

LFFU

Leave Fossil Fuels Underground at a Glance

LFFU in Costa Rica: The national moratorium on oil drilling

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20/03/2020

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The oil ban at a glance

- Costa Rica as one of the first countries to declare a national moratorium on oil drilling due to environmental and social concerns
- Moratorium as a landmark victory against fossil fuels, and a milestone for Costa Rican civil society activism and mobilisation
- Moratorium extended until 2050 in 2019
- Ecotourism, fishing and environmental conservation as industries seen to foster the country's development and democratisation able to thrive due to the active moratorium
- Anti-oil activism unique in its strength across differences in class, race and region
- Reaffirming Costa Rica' image of a country with visionary ideas that shape reality

● Key actors

- Oilwatch Costa Rica
- Grupo ADELA (Acción De Lucha Anti-petrolera) - a coalition of anti-oil activists and organisations in the region of Limón
- civil society as a united, powerful force
- SETENA Costa Rica (National Technological Environmental Secretariat)
- MINAE Costa Rica (Ministry for Energy and Environment)
- Municipality of Talamanca
- Harken Energy: oil corporation that tried to legally fight the moratorium
- MKJ-Xplorations as the first corporation to be granted drilling concessions
- International environmental and scientific organisations and collectives
- Tourism industry as one of the economy's strongest sectors
- Carlos Roldan: activist against the oil ban due to the loss in revenues

● Key arguments in favour of the ban

- Unique levels of biodiversity which could be lost in the event of oil extraction
- Oil extraction would supply North American demand and profit hunger
- Inherent contradiction between ecotourism, as one of the strongest economic sectors in Costa Rica, and oil extraction
- extraction could spark social, cultural and economic fragmentation, putting at risk ancestral knowledge and systems of environmental conservation
- Loss of land and livelihoods for local residents in Talamanca region
- Environmental costs of oil extraction were estimated to amount to \$57 million
- Entering the fossil fuel market now bears high risks due to price volatility
- Involvement of Chinese oil firms associated with human rights violations and disregard of environmental conservation guidelines

● Key arguments against the ban

- Politicians withhold natural resource wealth from Costa Rican citizens
- Oil revenues could be used for development programs or pay foreign debt

- **Key dates**

- Late 19th Century: discovery of oil reserves in Costa Rica by Minor Keith
- 1983-86: Oil exploration by PEMEX and RECOPE peaked in Talamanca region
- 1998: 20-year oil drilling concessions granted to MKJ Xplorations for the region of Limón
- 1999: MKJ Xploration hands over its offshore oil concessions to Harken Energy → the contract sparks widespread dissent within civil society
- 2002: local moratorium on oil drilling in the Talamanca region issued by Council President George Brown
- 2002: national moratorium on all future oil drilling signed by President Abel Pacheco
- 2003: SETENA declares Harken's Environmental Impact Study insufficient, contract is perceived violated and concessions are withdrawn
- 2003: Harken legally contests the moratorium at the ICSD and demands \$13 million of compensation
- 2011: extension of the oil moratorium until 2021 under President Laura Chinchilla
- December 2014: Court decision reached in favour of Costa Rica, Harken has no claims on neither drilling nor compensation
- 2019, February: oil moratorium extended until 2050 by President Solís
- 2019, September: Carlos Roldan collects signatures for referendum on oil ban

The Central American country Costa Rica has a rich history of environmental protection and initiatives to leave fossil fuels underground. Being home to 6% of global biodiversity (Embassy of Costa Rica 2019), a variety of natural habitats and cultures dependent on the health of their natural environments, Costa Rica provided fertile grounds for successful LFFU activism as all of the above would risk to become severely endangered in the event of oil extraction. Further, Costa Rica is renowned for its efforts to preserve endangered marine species such as sea turtles and deep-sea sharks, as well as its abundance in corals, seagrass and mangroves. The Costa Rican North with its beaches, canals and wetlands is internationally recognised as one of the last resorts for sea turtle nesting worldwide. This environment, accommodating an exceptional variety of (endangered) species has become particularly precious in a time of climate change and the damage done to marine environments worldwide (Alvarez Mora 2018). Moreover, these territories often prove central in providing livelihoods to local and indigenous communities, and are partly declared to be Nation Parks under environmental protection. Resting on this foundation of unique natural beauty, the country is often considered the birthplace of ecotourism, defined as 'responsible travel to natural areas that conserves the environment, sustains the well-being of the local people and involves interpretation and education' (TIES 2015). Thus, to this sector of the Costa Rican national economy, which contributed 6.3% to national GDP in 2018 (Alvarado 2018), a healthy and thriving natural and social environment is vital.

When oil exploration started to take place in the Caribbean state, it was perceived to bear a serious risk of destroying the pristine environment, biodiversity and sustainability of livelihoods

in due to its link to climate change, and the polluting properties inherent to oil extraction. After a period of anti-oil activism on behalf of civil society, fishermen and environmentalist organisations, the Costa Rican state decided to sign a moratorium on oil exploration on its territories in 2002, representing a historical decision in the fight against climate change, environmental degradation and fossil fuel-based development which Alvarez Mora calls 'history that is born from below and from the heart' (2018). The special power of the Costa Rican moratorium on oil also stems from the fact that it has been supported and upheld throughout the legislation periods of five different presidents from five different parties over the past 17 years, as of 2019, and has recently been extended to the year 2050. With establishing a moratorium on oil drilling, Costa Rica has decided to base its development on the conservation of natural resources and the people for a country where tourism has become the main source of income offering, as its highlight attraction, its nature conservation system and its biodiversity (Alvarez Mora 2018). The Caribbean state reaffirmed its status as a country with visionary ideas, understanding that climate change must be stopped and that building up an oil industry will not be part of the solution.

The history of oil exploration and the moratorium in Costa Rica dates back to the late 19th Century when oil reserves were first discovered by the American businessman Minor Keith. Only in the fifties, sixties and eighties the country's Northern and Caribbean regions saw commercial oil extraction, however. Extraction peaked between 1983 to 1986, when Pemex de México and the Costa Rican Petroleum Refinery (RECOPE) extracted oil in various parts of Talamanca, a region largely populated by indigenous communities (Alvarez Mora 2018). After the exploration and extraction of oil was declared 'public interest' in the legislative period of 1990-94, allowing concessions to be granted without discussing them with the Legislative Assembly before, the American oil company MKJ-Xplorations obtained four oil concessions through a contract with the Costa Rican state (Alvarez Mora 2018). The area in question covered a territory of 5,600km² which is equivalent to 10% of national Costa Rican territory (General Directorate of Hydrocarbons 1998 in Alvarez Mora 2018). In the following year, MKJ Xplorations conducted seismic explorations of a territory covering more than 100km². This event signified the rise in public dissent and mobilization against oil extraction (Alvarez Mora 2018). The protest was mainly led by young people, local fishermen, indigenous groups and afrodescendientes - population groups who all tended to have close bounds and a high dependency on intact natural environments and also accredited a high inherent value to the health of nature, but quickly encompassed most of Costa Rican civil society. Almost simultaneously, MKJ-Xplorations handed over its 20-year offshore concessions to the Texas-based Harken Energy Corporation, which was formerly headed by the then president of the United States, George W. Bush and, as of 2005, emitted an estimated 8.300.000 million tons of CO₂ annually (Oilwatch 2005).

The first signs of success for LFFU movements showed when the Constitutional Court in 1999 decided that EIAs provided by Harken were insufficient and had particularly failed to respect indigenous consent as according to the ILO 169. Consequently, oil drilling on indigenous territories was prohibited. However, offshore oil drilling remained subject to future extractivist projects and new oil concessions were granted to various oil companies in 2000, amounting to another 18% of national territory and 9.497 km² (Alvarez Mora 2018). Shortly after, Harken presented its EIA for drilling an exploratory offshore well - and provoked an unprecedented negative response among the Costa Rican public. Activists and environmental organisations used legal contestations, scientific research and protest to contest oil drilling on all Costa Rican territory. The protests involved the most diverse forms of activism including art, improvisation shows, hunger strikes, and rituals conducted by indigenous groups. This way, the values, wisdom and interests of diverse Costa Rican communities came to confront technical expertise as it was presented by oil companies and investors. According to Alvarez

Mora, the aim was 'to clarify to the tourist, the investor, and the oil companies that Costa Rica would not be an oil colony' (2018) and there was a sense of broad consensus across society that the country's development should not be based on extractive industries. To many Costa Ricans, the wealth of their forests, wetlands, seas and democracy were valued higher than the revenues created from oil extraction. Public pressure peaked in August 2001, when SETENA convened a public hearing on the issue that ended up reaffirming the little economic and environmental viability of the project. During the 2002 presidential elections, the oil issue formed the central topic discussion, while all of the strongest candidates declared themselves jointly against the oil project. As it was approved that the costs of oil extraction would exceed its benefits, the government, judiciary and the new President Abel Pacheco agreed to issue a moratorium on all future oil exploration in 2002.

However, this moratorium did not yet settle the Harken case as concessions had already been granted. Yet, a historical decision was taken in March 2002 when SETENA rejected the EIA for Harken's offshore drilling after the review of scientific research, hearings of the public, political parties and environmental organisations. This event constituted the first manifestation of Costa Rica's total oil ban. After the decision was reached, Harken demanded \$57 billion through arbitration at the World Bank's International Center for Settlement of Investment Disputes (ICSID) as this was the value proposedly lost in profit. \$57 billion represented three times Costa Rica's GDP of 2003. Additionally, American companies and the ambassador at the time, Anne Andrew, pressed for the lifting of the moratorium and the expansion of petroleum extraction. The strong role that the US took on at all stages of Costa Rican oil-history, however, created strong anti-American sentiments among Costa Ricans when it came to oil. According to Oilwatch, one of the strongest arguments for which people disapproved of oil extraction in Costa Rica was due to the fact that most of the oil would be consumed within the US, and not Costa Rica, reinvoking sentiments of 'oil colonialism' where Latin American countries were to satisfy US American demands and needs (Oilwatch 2005). On the US American end, however, the moratorium was perceived as a major setback for economic liberalization. Pacheco announced that Costa Rica was not going to give in to Harken's demand as Harken had failed to comply with environmental regulations. Realizing their small chance in receiving a full \$57 billion compensation, Harken then demanded a \$13 million compensation for its investments in Costa Rican oil between 1998-2005. However, the dispute was settled in 2014 after nine years of conflict, outside of the ICSID, and the Costa Rican Constitutional Administrative Court settled the case in favour of the Costa Rican government and the company's claim was rejected 'in its entirety' (Grey, Mazzucca 2016; ICR News 2014). After the moratorium was in place and disputes with Harken Energy settled, subsequent governments have consistently renewed it and in 2019, President Alvaror Quesada extended it until 2050. The moratorium's extension is part of a broader government policy to decarbonize the country, especially in its transport sector.

Although the oil moratorium has allegedly reduced CO₂ emissions by 160 million tons over the duration of 20 years (Oilwatch 2005), maintained the conditions for a thriving ecotourism industry, helped to preserve endangered marine species and rural livelihoods, as well as sustain the income of 600-800 fisher families along the Caribbean coast, some Costa Ricans unhappy with it. The chemical engineer Carlos Roldan, head of Instituto Tecnológico de Costa Rica, is leading a campaign to promote a referendum on the oil moratorium. He states that 'If politicians deprive us of the possibility to take advantage of our own resources for our well-being, the people have the opportunity to decide otherwise'. Further he claims that Costa Ricans 'cannot afford to have this wealth and not use it' (in Murillo 2019). Over the past months, neighbouring countries such as Cuba, the Dominican Republic and Panama have taken steps to open up to oil exploration. Opponents of the moratorium argue that revenues created from oil extraction could alleviate the country's foreign debt burden and promote economic

development. Yet, this argument is disputed by supporters of the moratorium, as for instance Oilwatch argues that if those estimated 160 million tons of CO₂ saved were monetarised at a rate of \$4/ton, Costa Rica would in fact decrease its external debt by 16% over the next 20 years and foreign debt would actually increase by \$3,883.7 million in the event of oil extraction in order to mitigate the negative social, environmental, and cultural impacts (2005). Today, in the context of international carbon trading and an increased global awareness for climate change, this estimation may be even higher, however, there are no updated numbers and it remains to be seen whether a referendum will become reality and what the arguments on both sides will be. Costa Rica has also entered free trade agreements such as CAFTA (2004), which will enable oil corporations to surpass national jurisdiction more easily. Hence, should the oil moratorium ever be lifted, corporations could encounter much more favourable conditions.

The Costa Rican oil moratorium has also fuelled the border conflict between Nicaragua and Costa Rica over the contested territory of and around Isla Calero on the Caribbean coast. In 2002 and 2014, Nicaragua tried to grant drilling concessions for the disputed territories, assuming that the island belonged to Nicaragua. However, Costa Rican authorities claim the land to be Costa Rican and thus included in the oil moratorium. According to this, oil drilling in these territories would be illegal and former President Laura Chinchilla has accused Nicaragua of 'aiming to capture fishing, oil and natural gas resources that could be in the disputed areas.' She adds: 'Petroleum drilling rights have been at the heart of the maritime conflict' (Dyer 2013). She later calls Nicaragua's persistence part of its 'expansionist policy' (ibid.). The International Court of Justice in The Hague is to settle the conflict since 2010.

Questions for future research:

- Is it possible to determine to what degree Costa Rica's ecofriendly policies and image have fostered and hindered the country's economic growth?
- In how far is Costa Rica's oil moratorium grounded in very particular cultural and environmental contexts, or in how far could it be transferable to other locations?
- What is the probability of the pro-oil movement as advocated by Carlos Roldan to gain substantial support? Could the oil moratorium eventually be lifted?

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