

The long shadow of the financialization of nature in the nature conservation law: the case of SBAP Law in Chile.

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After 13 years of negotiation and processing, approval of *Ley 21.600 que crea el Servicio de Biodiversidad y Áreas Protegidas (SBAP) y el Sistema Nacional de Áreas Protegidas (SNAP)* (Law 21.600 for the creation of the Service for Biodiversity and Protected Areas and the National System of Protected Areas) has been a milestone for nature conservation in Chile. Building on it, some regulations are being developed. Of particular interest to the purpose of this entry would be the 1. *Reglamento sobre compensaciones en Biodiversidad* (Regulation on Biodiversity offsets) and the 9. *Reglamento sobre Sistema de Certificación en Biodiversidad y Servicios Ecosistémicos y sobre contratos de retribución por servicios ecosistémicos* (Regulation about the certification system of Biodiversity and Ecosystem Services and Payment for Ecosystem Services agreements).

Both could be examples of the advancement of orthodox economic thinking into the nature regulation and the decision-making processes worldwide, and the financialization of nature as a direct consequence of the conceptual conversion of ecosystems' structure and functioning on mere natural capital and services.

Based on the idea of nature as a form of capital (active or asset), biodiversity offsets are a set of mechanisms under different names (biodiversity banking, biodiversity compensation, environmental compensation, etc.), allegedly designed to counterbalance the impacts of nature on biodiversity. Instead of avoiding or reducing impacts (when the impact is alleged to be unavoidable), project developers can invest in natural capital by buying land or making agreements with owners to e.g., plant trees,

create artificial habitats in another place or to avoid supposedly future impacts. Promoters claim that the idea is to ensure no net loss or even a net gain of biodiversity in the context of market management of nature. Thus, a sort of biodiversity credits are created to be sold and bought, so that impacts can continue to be generated, and land has been preserved for theoretical conservation purposes elsewhere.

Different investigations at the Center for Environmental Public Policy of the Berkeley University have raised growing evidence suggesting that most of these offset schemes exaggerate biodiversity or climate benefits and underestimate potential harms or problems identified in the process, apart from the many flaws detected in the different methodologies used.

Certification and Payment for Ecosystem Services (PES) are another of these market mechanisms. In accordance with the orthodox view of economics, ecosystem services are externalities since they provide benefits which are not paid for and therefore are not internalised in economic decisions based on cost-benefit analysis at the individual or social scale. PES would allow the translation of these ecosystem services into financial incentives for conservation targets at owners and natural resources managers.

In most cases, certification of Biodiversity and Ecosystem Services are only a form of reification of ecosystem structure and functioning in order to characterize the value of specific biodiversity or ecosystem services to which it will be paid for. Even if it has been widely adopted, Payments for Ecosystem Services have been criticized by different authors like N. Kosoy and E. Corbera, as a form of commodity fetishism, which hides ecosystem characteristics and complexity, different values and valuation languages, and institutional asymmetries, inserted into the broader context of the so-called new conservation paradigm.

In the last decade, concepts like natural capital, ecosystem services or nature contributions to people and markets directly associated have been mainstreamed from recommendations of United Nations to decision-makers at different institutional levels. Several legal instruments have been approved to support the creation of these markets (payments, compensations, etc.) for virtual commodities such as biodiversity or ecosystem services. There are not comprehensive figures about the total amount of money invested in these biodiversity or ecosystem services' markets, but it is possible to have an idea of the benefits that are being extracted by using well-established markets of ecosystem services, like carbon market as a paradigmatic example. According to MSCI, carbon market, theoretically created to reduce carbon emissions and mitigate climate change, has been valued in 1.4 billion US\$ ($\times 10^9$) only in 2025 in the context of the highest carbon concentration levels in the Earth atmosphere in the last 14 million years.

These mechanisms are still being developed in Chile, but the adoption of these concepts by different regulations, in order to promote the introduction of economic mechanisms in biodiversity conservation, has usually been an open door to large market speculative operations of land and resources appropriation with many benefits for a few people. Just to mention some examples of actual practices on the biodiversity offsets ground, according to the work developed by the Green Finance Observatory in Asia, Africa or Latin-America, so often, local communities are not even aware of the use of their lands to implement biodiversity offsets, being banned to use their traditional lands for

decades, and of course not being part of potential benefits produced. Also, plantations in certain REDD+ emission compensation programs are reported to be done with fast growth exotic species which fail to survive in territories to which they are not adapted with the obvious fail to respond to the climate crisis.

Reglamentos

1. Reglamento sobre compensaciones en Biodiversidad

Etapas: En elaboración proyecto definitivo

La elaboración del reglamento de Compensaciones de biodiversidad se enmarca en la evaluación ambiental de proyectos y definirá los criterios y estándares para determinar si las medidas de compensación propuestas resultan apropiadas, aplicando el principio de jerarquía, pérdida neta cero y, criterios de equivalencia y adicionalidad que aseguren resultados medibles, de conformidad con el artículo 38.

Expediente

[Expediente Artículo 38](#)

9. Reglamento sobre Sistema de Certificación en Biodiversidad y Servicios Ecosistémicos y sobre contratos de retribución por servicios ecosistémicos

Etapas: Elaboración del anteproyecto

Este reglamento se referirá a dos instrumentos económicos de conservación de la biodiversidad. Sobre el artículo 51 de la ley 21.600 regulará la aplicación, los procedimientos y los requisitos del Sistema de Certificación, destinado a certificar contribuciones a la conservación, y sobre el artículo 52 de la ley 21.600 regulará los contratos de retribución por servicios ecosistémicos para preservar, restaurar o hacer un uso sostenible de los ecosistemas.

Expediente

[Expediente Artículo 51 y 52](#)

Agreeing that it is better to have legal guidelines on these topics than a gap which could be used by economic agents for speculation, when these concepts have already been included in law and economic mechanisms associated want to be promoted, like in the Chilean case, environmental and social safeguards are essential to avoid the most negative effects intrinsically linked to the technocratic management derived from this instrumental view of nature. Without these safeguards, this commodification of nature should be fully rejected by communities and academics involved in Ecological Justice. And even when these safeguards would be included, it must be taken into account that the supposed environmental benefits of these mechanisms are likely never to be realized since this is not the genuine goal of the investments.

Further reading and resources

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