

The Role Played by Some Actors in Search of Environmental Protection: Examples of Brazil and Peru

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Abstract

States play a significant role in environmental protection through the elaboration of treaties. International agreements shape national standards for environmental practices. However, where weaker standards are stated in international agreements, signatory states generally also set weak domestic standards. Continuing to promote such a model is not enough to support environmental protection, and other possibilities should be investigated. Environmental governance changes over time to incorporate other non-state actors to promote environmental protection. Nevertheless, an important question about this participation is how it can change a national reality to raise these protections locally. This document aims to analyze, in general terms, how the Brazilian state has been dealing legally, as well as the role of Non-Governmental Organizations (NGOs), consumers, and companies within the environmental preservation arena.

Keywords: Environmental protection; Actors; States; Non-Governmental organizations; Consumers

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Introduction

In the area of environmental protection, states play a significant role through a treaty making approach. International agreements shape what should be national environmental standards. Thus, when there are low international standards, states generally approve weak domestic standards. Nevertheless, promoting such a model is not enough to support environmental protection, and other possibilities must be investigated.

Environmental governance changes over the years to incorporate other non-state actors to foster environmental protection and one way is through non-governmental organizations (NGOs), corporations, and consumer actions. These tend to act together to pressure companies to make agreements with NGOs themselves and other groups in society. However, one of the problems raised by these agreements is how they can help improve the situation against environmental degradation?

This paper aimed to study the functions of states, companies, NGOs, and consumers. It presents the most common meaning of Corporate Social Responsibility (CSR) agreements and will assess two agreements, one made on traditional indigenous knowledge in Peru and another agreement made with soy producers in Brazil. A summary of the possible impacts made by these agreements at the internal level has been made. Nonetheless, this study will not discuss the limitations of the agreements.

Environmental Protection

The transformation from an unsustainable environment to a better one is urgent due to the current world reality centered on humans. It is recognition that human beings have damaged the world's natural environment. Such human behavior threatens nature in a way that a transformation of the world can be irreversible. It means that there is a limit within which exploitation of mother nature can happen, and, once within that limit, the world can be resilient and undergo a recovery to a previous state of equilibrium. The limit is called a turning point, and, once reached, there would be irreversible changes in the ecosystem itself. For example, the turning point for the Amazon rainforest is that it can become a dryland forest, which would be irreparable.

The Paris Agreement presented as a potential turning point a 2°C increase in world temperature. It represents the amount of CO₂ concentration as the limit the world can withstand. Due to the threat of a tipping point on the planet, many society sectors have mobilized to prevent environmental degradation from reaching its limit. The Paris Agreements emphasize that the efforts made by non-state actors are welcomed in the fight against climate change, for example. Some states, NGOs, companies, and consumers have stood out in the fight against environmental degradation. Certainly, each of them has limitations, but these

sectors' joint action can promote positive change in the local environment.

To write this paper, I investigated which were the most prevalent actors that deal with environmental protection. Next, I looked at how they played their role in their aiming. Then, I found some examples on how they play their role for each actor. To run this analysis, I analyzed secondary sources of information such as articles, books, and non-academic references.

States

International environmental protection by law is generally done through international treaties, which, according to Article 2 of the Vienna Convention on the Law of Treaties, are international agreements concluded between states. However, through treaties, environmental protection can face significant challenges such as sovereignty [1] and lower standards of protection. Concerning sovereignty, states do not like interference by other states in their national affairs. Moreover, each state has the autonomy to recognize or not that the environment needs protection. Concerns about sovereignty, therefore, can undermine success in the treaty process.

As for lowering standards of protection, when there are complex issues to be discussed by hundreds of countries in the international arena, a better outcome to protect the environment can be compromised. To reach agreement among many different states, where each has national interests they want to protect, states tend to lower environmental protection standards. Instead of achieving higher standards of standards to combat deforestation, for example, states tend to lower standards to ensure at least a minimum in the fight against environmental degradation. Thus, environmental treaties considered weak are made.

As national laws tend to replicate what is agreed in international environmental treaties, when treaties have weak environmental protection, countries' domestic law will also be weaker to curb threats to the environment. It can therefore, be said that when this occurs, states become weak to deal with significant environmental problems such as climate change and rainforest destruction. Consequently, the international legal system does not help environmental protection properly [2].

Deforestation in Brazil has been a reality for decades, and the clamor for a fight against such a practice has been on-going ever since. Both international and national legislation were created to restrict deforestation, especially in the Brazilian Amazon. At the international level, there are the Convention on Biological Diversity (CBD) and the United Nations Framework Convention on Climate (UNFCCC), both of which are legally binding documents that Brazil has signed [3]. According to the CBD and the UNFCCC, states must rely on international cooperation among themselves and domestic policies to protect Brazil's biodiversity, including its tropical forests. It should be noted that the protection of biodiversity in this case, the protection of forests reduces GHG emissions. Thus, with the fight against deforestation, there is also an intrinsic fight against climate change. It can therefore be said that the provisions of both the CBD and the UNFCCC complement each other to achieve environmental protection as a whole.

At the national level, Brazil has passed some laws to comply with international agreements' provisions. Legislative Decree number 02, of February 3, 1994, together with Decree number 2,519, of March 16, 1998, approved and promulgated the provisions of the CBD internally. In compliance with Article 6 of the CBD, Brazil issued the National Report of the Convention on Biological Diversity in 1998. The report showed that Brazil's deforestation increased between 1978 and 1996 from 78,000 km² to about 501,000 km². The report also mentioned that deforestation's main factors are pastures and temporary crops [4]. The report also noted that Brazil had legal mechanisms in place to comply with the conservation and sustainable use of biological diversity, including forest protection policies. Among many standards, the document emphasized the 1965 Forest Code. According to the Code, in cases where the property is in the legal Amazon, 80% of the property must be destined to preserve the native ecosystem.

However, together with these internal environmental policies, a new Forest Code was adopted in 2012. The new document admits that the legal reserve could be exploited through approval by the National Environmental System. If a farmer owns a property in the Amazon, the previous Forest Code would only allow the development of only 20% of the property. Under the new Code, the owner can use the remaining 80% when the Brazilian government gives environmental authorization.

Therefore, there is reason to assume that state activities are not being sufficient to achieve the objective of reducing deforestation rates and adequately combat climate change. Taking Brazil as an example, its new Forest Code policies will not be enough to address one of the main perpetrators of deforestation and climate change today, the farmers. From this point of view, since international treaties followed by national standards are not enough to combat deforestation, non-state actors have become indispensable to raise the standards of protection of both environmental and labor areas.

Non-Governmental Organizations (NGOs)

By influencing the drafting of international treaties, NGOs can play an essential role in changing environmental protections. By actively participating in the elaboration of international treaties, NGOs can raise the standards of international environmental protection, leading to a change in national laws. This standard may continue to improve as NGO participation in international treaty-making increases over the years. NGOs are now considered partners of democratic states and are critical influencers of national policies [5]. However, NGOs have started to realize that standards established only through international agreements between states might not be the only way to improve environmental protection. Today, many NGOs are directly establishing environmental agreements with large companies, which ends up circumventing the influence of states and creating unique rules for companies. Therefore, the new approach can change the reality of environmental conservation so that the law alone cannot.

To pressure the application of the companies' agreements, NGOs use two tools, act as watchdogs, and use the "naming and shaming" approach. The role of "watchdog" is related to the

monitoring service performed by NGOs. The role of "watchdogs" is similar to the auditors' role, but NGOs end up playing the role of independent auditors and can do so with or without being invited by companies [6]. As one of the intentions of companies is to show their consumers a good image free of harmful practices, such as violations of socio environmental law, NGOs can control companies by creating technology to know if a company is engaged in deforestation, for example. Therefore, NGOs can check whether a particular company complies with national rules and standards that have been agreed with the company. For this reason, the role of "watchdog" played by NGOs is very welcome in the field of environmental protection.

The "naming and shaming" approach is how NGOs can put pressure on companies to comply with already existing laws and norms created by the companies themselves, such as codes of conduct. States may not provide adequate inspection of companies, which may influence companies' non-compliance with already weak national laws and cause much more damage to the environment. NGOs can then make public to consumers the bad practices of companies ("naming"). Thus, with the threat of reduced sales due to market loss, companies can be encouraged to respect national laws, even if weak, and agreements with NGOs. Shame is a step forward in naming. The shame intends to condemn the practices of companies against the environment. The success of shame depends on the negative impact that the behavior of companies may have. The watchdog and the "naming and shaming" approaches are systems that can lead to increased standards of environmental protection.

Companies and Corporate Social Agreements(CSR)

The pressure for better corporate social responsibility has increased further over the years following the Millennium Development Goals (MDGs) in 2000, which stressed that a world with a healthier environment should be built, and the Sustainable Development Goals (MDGs) in 2015, which stressed that the private sector should also meet the MDG targets. This scenario indicates that companies should do business while being socially and environmentally responsible. One way for companies to deal with this pressure is through Corporate Social Responsibility (CSR).

In defining Corporate Social Responsibility (CSR), [7] states that CSR should include both a moral or ethical component and a business component and that CSR's sustainability is determined by adding value to companies. Elkington [8], meanwhile, advocates a triple bottom line idea where companies, in combination with environmental protection should implement social and economic objectives. Visser [9]. Agree with Elkington and add that developing countries must also adopt CSR. They argue that establishing CSR in developing countries is a way for enterprises to contribute, formally or informally, to improving social, labor, and environmental conditions in such countries.

Agreement on access to traditional indigenous knowledge

The Convention on Biological Diversity (CBD) aims to protect

biodiversity from achieving sustainable development. According to Article 2, biodiversity means "the variability among living organisms from all sources including, among other things, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of an ecosystem." To justify international protection over nature that has species in specific cities, for example, some of these species may be important for medicine, agriculture, etc. Technically it is not an international issue, but we justify biodiversity using the concern of humankind principle [10].

However, since the CBD, there have been many discussions about bioprospecting and traditional knowledge, as both are concerned with biodiversity. Bioprospecting means "access to genetic resources and benefit-sharing-ABS" [11], and traditional knowledge is "innovations and practices of indigenous and local communities that incorporate traditional lifestyles relevant to the conservation and sustainable use of biological diversity," according to Article 8 (j) of the CBD. Both bioprospecting and traditional knowledge can come together. This is a case where a laboratory can obtain information from a holder of traditional knowledge about a particular plant's purpose and how the plant can be used to produce a medicine [12].

Article 15.4 of the CBD recognizes that access to genetic resources has to be on "mutually agreed terms" between the genetic resources provider and the user. The result of the negotiation will be an "access agreement". This document may take the form of "a contract, a material transfer agreement (MTA) or a research agreement." Whatever the form, the agreement's subject matter covers the authorization of access to genetic resources, the control of subsequent uses, and the determination of terms and procedures for benefit-sharing [13].

Regarding traditional knowledge related to access to genetic resources, Article 15(5) mentions that prior informed consent (PIC) must be given when someone wishes to obtain this knowledge. This statement highlights section 8(j), which states that the broader application of knowledge should occur with its holders' approval and involvement. Guerin-McManus and Kim [14] maintain that the PIC's purpose is to fully inform the local community about the collector's intentions. Tobin [15] argues that it is difficult to establish who the supplier will be and will sometimes depend on national law for its regulation.

Although it is difficult to determine who the supplier may be, Andean Pact Decision 391 gives the indigenous community the power to make agreements in which the objective is to extract genetic resources from their lands. Articles 34 and 35 of the decision imply that once genetic resources related to traditional knowledge are accessible, a new agreement should be made, and this original document should be annexed to that first agreement. Thus, if an indigenous people wish to share their traditional knowledge with a company, the report must comply with both sections (4) and (5) of Article 15, CBD, namely PIC and "mutually agreed terms". Muller [11] identifies that one of the first agreements made under these characteristics was between the Searle & Co. and Aguaruna community of the Alto Marañon community in the Peruvian Amazon. The purpose of the

agreement was to provide the corporation with knowledge about plants for medicinal purposes and, in return, the community would benefit. The agreement respected both the PIC and the terms mutually agreed upon after a period of negotiations between the parties and other stakeholders involved (Lewis) [16].

The Searle & Co. and Aguaruna case was crucial to Peru's government at the time of drafting a "proposal for the protection of indigenous collective knowledge" [11]. The experience had an impact in Peru as a model of what might or might not work, so the case helped Peru build a practical model that took into account crucial questions raised about traditional indigenous knowledge.

Consumers

Public pressure has played a crucial role in addressing environmental problems [17]. Many factors can lead to substantial consumer participation, and one of them is information. Where there is transparency in the supply chain, consumers tend to have the power to refuse to buy products from companies contaminated by non-compliance with environmental standards. Thus, since environmental injustices tarnish a company's image, there is a possibility of damaging the company's business. Such consequences show how consumers play an influential role in environmental protection.

Soy moratorium in Brazil

One example of the effect of consumer behavior is the case of the soy moratorium in Brazil. In 2006, Greenpeace issued a report about the so called "eating up the Amazon." The document exposed that the chicken that McDonald's used in their sandwiches was fed by soybeans tainted by deforestation practices in the Brazilian Amazon. Based on this information, consumers from around the world pressured McDonald's to change its policy on its supply chain related to soybeans from deforested areas. It led to an agreement made with corporations and NGOs to stop trades in soy from deforested Amazon areas [18]. This agreement's impact was the reduction of deforestation associated with the soy industry in the region [19].

However, Taebi and Safari [20] disagree slightly with the statement that consumers have strong environmental protection powers. They point out that power can occur in the business to consumer (B2C) relationship, where consumers directly approach the brand. In the event of connections between the company and the government (B2G), and the business to business (B2B), consumers may not have the same level of information about a product seen in the B2C relationship. Besides, consumers in developing countries may not be as concerned about a product's footprint as their power of choice is decided more according to price. It can be said that even with such limitations, the conscious consumer can be another actor to widely promote environmental protection in the world [21].

Conclusion

The partnership between states, NGOs, companies, and consumers leads to an improvement in environmental protection. They are developing international environmental governance through private agreements that have been categorized as

Corporate Social Responsibility(CSR) documents. They can promote local change and may well be a new way of dealing with weak environmental laws and weak states, especially in developing countries.

Therefore, this document has outlined the role of states, NGOs, companies, and consumers in the international environmental arena. It presented some agreements made between NGOs and corporations and briefly pointed out the consequences that resulted from them. In drafting such changes, it may well be assumed that the agreements are new soft law models in which companies must comply.

However, agreements as ways of promoting local changes still have limitations. Their application depends strongly on a transparent system. For example, it is difficult for the consumer to avoid product that has been tainted yet in the B2B relationship. This means that the role of watchdog played by NGOs extends to the relationship between supermarkets and their direct suppliers, for example.

Future research should, therefore focus on investigating a method for tracking B2B product transactions. The system would be useful to improve the transparency of trade in general. Thus, a naming and shaming approach, watchdog functions, consumer pressure, and state supervision would also help companies comply with official rules and CSR agreements. Thus, partnerships and CSR, in combination, are an excellent trend to consider promoting environmental protection today 002E.

References

- 1 Tar lock AD (1992) The role of non-governmental organizations in the development of international environmental law. *Chi Kent L Rev* 68: 61.
- 2 Randall JH (1976) The making of the modern mind: A survey of the intellectual background of the present age. Columbia University Press.
- 3 Le Prestre PG (2017) Governing global biodiversity: The evolution and implementation of the convention on biological diversity. Routledge.
- 4 BRAZIL, First National Report for the Convention on Biological Diversity-BRAZIL (1998).
- 5 Wani IJ (1991) Poverty, governance, the rule of law, and international environmentalism. *Kan JL and Pub Poly* 1: 37.
- 6 Nelson J (2007) The Operation of Non-Governmental Organizations(NGOs) in a World of Corporate and other Codes of Conduct. Corporate Social Responsibility Initiative.
- 7 Carroll AB (2009) A History of Corporate Social Responsibility: Concepts and Practices in Crane A, Matten D, McWilliams A, Moon J, and Donald S. Siegel (eds), *The oxford handbook of corporate social responsibility*.
- 8 Visser W, Matten D, Pohl M, Tolhurst N (2010) The A to Z of Corporate Social Responsibility. John Wiley and Sons.
- 9 John E (2004) Enter the triple bottom line in Adrian Henriques and Julie Richardson Henriques A, Richardson J (eds), *The triple bottom line: Assessing the Sustainability of Business and CSR* (Earthscan).
- 10 Weiss EB (2012) The coming water crisis: A common concern of Humankind. *TEL* 1: 153.

- 11 Ruiz MM (2000) Regulating bioprospecting and protecting indigenous peoples knowledge in the Andean Community: Decision 391 and its overall impacts in the Andean region (Geneva, UNCTAD).
- 12 De Carvalho NP (2005) From the shaman's hut to the patent office: In Search of a TRIPS-Consistent Requirement to Disclose the Origin of Genetic Resources and Prior Informed Consent. *Wash UJL and Pol'y* 17: 111.
- 13 Barber CV, Glowka L, La Vina AGM (2002) Developing and implementing national measures for genetic resources access regulation and benefit-sharing' in *Biodiversity and Traditional Knowledge: Equitable partnerships in practice* (Sarah A Laird).
- 14 Guerin-McManus M, Kim D (2010) Annex 7.3 Prior informed consent: protocol and form. *Biodiversity and Traditional Knowledge* 233.
- 15 Tobin B (2002) Biodiversity prospecting contracts: the search for equitable agreements. *Biodiversity and traditional knowledge: Equitable partnerships in practice*, Laird SA (ed) London: Earthscan 287-309.
- 16 Lewis WH, Ramani V (2007) Ethics and practice in ethnobiology: Analysis of the International Cooperative Biodiversity Group project in Peru. *Biodiversity and the Law: Intellectual Property, Biotechnology and Traditional Knowledge* 395.
- 17 Baron DP (2009) A positive theory of moral management, social pressure, and corporate social performance. *J Econ Manag Strategy* 18: 7-43.
- 18 Andario P (2016) The soy moratorium, 10 years on: How one commitment is stopping Amazon destruction. Amsterdam, the Netherlands: Greenpeace International.
- 19 Gibbs KH, Munger J, Roe JL, Barreto P, Pereira R, et al. (2016) Did ranchers and slaughterhouses respond to zero-deforestation agreements in the Brazilian Amazon? *Conservation Letters* 9(1): 32-42.
- 20 Taebi B, Safari A (2017) On effectiveness and legitimacy of 'shaming' as a strategy for combatting climate change. *Sci Eng Ethics* 23(5): 1289-1306.
- 21 Esbjorn-Hargens S, Zimmerman ME (2011) *Integral ecology: Uniting multiple perspectives on the natural world*. Shambhala Publications. *Integral Ecology* 1-796.