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THE RELATIONSHIP BETWEEN COMMON MANAGEMENT AND ECOTOURISM REGULATION: TRAGEDY OR TRIUMPH OF THE COMMONS? A LAW AND ECONOMICS ANSWER

Danilo SAMÀ

Faculty of Economics, LUISS 'Guido Carli' University of Rome, Italy

dsama@luiss.it.

Abstract

Since its origin, ecotourism development has been at the centre of controversial and heated debates within the environmental and scientific society. On one hand, it has been considered as a model of responsible and sustainable tourism with the capacity to guarantee the conservation of the current biodiversity level and cultural identity, to educate the tourists about preservation and to improve the economic activity and the standard of living of the populations affected. On the other hand, it has been criticized for actually being a mere instrument in the hands of capitalist and western firms to commercially exploit the natural resources available in the less developed countries. Thus, are the ecotourism projects more likely to be profitable and successful in territories where the common resources are controlled by the state or managed by private firms? Considered the most frequent and spontaneous solution noticed in the ordinary daily life of the emerging countries, meaning natural resources owned communally by local institutions, does ecotourism impede or reinforce this management function of coordinating and controlling? The empirical researches conducted in literature tried to answer to some of the above-mentioned questions and offered the opportunity for a Law and Economics assessment of the problem related to the common-pool resources.

Keywords: Common-Pool Resources, Commons Management, development, ecology, environment, governance, property rights, regulation, sustainability, tragedy of the Commons

JEL Classification: K11; K32; Q57

«A managed commons, though it may have other defects, is not automatically subject to the tragic fate of the unmanaged commons»

Garrett Hardin, 'Who Benefits? Who pays?', from 'Filters Against Folly' (1985)

Stronza, A. L. (2010), 'Commons Management and Ecotourism: Ethnographic Evidence from the Amazon', International Journal of the Commons, Volume 4, No. 1, Igitur, Utrecht Publishing & Archiving Services

1. Introduction: Common Management and Ecotourism Development

In the article reviewed, the author attempts to evaluate the impact of the ecotourism development on the collective management of the common-pool resources, type of administration which has historically characterized the local communities increasingly involved in the form of green tourism at issue. Since its origin, as it is well-known, ecotourism itself has been at the center of controversial and heated debates within the environmental and scientific society. On one hand, it has been considered as a model of responsible and sustainable tourism with the capacity to guarantee the conservation of the current biodiversity level and cultural identity; to educate the tourists about preservation; and to improve the economic activity and the standard of living of the populations affected. On the other hand, it has been criticized for actually being a mere instrument in the hands of capitalist and western firms to commercially exploit the natural resources available in the less developed countries. Therefore, even though in the last years exploitative human activities have diminished and attracted with considerable success visitors to eco-friendly destinations, at the same time the unfriendly effect of tourism on nature has been often neglected.

Although nowadays the matter still remains particularly complex, it is undeniable that common management and ecotourism business have each been extensively analyzed during the past decades from a cultural, environmental and social standpoint. Nevertheless, it is necessary to give credit the author for having endeavored to fill a gap existing until now in this research field that is to comprehend and recognize what are the main effects of the growth of ecotourism on the management of the resources of the developing countries. Are

the ecotourism projects more likely to be profitable and successful in territories where the common resources are controlled by the state or managed by private firms? Considered the most frequent and spontaneous solution noticed in the ordinary daily life of the emerging countries, meaning natural resources owned communally by local institutions, does ecotourism impede or reinforce this management function of coordinating and controlling? The empirical research conducted by the author in an indigenous village situated in the Peruvian Amazon tried to answer to some of the above-mentioned questions and offered, as far our field of interest is concerned, the opportunity for a Law and Economics assessment of this problem, which will be developed in the following two sections.

2. Common-Pool Resources: A Law and Economics Assessment

From a Law and Economics perspective, common-pool resources present two characteristics which could cause as many problems in the context of the development of the ecotourism industry: first, excludability, given that it could be complex and difficult to control the access to and the exploitation of the available resources by external agents; secondly, the exploitability, since the free utilization of the available resources by any individual inevitably subtracts wealth to the other users and more generally to the entire system. It is important to note that unlike pure public goods, which are defined as non-excludable and non-rival, common-pool resources, being sub-tractable, are affected by problems of congestion, destruction, overuse or pollution. Thus, notwithstanding its conservative and green nature, the evolution of ecotourism could dangerously aggravate and worsen the two problems underlined, by allowing to new entities, like tour operators, travel agencies and western tourists, to gain access to the common-pool, expanding as a consequence the total number of existing users.

The famous ‘tragedy of the commons’ metaphor, conceptualized by Garrett Hardin (1968), fits well to the problem under discussion, since it embodies the theory within the economic property rights’ approach, which better explains the risk of having an inefficient and unsustainable environmental protection whenever one or more tourism agents are active in the same geographical area. Despite the presence of a shared incentive among all the touristic operators to safeguard the natural patrimony in order to maximize the joint profits in the long period, each firm will be driven to pursue its own interest and thus to exploit the ecotourism site concerned above a reasonable level. For instance, by expanding the number of lodges offered to the clients, a tourism operator will raise its level of revenues, bearing at the same time only a limited part of the resulting environmental costs (so-called non-full internalization of common costs). Analogously, a tourism agent will not face any incentive to protect in a rigorous manner the environment where it works: it would support all the costs, whilst the benefits would be widespread among all the other tourism operators (so-called free-riding and non-full internalization of benefits). Hence, the main consequences would be an over-use of the common-pool resources and an under-efficient level of investments. As a matter of fact, the absence of incentives to implement a forward-looking wildlife protection and the current foreign capital mobility imply that the ecotourism firms will move to other geographical areas whenever the existing locations will be largely despoiled or, even worse, whenever it will appear more convenient to shift the investment projects elsewhere.

In the light of what has been noted above, which could be the possible solutions to the problems emerged? The most straightforward answer would be to enforce an environmental regulation specifically designed for the management of the ecotourism sites. However, considering the enormous difficulties to establish a general environmental regulation itself even in the most developed nations, it is not surprising that any sort of ecotourism regulation is rarely implemented or non-existent in the emerging countries. In particular, in the poorest nations, a robust ecotourism regulation would be costly to enforce, since the governmental institutions are usually more interested in attracting capital flows from the western countries to promote the implementation of investment projects of any kind, regardless of the environmental impact that the latter would produce. The construction of a pleasant holiday village would certainly be favored and preferred by the governmental institutions, whilst the concerns for the environment would remain in the background. Therefore, the imposition of a strong ecotourism regulation would risk being subject to a phenomenon of regulatory capture, given the significant interests involved.

Therefore, the solution which appears more convenient and useful is actually to strengthen the collective and local institutions already active in the less developed countries in the management of the common-pool resources. Nevertheless, in this regard, a necessary clarification is required. The notion of commons in the history of the property law systems, both belonging to western and non-western countries, has usually referred to a specific legal institution that is commons as peripheral wasteland where the members of the villages there located regularly owned functional rights. Under these circumstances, the occurrence of a tragedy of the commons must not be considered necessarily true, as well as social arrangements about the commons must not

be judged inefficient per se. In fact, land management has been historically organized as a mix between households and common property: the latter has not degenerated into any tragedy in several cases. Bishop and Ciriacy-Wantrup (1975) first, and Garrett Hardin himself then, acknowledged that the expression commons was often erroneously applied by the economists, even though it must be recognized that the term itself might easily appear inappropriate and misleading. Therefore, the mentioned tragedy only takes place whenever is not present a decision maker entitled to control the level of utilization of the resources available and to impose the level of investments necessary. Thus, a strict distinction must be made between common property (*res communes*), meaning that a group of persons has exclusive property on certain resources and the power to regulate the relative use, and common resources (*res nullius*), meaning free access goods and un-owned resources given the absence of a well-defined property regime.

3. Conclusions: Towards a Model of Sustainable Ecotourism

As mentioned, common-pool resources can be owned and managed by governmental institutions as public goods, by firms or individuals as private goods or can be left free as open access resources. Nevertheless, the best solution to allow and realize a sustainable ecotourism in the course of time seems to be to support the local institutions towards a collective form of common-pool management, with the main purpose to control and prevent the two problems of exclusion and subtraction above pointed out. To be successful, the monitoring action of the subsistence communities must be associated with conservation and utilization rules established to govern the commons, as well as with sanctions set against the rule-breakers. If not properly managed, an unrestrained ecotourism risks to bring to unequal economic benefits not only to advantage of foreign firms but also of only few members of the community, altering cultural traditions and values and triggering potential conflicts and corruptions.

In this context, the Nobel Prize Elinor Ostrom (1990) has called into question the black or white vision according to which common-pool management necessarily requires a centralized administration or a privatization process of the resource concerned. Starting from the study of different and numerous empirical cases around the world, the American Professor shows how local communities are not irreparably condemned to overexploitation problems in case of collective action and utilization of common resources. On the contrary, in several cases the communities seem to have avoided unproductive clashes through an endogenous formation of institutions capable to govern the common resource in a sustainable way. Therefore, a situation characterized by a common property regime in connection with core resources self-managed by a rural community has resulted in various circumstances not only feasible but also desirable. In the same manner, the author of the paper has collected data and realized interviews at Posada Amazonas, an ecotourism lodge born from a joint venture between a local community and a private company and built on a land communally owned by 150 families, over a period of 12 years (1996-2008). According to the partnership, the profits are shared 60-40 respectively for the community and the company, while the lodge management is equally shared. The ecotourism offers rooms for 60 guests at 95 US dollars and hosts yearly around 7000 visitors from Europe and United States. In 2007 it generated a profit of 225,000 US dollars. Given its success in making real the ecotourism philosophy, the lodge has been in the spotlight of the international media and has won numerous awards over time.

Nevertheless, the analysis conducted by the author reaches the conclusion that some factors of ecotourism have strengthened the collective management of the common-pool resources, while at the same time others have damaged the social cohesion of the community, hindering the possibility of a cooperative administration in the long-run. It's a matter of fact that whenever natural resources, as forests, landscapes, rivers or wildlife, are opened to ecotourism and commercially commoditized, the co-management of these resources, no longer local but global, becomes more complex and requires the participation of several actors (environmental agencies, environmentalist movements, local, regional and national administrations, non-governmental organizations, tourism operators).

Thus, learning from the experience offered by the author in the paper and from our Law and Economics assessment of the problem related to the common-pool resources, there are three fundamental principles which the policy-makers of the emerging countries should keep in mind for a better and sustainable development of the ecotourism industry.

1. The ecotourism projects should be realized by local communities in cooperation with non-governmental organizations or tourism operators for two main reasons. The first is the possibility for resident populations to be trained as regard to the conservation measures necessary for the environmental protection and the entrepreneurial skills useful for capitalizing the ecotourism revenues in ancillary projects (like, for instance, handicraft production). The second is the possibility to better exploit the ecology and traditional knowledge

thanks to foreign capital and worldwide clients. Statistically, in fact, financial returns from ecotourism, both in form of employment and income, are much lower in lodges totally managed by local communities.

2. The redistribution of financial revenues deriving from ecotourism create economic incentives to strictly control and manage the common-pool resources for the local communities, which are the only entities that can guarantee an environmental protection in the long period. The community members will discuss and regulate which cultural traditions and natural resources should be protected and used, who should be entitled to access the common-pool and under what conditions, what should be the sanctions for the rule-breakers. In this way, it is possible to solve the problem of exclusion related to the commons through the gradual construction of a self-management structure and through the progressive opening of the community's network to international organizations which can support it with aids and grants.

3. Although financial returns could provide economic incentives for the local communities to protect the common-pool resources, at the same time, the financial returns could drive the members to reinvest the revenues in more profitable private initiatives, which could increase the level of resource consumption and thus could worsen the problem of subtraction. As far as this problem is concerned, it would be necessary to simply set rules about how to share and re-invest the tourism profits (for instance, the national government could also intervene offering tax reliefs).

Therefore, even though the community-based ecotourism does not always allow to guarantee both economic growth and environmental protection without incurring in any contraindications, if correctly structured (it is crucial the role of economic and tax incentives) it seems to be the model that the emerging countries should follow in the future.

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