their resources to stop the wave of coastal evictions taking place in the Terrestrial and Maritime Zones (linked to residential tourism and conventional beach tourism) by partnering with deputies of the legislative assembly and many associations from Costa Rica's vibrant civil society. They have formulated rational goals which can be found in the two law projects that entered the legislative assembly in 2009. These law projects are the Ley de Territorios Costeros Comunitarios N° 18.148 (formerly 17.394) and the Ley de Refugio Nacional de Vida Silvestre Ostional N° 17.512; they were drafted using an open and participatory methodology involving over 30 communities at the time. The aim of the project is to protect over 50'000 families living on the coasts and the +60 coastal communities included in the law project. This conflict group represented by the TECOCOS movement has been able to remain mobilized for over four years.

The two law projects have been slowly advancing within the legislative process due to the efforts and actions of politicians attempting to archive the law project. The TECOCOS law project is an innovative and forward thinking piece of legislation and includes many future policies and programs promoting sustainable local development (including sustainable tourism initiatives). The law project seeks to put in place local decision making mechanisms, stimulate and encourage a diversified local economy, assure the implementation of community-based tourism and community-based environmental conservation programs. With respect to culture, it seeks to create a legal framework recognizing and fostering coastal culture through education, training and legal rights.

The Territorios Costeros Comunitarios conflict represents, in a broad sense, a clash in between two world-views and visions for coastal development. On the one hand, we have the supporters of the TECOCOS bill who recognize coastal culture, believe in the preservation of coastal culture and aim to accommodate their collectivistic values and lifestyles. Communal property and participatory decision-making in development and territorial planning hold a privileged position in this bill. On the other hand, we have actors desiring to maintain the current legal framework that promotes a liberalized land market for the coast and has, until now, benefited exclusively tourism development, foreigners and wealthy nationals. The current land tenure system gives the right to individuals and businesses to be in the ZMT solely on a financial basis and only minimally recognizes the rights of local coastal communities.

In the case of Ostional and other natural reserves, we can also witness a dichotomy in between a western view of nature conservation that consists of delineating natural reserves and removing all human activity, and another view of conservation that recognizes that the presence of native communities can contribute to successful conservation efforts. As the Agenda 21, chapter 17 states, there are

situations where the best scenario to promote the conservation of an area is to rely on the knowledge of local communities who have the ability to manage in a sustainable fashion the natural resources of their area. In Costa Rica, the Ostional community serves as an example, they have led a successful community-based environmental protection program along side the University of Costa Rica (UCR) and the Ministry of Environment, Energy and Telecommunications (MINAET).

The conflict dynamics have been quickly centered on the legislative process and the approval of the bill. With respect to the TECOCOS opponents (ICT, certain deputies and economic interests), it is unclear how much influence and veto power they hold in order to meet the objective of archiving the law projects. We can only speculate that most of the discussions and plans made by the opposing side of the TECOCOS movement are held behind closed doors and exert substantial pressure on the current deputies. As we have seen earlier, the ICT entertains certain relationships with deputies, Carolina Delgado Ramírez and was one of the three deputies who voted against the law project being debated in the extraordinary sessions; she held positions within the ICT. She also promoted a competing law project in the Legislative Assembly's tourism commission that offers no tangible solutions to resolve the socio-environmental conflicts on the coasts.

Due to the social and cultural importance of the law project, as well as the urgency of the matter at stake, direct confrontation with the TECOCOS is not a wise political move. The competing law projects do not offer long term and targeted solutions but lack a critical and holistic view of the current land tenure system and ideas on how to best achieve consensus when it comes to coastal development planning. The most recent law project N° 18.440 advanced within the legislative process with the support of the three deputies from the Liberación Nacional Party in the Tourism Commission of the Legislative Assembly (composed of seven deputies). This law project offers a two-year moratorium to individuals at risk of eviction on the

coasts and the border regions. This law project, although offering no real solutions to the plight of the coastal communities, appears to achieve its aim of creating confusion while at the same time appearing to be working for the coastal communities. In two years however (2014), another 57 deputies will start a new term in the legislative assembly and the election process for the 2014 presidential election will soon begin; the timing of this law project should be considered suspiciously strategic. The TECOCOS supporters consider it as a way to garner the vote of coastal provinces with empty promises.

Many political and business elites are and have benefited from the current status quo. When looking at the previous and current administration, it becomes apparent that many politicians have benefitted from direct or indirect discriminatory actions against coastal communities and destructive forms of coastal development. Within the previous administration lead by Oscar Arias (2006-2010), there have been many top officials directly or indirectly implicated one way or another in the moral and socio-economic oppression of coastal communities including Oscar Arias himself. Several of these politicians have been denounced by investigative NGOs and activists such as Juan Figuerola, Gadi Amit, Ronal Vargas and deputy Claudio Monge.

Several decades ago, Oscar Arias and his brother became owners of coastal lots in el Jobo beach, Guanacaste. The sale transaction created a conflict because the land was claimed by a group of landless farmers who considered it abandoned. During their opposition, the leader of the group Gil Tablada was assassinated by, it is suspected, the previous “owner” of the land. This occurred on November 18, 1970 but Gil Tablada is still remembered and a local school is named after him (Vargas Araya, 2009). Jorge Woodridge, former Minister of Competitiveness, along with Viviana Martín Salazar, former Minister of Justice and deputy, were involved in the purchasing of land in Isla Caballo and the development of a self-serving land use plan

that showed very little consideration for the local communities. The two were also involved in the development of a resort “Mar Serena” accused of environmental degradation (Monge, 2011). A more recent case has garnered media attention due to alleged irregularities; the case involves the Minister of the Presidency’s mother in law and the possibility that she may receive concessions in the island of Plata (Isla Plata) (Salazar Fernández, 2012).

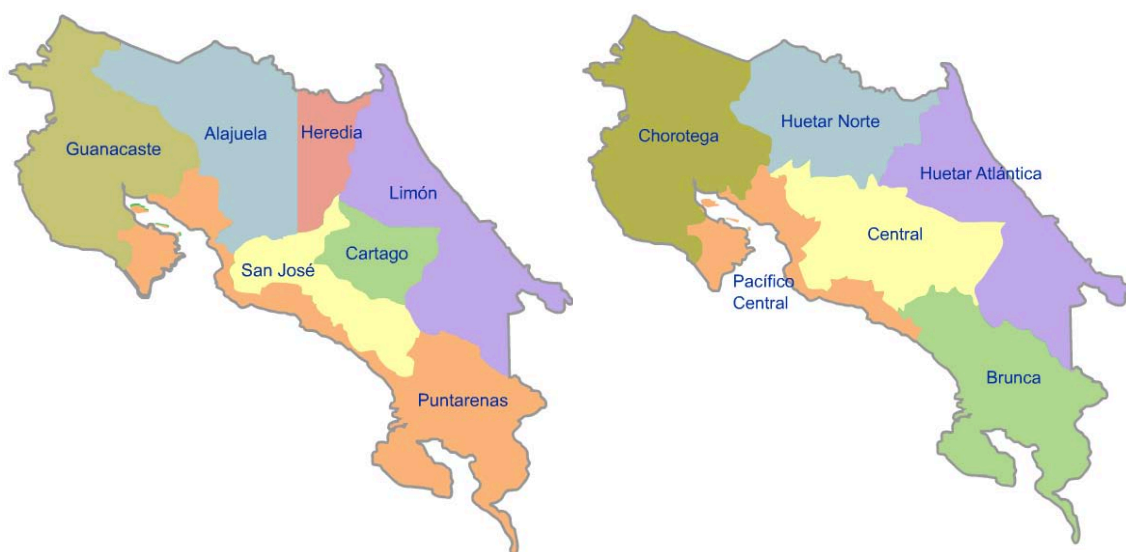
These instances should not be generalized but should contribute to our understanding on why coastal communities have been so easily excluded, morally, socially and economically. When the individuals who have accessed key positions of power have also directly or indirectly benefitted from the destruction of the environment and the dispossession of land from coastal communities, we should not be surprised at the difficulties that the TECOCOS movement is currently facing within the legislative process.

## Annexes

### Annex A: Map of Coastal Provinces and Regions

Left: Provinces of Costa Rica

Right: Regions of Costa Rica



Source: INEC [www.inec.go.cr](http://www.inec.go.cr)

### Annex B: Coastal Province Demographic Indicators (2011)

	Overall	Guanacaste	%	Puntarenas	%	Limón	%
<b>Population:</b>	4'615'518	280'232	6.07	368'423	7.98	451'631	9.79
<b>Population &lt;15 years:</b>	1'110'024	91'274	-	127'667	-	169'879	-
<b>Population &gt;60:</b>	460'302	34'153	-	38'535	-	33'257	-
<b>Land Area in Km²:</b>	51'100	10'140.71	19.84	11'265.69	22.04	9'188.52	17.98
<b>Population Density:</b>	90.32	27,63	-	32.70	-	49.15	-

Source: INEC [www.inec.go.cr](http://www.inec.go.cr)



## **Annex C: Communities in the law project N° 18.148 as of 2011**

### **Article 5: Communities to be Managed by the Municipalities**

1. Puerto Soley, district of La Cruz, canton of La Cruz, province of Guanacaste.
2. Cuajiniquil, district of Santa Elena, canton of de La Cruz, province of Guanacaste.
3. Brasilito, district of Cabo Velas, canton of Santa Cruz, province of Guanacaste.
4. Colorado, district of Colorado, canton of Abangares, province of Guanacaste.
5. San Juanillo, district of Cuajiniquil, canton of Santa Cruz, province of Guanacaste.
6. Lagarto, district of Cuajiniquil, canton of Santa Cruz, province of Guanacaste.
7. La Leona, district of Paquera, canton of Central, province of Puntarenas.
8. Playa Blanca, district of Paquera, canton of Central, province of Puntarenas.
9. Playa Gigante, district of Paquera, canton of Central, province of Puntarenas.
10. Punta del Río de Río Grande, district of Paquera, canton of Central, province of Puntarenas, (de Las Salinas hasta la Punta).
11. Playa Mangos, district of Paquera, canton of Central, province of Puntarenas.
12. Playa Margarita, district of Paquera, canton of Central, province of Puntarenas.
13. Punta Cuchillo, district of Paquera, canton of Central, province of Puntarenas.
14. Playa Palomo, district of Paquera, canton of Central, province of Puntarenas.
15. Playa Panamá de Río Grande, district of Paquera, canton of Central, province of Puntarenas.
16. Isla Cedros, district of Paquera, canton of Central, province of Puntarenas.
17. Montezuma, district of de Cóbano, canton of Central, province of Puntarenas.
18. Muelle de Tambor, district of Cóbano, canton of Central, province of Puntarenas.
19. Playa Cabuya, district of Cóbano, canton of Central, province of Puntarenas.

20. Isla Venado, district of Lepanto, canton of Central, province of Puntarenas.
21. Isla Chira, district of Chira, canton of Central, province of Puntarenas.
22. Isla Caballo, district of Puntarenas, canton of Central, province of Puntarenas.
23. Punta Morales, district of Chomes, canton of Central, province of Puntarenas.
24. Morales1, district of Chomes, canton of Central, province of Puntarenas.
25. Morales2, district of Chomes, canton of Central, province of Puntarenas.
26. Costa de Pájaros, district of Manzanillo, canton of Central, province of Puntarenas.
27. Manzanillo, district of Manzanillo, canton of Central, province of Puntarenas.
28. Abangaritos, district of Manzanillo, canton of Central, province of Puntarenas.
29. Chomes, district of Chomes, canton of Central, province of Puntarenas.
30. Playa Las Cocoras (Cocoroca), district of Chomes, canton of Central, province of Puntarenas.
31. El Cocal, district of Quepos, canton of Aguirre, province of Puntarenas.
32. Playa Guápil, district of Savegre, canton of Aguirre, province of Puntarenas.
33. Playa Linda de Matapalo, district of Savegre, canton of Aguirre, province of Puntarenas.
34. Playa Dominical, district of Bahía Ballena, canton of Osa, province of Puntarenas.
35. Dominicalito, district of Bahía Ballena, canton of Osa, province of Puntarenas.
36. Punta San José, district of Sierpe, canton of Osa, province of Puntarenas.
37. Playa Rocas de Amancio, district of Bahía Ballena, canton of Osa, province of Puntarenas.
38. Playa Blanca, district of Puerto Jiménez, canton of Golfito, province of Puntarenas.

39. Cocal Amarillo, district of Pavón, canton of Golfito, province of Puntarenas.
40. Manzanillo, district of Pavón, canton of Golfito, province of Puntarenas.
41. Zancudo, district of Pavón, canton of Golfito, province of Puntarenas.
42. Pílon, district of Pavón, canton of Golfito, province of Puntarenas.
43. Río Claro de Pavón, district of Pavón, canton of Golfito, province of Puntarenas.
44. Portete, distrito Limón, canton of Limón, province of Limón.
45. Piuta, distrito Limón, canton of Limón, province of Limón.
46. Cahuita, distrito Cahuita, canton of Talamanca, province of Limón.
47. Puerto Viejo, district of Cahuita, canton of Talamanca, province of Limón.
48. Cocles, district of Cahuita, canton of Talamanca, province of Limón.
49. Punta Uva, district of Cahuita, canton of Talamanca, province of Limón.
50. Tárcoles, canton of Puntarenas.

**Article 44: Communities to be managed by the MINAET**

1. Ostional, district of Cuajiniquil, canton of Santa Cruz, province of Guanacaste.
2. Playa Pelada, district of Nosara, canton of Nicoya, province of Guanacaste.
3. Playa Guiones, district of Nosara, canton of Nicoya, province of Guanacaste.
4. Playa Pochote, district of Paquera, canton of Central, province of Puntarenas.
5. Islita, distrito, canton of Puntarenas, province of Puntarenas.
6. Gandoca, district of Sixaola, canton of Talamanca, province of Limón.
7. Cocalito, district of Cóbano, province of Puntarenas.

**Annex D: Key Issues, Objectives and Strategies for Social Development in the Tourism Planning Unit for Puntarenas and the Islas del Golfo (ICT, 2007)**

<b>Key Issues for Socio-economic Development</b>	<b>Socio-economic Development Objectives</b>	<b>Basic Strategies for Socio-economic Development</b>
<ul style="list-style-type: none"> <li>• The historical development of the Unit has been poorly planned and generated pollution problems, pressure and deterioration of resources of interest.</li> <li>• The ratings of local labor and educating people on average are low. This limits the incorporation of local labor in the tourism sector, creating unemployment, poverty and low social development index.</li> <li>• There are security issues due to acts of</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct a participatory planning process of tourism development of the Unit, which allows direct ordering and sustainable growth in relation to the development vision set.</li> <li>• Promote comprehensive training processes and education of local people in the area of tourism, aimed at enhancing local human resources, employment and improving living conditions of the population.</li> <li>• Foster care and</li> </ul>	<ul style="list-style-type: none"> <li>• Formulation of planning proposals or official regulation on the waterfront, to guide the development of the unit prior to the implementation of new tourism developments.</li> <li>• Development of urban regulatory plans mainly in older populations (e.g. city of Puntarenas) to ensure control of tourism growth in those sites.</li> <li>• Proposal Development and support of local communities to support the development of new tourism options.</li> <li>• Establishment of a</li> </ul>

<p>crime, activities related to prostitution, drug abuse and illegality affecting tourist destination image.</p> <ul style="list-style-type: none"> <li>• The unplanned growth in tourism and population centers hinder the efficient provision of basic sanitation, a situation that hurts both local people and tourists visiting the area.</li> </ul>	<p>institutional services in relation to the issue of security, immigration control and care of the population at risk, in order to foster better conditions for the development of the tourism industry in the Unit.</p> <ul style="list-style-type: none"> <li>• Generate support processes and support in local communities for the development of new tourism products to harness the full potential interest in the area by way of diversification.</li> <li>• Coordinate with different stakeholders in order to implement the planning, implementation of basic services necessary for the consolidation of the</li> </ul>	<p>comprehensive human resource training local demand based on actual tourism related activities within the framework of sustainability, which meets the specific needs of the area and generate new business, skilled labor and improve the capabilities of existing entrepreneurs.</p> <ul style="list-style-type: none"> <li>• The establishment of security systems that combine local efforts to institutional presence, giving emphasis to tourism security operatives mainly in the coastal sector. It is very important to incorporate awareness programs impact insecurity in the local tourism market, for which you can count on the support</li> </ul>
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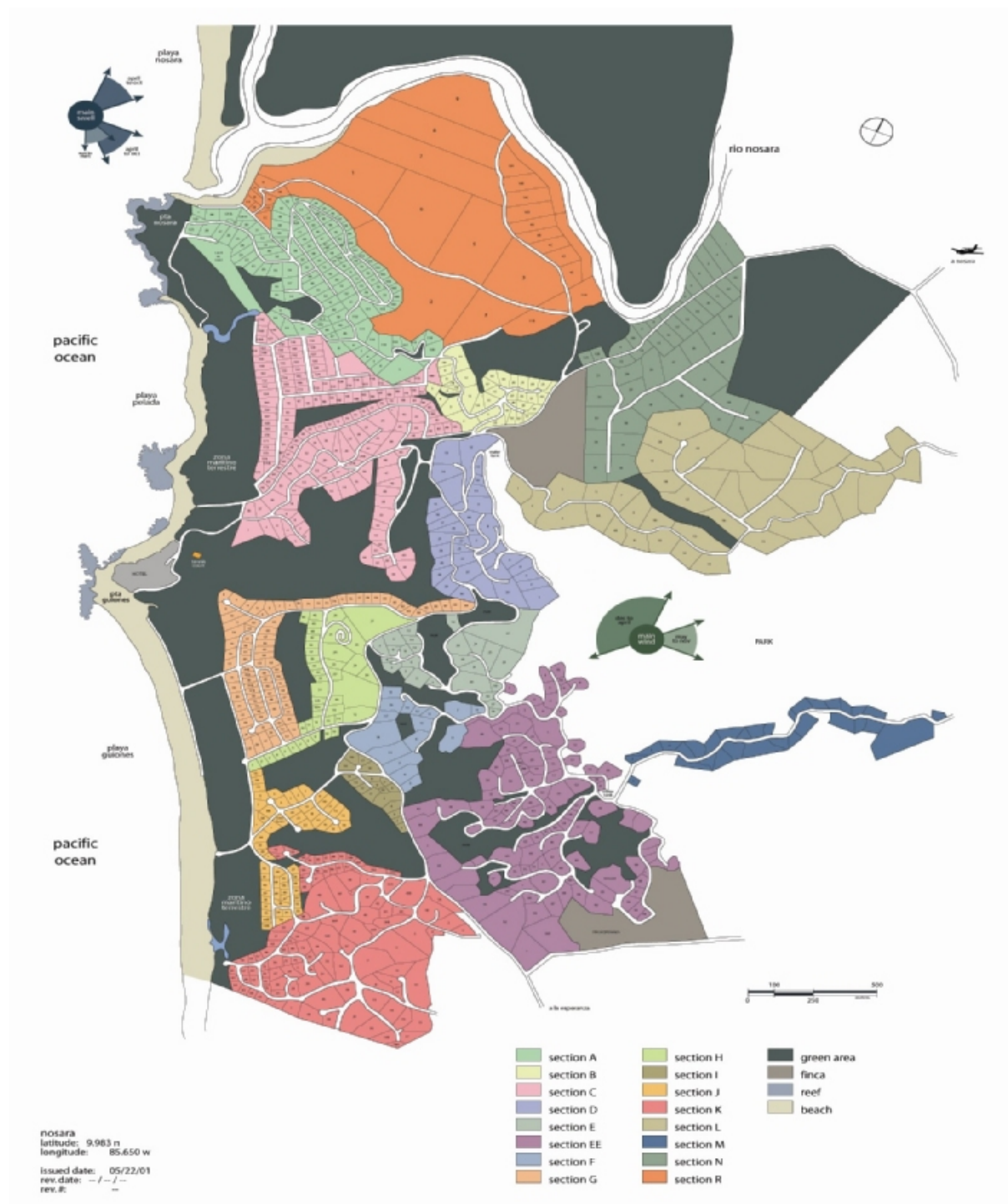
	destination.	<p>of the organizational base of the communities and tourism businesses.</p> <ul style="list-style-type: none"> <li>• Establish a network with different stakeholders and the public sector, which enables the implementation of the plan, the creation of conditions and services necessary for the consolidation of the destination.</li> </ul>
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#### Annex E: Coastal Zoning Manual's minimum lot requirements (ICT, 2010c)

Minimum Lot Sizes per Usage per Zone	
<b>1. Tourism Development Zone [T]</b>	
a. Core Tourist Area Facilities (TAN)	<p><b>Basic Services:</b> Minimum Lot Size: 1'500m<sup>2</sup> Maximum Lot Size: 5'000m<sup>2</sup></p> <p><b>Leisure:</b> Minimum Lot Size: 5'000m<sup>2</sup> Maximum Lot Size: 10'000m<sup>2</sup></p> <p><b>Commercial:</b> Minimum Lot Size: 1'000m<sup>2</sup> Maximum Lot Size: 5'000m<sup>2</sup></p>
b. Planned Area for Tourism	<b>Hospitality Businesses:</b> Minimum Lot

Development (TAP)	Size: 5000m <sup>2</sup> Maximum Lot Size: 60'000m <sup>2</sup> <b>Other type of Business:</b> Minimum Lot Size: 1'500m <sup>2</sup> Maximum Lot Size: 3'000m <sup>2</sup>
<b>2. Mixed zone [M]</b>	
a. Joint Area for Tourism and the Community (MIX):	<b>Tourism Use:</b> Minimum Lot Size: 500m <sup>2</sup> Maximum Lot Size: 10'000m <sup>2</sup> <b>Residential Use:</b> Minimum Lot Size: 5000m <sup>2</sup> Maximum Lot Size: 4'000m <sup>2</sup> <b>Commercial Use:</b> Minimum Lot Size: 200m <sup>2</sup> Maximum Lot Size: 20'00m <sup>2</sup>
<b>3. Area for the Community [C]</b>	
a. Core Areas for the Community (CAN):	<b>Recreation, Community Use, Public service use, Faith-based Organizations:</b> Minimum Lot Size: 500m <sup>2</sup> Maximum Lot Size: 5000m <sup>2</sup>
b. Community Residential Area (CAR):	<b>Residential and/or Home-Based Enterprise:</b> Minimum Lot Size: 500m <sup>2</sup> Maximum Lot Size: 4000m <sup>2</sup>

## Annex F: American Project Nosara, Lot Deliniation<sup>20</sup>



<sup>20</sup> Available from [http://www.chiquisnosarapropertysales.com/Lots-VacantProperty/Nosara\\_Section\\_Map.jpg](http://www.chiquisnosarapropertysales.com/Lots-VacantProperty/Nosara_Section_Map.jpg) and <http://www.nosararealestate.com/?page=maps>



## Annex G: Declaración de Nicoya, 2009

### DECLARACIÓN DE NICHOYA FRENTE NACIONAL DE COMUNIDADES AMENAZADAS POR LA EXTINCIÓN

Este día, frente a cientos de familias procedentes de 32 comunidades costeras, islas y fronteras de Costa Rica presentes y ausentes:

**METODOLOGÍA TÉCNICA Y POLÍTICA PARA EL ABORDAJE DE LA ELABORACIÓN DE MANERA PARTICIPATIVA DE LA LEY DE TERRITORIOS COSTEROS COMUNITARIOS**

**JUSTIFICACIÓN:** desde hace decenas de años muchas de nuestras comunidades venimos gestionando, luchando y resistiendo ante la amenaza de ser desalojados de las tierras en donde vivimos. Muchas de nuestras familias hemos heredado este patrimonio proveniente de varias generaciones atrás a la nuestra. También debemos agregar que en la mayoría de los casos la sede de algunas de nuestras familias es la entente indígena Chorotega. ¿Se puede imaginar alguien el valor de nuestro reclamo?

En estos días y noches de los largos años vividos de angustia, se nos presentaba siempre el panorama desolador del abandono. Muchas veces hemos visto ir y venir una serie de debates y propuestas para enfrentar esta situación, algunas de estas acciones con buenas intenciones, otras con no tan buenas intenciones.

Pero llegó el tiempo en que descubrimos que la fuerza y la solución está en nuestras manos. Dichosamente este país todavía tiene espacios que nos permiten a nosotros y a nosotras, los que estamos en el día a día, en la incertidumbre del desalojo, tomar en nuestras propias manos las riendas de la acción, por ello, decidimos crear un movimiento poderoso, autónomo, que parte de cada comunidad, con amplia participación, con plena transparencia y al que hemos denominado el FRENTE NACIONAL DE COMUNIDADES AMENAZADAS POR LA EXTINCIÓN.

Este Frente, que nació con la participación de solamente 6 comunidades hoy se nutre con el aporte de 32 comunidades, que van desde las costas, las islas, y la comunidad fronteriza de Petas Blancas en la Cruz, Guanacaste.

Sabemos como decíamos anteriormente, que se han implementado esfuerzos para encontrar alternativas a esta problemática. Sabemos también que este es un problema nacional, es decir de todo el país, de muchos sectores.

Por ello, hemos decidido plantear una RUTA que permita abordar de manera coherente en lo técnico y político la solución de este problema. Esta ruta la hemos denominado METODOLOGÍA TÉCNICA Y POLÍTICA PARA EL ABORDAJE DE LA ELABORACIÓN DE MANERA PARTICIPATIVA

[Comités, organizaciones, sindicatos, movimientos. Desde su propia voz]

**DE LA LEY DE TERRITORIOS COSTEROS COMUNITARIOS**

**PRINCIPIOS DE ESTE PROCESO:**

Sabemos con que las costas e islas costarricenses, sean un lugar en donde la naturaleza puede convivir con nuestra cultura. En donde todos y todas las y las costarricenses tengamos acceso.

Los territorios costeros comunitarios no serán lugares para diásporas, y ocupar nuestros recursos. Serán de uso exclusivo de las comunidades que los habitan, no será un espacio para la implementación de megaproyectos turísticos, pesqueros y otros.

En este proceso, en todo momento la actuación protagonista la tendrán las comunidades, quienes actuaremos por medio de nuestras asambleas comunales y con voz de nuestros representantes debidamente acreditados por medio de las respectivas asambleas.

El diálogo horizontal y transparente, entre diferentes actores comprometidos con una solución justa a esta problemática es de primer orden.

Los derechos históricos comunitarios no son negociables de ninguna manera.

Las comunidades rechazamos cualquier intento, que pretenda salirse de esta ruta metodológica aquí establecida.

**PASOS PRINCIPALES:**

Conocernos a que la voluntad política se manifieste en la Asamblea Legislativa para que se tomen las medidas del caso que detenga toda acción contra las comunidades costeras, islas y la frontera de Petas Blancas. Hoy creamos una COMISIÓN ESPECIAL DE ACCIÓN INMEDIATA CONTRA EL DESALOJO, integrada por los Diputados José Merino, Leda Zamora, Ximela Nicols, Benavente Venegas y Saturnino Fonseca. Queda abierto el espacio para que otros diputados y diputadas se puedan integrar. Esta comisión contará con una representación de 5 representantes nominales. De la misma manera la comisión convocará de manera inmediata a una reunión interinstitucional de trabajo para elaborar las políticas inmediatas que paren los desalojos y cualesquiera otra acción, sea en el marco municipal o de alguna otra institución como el MINAET, estas acciones funcionarán fuera que esté debidamente aprobada la Ley de Territorios Costeros Comunitarios y se encuentre una solución para los pobladores de las zonas fronterizas. Se somete a consideración esta moción y los señores y señoras diputadas la aprueban de manera UNÁNIME. El pueblo presente en el parque de Nicoya, aplaude con energía.

Creamos desde ya el EQUIPO COMUNITARIO DE REDACCIÓN Y CABILDEO, este equipo está compuesto por 1 representante de cada comunidad.

Solicitamos el apoyo independiente de las universidades y otros sectores para que escriban un EQUIPO DE APOYO A LA GESTIÓN COMUNITARIA. Este equipo de apoyo será de total respaldo a nuestra gestión, y con ello garantizaremos muchos aportes importantes a este proceso.

Convocamos a todas las fracciones legislativas, para que en el plazo de 15 días nombren los señores que consideren necesarios a fin de poder trabajar con ellos la propuesta.

Entregamos el día de hoy el texto base de la propuesta de ley a los señores y señoras diputados que de buena manera nos han venido a acompañar el día de hoy en el Parque de Nicoya.

De la misma manera entregamos el texto base a otros actores interesados en el tema: caso universidades, Comaloría General de la República, movimientos sociales, iglesias.

Convocamos al ENCUENTRO NACIONAL, para recibir y discutir las propuestas de cada una de las diferentes fracciones, así como de otros actores interesados en el tema. Este encuentro se llevará a cabo el día miércoles 15 de abril a partir de las 10 de la mañana y terminando a las 5 de la tarde de ese mismo día, ha realizarse en la sede de FEDEAGUA, ubicada en El Obispo de La Mansión de Mico en Nicoya.

En la semana siguiente al 15 de abril, se implementarán 3 foros, uno para la costa guanacasteca, uno para la costa puntarenense y otro para la costa limonense. Estos foros tienen como objetivo el discutir el texto de ley que se tenga hasta este momento y validar su contenido.

Durante los días miércoles 29 y jueves 30 de abril en la sede de FEDEAGUA, Nicoya, celebraremos el CONGRESO DE TERRITORIOS COSTEROS COMUNITARIOS, en donde apostaremos de manera definitiva el TEXTO DE LEY DE TERRITORIOS COSTEROS COMUNITARIOS.

El día miércoles 04 de mayo, entregaremos en la sede de la Asamblea Legislativa la propuesta de ley a los señores y señoras diputados y diputadas.

A partir de este momento, emprendemos una jornada nacional de cabildeo, de oración y vigilia para incidir en las diferentes fracciones a fin de obtener el apoyo a la propuesta.

Si antes del 25 de julio de este año, no vemos que de manera coherente se camine en la aprobación de esta propuesta de ley, el día 25 de julio tendremos la PRIMERA PROTESTA NACIONAL, aquí en este mismo lugar el Parque de la Ciudad de Nicoya. No podremos seguir celebrando anhelos de Guanacaste a Costa Rica, sabiendo que más de 40 mil personas están a la intemperie, sin algunos de sus derechos fundamentales. Luego del 25 de julio estableceremos la ruta nueva de acuerdo al balance político que haga el FRENTE NACIONAL.

Finalmente, creemos y sabemos que nuestra propuesta es viable, que responde a cuestiones de lógica en materia de derecho, pero también de lógica en lo social y en lo político.

Entregamos este documento, que es el manifiesto de la voluntad de nuestras islas y litorales de este movimiento, a los señores y señoras diputadas, con el visto bueno de la COMISIÓN DE ANIMACIÓN ESPIRITUAL, conformada por el señor OBISPO DE GUANACASTE, Padre Victorio Grandi, los sacerdotes Rónal Vargas Araya, Director e la Pastoral Social de Guanacaste, Padre Gustavo Meneses, Directores de la Pastoral del Mar de Puntarenas; el Pastor Wilberth Salazar, el Pastor Miguel Rodríguez, el Pastor Eladio Barahona, de las Fraternidades de Pastores de Guanacaste y Puntarenas.

Los diputados reciben el documento Y PROMETEN IR HASTA EL FINAL para garantizar el derecho de las comunidades.

Dado en el Parque de la Ciudad de Nicoya, el día 15 de marzo del 2008.

**FRENTE NACIONAL DE COMUNIDADES AMENAZADAS POR LA EXTINCIÓN**

**COORDINACIÓN GENERAL:**

Wilmar Marín, Gilbert Rojas Araya, Victoria Quiros, Olga Edurne Costa, Luis Marina Canales, Auxiliadora Jirón, Luis Mariano Rodríguez, Eladio Barahona, Julio Venegas, Fernando Morales, Margarita Pérez, Sonia Zeledón, Fátima Alvarado.

Para contacto: fedegua@gmail.com o 8835 0629 con Wilmar Marín.

En la página 10 viene un recuadro con la agenda de lucha de comunidades amenazadas por la extinción.

## Annex H: Reaction and Comments

Source: Elpais.cr (2012a)

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**8uwmnx** 2012-05-08

Y esas alianzas preocupan. Todos por la privatización. Aquí pasará cualquiera que quiera comprar un terreno. Y las tortugas? Si los comunistas se ponen de acuerdo con los neoliberales para joder la naturaleza y el país, estamos fritos. No me queda claro ese asunto de los católicos o la Iglesia Católica en Soley. Suelten información señores de elpais. Esto huele a peje muerto.

---

**mario madrigal=mm** 2012-05-08

//Dicho proyecto verá esta tarde una serie de situaciones sobre la tenencia de la tierra en esos mismos territorios, donde empresarios y políticos ha construido, ILEGALMENTE, casas de veraneo, tal es el caso de LÍDERES DEL MOVIMIENTO LIBERTARIO en el sector del Refugio de Ostional.// Ahora adivinen quienes se están oponiendo al blindaje que por iniciativa de Villalta y Claudio Monge se le está agregando a este proyecto, aunque el proyecto de por sí siempre deje un portillo antiecológico y para empresarios hoteleros como Otto Guevara. Aquí empiezan las contradicciones dentro de la fallida "alianza parlamentaria" y de la cual se aprovechará el PLN. Para los compas del FA y el PAC, a ponerse vivos, a pelar el ojo.

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**José** 2012-05-08

Espero que en un futuro no tengamos que decir con respecto a ese proyecto "HECHA LA LEY HECHA LA TRAMPA". Ojala que los diputados, de los más contestatarios, que son pocos, no vallan a caer en la trampa de impulsar un proyecto por puro cálculo electoral. Se deben establecer limitaciones a la transferencia de las propiedades en la zona marítima terrestre; que no quede ningún portillo para que no sean los ricachones que al final se apropien de esas propiedades. En Guanacaste un gran número de personas de los menos favorecidos económicamente que tenían su lote o finca cerca de las playas se han quedado sin su tierra; no han podido resistir a la tentación del dinero, lo cual no creo que una gran parte de los habitantes de hoy día de esa zona no valla a caer en esa tentación.

---

**Jorge Alvarado** 2012-05-08

Grave amenaza contra la biodiversidad. Necesito el nombre de los tres diputados valientes que se oponen a privatizar el refugio de Ostional, para contactarlos y reiniciar la lucha contra este atropello a la naturaleza

---

**Carlos Ramírez** 2012-05-08

No se dejen engañar, en los años 70s, liberación hizo exactamente lo mismo. Utilizando esa misma excusa de los pobres campesinos y pescadores sacó la ley 4558 del 22/abr/70 q permitió a muchos políticos privatizar terrenos q posían irregularmente en la ZMT y hoy son lujosas mansiones. Vean el voto de la Sala Constitucional 454-2006 donde se explica la historia de la fatídica ley 4558... Q hoy liberación quiere repetir.

---

**Jorge Alvarado** 2012-05-08

Liberación, Frente Amplio y los libertarios, hechos una mancuerna, para despojar a las tortugas de su refugio y darle escritura a las mansiones de los hermanos Guevara. ¡Viva la pepa!

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**Annex I: Cuaderno de Educación Popular No. 1. TECOCOS workshop pamphlet ACODEHU.**

**RED ACTIVA EN DERECHOS HUMANOS**  
 www.redactivaddhh.org  
 2222-1400


**Cuadernos de Educación Popular N°1**

**PROYECTO DE LEY: Exp. 17.394**

**Ley de Territorios Costeros Comunitarios y los Derechos Humanos de los habitantes de las costas e islas de Costa Rica.**



¿Sabe usted cuándo y por qué nace este Proyecto de Ley?  
 ¿Sabe usted cuáles Derechos Humanos protege esta Ley?



**60.000 familias en peligro:**  
*de perder sus tierras, el derecho a la pesca, el derecho a la educación, sus viviendas y el derecho a una cultura propia, como "gentes del mar".*

Dignitary Wilmar Matarrillo

Este proyecto de Ley nace en el año 2008, cuando FEDEAGUA, logra la creación de una red organizativa que se llama FRENTE NACIONAL DE COMUNIDADES COSTERAS AMENAZADAS POR POLÍTICAS DE EXTINCIÓN.

Ese mismo año, se elaboró este proyecto y se presentó a la Comisión de Gobierno y Administrativa de la Asamblea Legislativa, bajo el expediente N° 17.394.

Esta Ley surge, ante la desigualdad económica y social de los habitantes de las costas, tomando en cuenta que las marinas turísticas, las atuneras, los grandes hoteles y casinos, tienen recursos económicos abundantes. Además de que las Municipalidades y otros entes del Gobierno, han estado amenazando con el desalojo masivo de las familias de los territorios costeros.

**DERECHOS HUMANOS**  
**(Derechos económicos, sociales y culturales)**

La Ley de territorios costeros, se inspira en los Derechos Humanos, que se encuentran en la Constitución Política y en todos los acuerdos que el Estado de Costa Rica ha firmado y ratificado, a favor de los Derechos Humanos, que surgen en las declaraciones y leyes internacionales que tienen carácter de Ley en los países que han firmado y ratificado estos acuerdos.

**DERECHOS HUMANOS:**  
**ECONÓMICOS**  
**SOCIALES**  
**CULTURALES**

Estos derechos, se establecen en el "PROTOCOLO ADICIONAL A LA CONVENCIÓN AMERICANA, que se le conoce con el nombre de PROTOCOLO DE SAN SALVADOR" se firma en el año 1998 y entra como Ley para Costa Rica y otros países en el mes de noviembre del año 1999.

*En este Protocolo, la dignidad de la persona humana, es el tema central y por ello en todos los tratados de Derechos Humanos los Estados, tienen la obligación de proteger todos los Derechos Humanos de las personas, tomando el derechos a la vida, como el principal; para ello se crea un tejido de leyes, normas y acuerdos.*

**Los Derechos Humanos Fundamentales que protege la Ley de Territorios Costeros son:**

1. Derecho a la tierra, estabilidad y seguridad jurídica.
2. Derecho a la vivienda.
3. Derecho al trabajo
4. Derecho a la educación.
5. Derecho a la salud.
6. Derecho a un AMBIENTE SANO.
7. Desarrollo social, en armonía con los recursos de la naturaleza, y mejoramiento de la calidad de vida de los habitantes de los territorios costeros comunitarios.
8. "Respeto a la diversidad cultural. Protección de su patrimonio cultural y su reconocimiento tradicional, asociado al uso y conservación de los recursos naturales"
9. Equidad de género.
10. Participación activa en la toma de decisiones.

**Centro de amigos para la paz**  
**Asociación Costarricense de derechos humanos**  
Costeros Comunitarios. Exp. 17.394

**Annex J: The Inter-american Development Bank loan's (ref: BID 1284/OC-CR) binding modernization program (BID, 2012)**

The program aims to improve the climate for public and private investment by strengthening the legal security of real property rights.

The three components are: (a) establishment of the National Cadastre and its reconciliation with the Real Property Registry; (b) prevention and resolution of disputes over real property rights; and (c) municipal strengthening in the use of cadastral information and tax collection.

To ensure that the reconciled cadastre-registry system is sustainable over time and that information from the National Land Information System (SNIT) is regularly updated, legal and regulatory changes must be made.

Component 1 establishes a geo-referenced physical plat of all parcels in the country and reconciles this information with the Real Property Registry. At first, the cadastral survey will be carried out in four of the nation's 13 cadastral areas. After overhaul of the country's legal and regulatory framework for real property rights, the survey will proceed in the remaining nine cadastral areas. At the end of the program, each existing parcel will have a single record issued by the new Registry, ensuring its legal and geographic identity.

Component 2 resolves disputes that may arise during the cadastral survey and establishes alternative dispute resolution methods. Dispute prevention methods include procedures to regulate areas under special regimes (protected areas, tribal lands, the Maritime Land Zone), based on census data analysis, participatory processes, and the formulation and implementation of pilot programs to improve land use and management.

Component 3 supports establishment of a property tax cadastre to maximize collection of property taxes by municipalities and help improve management of municipal government resources. It funds equipment procurement, consultations, and training for municipalities that will be part of the plat/property registry network.

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## **Vita**

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