

## GREENING THE COLOMBIAN STATE?

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This article was originally published in Spanish. Translated to English by Steven Ambrus

Rodríguez, B., Manuel ¿Hacer más verde al Estado colombiano? Revista de Estudios Sociales No. 32 rev.estud.soc., abril de 2009: Pp. 272. ISSN 0123-885X, Bogotá, Pp.18-33.

<http://res.uniandes.edu.co/indexar.php?c=Revista+No+32>  
<http://www.manuelrodriguezbecerra.com/bajar/hacerverde.pdf>

### **Abstract:**

More than four decades ago, a movement arose to make the environment a principal state concern. That movement has been described and analyzed by North American and European authors as an attempt to "green the state." But it conflicted from the start with the fact that governments have traditionally been significant perpetrators of environmental deterioration (Eckersley 2004). Moreover, the movement's goal came into friction, and, frequently, conflict with the state's traditional roles in maintaining order, promoting economic growth and offering social services. That situation, far from being resolved, has resulted in the environment being a lesser priority and or even a non-priority in the public agenda (Meadowcroft 2007; Janicke y Weidner 1997).

Colombia has carried out two large public policy reforms related to what we today call the environment. The first reform, implemented at the beginning of the seventies, was carried out through the Code of Renewable Natural Resources and the Environment (1974) and the reorientation of states agencies in charge of those resources: the National Institute for the Development of Renewable Natural Resources (Inderena) and the autonomous regional corporations (CAR). The second reform came at the beginning of the 1990s. It involved, above all, the incorporation of more than 50 articles on the environment and sustainable development into the new 1991 Constitution and the passing of Law 99 of 1993, which established the Ministry of the Environment and the National Environmental System.

In this article, we will examine the evolution of regional and national agencies and how each of those public policy reforms began to decline after a period of relative consolidation. We will also see how significant obstacles and contradictions contributed to setbacks for environmental institutions and hindered efforts to make the Colombian state greener. This article focuses especially on the second of the major reforms and its evolution. But it also looks at the reform of the early 1970s, both because it is a precedent and because it offers a long-term perspective on the difficulties Colombia faces in transforming the environment into a fundamental factor of development.

### **The reform of the first years of the 1970s**

Compared to other developing countries, Colombia has a long tradition of protecting the environment through a legal framework, specialized public agencies, and sectorial environmental policies. Indeed, the environmental authorities created at both the national and regional level through Law 99 of 1993 were based to a large extent on preceding institutional mechanisms, going back more than 50 years.

#### The natural resources administration of the 1960s

Natural resources management at the regional level began to gather steam in Colombia in 1954 with the creation of the Autonomous Corporation of the Cauca Valley (CVC). The CVC was given specific authority over natural resources in the north of the department of Cauca and in the department of the Cauca Valley (See accompanying map). It had a specific mandate to manage and protect the Cauca River for electricity generation, irrigation, and flood control. With the passing of time, the CVC's responsibilities grew and molded until it had become the environmental authority of the Cauca Valley we know today. The CVC was created in the image and likeness of the Tennessee Valley Authority (United States). But it also became the model for six new regional autonomous corporations created between 1961 and 1973, which had authority over regional development and the management and conservation of renewable natural resources (Nassar 1990; Rodríguez 1994).

One of these corporations, that of the Magdalena and Sinú Valleys (CVM), was fused with the Ministry of Agriculture's Division of Natural Resources to create

the National Institute for the Development of Renewable Natural Resources (Inderena), during the 1968 administrative reforms of Carlos Lleras Restrepo's presidency (1966-1970). That division was created on the recommendations of the 1951 Currie Mission report<sup>1</sup> which called for creating a centralized bureaucracy to oversee the ordered exploitation of the country's renewable natural resources – dispersed, up to that point, in different entities (Currie 1952).

### The rise of environmentalism and the reform of 1974-1978

In 1974, the Code of Renewable Natural Resources and the Environment was issued as a response to the United Nations Conference on the Human Environment (Stockholm Conference) two years before, which formally marked the beginning of state environmental management in Colombia and in Latin America generally.

The conference, along with its historic declaration of environmental protection principles, produced a non-binding resolution in which the parties agreed to incorporate the environment in the public agenda by passing and updating of laws and establishing public agencies to implement them. Colombia's legislation, coming on the heels of that conference, was seen globally as a pioneering environmental law and marked the beginning of *State environmental management* in Colombia. This was at a time when environmentalism had scarcely begun to emerge either domestically or in the region (Brañes 2001).

*State Environmental Management* can be distinguished as a concept from the *conservation and rational use of renewable natural resources*, which emerged with force in the first decades of the last century. The rational exploitation concept, which involves "rationally use" natural resources to assure a continual

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<sup>1</sup> The Mission which sought to reform Colombia's public administration was headed by US economist Lauchlin Currie (a former adviser to the government of F.D. Roosevelt). It was hired by the Colombian government to complement the World Bank Mission on economic development in Colombia. The World Bank's mission was its first in Colombia and also was headed by Currie.

flow of products, still underlies many public policies, though it is in conflict with a strictly environmentalist approach.<sup>2</sup>

Rational use, as a concept, was challenged in the sixties by ecological science and environmentalism, which demonstrated that by ignoring the complex relationships between organisms and between organisms and all the living and non-living aspects of their environment, human beings were destroying or degrading valuable ecosystems. Among other things, critics questioned the construction of large hydroelectric plants and their damaging environmental impact. The concept of a sustainable environment began to take root, and, with it, the principle of the right of present and future generations to a healthy environment. (Miller y Rothman 1997; Hays 1998).<sup>3</sup>

The concept of the *conservation and rational use of renewable natural resources* existed side by side with a *preservationist* vision. This argued for the absolute protection of virgin or lightly-impacted natural areas, through the creation of national parks. The preservationist vision began to emerge in the United States at the end of the 19<sup>th</sup> century, until it was consecrated in the Western Hemisphere Convention of 1940. Some of its thinking, moreover, was incorporated into environmentalism, especially through the establishment of natural parks to preserve natural values and unique landscapes. (Sands 1994; UNEP<sup>4</sup> 1994).

Environmentalism, as a new concept, emerged with great strength principally in the United States and Western Europe, as seen in the agreements reached at the Stockholm Conference. It had a great influence on the writing of Colombia's Code of Renewable Natural Resources and the Environment. And it influenced a change in direction among existing agencies that managed renewable natural resources.

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<sup>2</sup> This vision affected professions involved in the exploitation of natural resources during the last century. Thus Forestry Engineering and Fishing Engineering sought to extract the maximum amount of wood and fish from the environment while maintaining the conditions so that the resource could be renewed and exploited again within a given period. At the same time, hydraulic engineers sought to build multi-purpose dams to optimize the use of water. The same dam would be employed simultaneously for hydraulic generation, the control of floods, irrigation and the production of drinking water. (Hays, 1998)

<sup>3</sup> The different visions of the relationship between society and the environment and their implications for environmental policy are analyzed in Rodríguez 2008b.

<sup>4</sup> UNEP: United Nations Environment Programme.

## Inderena and the Regional Autonomous Corporations (CAR): institutions in problems

In 1976 Inderena was reformed. It became the nation's principal environmental authority and was given new faculties to meet the new imperatives of the Code. It maintained its acronym - but was renamed as the Institute of Renewable Natural Resources and the Environment. It also maintained its character as a centralized national institute, with jurisdiction over the majority of national territory, excepting those areas where the autonomous regional corporations operated.

Inderena achieved its peak as an institution during the government of President Alfonso López (1974-1978). It was during this period that it played a key role in the conception and difficult approval of the Code and in the shaping of distinct programs of environmental management. These marked its agenda until the new reform of 1993. Indeed, Colombia's positive reaction to the Stockholm Conference was in great part the work of a group of environmentalists linked to Inderena, many of them with substantial experience at the Geographic Institute Agustín Codazzi, the Corporation of the Magdalena Valley (CVM), the universities and the recently-born, non-governmental environmental organizations. Even before the Stockholm Conference, diverse institutions and individuals were working, from different perspectives, on projects to protect renewable natural resources, often linked to the environmentalism or ecologism emergent in the United States or Europe, but rooted in and adapted to the special experience of Colombia.<sup>5</sup>

From the founding of the Institute in 1968, this *environmentalist* group was in conflict with the group of technicians which the Institute inherited from the Agriculture Ministry. These technicians were attached to the concept of the *conservation and rational use of renewable natural resources*. But the code and the reform of Inderena represented, above all, the new idea.

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<sup>5</sup> For example, Alejandro Angel Escobar (1903-1953) , a rich industrialist who had been Agriculture Minister, left in his will a fund for the creation of the National Science Prize, emphasizing that "it is my will that preference should be given to all scientific and practical works, as well as discoveries related to the problems of the soil in Colombia, whose progressive impoverishment deeply troubles me ... it is a problem that I believe will be extremely serious for the future of the nation and generations to come." (FAAE 1955). Additionally, in 1928, the National Herbarium was founded. It was later transformed into the National Institute of Natural Sciences, a place where hundreds of environmentalists and environmental scientists trained.

According to Julio Carrizosa:

It was the tradition of philosophical liberalism and its child, pragmatism, which made environmental management advance during the government of López Michelsen and which allowed Inderena to survive during the following 12 years, despite being accused at various times of being a focus of insurrection and an obstacle to progress and despite being purged and reduced of some of its authority. Those traditions allowed Inderena to resist, even during a time of enormous change. They allowed Inderena to generate an environmental consciousness, create parks, and put a brake on absurd projects. (Carrizosa 2008, 27).

Meanwhile, the autonomous regional corporations, which had been around since the beginning of the seventies, slowly acquired faculties as environmental authorities in their area of jurisdiction, thus initiating a period of regional environmental management of the State in keeping with the Code. Twelve new corporations also were created in the period 1974-1988. These substituted for Inderena as an environmental authority in diverse regions of the country and, like those that preceded them, had some authority over regional development, such as in the construction of infrastructure projects and the execution of projects intended to resolve specific regional problems.

Nonetheless, the CARs of the sixties and seventies (see Chart) tended to prioritize their development roles, to the detriment of their roles as environmental authorities. They only began to resolve that problem in the mid-eighties as a result of the administrative decentralization that handed over to the municipalities the majority of the development functions that the CARs had previously possessed.

Moreover, the CARs, whose authority together encompassed approximately 25% of national territory (see Chart), were under an office of the National Planning Department (DNP). This office had no status as a national environmental authority, and, in general, like the corporations, was more influenced by the *conservation and rational use of renewable natural resources* approach than was Inderena, which was characterized by the environmentalist perspective (DNP 1989; Fundación Alma 1990).

Inderena -as the national environmental authority- began to weaken at the end of the seventies. First, it lost its jurisdiction in part of the country to the new CARs, over which, as has been mentioned, it lost its mandate as a national authority. Then, apart from its decreased budget and its consequent loss of technical capacity, it lost fundamental environmental authority in areas like mining and the conservation and exploitation of fishing resources. A study carried out at the end of the eighties concluded (DNP 1989):

Inderena lacks the legal, financial and technical instruments to fulfill its responsibilities. (Decreto 133 de 1976). Moreover, its position in the institutional hierarchy has been diminished, as well as its functions, jurisdiction, budget and personnel. These changes have weakened its performance to the detriment of the environment. (DNP 1989, 53).

Indeed, at the end of the 1980s, environmental institutions, established in the first great attempt to "green" the Colombian State, had reached an unsustainable situation.

This was convenient for the country's public and private business organizations, as became clear in the struggle to approve the Code. The Code was not signed into law by President Misael Pastrana (1970-1974), in the face of strong opposition by the National Industrialist Association of Colombia (ANDI) and the petroleum sector. Those sectors believed that the new law would be an obstacle to economic development. But the arrival of President López to the presidency, along with the support of a coalition of environmentalists from Inderena, saved the important reform, despite the insistence of ANDI that the law not be approved. (ANDI 1974).

Nonetheless the reform was wounded from the start, as became evident in the imminent and rapid decline in the country's environmental management. This did not mean a complete absence of achievement. Environmentalist Margarita Marino, for example, led Inderena from 1983 to 1986 and achieved a significant record of accomplishment there –a record so noteworthy and challenging to many traditional groups in fact, that some described the Institute as the best non-governmental organization of the country.<sup>6</sup>

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<sup>6</sup> It has been said, though not confirmed, that President Belisario Betancur himself described Inderena as such.

## **The environmental reform: 1991-1994**

Eighteen years after issuing the Code, Colombia bolstered its environmental legislation through the 1991 Constitution, which incorporated more than 50 articles on the environment and sustainable development. Twenty-five years after the creation of Inderena, Law 99 of 1993 was issued, creating the Ministry of the Environment and the National Environmental System. Other environmental norms came into force as well.

### The Río Conference and the new institutions

Just as the institutional reforms of the seventies were a response to the Stockholm Conference, the incorporation of the environment into the constitution and the approval of Law 99 of 1993 were Colombia's response to commitments made at the 1992 United Nations Conference on Environment and Development held in Río de Janeiro.

And just as during the 1970s, a grand coalition of environmentalists –some from government and others from non-governmental environmental organizations– came together. They played a decisive role in assuring that the reforms were carried out, relying on the fruitful experience they had acquired during more than two decades of environmental protection work. But that didn't mean they didn't face opponents. Opposition from, among others, ANDI and the construction and petroleum sectors, nearly sank the reforms. But President César Gaviria's (1990-1994) determination to advance them ended up prevailing. This can be interpreted, paraphrasing Julio Carrizosa, as an expression of liberal pragmatism which, as in 1974, benefitted from an international climate favoring the environment.<sup>7</sup>

In effect, the Colombian government participated actively in the negotiations, begun in 1988, that ended up in agreements signed by more than 20 heads of

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<sup>7</sup> In the *Memories of the First Environment Minister of Colombia* (Rodríguez 1994), there is a detailed account of the process which led to Law 99 of 1993. Under the government of President Barco (1986-1990) there was an initial attempt at reform of environmental institutions, which took concrete shape in a proposal for establishing of the National Department of Renewable Natural Resources and the Environment (APROAMBIENTE 1990). Barco's government main achievement on environmental policy was the creation of the great indigenous reservations and national parks of the Amazon, a policy that was advanced for the next government taking out of trade most of the forested land of this region (FNA 2008).



state at the so-called Earth Summit.<sup>8</sup> Colombia's involvement clearly influenced the establishment of environmental norms that were incorporated into the nation's 1991 Constitution. And it also influenced the rules and regulations built into Law 99 of 1993, which created the Environment Ministry and the National Environmental System (SINA). We see, for example, the incorporation of the concept of sustainable development in the Constitution (Article 80) and in the Law (Article 3). And there is the conditioning of national economic and social development, through the Law, to the principles of sustainable development contained in the Rio Declaration on Environment and Development (Article 1, Subsection 1, Law 99 of 1993).

The sustainable development emphasis in Law 99 is extremely important, given that the Declaration contains 27 principles fundamental to the concepts of sustainable development and environmental sustainability, such as those of the polluter pays principle, the precautionary principle, the principle of common but differentiated responsibilities, and of the necessity of considering, in an integral way, social and economic development along with environmental protection. (UN 1992; Campligio *et al.* 1993).<sup>9</sup>

The Environment Ministry was established as the nation's preeminent environmental authority, in replacement of Inderena, and made responsible for the formulation of national environmental policies and regulations. It also was given diverse types of authority to intervene in the formulation of sectorial policies (health, agriculture, foreign trade, international relations) as they bear on the environment and given authority to determine the environmental criteria that guide sectorial plans and programs.

Environmental authority was given to the Controloría (Office of the Comptroller General) and to the Procuraduría (Attorney General's Office) in areas relevant to their jurisdictions, and an Office of Environmental Policy was established in the National Planning Department to guarantee the incorporation of environmental considerations in the National Development Plans and in the official documents of

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<sup>8</sup> These agreements are: the conventions on Biological Diversity and Climate Change, the Río Declaration on Environment and Development, Forest Principles and Agenda 21, the last three of which are not legally-binding.

<sup>9</sup> It is not my intention to enter into a discussion here of the significance of the terms "sustainable development" and "environmental sustainability." Those have been the subject of the most diverse conceptions, definitions and controversies. For developed countries, see Porrit (2006), and for developing countries, see Escobar (1999) and Guimarães (2004).

social and political economy submitted for consideration to the National Council of Economic and Social Policy (CONPES).<sup>10</sup> It was, at the end of the day, an intersectorial focus whose basis lies in different mandates of the Constitution. That includes the mandate requiring that national and territorial development plans include, as essential pillars, the economic, the social and the environmental (Article 339).

As a result of Law 99, regional environmental authority was given to 34 regional autonomous corporations (CARs),<sup>11</sup> which together form a system of decentralized, autonomous and participative regional management. Nineteen new corporations were created, the 18 that existed in 1993 were restructured (See Chart), and four urban, environmental agencies were established for cities with more than a million inhabitants. The National Environmental System was provided with five institutes of specialized research so the Ministry would have the information necessary to formulate environmental policy. And both in the Constitution and Law 99, sources of revenue were defined for the Regional Autonomous Corporations (CARs) and for municipal environmental management. The emergence and implementation both of the reform of the early 1990s and of the reform of the early 1970s can be explained through the model of "Policy Regimes" formulated by Carter A. Wilson (2000). This model sheds light on why substantial changes in public policies occur. It establishes that a particular stressor –in this case, the agreements of Stockholm in 1972 and of Río de Janeiro in 1992 and the very particular circumstances that surround them– creates strong pressures that result in a substantial change in the policy regime. The change consists of four interrelated components: the paradigm, the patterns of power, the policies and the organizational arrangements. The two reforms in the policy regime of 1974 and 1991-93 entail changes in the policy paradigm – the environmental vision of the sixties and the sustainable development one of the nineties– and alterations in the patterns of power: the Alliance of the López and Gaviria governments with interest groups supportive of environmental

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<sup>10</sup> CONPES is the Executive Branch's principle entity for establishing economic, social and environmental policies. Presided over by the president of the Republic, with the participation of the Technical Secretary of the National Planning Department, it consists of all cabinet ministers.

<sup>11</sup> The Corporation of the Sierra Nevada of Santa Marta, one of the 34 CARs foreseen under Law 99 of 1993, was not established in the end and was subsequently eliminated through a legislative act.

reform. They involve changes in policies: the issuing of the Code of Renewable Natural Resources and the Environment (1974), the incorporation of more than 50 articles in the new Constitution (1991) and the approval of Law 99 of 1993. And they involve important transformations in organizational arrangements: the reform of Inderena (1976) and the creation of the Ministry of the Environment as well as of the National Environmental System (SINA) (1993).<sup>12</sup>

In both reforms, paraphrasing Julio Carrizosa, the change in the policy regime is the child of the pragmatic liberalism dominant in the governments of Alfonso López and César Gaviria. This orientation plays a role in the different aspects of policy regime change that, according to Wilson, interact in relatively complex ways. The fact that the reforms occurred during liberal presidencies is consistent with the historical pattern in both developed and developing countries, where periods of strengthened environmental policy, in general, coincide with progressive, liberal and leftist governments. (Janicke and Weidner 1997).

#### Rise and Decline of the Environment Ministry

In a 2008 study, titled suggestively "The Policy of Sustainability: The Rise and Decline of the Colombian Environment Ministry," Henry Mance suggests that after the passing of Law 99 of 1993, the Ministry experienced a period of limited consolidation under the governments of presidents Ernesto Samper and Andrés Pastrana (1994-2002).<sup>13</sup> These limitations and the Ministry's subsequent decline are explained by Mance as related to the great vulnerability of environmental institutions to political changes –a vulnerability, moreover, greater than that of other sectors of the government.

Indeed, the period in question saw setbacks in environmental legislation, along with substantial advances in management. The setbacks occurred even during the time that Juan Mayr, a well-known environmentalist, headed the Ministry (1998-2002). Thus, for example, the Mining Code was reformed so that it reduced the authority of the Ministry and the Regional Autonomous Corporations

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<sup>12</sup> Roth (2002) has interpreted the policy changes of the two periods through Sabatier's (1993) concept of *advocacy coalitions*.

<sup>13</sup> A more detailed description of the environmental institutions and policies of Colombia between 1993 and 2004, as well as an evaluation of the achievements of this period can be found in Rodríguez Becerra, Manuel. 2006. "[The environmental protection regime.](http://www.manuelrodriguezbecerra.org/bajar/environmental.pdf)" In Cepeda Ulloa, Fernando. *Strengths of Colombia*. Washington DC: Inter-American Development Bank. <http://www.manuelrodriguezbecerra.org/bajar/environmental.pdf>

in the awarding of environmental licenses for the mining sector (previously established under Law 99 of 1993). This revealed the Ministry's impotence in the face of private sector efforts to make environmental legislation more lax. Similarly, during this period, the portion of the national budget reserved for environmental management began to decline, as can be seen in the following sections:

According to Mance:

The institutional vulnerability of the Ministry was not totally evident under the governments of Samper and Pastrana. But under President Uribe, the change has been undeniable. Perceiving the political environment, Uribe has exploited the vulnerability of the Ministry so as to weaken it. (Mance 2008, 1).

Mance also indicates that national environmental institutions greatly declined as a result of the fusion of the old Environment Ministry with a significant part of the Development Ministry (drinking water, basic sanitation, and territorial development). State oversight bodies drew attention to this situation:

As has been repeatedly stated during the last three years by the Contraloría General de la República (Office of the Comptroller General) –CGR–, the nation's environmental sector has clearly suffered under the current administration: (CGR 2005, 4).

The fusion happened as a result of promises made by Álvaro Uribe during his presidential campaign to shake up national government institutions. But it also happened without any evaluation as to its appropriateness. Moreover, it was accompanied by rash declarations by Interior Minister Fernando Londoño who accused non-governmental environmental organizations of being wolves in sheep's clothing, or in other words, allies of guerrillas cloaked in an apparently noble enterprise.<sup>14</sup> Never, in the history of Colombian environmentalism, had a government begun so alienated from environmentalists.

Another evaluation of the environmental performance of the Ministry of the Environment, Housing and Territorial Development (MAVDT) was carried out in

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<sup>14</sup> Londoño made this declaration in July 2002, when he already been named minister, but President Uribe had yet to take office. A large group of environmentalists sent the president-elect a letter about the matter, but he never responded.

2007 on the initiative of the Dutch government as the basis for defining its program of assistance and institutional strengthening of the Vice-Ministry of the Environment. That study concluded that since its creation in 2003, the Vice Ministry of the Environment has been poorly integrated with the vice-ministries of Potable Water and Housing; that between 2002 and 2006 the environmental vice-ministry had a lower budget priority than the other two vice-ministries; and that during the same period, national environmental policy diminished in its technical, financial and leadership capacity compared to the pre-existing institution. (Royal Netherlands Embassy, 2007). The result was a substantial loss in the entity's ability to carry out its basic functions as a central authority and as coordinator of the National Environmental System, in crucial aspects of regulation, planning and the setting of policy (FNA <sup>15</sup> 2008).

#### Weakening of sectorial environmental management

The national government's capacity to green its policies was significantly undermined in 2003 when the Environmental Policy Unit of the National Planning Department was eliminated. This unit had sought to incorporate the environment in the plans and programs of different sectors.<sup>16</sup>

But the weakening of the government's environmental capacity was not limited to this development. The Ministry of Foreign Relations had once played a proactive role in environmental affairs abroad. But its current technical capacity for environmental issues is considerably less than what it possessed in the 1990s.<sup>17</sup> Similarly, little remains of the environmental capacity of the Transport Ministry, which once had one of the strongest environmental units of any such ministry in Latin America (Quintero and Sánchez, 1998).

Some ministries have even played a negative role in environmental protection. For instance, the Transport Ministry appears to have thrown its weight behind the granting of environmental licenses for the construction of the Palermo and

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<sup>15</sup> FNA: Foro Nacional Ambiental (National Environmental Forum).

<sup>16</sup> At the beginning of President Uribe's second term, it was announced that the Environmental Policy Unit would be reconstituted. But as of the end of 2008, little had been done.

<sup>17</sup> Interview conducted jointly with Paula Moreno of Andrea Albán, the director of the Division of Special Affairs of the Ministry of Foreign Relations, May 2004. This was part of an investigation on the foreign policy of Colombia in the environmental area (Rodríguez 2005).

Dibuya ports, which have had a destructive impact on environmentally-sensitive areas. (Correa 2006). It is also working on the Las Ánimas-Nuquí highway. And it has announced the building of a highway through the Darién Gap, as well as the construction of the Pacific waterway and Tribugá port. Those works are not only potentially harmful from an environmental point of view. They will be built in the Chocó biographic region, which lies on Colombia's Pacific coast, consists predominantly of rainforest and is considered one of the most biodiverse regions of the planet as well as being home to an Afro-Colombian population of immense cultural richness and diversity. Indeed, it was precisely because of the fragility of the Chocó region and the need to protect it that previous governments abstained from building such infrastructure, preferring instead to avoid any risk of serious environmental harm.

Meanwhile, the Agriculture Ministry, along with the Environment Ministry, played a significant role in the formulation of the Forestry Law, which after being signed by the president, was declared unconstitutional by the Constitutional Court for having violated the constitutional provision requiring prior consultation with indigenous communities. The law, which favored the lumber sector, was clearly unfavorable from an environmental perspective. It's anti-environmental nature was stressed by numerous civil society groups which brought suit to the Court, as well as by the Attorney General of the Nation. (Azüero *et al.* 2006; Mayr *et al.* 2006; Maya 2005).

Ingeominas, an entity affiliated with the Ministry of Mines and Energy, awarded mining titles in the paramos, the national parks and other valuable ecosystems (Vieira 2007), generating heated debate at the beginning of 2009. Still there was opposition. Environment Minister Juan Lozano and his deputy minister, Claudia Mora, adopted a tough position against any mining that put at risk water resources. Moreover, they have tried to nullify the mining concessions granted in the paramos and exclude mining from other areas of ecological importance. (*El Espectador* 2009).

These examples confirm that President Uribe has given priority not to the environment, but to defense, foreign investment, and the exploitation of natural resources. Indeed, he has viewed the environment as an obstacle to those priorities.

The previous examples also illustrate that policy has not been monolithic when it comes to environmental management within the central government. While the Environment Ministry, in alliance with the Agriculture Ministry, promoted a forestry law that was truly worrisome from an environmental standpoint, the Environment Ministry during Uribe's second term confronted the Mining Ministry over mining concessions in areas of high environmental value. The only way to interpret these contradictions is to point to the greater environmental commitment of Minister Juan Lozano (Uribe's second term) in comparison with his predecessors, Cecilia Rodríguez y Sandra Suárez. We see that commitment not only in Lozano's actions but also in his speeches, which reveal that a minister's personal positions always give him some room to maneuver in policy areas. Nonetheless, Lozano's greater commitment –supported to a great extent by his deputy minister, Claudia Mora, an environmentalist of longstanding– encountered roadblocks in a government concerned above all with economic growth and defense. We see that not only in the cases previously mentioned but also in the awarding of an environmental license to the US company Drummond for the largest mining project ever undertaken in Colombia, which is also one of the world's largest open-pit, coal-mining projects. Drummond has a poor record in environmental management (PGNRC 2007). Pressures brought to bear on the Ministry by the executive branch would seem to be the reason that the license was granted.

#### Economic resources in decline

The priority -or lack thereof- given to the Environment Ministry and the National Environmental System (SINA), has been reflected since their beginnings in the economic resources assigned to them. SINA's financing has two large components. First, there is the autonomous regional corporations' income as laid out in the Constitution and Law 99 of 1993. Income is concentrated overwhelmingly in eight CARS. It comes principally from the transfers of municipal property taxes, transfers from the electrical sector, and the high income from the capital of some of those items. In second place are contributions from the General Budget of the Nation (PGN) to the rest of the SINA, including the System of National Parks, the five research institutes, a large number of the autonomous regional corporations, all the sustainable

development corporations, and the Vice-ministry of the Environment (until 2003, the Environment Ministry). According to figures presented by Guillermo Rudas in a debate over SINA:

The trend in the contributions of the PGN to SINA reflect, during SINA's first three years, the increasing priority that national authorities give to the structuring of the System. Nonetheless, this priority falls off markedly in subsequent years, reflected, above all, in the accelerated decline in absolute terms of the money awarded to SINA. It can also be seen in the significant decline in SINA's percentage of the total General Budget (PGN) which drops from 0.52 percent in 1996 to only 0.14 percent in 2006. The environment represents an ever smaller priority for the State, compared to other areas of public policy. We also see this in the significant decline of the national environmental budget as a percentage of GDP, which drops from 0.11 percent in 1996 to just 0.04 percent in 2006. In other words, there is an inverse relationship between the drop in funding for the environment and the growth in environmental impacts resulting from population and economic growth.

The income of some of the corporations has grown. Those that stand out in this regard are the CVC, the CAR, Corantioquia, the CDMB, the CRC, the CVS, Cornare and Corpoguajira. This income growth is the result of the solid contribution of the corporations' principal sources of financing: the property tax, the transfers from the electricity sector, the mining royalties and the income from accumulated capital. As a result, the historic tendency of this component of environmental financing shows a sustained growth as a percentage of GDP, rising from 0.14 percent in 1996 to 0.28 percent in 2005, and an equally increasing participation in the PGN, which rises from 0.65 percent in 1996 to 0.91 percent in 2005. Nonetheless, this positive trend cannot obscure major deficiencies and the trend in budget reductions in the majority of the autonomous regional corporations and the sustainable development corporations. Indeed, two-thirds of the total national income from the corporations comes exclusively from the eight corporations indicated above. (FNA 2008, 2).



According to Rudas' studies (2008a, 2008b), the cutback in resources from the General Budget of the Nation was due to the nation's economic crisis at the end of the last decade, which also affected allocations to other sectors. When the crisis began to ebb at the end of the Pastrana presidency, the budget assigned to the environmental sector increased, seeming to indicate the necessity of returning to previous levels. But again, this allocation fell during President Álvaro Uribe's first term, while sectors like defense, education and transport experienced substantial increases in keeping with their greater importance for the government. This tendency would be partially counteracted during the first two years of President Uribe's second term by an increase in the budget allocations to the national parks and the research institutes, but as has been emphasized:

[...] in order to change the historic tendency this effort had to be not only sustained, but consolidated and expanded to other components of SINA, which continue to be seriously affected by the tendency over the last 10 years to reduce the national resources assigned to SINA (FNA 2008, 2).

#### Decline in the CAR as environmental authorities

The CARs were weakened as environmental authorities in the period 2002-2008. We see this expressed in myriad ways, especially in the overall reduction of funds available to them for environmental management –as examined in the previous section; the decrease in their technical and oversight capacity; and the decline of policy instruments critical for the protection of the environment.

During President Álvaro Uribe's two terms, the CARs were ordered to invest part of their resources in the potable water and sanitation sectors. This led to a worrisome reduction in the funds available for environmental management in at least 20 corporations (the reduction could amount to 36% in real terms) and was in effect a transfer to the CARs of responsibilities belonging to territorial entities. (Rudas 2008b). In 2008, the Office of the Comptroller General of the Republic remarked:

It can be inferred that environmental spending has been focused on delivering public services to households (e.g. the demand for water) rather than guaranteeing the supply of environmental goods and services, at least through reforestation. The territorial entities are thus investing funds in activities that, only in some cases, generate concrete benefits for the protection, conservation, and sustainable use of ecosystems and their associated resources. For this reason, we can consider territorial environmental management to suffer from serious weaknesses. (CGR 2008, 8).

The Office of the Attorney General of the Nation similarly found that the CARs could not use their resources for sanitation and the construction of aqueducts as foreseen in the Departmental Water Plans drawn up since 2007 under the guidance of the Vice-Ministry of Water of the MAVDT.

The CARs' capacity to carry out their duties also has been undermined by the reduction in staff functionaries and technicians. This was the result of a presidential directive ordering an increase in the investment budget at the expense of the operating budget, so that the two items would represent respectively 67% and 33% of the total.<sup>18</sup> As a result, the CARs reduced their staff between 20% and 40%,<sup>19</sup> even though these dwindling numbers were inadequate to meet the CARs' responsibilities, according to a World Bank analysis (Blackman *et al.* 2004, 80). Indeed, the staff reduction was incongruent with the fundamental role of the CARs as environmental authorities, a role which requires a critical mass of technicians to write regulations, award permits and licenses, and exercise oversight of diverse economic actors.

At the same time, two of the economic instruments critical to the CARs' environmental management, the water-use tax and the pollution tax (paid for dumping sewage in bodies of water), were crippled. The water tax was decreased significantly at the beginning of President Uribe's first term and the pollution tax has not been updated, causing both instruments to lose their effectiveness.

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<sup>18</sup> The President gave instruction on this matter during the two community meetings (consejos comunitarios) specifically about the CARs, which were conducted in Uribe's first term. (Consejo Comunal, Corporaciones Autónomas Regionales, Universidad de la Sabana, Chía, 6 y 7 de septiembre de 2003; Consejo Comunal, SINA, Cali, noviembre 6 de 2004).

<sup>19</sup> Interviews with five CAR directors

(Rudas 2008b). This situation was the result of a decision to favor the productive sector and make the use of water practically free. And it fulfilled the goal of reducing the environmental demands and economic burdens on companies and neutralizing their pollution tax. Thus the two principal economic instruments for protecting water, based on the *polluter pays principle* were practically eliminated. Apart from the decline that they have experienced as a result of decisions taken during President Uribe's two terms, the CARs as a group also have suffered from diverse problems of administration (a lack of transparency, politicization, difficulties in defining priorities); from deficiencies in coordination with the Environment Ministry (some of them derived from weak MAVDT leadership, and others from conflicts arising from the CARs' interpretation of their autonomous status) as well as from difficulties of coordination with urban authorities –in large part because of the lack of clarity in Law 99 with respect to the division of responsibilities (CTC<sup>20</sup>2006; Canal 2007). Many of these difficulties are common to almost all the CARs. But it is important to note that the extent of the difficulties varies enormously among the different corporations. The performance of some of them has been exemplary in comparison with the regional authorities of other developing countries. (FNA 2008).

#### Strengths and new signs of weakening

Despite these problems and difficulties, we can look back at SINA's institutionality as positive in many respects, as diverse analyses have found (Sánchez et al 2007). In a debate on this topic, it was emphasized:

SINA's scheme allowed for the structuring of relatively strong, regional environmental authorities, with solid sources of financing partially shielded from shifting priorities in national fiscal decisions. The environmental authorities were able, in many cases, to confront great challenges arising from regional diversity. All that by taking advantage of institutional development and experiences acquired during more than five decades in different regions of the country and in different corporations.

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<sup>20</sup> CTC: Corporación Transparencia por Colombia.

One of SINA's principal sources of strength is its institutional scheme. This is characterized by the decentralized, autonomous and democratic nature of the regional corporations. It is fundamental and must continue to develop in all its potential, before being subject to efforts at reform that could easily undermine its virtues, especially under current conditions.(FNA 2008, 4-5).

In general, an examination of the CARs and the MAVDT together since the approval of Law 99 reveals achievements and advances in environmental management, many of them substantive. (Canal 2007). This is true even during President Uribe's two terms --especially the second term-- despite the general decline in environmental policy. But the environmental deterioration of the county --which has been amply documented both in a World Bank report (Sánchez *et al.* 2007) and by IDEAM (2004)-- indicates that the MAVDT and the CARs are still far from achieving the goals for which they were created.

Unfortunately, reform appears to be in the air at the expense of environmental management. In December 2008, the President publicly ordered the Environment Ministry to use a new law to eliminate those corporations whose budgets were sufficient only for their operations. The eliminated corporations would be fused with other corporations so as to cut consolidated operating costs in favor of investment.

Moreover, in the same speech <sup>21</sup> the president urged the Ministry and the CARs to dedicate part of their investment to deal with the disasters caused by winter rains. As a reaction to this and other presidential instructions regarding the CARs, the director of the Carder, one of the most distinguished corporations in terms of its performance, said:

The CARs are expected to handle emergencies, conduct disaster prevention, manage the impacts of winter, and build infrastructure, when in their spirit they are environmental authorities, which protect natural resources and promote ecological development as well as

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<sup>21</sup> Communal meeting on Disaster Risks and Assistance, (Consejo Comunal de Riesgos y Atención de Desastres). Sena, Seccional Bogotá, December 6, 2008. (Realized by simultaneous broadcast with various cities, via satellite).

environmental sensitivity and education [...] The national government cannot oblige the CARs to invest in projects beyond their spheres of action and thus harm their mission (Carder 2009, 1).

### **Final considerations**

This article has tried to illustrate the difficulties involved in “greening” the Colombian state, difficulties that are common to both developing and developed nations. The principal factors behind these difficulties are various conflicts, still not resolved, between models of economic development and environmental protection, which are reflected in the weakening of Colombia’s first big environmental reform realized in the early 1970s.

These conflicts intensified at the beginning of the 1990s (Guimarães 2004). On one hand, the concept of sustainable development was enshrined at the highest political levels. Historic environmental agreements were signed and historic declarations made at the Rio Conference of 1992. On the other hand, the final negotiations of the Uruguay Round were drawing to a close, leading to the creation of the World Trade Organization and an acceleration of economic globalization. (OECD<sup>22</sup> 1997).

In many developing countries, globalization has stimulated great transformations in the productive system, frequently with a considerable environmental impact. This can be seen in the case of Colombia, which is rapidly being transformed into a mining country and could possibly become a big producer of biofuels as well – two activities with a high environmental impact. The fact that Colombian exports have quadrupled in absolute terms during the last six years is an indication of the depth of this change. Indeed, it is fair to say that the weakening of environmental institutionality and policy in Colombia over the last six years corresponds to desires to boost exports. According to this vision, obstacles to the export model, based largely on foreign investment, must be removed, including many environmental policies and norms. We see this in government actions intended to create more favorable conditions for foreign investment, which are described throughout this paper, as well as in repeated declarations by high-level government officials. At the same time, this vision represents a great

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<sup>22</sup> OECD: Organization for Economic Cooperation and Development

environmental setback compared to the vision that motivated the reform in the early 1990s. It also fails to take into account recent formulations that make sustainable development a fundamental goal of society in the context of globalized capitalism. (Porrit 2006). Nonetheless, it is important to point out that the environmental weakening also is related to the government's focus on the "Democratic Security" policy. That emphasis has generally reduced resources not only for environmental policy but for social policy as well. (CNP<sup>23</sup>2004).

Environmental policy's dependence on presidential will is another factor that has made it more difficult to "green" the State, both in our country, as shown in this article, as in developed and developing countries generally. (Mance 2006a; Janicke and Weidner 1997). It means that reforms which are oriented around strengthening environmental policy and carried out by one administration can be weakened by subsequent administrations, which don't consider them a priority. In other words, the institutionality of the environment within the state apparatus is more vulnerable to the will of the heads of state than other more traditional areas of public administration, as can be clearly seen in the case of US President G. W. Bush (Kennedy 2004). This phenomenon –which works both to weaken and strengthen environmental institutionality– has been at work in other nations of Latin America and the Caribbean over the last two decades, according to a preliminary exploration of the topic carried out for Argentina, Brazil, Ecuador, México and Perú (Rodríguez 2008).

The dependence of environmental policy on the will of heads of state is favored in part by the relative weakness of civil society groups working on environmental issues. This is exaggerated in developing countries where large sectors of the population are fighting; above all, to obtain the basic necessities of life in areas like health, education, housing and security and are little concerned with the environment. We did not explore that problem in this article. But, as indicated, presidents of Colombia have been able to direct environmental policy in essential matters, taking into account civil society organizations and seeking their help, when they decide to prioritize environmental affairs –as happened during the governments of president César Gaviria and Alfonso López. But they also have ignored civil society organizations and even attacked and discredited them when

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<sup>23</sup> CNP: National Planning Council (Consejo Nacional de Planeación.)

they sought to weaken environmental institutionalization and policy, as happened at the beginning of President Álvaro Uribe's administration.

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**Table 1. Creation of the Cars**

| Institutional origin  | Corporation  |
|---|--|
| Created before Law 99 (maintain structure, name and jurisdiction) | <ul style="list-style-type: none"> <li>• CARDER</li> <li>• CORPONARIÑO</li> <li>• CORPONOR</li> <li>• CORTOLIMA</li> <li>• CRQ</li> <li>• CORNARE</li> </ul> |

|   |  |
|---|--|
|   | <ul style="list-style-type: none"> <li>• CVC</li> </ul>  |
| Created before Law 99 (modify name and/or jurisdiction)                           | <ul style="list-style-type: none"> <li>• CORPAMAG</li> <li>• CORPOCESAR</li> <li>• CORPOGUAJIRA</li> <li>• CORPOCALDAS</li> <li>• CRC</li> <li>• CVC</li> <li>• CAR</li> <li>• CDMB</li> </ul>   |
| Created by Law 99   | <ul style="list-style-type: none"> <li>• CORPORINOQUIA</li> <li>• CARSUCRE</li> <li>• CAM</li> <li>• CORANTIOQUIA</li> <li>• CRA</li> <li>• CAS</li> <li>• CORPOBOYACÁ</li> <li>• CORPOCHIVOR</li> <li>• CORPOGUAVIO</li> <li>• CARDIQUE</li> <li>• CSB</li> </ul> |
| Created by Law 99 (new ones)  | <ul style="list-style-type: none"> <li>• CDA</li> <li>• CORALINA</li> <li>• CORMACARENA</li> <li>• CORPOMOJANA</li> </ul>  |
| <b>CDS</b> (Sustainable Development Corporations) created by Law 99 (change name) | <ul style="list-style-type: none"> <li>• CORPOAMAZONIA</li> <li>• CODECHOCÓ</li> <li>• CORPOURABÁ</li> </ul>   |

Taken from Canal and Rodríguez 2008.

