

ENVIRONMENTAL LEGISLATION IN VENEZUELA

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I. INTRODUCTION

The use and exploitation of natural goods and resources are recognized within the sphere of the sovereignty of States and the geographic space in which they have jurisdiction.

On the other hand, people have an individually and collectively recognized right to development.

Because of this, since the late twentieth century and so far in the twenty-first century, the international community, the global civil society, and the countries, have assumed that the practice of law in its individual and collective dimension and the efficient use and exploitation of natural resources cannot be performed at any price. Not everything is fair to achieve current development without compromising the welfare and quality of all generations, present and future generations, both immediate and remote.

This awareness has led to the issuing of intergovernmental declarations, international and regional treaties, pacts and conventions, the revision and modification of constitutional norms, to the issuing of legal and regulatory norms on environmental matters. All are oriented towards promoting development around two major axes: one based on intragenerational equity; and the other, based on intergenerational equity.

Intragenerational equity imposes that those who benefit directly from natural resources in the management of an economic activity, do so oriented to achieve social welfare, and to ensure that those who enjoy it and those who do not are neither harmed nor impacted to the extent of having to assume the aftermath of inadequate development. Far from benefiting them, it degrades the environment in which they currently live and their quality of life.

Intergenerational equity is justified on the premise that the aspiration for development is not the patrimony of a single generation but constitutes a permanent and inalienable quest of all ages, which is why it is more equitable to distribute the potential use of natural goods and resources between present and future generations, preventing them from being depleted, degraded or damaged. It is therefore, more equitable to distribute the potential use of natural goods and resources between present and future generations, preventing their depletion, degradation or damage, thus avoiding that only the present generations benefit from the potential for development, which have the burden to make efficient use of natural resources, to achieve sustainable development, that is, without compromising future development.

In these terms the challenge of the Environmental State of Law has arisen, which, being obliged to guarantee the highest degree of development and social welfare possible for the human person, which assures his dignity, has to plan, foresee and prevent that such development is reached without generating losses, degradation, deterioration, damage or harm to the healthy environment, safe, ecologically balanced, and therefore, to the health and quality of life of people, also allowing

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that natural resources and the environment can be used and enjoyed by both present and future generations, which requires public policies aimed at achieving such use and sustainable development.

For purposes of clarification in the exposition of ideas, this preliminary approach will be divided into the following aspects: The constitutional protection of the environment (II); the main national regulatory norms of the environmental subsectors (III); international treaties and conventions on environmental matters (IV); the supranational agenda pending enforcement (V); and final considerations (VI).

II. CONSTITUTIONAL PROTECTION OF THE ENVIRONMENT

Environmental regulation will undergo a transformation from the 1999 Constitution, which has introduced the postulates that will frame the "Environmental Constitution" or if you prefer, the "Ecological Constitution" of Venezuela.

Such postulates can be classified into two categories: the first category is aimed at recognizing and orienting people's conduct concerning the environment, which are specified in the following premises:

- The recognition of the individual and collective human right to enjoy a healthy, safe and ecologically balanced life and environment.
- The intergenerational duty to protect and maintain the environment for the benefit of the present generation as well as future generations.
- The obligation of all those interested in carrying out activities of any category that may cause damage to ecosystems is to carry out a prior environmental impact study to ensure the conservation of ecological balance and sustainable development.

The second category aimed at imposing obligations on the State in the management and protection of the environment, which are specified in the following ideas:

- The obligation of the State in its triple dimension: declarative (recognition of the right), preventive (respect, protection, and effective guarantee of the right) and reparatory, and punitive (in the supposition that the right is affected or injured, investigation of what happened, reparation to the victims, sanctions to those responsible and adoption of measures that guarantee non-repetition), thus ensuring the exercise of this individual and collective human right to a healthy environment, protected in accordance under the block of legality (conventionality, constitutionality, and legality).
- The State has the duty to develop a policy of environmental democracy (access to information, consultation, and citizen participation, as well as effective judicial recourse) and land use planning, guided by the postulates of sustainable development.
- Finally, the environmental clause of conserving of the ecological balance and reestablishing of the environment to its natural state was established, which must be established (express clause) or is presumed to be established (implicit clause) in all administrative authorizations, which to allow activities susceptible to impacting natural resources.

These premises, recognized in the context of the Environmental State of Law, lead to an inventory of the national regulations in force, taking into consideration both the pre-constitutional ones, which do not contradict the current constitutional principles on the matter, and those issued in development of the Constitution.

Accordingly, we must point out the legal instruments issued by the Legislative Power before the 1999 Constitution that are still in force and the subsequent ones that make up the current Environmental Law, as listed below.

III. THE MAIN NATIONAL REGULATIONS GOVERNING THE ENVIRONMENTAL SUB-SECTORS

The normative framework that develops the principles and values that guarantee the environmental State of Law comprises the legal texts, decrees and resolutions issued by the competent authorities, which shall be mentioned according to the different thematic axes that constitute Environmental Law.

3.1. General Regulation

- The Organic Law for Territorial Organization. Official Gazette No. 3.238 of August 11, 1983.
- The Organic Law on Urban Planning. Official Gazette No. 33.868 of December 16, 1987.
- The Organic Law on Health. Official Gazette No. 5.263, September 17, 1998.
- The Organic Law on the Environment. Official Gazette No. 5.833, December 22, 2006.
- The Criminal Law on the Environment. Official Gazette No. 39.913, May 2, 2012.
- Decree N° 1.257, lists the Norms on environmental evaluation of activities susceptible to degrading the environment that became enforced. Official Gazette No. 35.946, April 25, 1996.

3.2. Air quality regulation

- The Law on Water and Air Quality. Official Gazette No. 6.207, December 28, 2015.
- Decree No. 2.673 whereby the Regulations on Emissions from Mobile Sources, are issued. Official Gazette No. 36.532 of September 4, 1998.
- Decree No. 4.335 regarding the norms to regulate and control the consumption, production, import, export, and use of substances that deplete the Ozone Layer. Official Gazette No. 38.392, March 7, 2006.

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- Resolution No. 334 whereby regulations regarding the certification of emissions from mobile sources. Official Gazette No. 36.594, December 2, 1998.
- Resolution No. 30 whereby the rules of Smoke-Free Environments became enforced, prohibiting smoking in indoor areas of public places and workplaces. Official Gazette No. 39.627, March 2, 2011.
- Resolution No. 0132 whereby sanitary regulations are issued to control activities susceptible to generating atmospheric pollutants. Official Gazette No. 39.807, November 24, 2011.

3.3. Water quality regulation

- The law of vigilance to prevent water pollution by oil. Official Gazette No. 19,426 November 25, 1937.
- The Water Law. Official Gazette No. 38,595, January 2, 2007.
- The Organic Law for the supplying of drinking water and sanitation services. Published in Official Gazette No. 38.763, September 6, 2007.
- The Law on National Meteorology and Hydrology. Official Gazette No. 5.833, December 22, 2006.
- The Law on Water and Air Quality. Official Gazette No. 6.207, December 28, 2015.
- Decree No. 2.220 issuing the Norms to regulate activities capable of causing changes in flow, obstruction of watercourses, and sedimentation problems. Official Gazette No. 4.418, April 27, 1992.
- Decree No. 750, establishes the Rules on surveillance, inspection and control of hydraulic works, impacted the water supply service to the populations. Official Gazette No. 35.765, August 2, 1995.
- Decree No. 883 establishes the Regulations for the classification and control of the quality of water bodies and liquid effluents or discharges. Official Gazette No. 5.021, December 18, 1995.
- Decree No. 1,400, whereby the Rules on regulation and control of the use of water resources and hydrographic basins are issued. Official Gazette No. 36.013, August 2, 1996.
- Decree No. 2.181, whereby the Norms for the classification and control of the quality of the waters of the Yaracuy River Basin are issued. Official Gazette No. 36.344, November 28, 1997.

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- Decree No. 3.219 whereby the Norms for the classification and control of the quality of the waters of the Lake Valencia Basin are issued. Official Gazette No. 5,305, February 1, 1999.
- Resolution No. 1323. Sanitary norms for the control of drinking water transported in tanker trucks. Official Gazette No. 35.827, October 31, 1995.
- Resolution No. 691, whereby the Sanitary Regulations for the location, construction, protection, operation and maintenance of Drilled Wells for drinking water supply are issued. Published in Official Gazette No. 36.298, September 24, 1997.
- Resolution No. 016, whereby the Rules on the national registry of users of water sources are issued. Official Gazette No. 39.356, January 28, 2010.

3.4. Hazardous waste regulation

- The Law on Hazardous Substances, Materials, and Wastes. Published in Official Gazette No. 5.554, November 13, 2001.
- The Law on Integral Management of Socio-natural and Technological Risks. Published in Official Gazette No. 39.905, January 9, 2009.
- Decree No. 1.847, whereby the general regulation of pesticides is issued. Official Gazette No. 34.877, January 8, 1991.
- Decree No. 2.210 establishes the technical standards and procedures for the handling of radioactive material. Official Gazette No. 4.418, April 27, 1992.
- Decree No. 2.218 whereby the norms for classifying and managing of waste in health establishments are issued. Official Gazette No. 4418, April 27, 1992.
- Decree No. 2.635 features the norms for the control of the recovery of hazardous materials and the management of hazardous wastes. Published in Official Gazette No. 5245, August 3, 1998.
- Resolution No. 40 regarding the requirements registering and authorizing handlers of hazardous substances, materials, and wastes. Official Gazette No. 39.864, February 14, 2012.

3.5. Regulation of non-hazardous waste

- Law on Integral Garbage Management, Official Gazette No. 6.017 of December 30, 2010.

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- Decree N° 230 lists the sanitary norms for the project and operation of a sanitary landfill for solid waste of a non-toxic nature. Official Gazette No. 34.600, November 22, 1990.
- Decree No. 2.216 establishes the norms for the management of solid waste of domestic, commercial, industrial or any other non-hazardous nature. Official Gazette No. 4,418, April 27, 1992.
- Resolution No. 0004 prohibits the dumping of scrap metal and debris in those areas that are not provided for such purposes. Official Gazette No. 40.120, February 28, 2013.

3.6. Environmental Quality and Noise Regulation

- Decree No. 2.217 whereby the Regulations on the Control of Noise Pollution are issued. Official Gazette No. 4,418, April 27, 1992.

3.7. Regulation of natural resources: Biological diversity

- Law on the Management of Biological Diversity. Official Gazette No. 39.070 December 1, 2008.

3.8. Regulation of natural resources: Forest resources

- The Soil and Water Forestry Law. Official Gazette No. 27.981, March 9, 1966.
- The Law on Forests. Official Gazette No. 40.222, August 6, 2013.
- Decree No. 2,117 enacting the Partial Reform of the Soil and Water Forestry Law Regulations. Official Gazette No. 2.022, April 28, 1977.
- Decree No. 1.804 enacts the Partial Regulation of the Forestry, Soil and Water Law on the regulation of activities involving the destruction of vegetation for agricultural and livestock purposes. Official Gazette No. 32.652, January 25, 1983.
- Decree No. 2.026, whereby the Regulations on commercial and multiple-use forestry plantations are issued. Official Gazette No. 33.922, March 9, 1988.
- Decree No. 636 strictly prohibits the occupation and performance of activities contrary to the purposes of its creation in forest reserves and wooded lots. Official Gazette No. 34.421, March 5, 1990.

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- Decree No. 846 establishes the Norms for the Protection of Morichales. Official Gazette No. 34.462, May 8, 1990.
- Decree No. 1.659 establishes the Partial Regulation of the Forestry Law on Soil and Water on reforestation in forestry operations. Official Gazette No. 34.808 September 27, 1991.
- Decree N° 1.843 listed the norms for the protection of mangroves and their associated vital spaces. Official Gazette No. 34.819, October 14, 1991.
- Decree No. 2.214, whereby the Regulations for the administration of forestry activities in forest reserves, wooded lots, wooded areas under protection, and wooded areas in privately owned lands destined for permanent forestry production are issued. Official Gazette No. 4.418, April 27, 1992.
- Decree No. 2.223, whereby the Norms to regulate the introduction and propagation of exotic species of wild and aquatic flora and fauna are issued. Official Gazette No. 4.418, April 27, 1992.
- Decree No. 3.022 provides that rural properties, whether they are privately owned or belong to the private domain of the Republic, States, or Municipalities, in which permits are requested to intervene or exploit renewable natural resources and, especially permits for deforestation and/or exploitation of forest resources, an area of wild resources reserve shall be reserved from the total surface of the property subject to the request, which shall remain essentially unaltered. Official Gazette No. 35.305, September 27, 1993.
- Decree No. 5.565, issuing the regulation on withholding, confiscation, and adjudication of forest products is issued. Official Gazette No. 38.762, September 5, 2007.
- Decree No. 5.633, whereby the portion of the national territory specified therein (Arapo-Santa Fe Coastal Axis, Sucre State) became declared an area of environmental protection and recovery. Published in Official Gazette No. 38.788 October 11, 2007.
- Resolution No. 491, issuing the Procedural Norms of the Partial Regulations of the Soil and Water Forestry Law. Official Gazette No. 3.182, May 19, 1983.
- Resolution No. 568, by which the Norms for the elaboration of development and management plans in areas to be destined for permanent forest production in forest reserves, vacant lots, and other lands of the public or private domain of the Nation, as well as of private property, are dictated. Official Gazette No. 32.889, January 4, 1984.

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- Resolution No. 19, which provides that, without prejudice to the provisions of Article 2 of this Resolution, the felling, deforestation, and exploitation or use of Drago (*Pterocarpus* species) and Jobo (*Spondias* species) of the natural forests included in public or private lands of the Nation, the State, Municipalities or private property are prohibited throughout the country. Official Gazette No. 33.924, March 11, 1988.
- Resolution No. 107, whereby it is provided that, without prejudice to the provisions of Article 2 of this Resolution, the felling, exploitation, and deforestation of the Laso Pine (*Decussocarpus rospigliosii*) and any other species of the Podocarpaceae family, found in the public or private lands of the Nation, the State, Municipalities or private property, is prohibited throughout the country. Official Gazette No. 34.277, August 7, 1989.
- Resolution No. 143, whereby all forest products resulting from logging and deforestation works made available to the Venezuelan Forest Service by the holders of mining and oil concessions located on non-cultivated lands are transferred to the Venezuelan Forest Service for their administration and integral management. Official Gazette No. 34.620, December 20, 1990.
- Resolution No. 142, whereby the felling, deforestation, and exploitation or use of the species indicated therein are prohibited throughout the country. Official Gazette No. 34.867, December 20, 1991.
- Resolution No. 239, whereby the Directorate of Vegetation of the Sectorial General Directorate of Environmental Information is empowered to process and grant permits for the collection of botanical species indicated therein. Official Gazette No. 5.249, August 11, 1998.
- Resolution N° 217, by which the norms that Protect the species Mahogany, Cedar, Mijao, Pardillo Negro, Acapro and Saquisaqui are listed. Official Gazette No. 38.443, May 24, 2006.
- Resolution No. 094, whereby the Norms related to authorizations and permits for rational use, deforestation, and logging in urban areas are issued. Official Gazette No. 39.074, December 5, 2008.
- Resolution No. 029, whereby a technical forestry regulation selecting and preserving seed trees is issued. Official Gazette No. 39.197, June 10, 2009.
- Resolution No. 030, whereby the technical forestry norm on minimum cutting diameters is issued. Official Gazette No. 39.198, June 11, 2009.

- Resolution No. 58, regarding the Rules on regulation for the use, affectation, and sustainable use of the Samán species. Official Gazette No. 40.474, August 13, 2014.

3.9. Regulation of Natural Resources: Wildlife and Domestic Animals

- The Law for the Protection of Wildlife. Official Gazette No. 29.289, August 11, 1970.
- The Law for the protection of free and captive domestic fauna. Official Gazette No. 39.338, January 4, 2010.
- Decree No. 582, which establishes the Partial Regulations of the Wildlife Protection Law on the National Wildlife Council. Official Gazette No. 34.348, November 16, 1989.
- Decree No. 2.223, whereby the Rules to regulate the introduction and propagation of exotic species of wild and aquatic flora and fauna are issued. Official Gazette No. 4.418, April 27, 1992.
- Decree N° 2.304, by which the Rules on Hunting in Special Areas and Natural Ecosystems are issued. Official Gazette No. 34.987, June 17, 1992.
- Decree No. 1.485 whereby the species included or not in the official list of game animals indicated therein are declared off-limits for hunting. Official Gazette No. 36.059, October 7, 1996.
- Decree 1.486 whereby the species indicated therein are considered to be in danger of extinction. Official Gazette No. 36.062, October 10, 1996.
- Decree No. 3.269, which establishes the Regulations of the Law for the Protection of Wildlife. Official Gazette No. 5.302, January 29, 1999.
- Resolution No. 090 whereby hunting activities shall be governed by the provisions contained in this resolution and by the specifications contained in the hunting calendar to be prepared by the Ministry of Environment and Natural Resources. Official Gazette No. 37.793, October 9, 2003.

3.10. Regulation of natural resources: minerals

- The Mining Law. Official Gazette No. 5.382, September 28, 1999.
- Decree No. 1234, whereby the Regulations to the Mining Law are issued. Published in Official Gazette No. 37.155, March 9, 2001.

- Decree No. 2.219, whereby the Norms to regulate the affectation of renewable natural resources associated with the exploration and extraction of minerals are dictated. Official Gazette No. 4.418, April 27, 1992.
- Resolution No. 56, whereby the Norms on the environmental evaluation of mining and hydrocarbon exploration and production programs and projects are issued. Official Gazette No. 5.079, July 19, 1996.

3.11. Regulation of Areas under Special Administration Regime (ABRAES)

- Decree No. 1,569, whereby the National Executive will not recognize indemnities claimed for occupations or uses of such lands in lands qualified by the Forest Law of Soils and Waters as national parks, forest reserves, natural monuments, protective zones, hydrographic basins, and reserves of virgin regions. Official Gazette No. 30.981, May 14, 1976.
- Decree No. 276, enacting the Partial Regulations of the Organic Law for Territorial Planning on the Administration and Management of National Parks and Natural Monuments. Published in Official Gazette No. 4.106, June 9, 1989.
- Resolution No. 80, which provides that in exceptional cases where fishing may be permitted in national parks, such activity shall be regulated by the respective management plans and regulations for use. Official Gazette No. 34.778 August 16, 1991.
- Resolution No. 12, prohibiting the activity of four-wheel driving in national parks and natural monuments. Gazette No. 39.629, March 4, 2011.

3.12. Recreation parks

- Decree No. 1,420, by which it is provided that the areas of the reservoirs built by the National Executive expressly defined for recreational use, will be progressively incorporated into the system of open field recreational parks, administered by INPARQUES, to the extent that it does not collide with other uses. Official Gazette No. 32.423, March 1, 1982.
- Decree No. 2.817, whereby the Partial Regulation of the Law of the National Parks Institute for the administration of the open field recreation or intensive use parks assigned to the National Parks Institute is enacted. Published in Official Gazette No. 36.560, October 15, 1998.

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- Resolution No. 0044, prohibits the illegal occupation of spaces declared as national parks, natural monuments, and recreational parks. Published in Official Gazette No. 39.231, July 30, 2009.

3.13. Beach regulation

- The law for the conservation and sanitation of beaches. Official Gazette No. 36.976, June 20, 2000.

3.14. Regulation of the control of the execution of works

- Decree No. 624, lists the rules on the use of the reservoirs built by the Venezuelan State and their adjacent areas. Official Gazette No. 4.158, January 25, 1990.
- Decree No. 2.226, whereby the Environmental Regulations for opening pikes and constructing access roads are issued. Official Gazette No. 4.418, April 27, 1992.
- Decree No. 2,220, whereby the Norms to regulate activities capable of causing changes in flow, obstruction of watercourses, and sedimentation problems are issued. Official Gazette No. 4.418, April 27, 1992.
- Decree N° 2.212, whereby the Regulations on Earthworks and Environmental Conservation are issued. Official Gazette No. 35.206, May 7, 1993.
- Decree No. 2.048, lists the sanitary norms for the location, construction, protection, operation, and maintenance of drilled wells destined for drinking water supply. Published in Official Gazette No. 36.298, September 24, 1997.

3.15. Forest fire prevention and control regulation

- Decree No. 2.195, amending the Regulations on Fire Prevention. Official Gazette No. 3.270, October 21, 1983.

3.16. Coastal zone regulation - aquatic and island areas

- The Law on the Territorial Sea, Continental Shelf, Fisheries Protection. and Airspace. Official Gazette No. 496, August 17, 1956.
- The Navigation Law. Official Gazette No. 5.253, September 17, 1998.
- The Law for the conservation and sanitation of beaches. Published in Official Gazette No. 36.976, June 20, 2000.

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- The Law on Coastal Zones. Published in Official Gazette No. 37.349, December 19, 2001.
- The Organic Law on Aquatic Spaces. Official Gazette No. 6.153, November 18, 2014.

3.17. Regulation of ports and marinas

- The Navigation Law. Official Gazette No. 5.263, September 17, 1998.
- The Law for the reactivation of the national merchant marine. Published in Official Gazette No. 36.980, June 26, 2000.
- The Law on Maritime Procedure. Official Gazette No. 5.554, November 13, 2001.
- The General Law on Ports. Official Gazette No. 39.140, March 17, 2009.
- The General law on marinas and related activities. Official Gazette No. 6.153 November 18, 2014.

3.18. Regulation of fisheries and aquaculture

- Law on Fisheries and Aquaculture. Official Gazette No. 6.153, November 2014.
- Decree No. 2.267, by which the conservationist technical norms to control the exercise of fishing activities are dictated. Official Gazette No. 35.103, December 1, 1992.
- Resolution No. 062, listing the technical rules of management to regulate the capture, exchange, distribution, trade, and transport of sharks. Official Gazette No. 39.947, June 19, 2012.
- Administrative Ruling to regulate the fishing or capture the hydrobiological resource Sardine (*Sardinella aurita*). Official Gazette No. 38.090, December 20, 2004.

3.19. Land regulation and agricultural development

- Law on Special Zones for Sustainable Development. Published in Official Gazette No. 5.556, November 15, 2001.
- Law on Land and Agrarian Development. Official Gazette No. 5.991, July 29, 2010.
- Decree No. 635 on Regulations on the Installation of Pig Farms. Official Gazette No. 4.158, January 25, 1990.

- Resolution 46, Rules on chicken manure. Official Gazette No. 34.030, August 16, 1988.

3.20. Regulation of environmental childcare

- Decree No. 2.127, lists the By-Law of the Organic Law of the Environment on the boards for the conservation, defense and improvement of the environment is dictated. Official Gazette No. 31.219, April 22, 1977.
- Decree No. 1.221, lists the By-Law on environmental day caring. Official Gazette No. 34.678, March 19, 1991.
- Decree No. 3.015, whereby the Environmental Police is created under the Ministry of Environment and Renewable Natural Resources. Official Gazette No. 35.321, October 20, 1993.

This systematization of norms is concluded without including those issued by intermediate territorial entities (states) and local (municipalities) in the organization of the Public Power because it exceeds the limits of this work.

IV. INTERNATIONAL TREATIES AND CONVENTIONS ON ENVIRONMENTAL MATTERS

The national legal framework is enhanced by treaties and conventions validly signed by the Executive Branch on behalf of the Republic and ratified by the Legislative Branch for the purpose of their deposit and subsequent entry into force.

The primary international legal texts on environmental matters valid in Venezuela will be mentioned below.

4.1. Flora and fauna

- The Law Approving the Convention for the Protection of the Flora, Fauna and Natural Scenic Beauty of the Americas Countries. Official Gazette No. 20.643, November 13, 1941.
- The Law Approving the Constitution of the International Union for the Protection of Nature. Official Gazette No. 24.654, January 25, 1955.
- The Law Approving the International Plant Protection Convention, 1951. Official Gazette No. 27.929, January 5, 1966.

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- The Law Approving the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Official Gazette No. 2.053, June 29, 1977.
- The Law Approving the Amazon Cooperation Treaty. Official Gazette No. 31.993, May 28, 1980.
- The Law Approving the Convention on Wetlands of International Importance as Waterfowl Habitat (Ramsar Convention) and its Amending Protocol. Official Gazette No. 34.053, September 16, 1988.
- The Law Approving the Convention on the Protection of the World Cultural and Natural Heritage of UNESCO. Official Gazette No. 4.191, July 6, 1990.
- The Law Approving the Protocol on Specially Protected Areas of Wild Flora and Fauna (SPAW). Official Gazette No. 36.110, December 18, 1996.

4.2. Climate change

- The Law Approving the United Nations Framework Convention on Climate Change. Official Gazette No. 4.825, December 27, 1994.
- The Law Approving the Kyoto Protocol to the United Nations Framework Convention on Climate Change. Official Gazette No. 38.081, December 7, 2004.
- The Law Approving the Paris Agreement of the United Nations Framework Convention on Climate Change. Official Gazette No. 40.819, December 30, 2015.

4.3. Ozone layer

- The Law Approving the Vienna Convention for the Protection of the Ozone Layer. Official Gazette No. 34.010, July 19, 1988.
- The Law Approving the Montreal Protocol on Substances that Deplete the Ozone Layer. Official Gazette No. 34.134, January 11, 1989.
- The Law Approving the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer. Official Gazette No. 5.180, November 4, 1997.
- The Law Approving the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer. Official Gazette No. 37.217, June 12, 2001.
- The Law Approving the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer. Official Gazette No. 38.455, June 9, 2006.

4.4. Contamination by hydrocarbons

- The Law Approving the International Convention to Prevent Oil Pollution of Seawaters, 1954. Official Gazette No. 884, November 11, 1963.
- The Law approving the amendments to the "International Convention on the Prevention of Oil Pollution of Seawaters, 1954", adopted at the International Conference on the Prevention of Pollution of Seawaters by Hydrocarbons, 1962. Published in Official Gazette No. 2.314, September 26, 1978.
- The Law Approving the Protocol on Cooperation to Combat Oil Spills in the Caribbean Region. Official Gazette No. 33.523, July 31, 1986.
- The Law approving the International Convention on Civil Liability for Oil Pollution Damage, and its Amendment Protocols. Official Gazette No. 4.340, November 28, 1991.
- The Law Approving the International Convention on Oil Pollution Preparedness, Preparedness, and Response, 1990. Official Gazette No. 4.802, November 2, 1994.
- Agreement with the Government of the Netherlands, to establish a Contingency Plan against oil spills, in order to protect coasts and marine environments, Official Gazette No. 35.776, August 17, 1995.
- Law Approving the 1992 Protocol amending the International Convention on Civil Liability for Oil Pollution Damage, 1969. Published in Official Gazette No. 36.457, May 20, 1998.

4.5. Natural disasters

- The Law Approving the Agreement between the Member States and the Associated States of the Association of Caribbean States for Regional Cooperation in the Area of Natural Disasters. Published in Official Gazette No. 37.352, December 26, 2001.

4.6. Contaminants

- The Law Approving the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. Approved on March 22, 1989, UN. Official Gazette No. 36.396, February 16, 1998.

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- The Law Approving the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, Official Gazette No. 5.746, December 22, 2004.
- The Law Approving the Stockholm Convention on Persistent Organic Pollutants, Official Gazette No. 5.754, January 3, 2005.

4.7. Desertification

- Law Approving the International Convention to Combat Desertification. Official Gazette No. 5.239, June 23, 1998.

4.8. Biodiversity and biotechnology

- The Law approving the Statute of the International Center for Genetic Engineering and Biotechnology, signed in Madrid, on September 13, 1983. Official Gazette No. 33.285, August 14, 1985.
- The Law Approving the Convention on Biological Diversity. Official Gazette No. 4.780, September 12, 1994.
- The Law Approving the Amendments to the Statute of the International Center for Genetic Engineering and Biotechnology. Official Gazette No. 5.269, October 22, 1998.
- The Law Approving the Cartagena Protocol on Biosafety to the Convention on Biological Diversity. Official Gazette No. 37.355, January 2, 2002.
- The Law Approving the International Treaty on Plant Genetic Resources for Food and Agriculture. Official Gazette No. 38.093, December 23, 2004.
- Resolution No. 214 dated September 5, 2018, whereby the Nagoya Kuala Lumpur Protocol on Supplementary Liability and Redress to the Cartagena Protocol on Biosafety was adopted. Official Gazette No. 41.476, dated September 6, 2018.

4.9. Timber

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4.10. Sea

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- The Law Approving the Agreement on the International Dolphin Conservation Program. Official Gazette No. 5.507, December 13, 2000.

4.11. Miscellaneous

- The Law Approving the Convention of the International Hydrographic Organization, signed in Monaco, on May 3, 1967, during the IX International Hydrographic Conference. Official Gazette No. 29.888, August 24, 1972.
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- Law Approving the Agreement establishing the Sustainable Tourism Zone of the Caribbean. Published in Official Gazette N° 38.093, December 23, 2004.

The above are the main international instruments that impact on environmental matters and are laws in the Republic.

V. THE SUPRANATIONAL AGENDA TO BE IMPLEMENTED

Although there is abundant international, constitutional, legal, regulatory and administrative regulation on environmental matters, which could give the impression that everything is duly regulated, it is not. The truth is that several aspects that have been developed in the international sphere, specifically in the American continental environment, still pending for incorporation and development by the Venezuelan State.

5.1. The Paris Agreement

The United Nations Framework Convention on Climate Change led to the adoption of the Kyoto Protocol and the Paris Agreement in 2015.

This is important because it establishes measures for the reduction of greenhouse gas (GHG) emissions, through compliance with which it seeks to maintain the increase in average global temperature below 2° C above pre-industrial levels and aims to convene the best and most significant efforts to limit the rise to 1.5° C, recognizing that this would significantly reduce the risks and effects of climate change.

Although it is an international agreement in force, it is necessary to adopt suitable, adequate, and effective legislative, administrative and judicial measures at the national level so that all the national stakeholders involved act with due diligence to honor their obligations and make their contribution to the reduction of greenhouse gases and the fulfillment of the commitments undertaken.

5.2. The Escazú Agreement

The first regional treaty signed by most Latin American and the Caribbean States on human rights and the environment is the *Convention on Access to Information, Public*

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Participation in Decision-making, and Access to Justice in Environmental Matters, known as the Aarhus Convention, of 25 June 1998. The treaty is the European antecedent inspired by Principle 10 of the 1992 Rio Declaration on Environment and Development, which laid the foundations of the so-called "environmental democracy."

This declaration was followed by the United Nations Conference on Sustainable Development (Rio+20) in 2012, which produced the "Declaration on the Implementation of Principle 10 of the Rio Declaration on Environment and Development."

The latter constituted the direct source after six years and nine rounds of negotiation. Hence, the "Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean, also known as the Escazú Agreement, the place of its signature in Costa Rica on March 4, 2018, constitutes the most significant regional instrument on human rights and environment.

Of a total of 33 States that make up this geographical area, at least 24 participated in the negotiation of the Agreement. During the signing period, 22 of them did so, and, initially, 12 States ratified it and deposited it with the ECLAC secretariat. More recently, Chile has completed the process of ratification and deposit.

With these ratifications, the Escazú Convention entered into force three years after its signature, on April 22, 2021.

Now, the entry into force of this Agreement on specific human rights linked to the environment leads us to consider what happens to those States that did not sign it, to those that have signed it, did not ratify it, or have ratified it have not deposited it, are they exempted from recognizing, guaranteeing and protecting in their national legal system, in an effective manner, both the human rights of access and the protection of human rights defenders in environmental matters? Finally, can the States that have not been bound by the Escazú Agreement be considered internationally irresponsible in the event of a violation of human rights when they have not respected and protected those that the Agreement intends to reinforce?

The answers to these questions must start from the premise that the Escazú Agreement constitutes a regional human rights treaty with solid roots in the inter-american block of conventionality (The American Convention on Human Rights, the Protocol of San Salvador, as well as some other international instruments applicable in the Inter-American System).

In the case of the Venezuelan State, which is not a party to the Escazú Agreement and therefore is not formally internationally bound by that instrument, this does not imply

that Venezuela is exempt from the obligations of recognition, respect, protection, and reparation of persons who are victims of human rights violations, regardless of whether or not they do so in defense of the environment.

On the contrary, like all States that are part of the international community, it must adopt effective and timely measures to guarantee the exercise of the rights of access - information, participation and adequate judicial protection - as well as other human rights, to prevent, investigate and punish attacks, threats or intimidation of human rights defenders, particularly those working on environmental issues, per the standards established in advisory opinions and judgments of the Inter-American Court of Human Rights.

5.3. The human right to a healthy and ecologically balanced environment

Regarding the international recognition of the environment as a human right, it should be pointed out that it is a declaration that is established within the framework of the Inter-American System of Human Rights in the Additional Protocol to the American Convention on Human Rights in the area of economic, social and cultural rights (Protocol of San Salvador) and that more recently has been recognized by the United Nations General Assembly through a Resolution of July 28, 2022, in which it declared that a clean, healthy, and sustainable environment constitute a universal human right.

This recognition – similar to the declaration made exactly twelve years ago, regarding the human right to drinking water and sanitation -, also implies addressing resolutely the triple crisis humanity is going through climate change, biodiversity loss, and pollution of air, land, water, and noise, as these impact the effectiveness and enjoyment of the human right recently recognized in the Universal System of Human Rights and of the other human rights interrelated with it.

It should be mentioned that although this right has formal constitutional recognition, its interpretation and application must be adjusted to international standards of prevention, precaution, cooperation, intergenerational solidarity, or sustainable development.

In these terms projects shall be implemented in national parks and other areas under special protection regime, through which the most efficient use of natural resources is sought.

VI. FINAL CONSIDERATIONS

1. The energy transition requires planning and state responsibility aimed at achieving the decarbonization of the economy in the shortest possible time, without sacrificing people's quality of life. This means continuing to take advantage of energy resources of fossil origin (brown economy), in order to invest in them and increase the use of energy resources of renewable origin (green economy), which will allow sustainability in its triple dimension. So far, beyond slogans, no concrete plan has been established or made public to achieve this transition through State policies.
2. The climate crisis raises the need for urgent measures to mitigate the emission of greenhouse gases and actions aimed at adaptation, which are compatible with human rights from an inter-generational perspective.
3. Effective access to the human rights to drinking water and sanitation; although these are independent rights, they are interrelated and are a guarantee of the exercise of other human rights such as the right to life, health, food, and decent housing, especially for the most vulnerable groups of people. Thus, beyond the enshrinement of these rights in the Constitution or in international treaties, the joint development of these rights is faced with the abyss of a complex humanitarian emergency in which access to water and sanitation are not available to vast sectors of the population, with the aggravating circumstance, moreover, that the State does not recognize this situation.
4. The express recognition of environmental democracy to guarantee real access to public information in general and on environmental issues in particular, both formal and material participation in decision-making related to public affairs, and the existence of an effective judicial recourse for the protection of human rights, all aimed at strengthening the "glass house" that should be the State, in transparency and accountability to society and the international community. Thus, it has been demonstrated that, without the participation of society to achieve the development of environmental issues, the action of the State is not enough and, on the contrary, it must establish real and effective co-management and co-administration mechanisms that unfortunately are alien, beyond the official slogans, to the activity of the Venezuelan public administration.
5. Institutional reform aimed at giving the environmental issue the real importance it deserves and ensuring that environmental and socio-cultural impact studies are carried out in accordance with international and inter-American standards, in order to prevent or foresee negative consequences derived from the execution of projects. The tragic example of the Orinoco Mining Arc demonstrates how the lack of these studies leads to systematic and repeated human rights violations without the state even recognizing the existence of the problem.

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In short, the great challenge for the Venezuelan petro-state is to assume its share of environmental responsibility for sustainable development as a hydrocarbon producer, and to initiate and accelerate the great shift towards a new development model that is not anchored solely to the extractive industries, that is less polluting, that is oriented towards a circular economy and that is more compatible with the effective exercise of human rights for present and future generations.

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