

I.E.7 Accountability in Transnational Governance: The Case of Forestry

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1. *Background*

In the last 20 years, not only have the forest certification programmes that set global standards for proper forest management spread and increased their relevance worldwide, but they have also become increasingly transparent and participatory. One famous case related to this topic involved the Rainforest Action Network (RAN) – a non-profit organization headquartered in San Francisco, with office staff in Asia, plus thousands of volunteer scientists, teachers, parents, students and citizens around the world – and Home Depot Corporation Inc., the world’s largest home-improvement retailer. The RAN’s many activities include challenging the spread of corporate power, with campaigns that prioritize the long-term health of forest communities and ecosystems.

The Home Depot campaign sought to persuade the company to “renounce sourcing of wood products from old-growth virgin forests filled with ancient, never-harvested stands of very diverse trees” (as reported by the press), and in doing so embrace forest certification standards. The campaign lasted approximately two years. RAN’s tactics mixed guerrilla market activism with genuine grassroots activism. It staged public demonstrations, the majority of which sought to leverage public opinion and associate the company’s activities with environmental destruction. On one occasion, a giant banner was hung in front of the company’s headquarters with the words: “Home Depot, Stop Selling Old Growth Wood”. On another occasion, schoolchildren around the world were urged to join a massive letter-writing campaign, bombarding the company with their pleas. Occasionally, RAN collaborated with major institutional stakeholders. For example, it fought Home Depot expansion plans at local city council meetings both in the United States and abroad (Chile).

Home Depot eventually announced its commitment to stop selling wood from endangered forests and agreed to promote forest certification. At around the same period, 27 U.S. corporations – including IBM, Dell, Kinko’s, and Nike – announced that they would stop selling or using old growth wood.

2. *Materials and Sources*

- COMMONDREAMS NEWS, “Home Depot Announces Commitment to Stop Selling Old Growth Wood; Announcement Validates Two-Year Grassroots Environmental Campaign” (<http://www.commondreams.org/pressreleases/august99/082699c.htm>);
- S. BASS (ed.), *Certification's Impacts on Forests, Stakeholders and Supply Chains*, Report of the International Institute for Environment and Development, May 2001;
- HOME DEPOT CORPORATION, Wood Purchasing Policy (<http://www.insidehighered.com/news/2011/11/18/sociology-association-encourages-members-help-improve-wikipedia>);
- E. MEIDINGER, “The Administrative Law of Global Private-Public Regulation: The Case of Forestry”, XVII *The European Journal of International Law* 47-87 (2006);
- E. MEIDINGER, “Forest Certification as Environmental Law Making by Global Civil Society”, in E. MEIDINGER, C. ELLIOTT, G. OESTEN (eds.), *Social and Political Dimensions of Forest Certification*, Eifelweg (2003).

3. *Analysis*

Moving on to an analysis of the case outlined above, three points seem worthy of consideration. To begin with, the case exemplifies the influence that non-state actors and social movements can wield in shaping public governance and in affecting the rules and policies of multinational corporations. Moreover, in recent years the involvement of non-state actors in public governance has been expanding. According to Errol Meidinger, following the success of the Home Depot's advocacy campaign, RAN carried out a number of similar activities against a range of major corporations, the majority of which resulted in success. For instance, RAN turned its sights on Wall Street, recognizing that behind every environmentally-destructive logging, mining, or drilling project were financial institutions underwriting them and providing the necessary capital. In 2000, RAN set out to convince Citi (then Citigroup) to adopt new environmental policies. In

2003, the producer of timber and forest products, Boise Cascade, agreed to stop selling wood from endangered forests. Later, RAN began campaigning against global institutions, being one of the first US nonprofit organizations to actively campaign against the World Bank, the International Monetary Fund (IMF) and the International Finance Corporation (IFC).

Yet, the success of RAN's campaigns is not simply the success of a single player. It is rather the illustration of a complex network in which NGOs, consumer groups and citizens get together to lobby against corporations or other public institutions. This is the second point worthy of mention: networks or alliances of non-state actors can be described as private-public hybrids, loosely coordinated, and committed to common principles, rules, procedures and programmes. In the Home Depot case, for instance, RAN headed a large network of actors. These included the Forest Action Network, Rainforest Relief, the Student Environmental Action Coalition, Free the Planet, the Sierra Student Coalition, the Action Resource Center, the American Lands Alliance, the Sierra Club, Greenpeace, the Natural Resources Defense Council, Earth Culture, and many others.

Clearly, these kind of alliances are becoming central to the dialogue between supranational regulators and/or multinationals and civil society. It might even be supposed that, in a near future, such networks will increase further their presence in the supranational arena. It is not that, should this happen, NGOs or citizens' groups operating autonomously will disappear; rather, it is likely that they will concentrate on campaigning solely at the national level, where lower levels of resources and effort are required in order to build and conduct advocacy campaigns.

A third, and final, consideration relates to the principles of global governance promoted by these networks of non-profit organizations, especially in the field of forest certification. Through the absorption of principles of administrative law in their policies, multinationals commit themselves to transparency, access to information, and participation. This process, in turn, facilitates the adoption of shared methods of governance across legal systems, and eventually at the global level.

4. *Issues: The Promises of Forest Certification*

Assuming that, as outlined above, the adoption of forest certification programmes by international operators contributes to the formation of a global system of governance that lies on democratic values, a number of questions need

to be answered. How effective is certification in terms of developing common principles of administrative governance?

In this regard, it should be recalled that forest certification programmes are voluntary. The enforcement mechanisms are limited to revoking the certification or the membership in the related association. However, the “social” control element can be powerful. In such agreements companies do not engage with a single partner, but become part of a broad network. Thus, failing to demonstrate compliance with a certification programme may have no legal consequences, but still generate serious counter-effects in terms of business activity.

A second problematic aspect relates to accountability. To whom/what are the companies and institutions that decide to engage to a certification programme accountable? As noted by Errol Meidinger, in the forest certification system there is no single accountability structure. Instead, there are a number of mutually reinforcing accountability structures, such as those afforded by certification programmes and their members. The contribution of forest certification programs to global accountability is therefore a promise rather than a certainty. Depending on the number of companies that join the programs, and the strengthening of “social” enforcement of the latter, forest certification could actually help in developing accountability on the global stage.

5. *Further Reading*

- a. S. BERNSTEIN, B. CASHORE, “Is Forest Certification a Legitimate Alternative to a Global Forest Convention?”, in J.J. KIRTON, M.J. TREBILCOCK (eds.), *Hard Choices, Soft Law: Voluntary Standards in Global Trade, Environment and Social Governance*, London (2004);
- b. B. CASHORE, G. AULD, D. NEWSOM, *Governing Through Markets: Forest Certification and the Emergence of Non-State Authority*, New Haven (2004);
- c. D. HUMPHRIES, *Forest Politics: The Evolution of International Cooperation*, London, New York (1996);
- d. A. KOLK, *Forests in International Environmental Politics: International Organisations, NGOs and the Brazilian Amazon*, Utrecht (1996);
- e. J. SASSER, “Gaining Leverage: NGO Influence on Certification Institutions in the Forest Product Sector”, in L. TEETER, B. CASHORE, D. ZHANG (eds.), *Forest Policy for Private Forestry*, New Haven (2002).