

THE ENVIRONMENTAL PARADIPLMACY IN A NEW INTERNATIONAL GOVERNANCE

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Abstract

The emerging global environmental issues, particularly climate change, have been challenging the international system to adopt effective measures to face this problem on an urgent basis, at the risk of aggravating the resulting social, economic, political and environmental impacts, incorporating a new form of global environmental governance: the role of subnational governments. The objective of this paper is to present subnational climate-friendly governance initiatives observing the experience of the Network of Regional Governments for Sustainable Development - nrg4SD.

Keywords

Global governance – climate change – paradiplomacy – nrg4SD

Introduction

The Environmental International Law has been facing the emerging global environmental issues in an innovating way, incorporating a new form of global environmental governance based on which new players are brought to the discussion and implementation of measures to face environmental problems. Among these players,

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we should highlight the subnational regional governments and their horizontal networks of actions and insertions in the decision making scenario.

The purpose of this article is to discuss the extent to which these issues can be understood as a factor watering down the perception of the legitimacy and effectiveness of the climate regime, and to explore the role of subnational governments and their networks in the development of global climate governance, particularly the Network of Regional Governments for Sustainable Development - nrg4SD.

To achieve its proposed objective, this article is made up of two sections. The first goes further deep in an analysis of the main characteristics of this branch of international law - the emergency involved and the role of non-state players, particularly subnational governments, in the construction of global climate governance. To make this fact more explicit, the second section is dedicated to the presentation of **nrg4SD**.

1 New players of the international community and the environmental paradiplomacy

The addition of new players to the international community is directly associated with two marking phenomena of the 20th century: the globalization process and the emergency of global environment issues, such as climate changes.

At the international level, the response to climate changes has been provided by the climate regime, a set of rules, institutions and mitigation measures to fight green-house gas (GHG) emissions and the adaptations made to deal with their anticipated impacts based on two treaties - UNFCCC and the Kyoto protocol.

Despite being regarded as a milestone in International Environmental Law, the climate regime has come to a deadlock. By preassuming the consensual agreement of all member states, negotiations for advancing the climate regime are increasingly more difficult.

2.1 Global environmental governance

The traditional international way to face global problems is officialized by consensual agreements among sovereign states and, as a result, it is under the direct influence of internal and external interests in a context of the growing interdependence, particularly with regard to economic issues (Leis and Viola, 2008). Generally, these interests do not meet the requirements to face global environmental issues inasmuch as while they have a short term horizon or a prevailing political and economic nature, the environmental issues call for long term actions and a broad view. As a result, the farther a response from the nation states is from true cooperation and solidarity for solving environmental problems, more questionable is the degree of *legitimacy* and *authority* (Rei and Cunha, 2008).

In addition, climate changes ignore state barriers, either because the climate equilibrium constitutes an ecological *continuum*, which extends both in the spaces submitted to state sovereignty and beyond them (Ruiz, 1999), or because the impacts of this environmental issue are ultimately and really felt at the infranational level (Bodansky, 1999). The global-local duality of climate changes inculcates a sense of responsibility for facing them at *all* levels of social organization (Liftin, 2000).

The complex international response and the need of practical actions to face global environmental problems have progressively legitimated the appearance of new forms of authority. Although deprived of the sovereignty, autonomy and control elements, these new structures are granted voluntary legitimacy by society (Dedeurerwaerdere, 2005), thanks to the recognition that the effective facing of global environmental issues calls for the cooperative and coordinate action of governance systems based on different levels of (state, supra, infra and interstate) government, with the participation of state, infrastate (both regional and local) and non-government players, each of them playing a variety of roles (Bulkeley, 2005).

Through the global environmental governance, different forms and levels of coping activities related to environmental issues start to exist in a complementarity dynamics. As a result, the advancement of international regimes based on multilateral signed treaties is strongly supported by activities developed at the infra and transnational levels and by players that are not formally parties under the international legal system. There is also a mutual influence dynamics on which the International Environmental Law feeds.

2.2 Environmental paradiplomacy

Actions by subnational governments when facing climate changes are one of the facets of this new form of global environmental governance.

Originally chained to a greater insertion of subnational governments in the international sphere in economic issues, globalization being the key vector (Keating, 1999, Milani and Ribeiro, 2011, Hocking, 2004), the concept of paradiplomacy also started to be used to express the growing interest and direct participation of these players in global environmental issues (Bueno da Silva, 2010).

Different vectors of this movement beyond nation-state frontiers are identified in the pertaining literature. According to Bueno da Silva (2010), the engagement of subnational governments in transnational alliances results from a cost-benefit perception when incurring certain actions or policies in the environmental area. In an analysis of a series of local and regional initiatives in the US to face climate changes, Engels and Orbach (2008) identified a direct correlation of these actions with electoral appeals or political support from the population. However, this is not always based on operational measures adopted to face the environmental issues. According to Bernstein (2010), the current status of the negotiations regarding the advancement of the international regime to fight global warming, marked by the resistance of nation-states to assume greater and new commitments, undermines their legitimacy as interlocutors of the solution to this environmental problem and reinforces other authority and decision making centers, particularly those at the subnational level. In line with this, Setzer (in press) emphasizes that both the greenhouse effect gas emissions and the impacts of climate changes occur and are really felt at the local and regional levels, forcing subnational players to provide a more proactive and effective response. In addition, most subnational governments have legislative and administrative competences on important sources of greenhouse effect gas emissions. As a result, these governments are those in charge of defining public policies aimed at or taking into account the mitigation of climate changes (nrg4SD, 2011b).

In any case, initiatives by subnational governments to face global climate changes have been expanding the results of environmental governance.

Despite being formally created as mechanisms for exchanging information, techniques, practices and experiences in the measures adopted to face climate changes, these transnational networks end up playing a political role, particularly when they act in a coordinated way in the international negotiation sphere (Bulkeley, 2005). This is the case of The Network of Regional Governments for Sustainable Development (nrg4SD).

2 The Network of Regional Governments for Sustainable Development - NRG4SD

The nrg4SD is an international organization representing regional and associations of regional governments at the global level. The network promotes understanding, collaboration and partnerships in sustainable development and seeks greater international recognition of the importance of the contribution that regions make to sustainable development.

The nrg4SD was formed by the regional governments that attended the Johannesburg World Summit on Sustainable Development (2002), and was legally registered in 2004 as an "International non-profit-making association".

The Network of Regional Governments for Sustainable Development works tirelessly to champion the work of subnational governments on sustainable development, in particular in climate action. Nowadays, the network represents over 1000 subnational governments at the global level. Member of the Forum Global d'Associations de Régions (FOGAR), nrg4SD is the voice of FOGAR in the field of sustainable development.

In order to strengthen its actions on advocating for the subnational regional governments efforts against global warming, nrg4SD has been officially accredited to the UNFCCC as a civil society observer. The nrg4SD also keeps a permanent Advocacy Task Force on International Climate Change Negotiations and has recently launched a Technical Working Group on Financing Climate Action at Subnational Level.

This has allowed nrg4SD to work directly with the Secretariat and some Parties to the Convention, representing its member subnational governments directly at international negotiations (i) tirelessly advocating for a better recognition of the crucial contribution of subnational governments to climate change action, (ii) consistently working with the

UNFCCC Secretariat and working groups on technical issues and (iii) regularly bringing into the debate delegations and grass roots initiatives from the subnational level (nrg4SD, 2011b).

To influence the climate change negotiation process, nrg4SD has been working individually and with other sub-national governments networks, such as The Climate Group, the Local Governments for Sustainability (ICLEI) and the United Cities and Local Governments (UCLG). This wording constitutes a clear message for the regional level to capitalize on, in order to keep turning the citizens growing awareness of climate matters into daily action. It also represents an unprecedented context for subnational governments to contribute to adapting international climate change governance to modern times.

The nrg4SD action on pre-COP 16 talks are a good example on how the network resorts its strategies. During 2010, nrg4SD's Task Force provided technical input to the works of the Ad-Hoc Working Group on Long-Term Cooperative Action (AWGLCA) (jointly prepared with The Climate Group), discussing it directly with the chair of the AWGLCA. Technical input was also provided at pre-COP intersessional talks in Tianjin in October 2010 (nrg4SD, 2011b).

The nrg4SD has also organized several meetings with the scope to demonstrate subnational governments grass-roots experiences on climate change policies. This was the case of the side event held pre-COP 16 meeting in June, the event called "Cancun – 30 Regions Delivering Climate Action – A Discussion Session Between Key Player" held in October 2010, alongside European discussions about international climate negotiations, and a series of side events occurred during COP 16, in Cancun (nrg4SD, 2011b).

For the first time ever, subnational governments have gained full recognition in an UNFCCC agreement. The Cancun Agreements (Decision 1/CP16), in the "shared vision for long-term cooperative action" part, formally "recognizes the need to engage a broad range of stakeholders at global, regional, national and local binding emission cuts, while strongly implying that the protocol has an effective future - a key demand of developing countries". These Agreements also enshrine subnational governments role in adaptation efforts, forest emissions reduction and capacity building (UNFCCC, 2011).

The human, economic and environmental challenge that goes hand in hand with climate change is crying out for international and national governance structures capable of reflecting, amongst other aspects, the crucial role of the subnational governments towards a multilevel, complementary and consistent approach in tackling this global challenge. In good and modern governance relies the key for understanding globalization and its huge challenge of climate change in terms of opportunities. And in this positive reading of the challenges of the XXI century resides also the key for generating a climate action leadership guided by ambition and realism.

Conclusions

Now more than 30 years after Stockholm, International Environmental Law shows undeniable vigor and the traditional international law uses it as a basis to be closer to man as a world citizen. When talking about its future and the challenges posed by the 21st century with regard to international environmental regulation, it is necessary to talk about the efforts to understand the need of fulfilling its commitment to solve both environmental and social issues, indeed the very reason for its existence. In other words, it is shifting from a law of principles and intentions to a law of obligations and actions as a result.

Now that the states are becoming aware of the environmental issues, we can assert that there is a peaceful international acceptance of the fact that legal environmental relations at the international level are multilateral relations among states, and no longer regional or bilateral relations. It was possible to create a consensually required participative law under the current United Nations Framework Convention on Climate Change, an innovative legal instrument providing the basis for a normative work having an intermittent nature which must be updated permanently.

These activities have progressively opened the way to the participation of the public - individuals, scientific societies, NGOs, indigenous and aboriginal people, regional government associations, etc. – in the central states, the processes of preparation and application of standards will make it possible to continue developing an awareness of common matters related to international law till a new pact of global legitimacy in the

light of a new international order is achieved. It would then be possible to think seriously of a biosphere government.

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