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Need to rethink environmental jurisdiction in México

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Abstract

Environmental justice for effective judicial protection is inadequately dispersed by various courts and administrative authorities, the need for protection of environmental care, ecological balance, climate change, global warming and the protection of flora and fauna, as well as all its components, require comprehensive and interdisciplinary consideration by the complexity for its study of contemporary agricultural law and its jurisdiction. Its examination requires a thorough judicial reflection and whether or not the knowledge, substance and development of environmental judgments corresponds to the administrative courts or autonomous courts, as already exist in other national systems.

Keywords

Jurisdiction, administrative bodies, the environment, agrarian jurisdiction and agricultural courts.

I. Introduction

Carrying out a legal investigation on environmental justice in Mexico is very complex and this entails addressing aspects related to the administration of justice, attributions that fall on federal institutions of an administrative nature; centralized, decentralized and decentralized from the federal public administration, independently of administrative and agrarian courts.

Legal science, in the light of the environment is very vast and deep, day by day it increases nationally and internationally at an incalculable speed due to the phenomena that occur to the detriment of Mother Earth and humanity.

The environment is closely linked to various legal disciplines that need to be examined in detail for their peculiar characteristics and elements that integrate it, such as ecological law, forestry law, urban law, constitutional law, hydrological law, mining law, energy law, fishing law, tourism law, municipal law and especially with agricultural law because of its close link. between the agrarian and the environmental, from which arises the agri-environmental law, in the light of contemporary agrarian law, among other human rights of solidarity of peoples or third-generation rights, due to their transversal nature.

It is evident, the complexity that represents the study of the environment, regardless of the public institutions and jurisdictional bodies that protect the human right to the environment, therefore, this study aims to analyze from the perspective of the Agrarian Courts, and the environmental agrarian process, as a faculty of competence the resolution and protection of the environment.

II. Conceptual Framework

Once the research has been problematized, we will try to conceptualize and be able to enter into context with the opinion of Quintana (as cited in Carmona, 2012), who affirms that the environment is a system, that is, a set of elements that interact with each other, in the intelligence that these interactions cause in turn, the appearance of new global properties not inherent to the isolated elements that constitute the system.

According to Brañes (as cited in Ramírez, 2012) "the word environment is to refer generically to all possible systems of living organisms and these organisms in turn are presented as systems" (p. 2).

The General Law of Ecological Balance and Environmental Protection (2021), in its article 3, section 1, establishes that "The set of natural and artificial or human-induced elements, which make possible the existence and development of human beings and other living organisms that interact in a given space and time" (p. 2).

The concepts expressed above, visibly show the complexity that represents the environment, since they allude to the coexistence of human beings with other living beings that interact with each other, in different systems.

Jordano (as cited in Ramírez, 2012), says that the environment "is a collective legal good, which is related to the ownership and legitimation ad procesum to an adequate environment" (p. 1).

The environment is considered in the doctrine, as a legal good of a collective nature, because it concerns society, the set of human beings who have suffered damage to this subjective right, protected by the federal State in the supranational framework. Subjective rights that may be prosecuted in the agrarian jurisdiction, by virtue of articles 1, 27 and 133 of the national constitution, which obliges the courts of the Federation to resolve any dispute that arises for violations of recognized human rights, as well as by the international treaties that Mexico has signed.

For its part, article 4 of the Magna Carta (2021) establishes: "Everyone has the right to a healthy environment for their development and well-being. The State shall guarantee(...)" (p. 10).

In the same way, we can understand by environment "the set of natural factors that surround living beings. These are the predominant elements, in the place, region or space where animals, people and flora are born, grow or develop, reproduce and die" (Ramírez, 2012, p. 3).

For the Costa Rican Professor Zeledón (2013) Former Magistrate of the International Court of Environmental Conciliation and Arbitration, President Emeritus of the World Union of University Agrarians and President of the American Committee of Agrarian Law, in his theory of Contemporary Agrarian Law, he conceptualizes the environment, as an advanced, evolutionary, scientific and cultural legal movement.

In his scientific construction Zeledón, deepens its sources, through the three-dimensional method, which serves as a legal interpretation to give complementarity and organicity to agrarian law through its principles, axiology and culture.

Zeledón (2013) based on the three-dimensional theory, bases the AAA agrarian law; Agrarian Law of Agriculture, Food and the Environment, which arises before

the consolidation of contemporary agrarian law, the most widespread has initially been the agro-environmental.

The scholar Arciniega (2014), on the other hand, conceptualizes the environment or environment, as:

> (...) a system, that is, a set of biological and physical-chemical variables that living organisms, particularly the human being need for their existence, and among these variables or conditions, cites, the quantity or quality of oxygen in the atmosphere, the existence or absence of water, the availability of healthy food and the presence of animals of species and genetic material, among others. (p. 111)

Arciniega continues to capture (2014) in his work:

> The environment as such should always be understood as the place that relates living beings with what surrounds them. The environment is not only the rural sector but also the urban sector. Sometimes it has been understood as environment only related to nature, fields, forests and waters, but most living beings reside in cities and that is where there is also an "environment" that must be preserved, protected and improved. (p. 112)

The reflections expressed by Arciniega, on the environment and its connection with urban areas and rural areas in a broad sense, understood as everything that concerns nature, forests, rivers and waters, lakes and lagoons, estuaries, jungles, forestry, agricultural and livestock areas, in short everything that is linked to flora and fauna, such as Agrarian Law and its entire system of social property that occupies more than 50% of the national territory, hence the importance of the issue at hand.

What makes the study of the environment more relevant is the richness in flora and fauna, water resources that day by day are threatened by man, moved by ignorance occasionally, by economic interests by illegal felling of trees for clandestine sale, sometimes for agriculture and commercialize the soil for tourist or urban purposes.

Having expressed these ideas about the environment, for the study of environmental law, Brañes (as cited in Ramírez, 2012), defines it:

> As a set of legal norms that regulate human behaviors that can influence in a relevant way the processes of interaction between the systems of living organisms and their environmental systems, through the generation of effects from which a significant modification of the conditions of existence of said organisms is expected. (p. 2)

For his part, Gutiérrez (1998) defines environmental law as "a set of rules that aim to regulate behaviors that directly or indirectly affect the protection, preservation, conservation, exploitation and restoration of biotic and abiotic natural resources" (p. 112).

In the opinion of the undersigned, environmental law should be understood as a set of systematized legal rules, which regulate the environment in its broadest form, the various ways to protect and safeguard planet earth, which day by day is threatened to the detriment of man himself, the living beings that comprise the flora and fauna and the systems that integrate them.

Contemporary agrarian law in Latin America highlights that, to this agrarian legal discipline, the figure of global climate change or climate change is deeply concerned.

The environment of the world has changed and unknown phenomena are becoming widespread, never seen before, even in rich countries, and not only the poor, receive the greatest volume natural shocks, floods that affect agriculture and the working class, poisoning of the soils that make the land unproductive. Pollution of rivers, lakes and seas, chemical waste from industries, agriculture and cities, increase in the disappearance of species in the process of extinction, erosion of productive areas produced by winds and waters, increasingly polluting activities (Zeledón, 2013).

Indeed, deepening on environmental and environmental law requires knowledge of other sciences, which makes it a very specialized and highly technical discipline, due to its transversality for its normative, systematic and conceptual study.

It also requires for the good understanding of an approach of a scientific, biological, and other sciences alien to the science of law and substantive legal knowledge where the environment, climate change, global warming and other phenomena

interact, in a gigantic and uncontrollable way, damage the planet earth and living beings in general and ends in the procedural when there are environmental damages

The intense droughts that damage agriculture, which has as a consequence, the lack of food security and sovereignty, to guarantee the human right to food and to be free from hunger. On the other hand, these droughts are fertile ground to give rise to large and medium fires that greatly affect the flora, fauna and metropolitan areas, through the transformation and dryness of the earth with minimum humidity that causes mortality of various animals and even their extermination.

The agrarian González (2011), summarizes characteristics of agri-environmental activity: "As a consequence of the agro-environmental activity will have, in the production obtained, an added value for the greater neatness, cleanliness, dedication and health of environmental production" (p. 187).

The purpose of environmental agriculture is to produce safe food, healthy and harmless food that meets health and hygiene standards from its cultivation and transformation to be marketed to more demanding consumers, concerned about their health, the environment and the non-contamination of planet earth.

The damages and ravages caused to agriculture, livestock, forests and waters are indescribable, which has as a consequence that food sovereignty and security are at high risk due to ecological and environmental damage to the earth, as a source of crops and animal husbandry, which in the future are unimaginable the challenges that await us as a society of the XXI century, The effects of climate change will continue to be present if a series of actions are not curbed by rich and poor countries, even if the agreements made by countries at world summits have not been fulfilled.

The problem is current, with unpredictable consequence in all aspects, is the case of the public health tragedy known as COVID -19, as published on the UN News website, the executive director of the United Nations Environment Program, Andersen (2020) established that "any positive environmental impact after this abhorrent pandemic must begin with the change in our production and consumption habits towards models cleaner and more sustainable."

It is essential to understand the origin of this type of disease, since 75% of new infections transmitted between animals and humans occur through contacts with wildlife when invading fragile ecosystems (Andersen, 2020).

The wild must remain wild, for this reason it is urgent to restore our forests, deforestation depends, reverse the management of areas. The foregoing forces the rigidity with which national governments and internally must act, leaving aside impunity in the felling of trees and burning of forests deliberately to turn them into areas of cultivation and trafficking of wood, or committed recklessly, for which, the agreements expected by the countries must be ambitious, After the pandemic we are experiencing today, because the health of people and the health of the planet are the same thing, and both can prosper in equal measure. (Andersen, 2020).

The effects and consequences of COVID-19 are until today indeterminable regardless of the economic and human health, for this research, the protection of forests, lands and waters is of interest, for their natural wealth for the environment and their biodiversity. Toxic waste and hazardous waste, produced by laboratories, hospitals, treatment plants of this material, funeral homes, crematoria and cemeteries, some open-air activities in clandestine places or discharges of wastewater without any sanitary control or legal permits for proper operation, with competent professional supervision of how these establishments work, which are a threat to ecosystems and pollution to the environment again stamp, product of the global health catastrophe.

For the protection of the environment and to prevent further environmental damage to planet earth, it is important to rethink and examine environmental regulations in general and agricultural regulations for the defense of human health as the central axis, the entire system of flora and fauna, as its components. To this end, and I certainly advance to say that it is urgent to have an upcoming world summit convened by the UN, FAO, WHO, PAHO, ECLAC and other international and regional organizations, binding on the health of the human being, the planet, the environment, security and food sovereignty, as well as other fundamental issues that the health pandemic we are experiencing today has taught us as a lesson. whose present and future effects will be recorded in world history.

III. Protection of the environment

1. Administrative headquarters

The construction of environmental law and environmental awareness for its protection, was born in an environmental movement, through the Stockholm Conference in 1972, the Charter of Nature in 1982, later with the Rio de Janeiro Summit in 1992 and the Johannesburg Summit, South Africa, in 2002 and progressively protect the environment as an adequate and balanced healthy human right, such as the Rio Declarations and the Treaty of Escazú.

Thus, the environment is protected in supranational law, through these and other legal instruments concluded in the international concert, which means that the protection of the environment is strengthened in the context of conventional law, which serves as political and social pressure to transform the domestic law of the States of Latin America. In accordance with the commitments undertaken to transform its federal constitutional framework, in Mexico, on 28 June 1999 the addendum to article 4 of the Federal Constitution was published in the Official Gazette of the Federation to establish the right of everyone to an environment adequate for well-being and development.

In this regard, it is worth mentioning Article 4 of our Political Constitution of the United Mexican States (2021), which states that

> Everyone has the right to a healthy environment for their development and well-being. The State shall guarantee respect for this right. Environmental damage and deterioration will generate liability for those who cause it in terms of the provisions of the law (p. 10).

The teacher Fernández (2012), establishes that, the legislative procedure will have to guarantee that the public administration acts effectively, actively with strict respect for the rights of individuals and defines it as:

> The set of acts articulated methodologically with the specific purpose of encouraging the intervention of those who can participate in the formation or challenge of any declaration of an organ of public power in the exercise of the administrative function, aimed at producing legal effects with respect to individual cases. (p. 293)

In Mexico we cannot speak of a single administrative procedure, there are multiple administrative procedures.

Making a faithful interpretation, to the legal thought of Fernández, there is a dispersion of administrative procedures in environmental matters, there is ignorance in the action of the individual before the administrative authority and it also occurs with the authority in its actions, when the legal sphere of the individual is harmed, benefits one or the other, or affects the authority itself.

The dispersion of administrative procedures, with procedural features poorly systematized and orderly in their development, are likely to violate the human right to judicial protection and free access to justice enshrined in article 17 of the Federal Constitution and due process, violating procedural guarantees that may fall to the detriment of the governed. Obviously when it is subjected to such procedures where the legal good to be protected is the environment to the detriment of the individual subject affected or collective legal good to the detriment of the community, since there may be a number of procedures for different purposes.

Among the most relevant procedures, we can mention those that are developed in the administrative scope of the Federal Attorney for Environmental Protection (PROFEPA), according to the Internal Regulations of the Ministry of Environment and Natural Resources (SEMARNAT) of 2014, PROFEPA is constituted as a decentralized body of said Secretariat as established in article 2 fraction XXXI subsection a, while article 45 of the same ordinance establishes the powers of PROFEPA, for its operation, internal organization and above all, with regard to the protection and care of the environment, with a very special mention, with the environmental and ecological damages that are caused in agrarian social property.

For its part, article 32 bis of the Organic Law of the Federal Public Administration (2021) and article 5 of the aforementioned Internal Regulations, grant powers to SEMARNAT, in order to protect the environment in administrative headquarters, which according to Fernández (2012), administrative procedures in our federal legal system, In addition to being dispersed, they constitute anarchy to the detriment of the governed by the lack of uniformity and systematization of the procedure.

According to Rendón (2012), he conceptualizes effective judicial protection in administrative matters that:

> It is based on the notion of jurisdiction as a power reserved by the State, a constitutional element. Sovereignty as a political element to be exercised in the form of public service, administrative element, by bodies provided for in the legal systems, to act procedural claims of the governed, through a jurisdictional process, procedural element. (p. 634)

The protection of rights both in the administrative and jurisdictional spheres is essential for the broader protection of rights, which contrasts in the environmental field, given the dispersion that currently exists in the protection of environmental rights, which undermines the effective protection of rights.

The approaches expressed in previous lines, support the need to rethink environmental procedures in Mexico, classifying the diversity of environmental issues and conflicts that concern the collectivity of the urban, metropolitan, rivers, waters and forests, as well as those that directly affect agricultural social property, which has its origin in the agrarian nuclei that produce the raw material to supply food security. as well as agricultural, livestock and forestry property, the central axis of this work.

2. Administrative and agricultural jurisdiction

In our legal system the protection of the environment, López (2011), recognizes that there is:

> (...) A jurisdictional vacuum, since there is no environmental procedural right that allows the effectiveness of fundamental rights that transcend the person, that correspond to any social group or collectivity, and that are affected by activities of the public administration and individuals, insofar as they affect natural resources, ecosystems, or collective health (...) represents an obstacle to access to jurisdiction. (p. 63)

The constitutional recognition of a human right to a healthy and adequate environment for their development and well-being, puts at risk that effective protection is fulfilled, because it lacks a procedural regulation, which establishes

the development of an environmental process and a jurisdiction in which an action is enforced, with its offer and relief of evidence, With the intervention and informal procedural direction of the judge who resolves issues inherent to the preservation, prevention and restoration of environmental damage and sentences for compensation.

In the concept of the undersigned, it is considered that there is a procedural system that partially guarantees protection in favor of the governed in environmental matters, through a dispersion of administrative authorities that vent procedures and issue pronouncements with the character of resolution.

I consider it viable to return to the legal and academic discussion an agrarian-environmental issue not yet resolved by the legislative body, it is time to rethink the agrarian problem that prevails in the social reality of the agrarian nuclei of the country that make up the agrarian social property, just over 50% of the national territory, which represents that the problem, that arises is in force in the individual and collective agrarian subjects, it is proposed as a central axis to grant these express powers in the national agrarian legal framework, which since its origin of the agrarian constitutional reform of 1992, has been totally ambiguous (Hermosillo, 2017) the procedural application in environmental and ecological problems, being in second place embodied by supplementation in art. 2 of the current Agrarian Law.

Systematizing and harmonizing the agrarian legal norm is a legislative necessity to protect effectively, promptly and simply, conferring express powers and competence to the agrarian jurisdictional bodies on the delivery of agri-environmental justice, access to environmental agrarian justice must be incorporated with clear rules, without so much substantive and procedural technicality that makes easy access for agrarian subjects to protect environmental rights in conflicts that are Raise in lands and waters that were endowed to the ejidos and recognized to the indigenous communities, any ecological and environmental affectation with their natural environment of flora and fauna.

In itself, any affectation with the human right to a healthy environment and its balanced development between man and nature, of rural and urban ejido or communal land, as well as all those binding to these issues, through the legislative

apparatus or the federal executive, to propose initiatives with social responsibility, divesting themselves of economic and political interests, adding reflections of academics and experts on environmental and agricultural matters, for the good of the rural sector, human and animal health, environmental and ecological agriculture, healthy agricultural and livestock production, and planet Earth, through the agro-biological cycle of plant and animal reproduction.

For its part, the current Federal Court of Administrative Justice (TFJA), is regulated by its Organic Law of the Federal Court of Administrative Justice and its Internal Regulation of the Federal Court of Administrative Justice, in such regulation it is established how the TFJFA is formed, where we can highlight that in its art. 50 section III, it is established that a specialized chamber competent in environmental matters and its regulation.

Currently the TFJA has approximately 47 rooms, of which are divided into upper room, regional rooms, auxiliary rooms and special rooms, of which one of them based in Mexico City, which hears the jurisdictional protection of environmental issues, is called the Specialized Chamber in Environmental and Regulation Matters.

In the opinion of the undersigned, administrative justice in Mexico registers an enormous growth of the federal bureaucratic apparatus with the emergence of new federal public institutions, regulatory bodies and administrative authorities, which jurisdictionally are substantiated and settled before this federal administrative jurisdictional body, that is, the federal public administration, by the evolution of society itself. its demands and needs, is seen in the need to regulate the conduct of man in society, the problems that prevail in reality and finally leads to this federal administrative jurisdictional body, together with the national problems of the entire territory of the country, both those of an urban nature, those linked to food products that commonly have their origin in rural areas and their legal implications, on the care of the healthy and sustainable environment.

Conflicts of an environmental nature require a prompt and expeditious solution to avoid serious environmental deterioration and multilateral risks caused to the environment to the detriment of fundamental human rights, which is finally the most affected and of course our planet earth, like other living beings that reside in

it, however, The foregoing leads to the reflection of the probability of subtracting everything related to environmental justice, from administrative justice, as long as it is binding to the entire agrarian system.

To the above, highlights what was stated by the Independent Expert of the United Nations (as cited in Burdiles and Cofré, 2017), in the report called as a compilation of good practices in the implementation of human rights obligations relating to the protection of the environment, addressing human rights obligations related to the enjoyment of a safe environment, Clean, healthy and sustainable who points out and highlights in his report that the right of access to environmental justice is one of the procedural obligations.

Access to justice in environmental matters, according to Foti (as cited in Burdiles and Cofré, 2017), we must take into account the following four purposes:

> First, it allows civil society to lobby their governments for information of environmental relevance. Secondly, access to justice guarantees citizens their right to participate in decision-making on environmental matters. Third, access to justice also equalizes certain asymmetries by empowering groups that are not normally heard by the government or able to defend their rights in court. Finally, access to justice increases the chances of those affected to obtain redress in cases of environmental damage. (p. 37)

It is noteworthy that in the case of Mexico, following up on the ideas expressed, access to justice in environmental matters, although it is a problem that has been addressed for years, in administrative matters and above all, in agrarian matters, the trials in these jurisdictional seats, do not meet the requirements of the procedural rights of effective judicial protection and delivery of justice. in specific, being the issue of land tenure; public, private and agrarian, a variant that complicates and diversifies the problem, specifically, before the agrarian courts, these do not have a clear and assigned competence, in matters of imparting environmental justice, on environmental problems that arise in social property; ejido and communal.

3. Constitutional seat

There are constitutional procedural mechanisms to safeguard and protect care for the environment, through the Federal Judiciary, in terms of articles 103, 105 and 107 of the Political Constitution of the United Mexican States, whose purpose is the constitutional protection of the environment, through constitutional controversies and actions of unconstitutionality; also through the trial of amparo, regulated by the Amparo Law, through district judges in indirect amparo and the collegiate courts in direct amparos.

Currently, the final agrarian judgments pronounced by the Unitary Agrarian District Courts and the Superior Agrarian Court (TSA), which protect environmental issues by substantive supplementation of the General Law of Ecological Balance and Environmental Protection in accordance with article 2 of the Agrarian Law and procedurally supplementary to the agrarian procedure the Federal Code of Civil Procedure, provided for in art. 167 of the Agrarian Law, are challengeable through the trial of direct amparo. That is, currently, all trials related to environmental disputes that are processed before the Unitary Agrarian District Courts, Superior Agrarian Court, regional or special chambers and the same superior chamber of the TFJA, intraprocedural agreements and final judgments, are challengeable through indirect and direct amparo proceedings respectively, of which the Federal Judicial Power is competent. to be subject to the analysis of possible constitutional or conventional violations, both of the agrarian and federal administrative jurisdictional procedure.

However, once again it is noted that, both in agrarian jurisdiction, there is a lack of express powers to substantiate and settle agri-environmental conflicts over agricultural, livestock and forestry lands; Likewise, with agricultural and animal production, with safety characteristics, and as far as the federal administrative jurisdiction is concerned, there is also no clarity about the process that should be followed in court in environmental issues that are related to private property, federal property, the problems of urban areas of large cities and metropolitan areas such as Guadalajara. Monterrey the Valley of Mexico and even, it is not clear, if the TFJA, could know administrative issues or environmental problems in agricultural land.

With the above argument, the agrarian and administrative legal framework must be examined, in its substantive and procedural part, to confer express powers in

environmental matters to the agrarian courts or federal administrative courts, clearly and expressly delimiting in the norm, which is the competence of the agrarian courts in the agrarian land and related activities, and in similar terms, in the competence of the federal administrative courts, clearly establish that in everything that is not agricultural, it is administrative competence to settle environmental conflicts, as is already the case in other countries of the region, with environmental agrarian procedures with a structure especial, with its own characteristics and principles, which contain preventive precautionary measures for damage to the environment, among other figures, typical of the subject of environmental law.

It is then, that this lack of clarity of competence between agrarian courts, administrative courts and federal judiciary, turns the access and delivery of justice in environmental matters into a jurisdictional bureaucratic path, in the face of procedural conflict.

Part of this conflict addressed at this point, Pring and Pring (as cited in Burdiles and Cofré, 2017) call them the barriers that prevent or hinder access to justice in environmental matters: lack of knowledge on the part of judges, lack of specialization of competent courts or judges, high costs for litigants in litigation, Inability to prioritize such matters, inadequate remedies, the existence of a flawed approach and lack of flexibility in judicial rules and procedures.

The barriers noted by Pring and Pring, are observable in the Mexican case, agrarian, administrative and amparo trials, have principles, characteristics of each of these matters, in the same way, the personnel working in these different jurisdictional seats, has a differentiated preparation and the procedural normative bodies that each judicial body under which they exercise their powers, They are totally different, it is then, that environmental justice does not have clarity of principles and characteristics of its own, therefore, the aforementioned barriers are found in the three jurisdictional seats.

IV. Some comparative legal systems in environmental protection

1. Panama

The Panamanian agrarian legal system is regulated by the Agrarian Code, Law 55 of May 23, 2011, which establishes:

> Article 2:
>
> 1.- Activity harmful to the environment. That which negatively alters the environment and / or threatens human, animal or plant health or ecosystems.
>
> 2.- Sustainable use of the soil. Land use in a way that is sustainable, complies with the land use policies in force on that soil and with the environmental standards established by law.
>
> (...) 6.- Environmental function. Use of the property for the conservation, restoration of the flora and fauna of the country or its natural resources.
>
> (...) 10.- Sustainable use. Use of an ecosystem so that it produces a continuous benefit for current generations, as long as it is maintained...
>
> Article 3:
>
> The agricultural producer must carry out his agricultural activity in harmony with the environment, promoting the use of organic fertilizers and inputs that do not weaken the soil or affect human, animal or plant health. The State will be the guarantor of environmental regulations (...)
>
> (...) 4.- The State shall promote through incentives agricultural activities that involve protection of the environment and the sustainable production of healthy food...
>
> 5.- The ownership, possession and use of land entail the fulfillment of the social, economic and environmental function (...). (Panamanian Institute of Environmental and Indigenous Agrarian Law, 2017, pp. 11-12)

It should be noted that in the agrarian jurisdiction of Panama, it protects fundamental rights of third generation man, such as care for the environment, prevention and production of healthy and safe food for the benefit of the consumer and healthy, through the use of organic chemicals, the sustainable use of the soil and the environmental function, understood as the use of the good for the conservation and restoration of the flora and fauna of the country or of its natural resources and other concepts of the matter embodied in its current Agrarian Code, and encourages the agricultural producer the use of organic chemicals and agricultural inputs not offensive to human and animal health, which guarantees the health of living beings and the earth itself, in this case, the agro-environmental substantive part has a greater

development than the Mexican case, however, in the case of the adjective section, in similarity to that in Mexico, it has no regulation and / or special provisions of an environmental trial, so it would be an ordinary trial such as that provided for in the Agrarian Law and provided as a contentious procedure in the case of Panama, according to its legislation cited.

2. Bolivia

This country has a jurisdictional body called the Agro-environmental Court of Bolivia, which emerged in 2012, according to its new Political Constitution of the State of 2009.

The National Agrarian Court, prior to the current one, developed and contributed to the process of independence of the agrarian judiciary, based on modern foundations of agrarian doctrine and academic experience regarding agrarianness, it is determined that not only does land import as a factor of production, but also the ecological system, the environment, biodiversity, flora and fauna, forest, water, and other issues that are linked to human activity and third-generation human rights, the social and economic assets of the country, which are based on principles of mandatory compliance, such as harmony, collective good, guarantee of regeneration of Mother Earth, respect and defense of Mother Earth, non-commodification, interculturality (Soto, 2017).

The Agro-environmental Court, is the highest specialized court of the environmental jurisdiction of Bolivia, is governed by principles of social function, integrality, immediacy, sustainability and interculturality and has the attributions to resolve the resources, action and nullity of the real actions agrarian forestry, lands, water, rights of use and exploitation of natural and renewable resources, water, forestry and biodiversity, fauna and flora and the environment and practices that endanger the ecological system and the conservation of species and animals. Among other optional functions that it develops, are those of organizing the environmental courts.

Since 2012, it has been fighting for the creation of an Agri-Environmental Procedural Code, which develops environmental attributions and competences in order to conserve, protect and control the profitable use of natural resources, biodiversity and balance.

3. Costa Rica

As background, we can mention the specialized jurisdiction through the Law of Agrarian Jurisdiction (Law 6734 of March 29, 1982), its structure is within the Federal Judicial Power, through agrarian courts of first instance and a Superior Court, based in San José of second instance and has an appeal before the Cassation Chamber, First of the Supreme Court, as third instance requested (Zeledón, 2002).

There was an in-depth debate, both by the Judiciary and the Legislative Assembly in order to approve a profound reform in agrarian matters, whose competence will be extended to the environmental as it concerns the agrarian and agri-environmental matters.

In the framework of the 14th World Congress of Agrarian Law organized by the World Union of University Agrarians, in San José, Costa Rica in 2016, Judge Carmenmaría Escoto, member of the First Chamber of the Supreme Court of Justice, in her presentation highlighted as a transcendental innovation of the Agrarian Procedural Code, which in its Chapter VI, would regulate the Special Provisions for the Protection of the Environment, provided for in Articles 292 to 300, where agrarian processes titled with the protection of the environment and their procedural development would be incorporated.

Finally, after having been discussed and debated by agrarian judges, by magistrates of the Supreme Court of Costa Rica, and expanding the debate on the creation of the new federal legislation, with academic builders of contemporary Costa Rican agrarian law, finally the Legislative Assembly of that country, approved, through Federal Law number 9609 the Agrarian Procedure Code dated September 6, 2018, which entered into force according to transitory article IV of the decree of the law in question, 18 months after the publication of the same.

This procedural legislation establishes provisions for the protection of the environment, through a preferential process (articles 282 to 290), of which special mention should be made of article 282 of the Agrarian Procedure Code (2018) which establishes:

> The agrarian courts will hear disputes that arise between individuals related to biodiversity, where there is no administrative act or public domain, as long as there is no environmental jurisdiction. This chapter will refer to this type of process exclusively (...). (p. 97)

Environmental procedural actions are given priority in relation to other processes, reducing deadlines for holding hearings, precautionary measures and the issuance of the sentence, in the opinion of the undersigned, is based on principles of concentration, speed and procedural economy.

The preferential environmental agrarian process contemplates precautionary measures in order to protect resources, environmental goods and services, it is imposed in order to avoid the threat and aggravation of any environmental damage, the necessary pertinent preventions are dictated for its fulfillment to the owner of the good, the title of the construction or the plantation.

It also establishes sentences for adopting preventive actions or omissions, convictions for environmental damage, whose purpose is the recomposition or repair of the environment, it is clearly foreseen how and who has to repair the environmental damage, there are also sentences of the compensatory type, to restore the environmental damage caused, which can be to the affected person, to the community or in favor of the State, always taking care of the purpose is to restore the damage produced.

4. Brazil

The Federal Justice of Brazil, through the Federal Regional Court of the Fourth Region, created three agrarian environmental courts in the capitals of the south of the country, in Curitiba, Florianópolis and Porto Alegre, with very positive results, through judges who have achieved environmental specialization to judge, the processes are governed quickly and with high technical quality.

The competence of these courts is everything that is directly or indirectly linked to environmental law and agricultural law (Jiménez, 2010).

5. Latin America Overview

The delivery of environmental justice has evolved favorably to safeguard this right, as we have seen in the cases of the countries in question, but, it must be made clear that they are not the only countries that have made progress in the construction of an environmental, and in many cases, agri-environmental jurisdiction.

ECLAC, in a study carried out within the framework of the valorization of compliance with the 2030 agenda for sustainable development carried out in 2018, identified the countries that have specialized courts, "given that environmental matters are usually complex and may require specialized knowledge" (ECLAC, 2018, p. 112), which is why the constitution of this type of jurisdictional bodies is very useful.

The countries with these tribunals identified by ECLAC based on a 2016 study by Pring and Pring are the following:

Country	Environmental court
Antigua and Barbuda	An administrative environmental tribunal
Bolivia	Tribunales agroambientales en nueve ciudades
Brazil	Federal chambers in Porto Alegre (state of Rio Grande do Sul), Florianópolis (state of Santa Catarina) and Curitiba (state of Paraná), with environmental and agrarian competence; specialized chambers with environmental and agrarian competence in the states of Pará, Amazonas and Maranhão; state chambers in Manaus (specialized jurisdiction in environment and agrarian issues (VEMAQA)), Mato Grosso (flying environmental court (JUVAM) and Cuiabá), São Paulo (specialized court in environment); specialized chambers in Porto Alegre; Third Special Criminal Court (JECRIM) and tenth chamber of finance

Chile	Three Environmental Courts in Antofagasta, Santiago and Valdivia
Costa Rica	1 Environmental Administrative Tribunal, 16 agrarian courts (15 of first instance and one of appeal)
El Salvador	An environmental court (four environmental courts authorized in 2014, three first instance and one second instance chamber, but currently only one created and operating)
Guatemala	Courts of first instance criminal, drug trafficking and crimes against the environment in various municipalities and districts
Guyana	An administrative environmental court An administrative appeals court authorized but not operational
Jamaica	An administrative environmental tribunal
Nicaragua	An environmental court
Paraguay	Dos tribunales ambientales (Curuguaty-Canindeyú y Alto Paraná)
Peru	Four environmental courts: Environmental Control Court (administrative based) with three specialized chambers (in mining, energy and fisheries and manufacturing); Forest and Wildlife Court of the Forest Resources and Wildlife Supervisory Agency (OSINFOR)
Trinidad and Tobago	Trinidad and Tobago Environmental Commission

Specifically, on the Chilean case, Pring and Pring (as cited in Burdiles and Cofré, 2017), the creation of this kind of environmental courts, has facilitated access to

justice, for its part, Peña (2019), on Argentina, the Supreme Court of Justice, which although it is not a specialized environmental court, I highlight the paradigm shift in an environmental problem, moving from an anthropocentric legal regulation to an ecocentric regulation, which protects the environment.

The aforementioned regulation, ecocentric in the case of Argentina, has as an evolutionary legal logic sense in the protection of environmental justice, the creation of special environmental courts, as in the countries already mentioned, and that facilitate access to justice, as in the Chilean case, in Mexico there is jurisdictional dispersion, as has been repeatedly specified in previous lines. diversification of judicial channels; Agrarian courts, administrative courts and amparo proceedings, makes access to environmental justice a pending issue.

In the context of the region to which this section is treated, we must highlight the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean, called the Treaty of Escazú (2018), has as objectives, access to environmental information, citizen participation in environmental decision-making and access to justice in environmental matters.

The treaty in citation, in its numeral 8, establishes access to justice on environmental matters, where the States (countries) party, will guarantee the right of access to justice in the matter, adapting their national legislation, from a judicial and administrative procedural vision, with means of challenge, likewise, each State, must guarantee the right of access to justice in environmental matters, This requires competent and specialised courts with effective, timely, public, transparent and impartial procedures.

In this regard, it is worth highlighting the obligation assumed in the international context, to which Mexico is a party, a treaty which was approved in accordance with the publication of the Official Gazette of the Federation on December 9, 2020, which obliges the country in the establishment of specialized jurisdictional bodies in environmental matters, to which it is appropriate to reiterate, that the agrarian courts; Unitary Agrarian Courts and Superior Agrarian Court, are the entities, autonomous suitable, to know with sufficient procedural clarity, the environmental

problems that arise in the ejidos and indigenous communities, through the plurality of agrarian subjects that are affected, in issues that affect the agrarian soil; agriculture, droughts, livestock and others.

For their part, the Federal Court of Administrative Justice and district courts in environmental matters (see art. 30 of the Federal Law on Environmental Liability) and administrative (see art. 176 of the General Law of Ecological Balance and Environmental Protection) of the Judicial Power of the Federation, must be reserved for environmental issues that arise on private and public property, that is, in topics not related to agricultural law, by exclusion of the subject.

V. Proposals for Environmental Jurisdiction in Mexico

Under an ambiguous agrarian legislation, without precision of express competence in the agrarian legal framework in reference to the environmental as already explained, however, the agrarian courts of the country, have jurisdictional powers in agrarian controversies related to environmental issues and environmental damage, provided for in the Law of Ecological Balance and Environmental Protection, in accordance with article 2 of the Agrarian Law in force, which due to a legislative error was given an erroneous name, the General Law of Ecological Balance and Environmental Protection being correct.

In what is not foreseen by the Agrarian Law, it will be applied in a supplementary way for the knowledge and protection in environmental matters and its preservation, in the key of agrarian jurisdiction.

There are several legal proposals, with the purpose that the agrarian courts in the country have jurisdictional powers in environmental matters, such as the case of Jiménez Guzmán (2010) that by virtue of climate change, there is an urgency to create agri-environmental courts, establishing "The action of the agrarian courts is immersed, increasingly, in a context of crisis of humanity, among which the environmental is the largest (...)" (p. 57), an issue not resolved by the Federal Legislature.

On October 14, 2008, the then federal deputy Jiménez Valenzuela, presented a draft reform to articles 73 and 99 of the Political Constitution of the United Mexican

States, an initiative in which the creation of a National Environmental Tribunal is proposed

The constitutional reform initiative proposes to reform section XIX of article 27 of the federal constitution, so that all matters related to the protection of the environment and the preservation and restoration of the ecological balance are established and declared to be under federal jurisdiction.

For his part, Jiménez Guzmán (2010), unlike Federal Deputy Jiménez Valenzuela, proposes that section XIX of Article 27 of the Constitution be reformed, so that "matters related to the protection of the environment and the preservation and restoration of ecological balance are under federal jurisdiction" (p. 80).

In Jiménez Guzmán's (2010) proposal for diverse reform, he emphasizes that it is not necessary to create another environmental jurisdictional body as proposed by the Federal Deputy, which is to create federal regional chambers, state superior chambers, federal environmental courts.

In accordance with Jiménez Guzmán (2010), the current organization chart of the agrarian courts of Mexico, distributed in 56 Agrarian Unitary Courts by districts and the Superior Agrarian Court based in Mexico City, should be used, which would save part of the federal budget, in conclusion, the proposal leads to the revision of the substantive and procedural legal framework of the current agrarian jurisdiction, according to the approaches of the growing environmental problem.

The proposal that is made, is entirely pertinent, virtue of the growing disorder, product of phenomena not isolated to the behavior of the human being and that greatly affect the planet earth, agriculture, forests, waters and rivers, phenomena such as the health pandemic, which has consequences and damages not quantified in environmental matters, therefore it is convenient to carry out constitutional reforms of substance in the protection of the human right of the environment healthy and balanced, related issues such as flora and fauna, which implies the modification of regulatory laws.

Similarly, Hernández (2009), refers to the proposal of Federal Deputy Jiménez (2008), to create a National Environmental Court, regional chambers in charge

of magistrates and environmental courts, the creation for each State of a local environmental court, based on legal principles of a social nature such as agrarian processes, without reaching any conclusion or position if said initiative is correct, but, what Hernández is referring to, is that it is necessary to create or strengthen environmental jurisdiction.

The proposal of López (2011), on "the creation of a Federal Environmental Court and Local Environmental Courts, with recurring or coinciding jurisdiction, and a General Environmental Law for both courts" (p. 64) is also mentioned.

As can be seen, there is a legislative crisis in our federal legal framework, regulated by processes in environmental matters and the damages caused, guided by appropriate principles that give identity to environmental justice and by those guiding principles of the agrarian process, with speed and procedural simplicity in agrarian land.

Environmental matters are heard before local and federal administrative institutions, local and federal administrative jurisdictional bodies, as well as in the agrarian jurisdiction due to regulatory supplementation, therefore an urgent examination of the legislative and institutional framework is required due to the dispersion of administrative and jurisdictional authorities that resolve environmental protection issues, especially those of an environmental nature related to the protection of the environment when they fall on agricultural goods of the social property of the cycle of agricultural and animal reproduction, raw materials in the process of agro-industrial transformation.

VI. Conclusions

1. There is a need to reform the legal framework in Mexico, on the competence and jurisdiction of the Federal Court of Administrative Justice, to know environmental problems in a timely manner, different from those known in the agrarian jurisdiction.

2. Competence in the agrarian legal framework must be granted to the agrarian courts to safeguard and protect, the care of the environment and its components, on damages that are caused to the agrarian social property, in the agro-environmental,

agri-food, agribusiness, global warming, ecological balance, and inherent issues, granting it express jurisdictional powers, by virtue of which said agrarian social property amounts to a little more than half of our territory national and in the face of the ambiguity of the law.

3. Take advantage of the same current agrarian jurisdictional organization chart, for the knowledge and protection of environmental conflicts in agrarian property and related activities.

4. Institute a special agrarian trial in environmental matters with its guiding legal principles and its exclusive procedural characteristics for environmental conflicts and the damages they cause.

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