



Justice Delayed, Justice Denied? International and Domestic Remedies to Protect the Right to Safe Drinking Water in Costa Rica's Caribbean Pineapple Production Zone

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Executive Summary

Industrial pineapple cultivation in Costa Rica has expanded 300% over the last decade and a half to cover nearly 45,000 hectares. Accompanying this growth there is alleged to be wide-spread contamination of water supplies from agrochemicals entering ground and surface waters. While these chemicals protect pineapples from competition and pests, increasing the number and volume of pineapple harvests, they can be highly toxic to humans, animals, and the environment.

In light of these developments advocates contend that the Costa Rican government has failed to comply with international and domestic obligations to:

- 1) Adequately consult with citizenry on issues impacting their health and environment;
- 2) Perform necessary environmental impact assessments of plantations; and
- 3) Adequately prevent or mitigate the damages caused by exposure to agrochemicals.

These failures contradict legal authority that arguably makes access to clean drinking water a right in Costa Rica, including the Water Act (1942), the National Service of Underground Waters, Irrigation, and Drainage Law (1983), and the Organic Law of the Environment (1995). Moreover, the human right to water has been recognized by the United Nations in a 2010 resolution signed by Costa Rica.

There is persuasive authority that has not yet made it into Costa Rican law. A 2008 Bill endeavored to create a “fundamental right to water in Costa Rica,” making water “essential and indispensable”. A second iteration, titled Law 17.742, came before lawmakers in 2014 through popular initiative (the collection of over 150,000 signatures). It sought the same fundamental right status and attempted to establish integrated management of water resources under a National Water Directorate. The law was rejected by the Costa Rica Constitutional Court and has not been reformed to comply with the Court’s mandate. Finally, a draft Executive Order would have explicitly prohibited the registration, use, import, and storage of Bromacil, the agrochemical most associated with water pollution and pineapple production. That order was never put before the President for signature.

Potential international remedies include a petition to the Inter-American Commission on Human Rights (ICHR), and a submission to the Central American Free Trade Agreement (CAFTA) environmental secretariat. Among other procedural hurdles, both of these are subject to an often problematic requirement for exhaustion of local remedies. Actions under ICHR and CAFTA result in reports and recommendations carrying the weight of the international community, but do not necessarily have the force of domestic law. This report also discusses actions by citizens and communities in domestic tribunals under Costa Rican civil and administrative law. Actions under the Civil Code could result in anything from monetary damages to adjustments allowing appropriate enjoyment of personal property. Administrative relief is obtained through Costa Rica’s “green court,” - the Environmental Administrative Tribunal - where a case has been pending.

This preliminary investigation addresses the potential of these international and domestic claims in the context of a case study involving several Costa Rican Caribbean slope communities with contaminated water supplies and shows the way forward for further research.