Rethinking our relationship to the natural environment through legally compliant sustainable tourism

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Abstract

Irrational exploitation has devastated the resources of ecotourism; therefore, forming a legal system of ecotourism as soon as possible and having laws to abide by it can ensure the sustainable development in South Africa. The goal is to bring to the surface a course of action taken by local agents about socio-environmental aspects. What is effective is the transformation of reality to open channels towards the participation of civil society in the decision-making process. In this paper we attempt to explore the idea of sustainability within our relationship with the natural environment. Sustainability assumes that natural and human technological resources can be utilised while maintaining the environment. Sustainability must also be understood within the context of ecological, cultural, social, economical and ethical realms. In putting this in perspective, the idea of sustainability becomes more concrete. Amongst a range of environmental constraints that are of necessity playing an increasing role in social development planning, climate change represents the most urgent and far-reaching challenge of our time. This paper is theoretical in orientation, with a keen eye on the practical implications of ideas concerning sustainable tourism that enhances our natural environment

Keywords: climate change, environment, human rights, sustainability and tourism.

Introduction

Many countries on the African continent are facing urgent environmental threats to their economies due to the phenomenon of climate change and its effect of the tourism industry. South Africa, despite its relative wealth and greater endowment of financial resources and infrastructure, also faces similar problems and threats to its economy. The research approach adopted here was therefore premised on the view that tourist destinations are key sites on which to analyse the country's capacity to respond, adapt to, and mitigate the effects of climate change and related environmental problems in an integrated manner consistent with the other priorities to assess and deliver basic services. Key to these issues is analysing tourist destination and policy choices within the framework of sustainability.

When discussing sustainability, one must first understand that its main assumptions are socially supported. Sustainability assumes that human needs must be met indefinitely without jeopardising organisms within the environment. One must also safeguard and control the community while maintaining the environment that sustains it.

The issues of sustainability often lie in the competition between economic sectors for the scarce resources of land, water, energy, waste assimilation capacity and human capital. The idea of keeping an overall world-view with sustainability in mind could redesign tourism attraction to be profitable for both the tourists and the environment. Ecological and economic

interests should then not be viewed in conflict with one another, particularly at the design level, but that economic activities should be (and indeed must be) profitable while maintaining a sustainable society. Furthermore, it should be designed as part of a recycled future that can be returned either as natural or technological nutrients with little or no disposable contents. Sustainability functions must not be developed in a clear linear fashion but more with an overarching consciousness and in attempting to see how all its individual components fit together.

Tourism is considered among the economic sectors least prepared for the risks and opportunities posed by climate change and is only now developing the capacity to advance knowledge necessary to inform business, communities and government about the issues and potential way forward. Any retreat from engagement with climate change issues by the tourism industry or its researchers would be to their detriment. Sustainable tourism is that which is developed and maintained in a form such that it is viable over an indefinite period of time and does not degrade or alter the physical and human environment to an extent that it prohibits the successful development and wellbeing of other activities and processes (Jafari, 2000).

The debate linking tourism with global warming is therefore highly polemical: neither camp engaged in the debate sees the other sides viewpoint. Sustainable tourism could be seen by some as a panacea to mitigate the negative impact of tourism on global warming and by others as a ploy planted by the post-industrial society to divert attention from the core issues. However, climate change per se tends to pose more economic, environmental and cultural challenges to tourism management.

Methodology and Scope

In this article, various dilemmas which effect the realisation of sustainable tourism are outlined. Its purpose is to examine our relationship to the natural environment through sustainable tourism as well as consider the challenges which compromise the realisation of our relationship with the natural environment. A critical review of relevant literature coupled with original reflections of different authors forms the basis of this paper. The source of information employed are based on current legislation and library research. The following materials were sourced from primary and secondary sources: South African legislation, policies, jurisprudence, relevant case law, reports, practices, customs and traditions. Qualitative analysis is utilised as an analytical tool. The article is divided into four sections. The first section introduces the study and the second places the environment within the importance of local management. The third section analyses various dilemmas which compromise corporate environmentalism and climate change. The final section contains a general conclusion. In certain ways, this paper is a meta-analysis of existing literature. It can be said that the objective is achieved since the analysis leads to the opening of fresh streams of thought and balanced perspectives on politically charged issues.

The environment and the importance of Local Management

South Africa's constitutional structure divides the powers and functions of government into three sections: national, provincial and local. In terms of this division, the national government usually formulates broad policies and sets policy parameters for the country as a whole, while the provincial and local governments are mandated to formulate their own specific policies and programmes and to implement them within these national policy parameters (Mokwena, 2009). In a country like South Africa, characterised by historically-determined levels of economic and political inequality, addressing the challenges presented by climate change and sustainable tourism should be done in a manner that is not only democratic but one that progressively reduces the inequalities of the past. It is more promising to address environmental sustainability issues at the micro level, since it may then be possible to achieve

a more operational strategy (Nijkamp, 2002). The environment is one of the areas with the most recurring interventions from the municipal government, considering the awareness of spatial frictions and the opportunities in the behaviours of economic actors.

In the presence of environmental degradation through burning, deforesting, and altering the climate, one can identify municipal concerns with environmental issues. An acknowledgement at municipal level reveals the importance of increasing public articulations/debate, which may stimulate a new attitude from civil society faced with numerous social, economic as well as developmental problems. Each municipality seeks original solutions through innovative actions. If one wants to improve a municipality, one should improve the quality of its services and seek human and economic development in tandem with one another. The improvement of the standard of living, the democratisation of power in the defence of the environment are the new municipal action mottos. Municipalities are involved in areas concerning tourism attractions, production, circulation and distribution of assets and services that contribute to an improvement in the tourism attraction, standard of living and a more democratic and participative management culture.

Difficulties encountered by municipalities in collecting taxes are related to the population's poor income distribution and to payroll reductions that occurred in the last few years. Another constraint is the question of licensing, as few municipalities have the capacity to act towards environmental licensing. Such difficulty allows more independence to municipalities, but justifies itself on the diversity among regions, which does not enable a uniform and strict definition of local impact. The demand for licensing has increased as a response to a cultural change on the part of entrepreneurs, and to a greater performance by environmental agencies. Today, two criteria prevail that restrict environmental liability: environmental impact and the principle of domain or ownership of the natural resource explored.

Environmental demands foster the democratic participation of society in the use of current and potential resources as well as the construction of a new developmental model. The environmental potential of municipalities, the community self-management of resources and the respect for cultural values, all offer new possibilities for sustainable development.

Corporate Environmentalism and Climate Response

Much of the environmental debate revolves around the issue of climate change. The public also seems to expect corporations and tourism destinations to engage actively with environmental issues (Bullis, 2007). Demonstrating a concern for the environment is a vital building block in acquiring legitimacy, which helps to explain why tourism destinations have increased the level of attention they pay to the issue. Tourist attractions have embraced market-based solutions such as emissions' trading, self-regulation, and new technology (Dunn, 2002).

Sustainability and sustainable development are highly contested concepts without full understanding in the corporate world. Most agree that sustainability says something about an entity's ability to continue in existence, and that sustainable development combines and balances concerns about environmental and socio-economic issues (Hopwood, Mellor & O'Brien, 2005). Sustainability has become a concept devoid of meaning, and that no effective or necessary changes are taking place (Welford, 1997). However, others see sustainability as referring to an evolving process influenced by a discourse that needs to be opened for public participation (Peterson & Norton, 2007).

The issue of climate change garners significant public attention. This analysis focuses on how corporations and tourist attractions address the issue of climate change rhetorically. It concentrates on the classical notion of topics. Some see topics as a way of thinking creatively about different issues, whereas others have argued that they are a way of justifying claims,

while others may understand them as the basic elements of enthymemes. Climate change is doubtless the greatest environmental challenge of our day and age. Climate change poses risks to human health and well-being, risks to the ecosystems and their balance, and risks to the markets we serve. Corporations contribute to the construction of discourses on climate change, thus signalling how serious the challenge is and what can be done about it. Tourist attractions cannot construct their responses to climate change at will and the level of attention varies. The high level of international negotiation is also taken into consideration. The argument of: "There is money to be made!" encapsulates the argument that tackling climate change head-on, will lead to increased legitimacy and improved reputation, which is thus followed by increased profits. Although there may be something to gain from urging tourist destinations to see self-interest in tackling climate change, this cannot be the only approach. Incentives can be effective in rewarding responsible tourist destinations, but civil society still needs to maintain a strong regulatory structure to help keep the externalising machine that is the modern corporation, in check (Bakan, 2004).

About the ways' tourist attractions address the climate change issue, the analysis indicates that most of them rely on four topics. The first, gravity, is not a special topic that belongs only to climate policy. However, it is also not one of the common topics either.

Human Rights Principles

The inclusion of the Bill of Rights in the South African Constitution was done during the interim constitution in 1994. The Bill of Rights contains provisions that are relevant to the protection of the environment. It prohibits the enactment of any law which is discriminatory. Further, the law prohibits an enactment whose effect has the potential of being discriminatory.

There are three commonly discussed approaches to examining the interaction between environment protection and human rights. This paper investigates these approaches to examine if the human rights law regime should subsume the environmental law regime, if the latter should subsume the former, or if both the legal regimes should exist separately, with mutual interaction.

First, human rights laws, institutions and processes can be invoked for asserting a right to a clean environment. This usually leads to adopting a rights-based approach to environmental protection with an emphasis on the right to a clean environment. The need to provide a healthy and safe environment, as well as the attainment of social rights for all South African citizens, is necessary and laudable, but difficult to achieve against a backdrop of the need for adequate and cheap energy to meet government priorities of economic and social development. Section 24 of the Constitution is a laudable provision in that it provides a framework for the pursuit of sustainable development, but is quite problematic in that the goal of accelerated economic growth is likely to compromise some of the environmental considerations relating to the advancement of citizen's rights to enjoy a healthy natural environment, especially if the current reliance on coal-based energy remains unchanged (Mokwena, 2009).

A second approach would be to leverage environmental laws, concepts, institutions and processes for better protection of human rights, which could not be attained in the absence of a clean and healthy environment. In other words, defamation and statutory regulations which refer to "environment protection" could be used to assert protection of human rights.

The final approach could be to interface environmental law and human rights. The movement towards "sustainable development," which considers the needs of present and future generations, seems to be heading in that direction.

The authors argue that human rights law and environmental law should continue to develop as two independent but closely linked fields whilst "borrowing" apposite concepts. For

instance, in countries where a separate right to a clean environment is not formulated in clear terms, the existing human rights provisions regarding the right to life and human dignity can be invoked on the basis that the right to decent life cannot be protected in the absence of its concomitant right to a clean environment. However, a human rights-based approach can lead to an anthropocentric approach to environment protection. Subsuming environmental law into human rights makes the environment only a function of human needs and rights rather than an issue that deserves protection in and of itself.

The National Environmental Management Act 107 of 1998, is important legislation, providing remedies for preventing or redressing acts that undermine the constitutional right to an environment that is not harmful for people's health and well-being. It also promotes access to information and public participation in developments that affect the environment. In this process of evolution, environmental law has unleashed several novel principles such as: the participatory principle; the polluter pays principle; the precautionary principle; the inter-generational and intra-generational principles; the prevention principle; the sustainable development principle, and so on.

The separation of Propriety, Administrative and Operational Rights of Ecotourism resources through legislation

It is recommended that the separations of proprietary, administrative and operational rights of ecotourism resources be realised through legislation. The concept of legal pluralism refers to multiple legal rules, which are applicable in a certain jurisdiction. Legal pluralism presupposes the existence of multiple legal rules, which are recognised in a certain legal system.

Firstly, the property right of ecotourism resources belongs to individuals or to corporates. For the individually-owned part of property right which has already constituted the components of ecological landscape within attractions, the owners may be allowed to choose among alternative methods. In addition to acquisition or replacement by the state, the owners may choose such modes as evaluating in terms of money for buying shares, lease, and so on.

Secondly, the national landscape and famous sceneries are in the charge of the South African National Parks Department, National Forest Parks and National Water Conservancy Department whilst the tourism industry is managed by the Tourism Department. Managerial subjects of ecotourism activities stand in great numbers in this kind of management pattern. Authority is decentralised, resulting in massive waste of ecological administrative resources and the situation results in a chaotic management where all are managing, which amounts to non- managing and thus in being unable to implement needed systematic management.

It is recommended that a regulatory agency with unified authority be set up in tourism attractions being responsible for the management of daily routine of a scenic area. Ingenious management models may be adopted, according to specific circumstances.

All kinds of profit-making business activities in ecotourism attraction such as accommodation, catering and entertainment are undertaken by various operators administered by regulatory agencies that can operate independently, not subject to regulatory agencies.
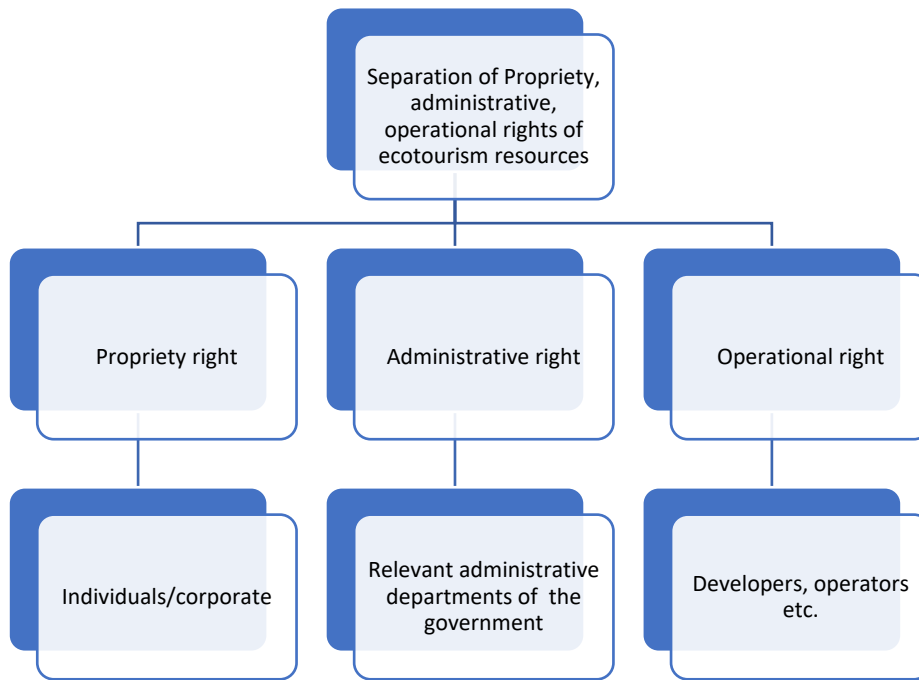
Fig:1 Separation of Propriety, administrative, operational rights of ecotourism resources (Authors own interpretation)

Decision making process

There is a correlation between the number of actions achieved and the size of the municipality according to population. Municipalities that are less populous stand out for being those that mostly adopt a pro-active attitude and those that present an environmental structure. The search for governances praises local power and strengthens the mobilisation capacity of the agents, which requires the awareness of the local population.

Environmental topics are increasingly more constant in the means of communication addressed to local interests and citizen's rights. The dissemination of ideas with respect to environmental conditions together with the technological revolution provides the presence of spontaneous leaderships and popular manifestation.

Governance includes the presence of legal standards so that desired results can be achieved, and effective control obtained. The applications of sanctions against violators has become a vital instrument and is a consequence of the construction of participative democracy. It is valid to exalt the environmental area as a significant area of participative democracy that is adopted and functions with a strong presence in dwellers' associations, consolidating the role of local militants. Law becomes an essential instrument in its preservation. The desired sustainability is pursued now that sociability is degraded at unimaginable levels by capitalist accumulation. Therefore, environmental law is a programme of studies that proposes an integration of legal knowledge into the analysis of matters related to the environment, with a special emphasis on local government within a trans-disciplinary perspective.

Tourism resources

One of the main objectives of tourism is to sustain local culture and values, but also the quality of life, and it must consequently constantly deal with the changes that occur in the community and environment. Thus, the success of tourist development is based on the local authorities' cooperation. Heritage is a particularly sensitive part of culture and the environment. Massive tourism constitutes an important democratisation of tourism and wider leisure activities that

correspond not only to human right of pursuit of happiness, but also to the right to develop tourist destinations in a sustainable fashion.

An increasing number of organisations are embracing environmental and sustainability challenges into their strategies and activities (Dangelico & Pontrandolfo, 2015). By integrating the environmentally friendly tasks into organisational strategies, several benefits can be achieved. These include improved performance, not only on organisational but also relevant environmental aspects. Organisations can implement several actions to reduce their negative impact on the environment and directly or indirectly can improve business performance (Kabongo & Boiral, 2017).

The dynamics of tourism as an activity and as an industry, combined with the growing concerns about the environment and the effect of climate change call for a continuous effort in seeking new approaches, tools and perspectives for the acquisition of environmental knowledge by organisations in the hospitality sector (Song, et al., 2012). The need for institutional innovation and generative change in response to the sustainability imperative, emphasises the necessity of organisational learning in the hospitality and tourism industry.

Climate change and the implications for tourism

The phenomenon known as "climate change" refers to an ongoing trend of changes in the Earth's weather conditions which are a result of an average rise in the temperature of the earth's surface often referred to as global warming. Climate change has become the focus of media attention as well as a substantial scientific debate. Our lifestyles, economies, health and social well-being are all affected by climate change, and although the consequences of it varies on a regional basis, all nations and economic sectors will have to contend with its challenges through adaptation and mitigation.

Climate change may not necessarily be conducive to the interests of tourism sustainability; tourism is thus no exception, and in the decades to come, climate issues will become an increasingly pivotal affecting tourism development and management. Weather and climate have a profound influence on natural systems and human societies around the world. Climate change can affect tourist experience and are incorporated into travel decision processes (Scott, Hall & Gössling, 2012). Weather and climate are important factors in relation to outdoor recreation and tourism. Climate change could be considered as one of the biggest problems of modern living, and tourism is one of many sectors affected by it, mainly through the changing faces of tourist destinations. Climate change scenarios suggest that changes in seasonality and intensity of rainfall will impact the runoff and groundwater recharge and the storage of water in the soil, dams and reservoirs (Mukheibir & Ziervogel, 2006).

Water availability is a key climate change-related vulnerability, and negatively impacts on the availability of water, which will be felt by people, ecosystems and the economy. Future changes in temperature and other important features of climate will manifest themselves differently across the various regions of the world. The lessons from Cape Town relating to severe water shortages, are that every city must invest in the infrastructure and policies that will protect citizens from the future effects of our changing global climate.

The effects of climate change in South Africa are not limited to increased water scarcity in some parts of the country and drastic qualitative changes in the water supply, but also extend to losses in biodiversity and rangelands, impacting on maize farming and the agricultural sector as well as possible increases in infectious and respiratory diseases and in the tourism industry (Kiker, 2000).

Global warming: The legal requirement in South Africa

In March 2017 the High Court of South Africa handed down a decision that has been hailed in some quarters as a victory in the fight against dirty energy and global warming in the case of *EarthLife Africa Johannesburg v Minister of Environmental affairs and Others* (ZAGPPHC 58 [2017] 2 All SA 519 (GP) (8 March 2017).

Summary of the case:

South Africa's High Court was recently asked to determine whether, under the National Environmental Management Act 107 of 1998, "relevant" considerations for environmental review of plans for a new 1200 MW coal-fired Thabametsi Power Projects include the project's impacts on the global climate and the impacts of a changing climate on the project. The power station is to be built by Thabametsi and is intended to be in operation until at least 2061. The court, after observing that the statute does not expressly contemplate climate change, held that such considerations are relevant and that their absence from the environmental review of the project made its approval unlawful. This question came before the court as a result of EarthLife Africa Johannesburg's appeals. The courts, after observing that the statute does not expressly contemplate climate change, held that such considerations are relevant and that their absence from the environmental review of the project made its approval unlawful. The first appeal was submitted to the Minister of Environmental Affairs to challenge the adequacy of the project's environmental review; EarthLife argued that the review was invalid because it largely ignored climate change. The application for review accordingly invites determination of whether the DEA is obliged to fully assess the climate change impacts of a proposed coal-fired power station before environmental authorisation is granted in terms of NEMA. The argument of EarthLife was that a climate change impact assessment must be conducted before environmental authorisation is granted in order for the relevant decision-makers to determine firstly whether the construction of a coal-fired power station should be allowed at all.

The court cited several reasons, including South Africa's commitments under the 2015 Paris Agreement (The Paris Agreement is an agreement made within the United Nations Framework Convention on Climate Change, dealing with greenhouse-gas-emissions mitigation, adaptation, and finance, beginning in 2020). concluding that climate change is indeed a relevant consideration for the environmental review of the Thabametsi Project. Because the review approved by the Minister effectively ignored climate change, the court held it to be legally invalid.

In EarthLifes's appeal, it was argued that the Chief Director's decision was not lawful because no climate change impact assessment was conducted as part of the environmental impact assessment report submitted by Thabametsi Power Company (Pty) Ltd to the Chief Director for consideration. The Minster upheld the decision of the chief Director to grant environmental authorisation for the proposed Thabametsi coal-fired power station on the condition that a climate change impact assessment is conducted. When it lost that appeal, the nongovernmental organisation approached the Pretoria high court to set aside the decision as "unlawful and invalid" because the minister had granted the authorisation without a climate change assessment.

The decision in this case should serve as a call for all parties to fully consider the potential impact that projects may have on South Africa's commitments to curtail global warming.

Conclusion

The focus of this article was to rethink the relationship between the natural environment and sustainable tourism. Its second task was to establish that sustainability first assumes that human needs must be met indefinitely without jeopardising organisms within the environment. Secondly, we must ensure and control the community while maintaining the environment that sustains them.

It is imperative to have sustainability as a primary guiding principle and conceptual framework within which to analyse the decisions taken by officials. The balancing-act must take place within the context of competing socio-economic conditions that influences politics, and hence the processes and outcomes of policy debate and the local and national levels of government. Municipalities need to intensify their attempts at raising financial resources and earmarking funds for climate change programmes that are integrated with broader developmental projects.

Sustainability would only go as far as to democratise the internal functioning of the state on the issues of environmental impact, like climate change, rather than democratise state citizen relations on this matter. More research and implementation is still need to be conducted so as to establish sustained and meaningful engagement between the state at local level, and its citizens on climate change and the environment, which cannot be achieved without strengthening local government and systems that are intended to facilitate increased public participation generally. The technical complexity of the environmental debate includes that climate change in and of itself is likely to mitigate against broad-based public interest and involvement in municipal debates on the subject.

Societies can respond to climate change by adapting to its impacts and by reducing greenhouse gas emissions (Scott, Hall & Gössling, 2012). The realities of global warming seem to be evidence of a complex and profound socio-economic-political issue. Tourism should be viewed as an instrument via to deter global warming, but not as the goal itself. The efforts to prevent the negative greenhouse effects are not enough to enable the development of shared policies on eco-management. Continued climate-driven degradation and disruption to cultural and natural heritage will negatively affect the tourism sector, reduce the attractiveness of destinations and lessen economic opportunities for local communities. Natural and cultural resources are the foundation for the tourism sector's competitiveness.

Tourism sustainability means that we must make sure resources in an area can be preserved for use by future generations of locals and tourists. We must be aware of the impact that visitors and tourists can have on a destination and find ways to make that impact as positive as possible. Natural resources must always be used sparingly and only when needed because our earth and all the tourist destinations have so much to give. We must minimise these negative impacts and focus on more positive ones, such as promoting cultural exchange and preserving local traditions. A way to achieve this goal is by getting the communities and the municipalities involved in the tourism industry. This could also be done by simply encouraging the sharing of local customs or making it easier for locals to become involved and start new businesses that serve tourists. We have to rethink our relationship with the environment to achieve sustainable tourism in South Africa. It is also important to contextualise the potential impacts of the fourth industrial revolution on the environment and its impact on the tourism industry.

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