

DO WE NEED NEW PARADIGM TO FACILITATE POLICY EFFECTIVENESS UNDER THE CBD?

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INTRODUCTION

- ❖ Policy regulation is the centre - point which holds the framework of globalisation - CBD on one side of the scale weighs against State Party to the instrument, on the other
- ❖ Policy regulation as conceived by Parties to the instrument is so vague that: it almost ridicules principles of international law
- ❖ State Parties to an international environmental instrument convene to address environmental concerns by negotiating an agreement which is designed to realise policy goals

INTRODUCTION CONT

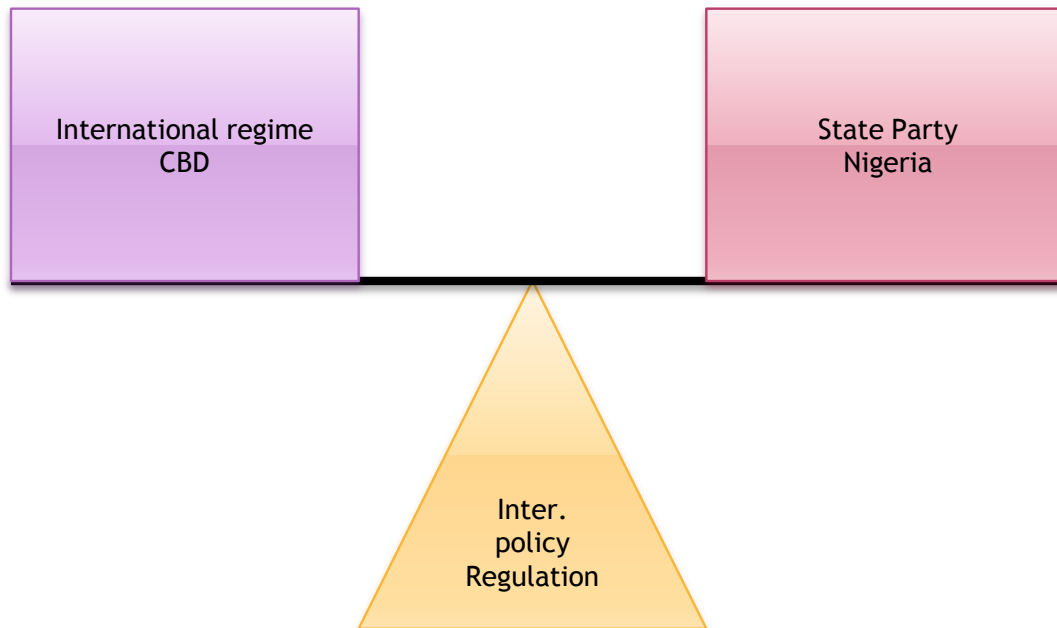
- ❖ But common perception that a State would respect and apply its regime obligations at domestic level may be extremely misguided
- ❖ States' regime obligations usually change and hence take conflicting policy channels at municipal levels
- ❖ Therefore a critical look at regime policies - as applied in different domestic jurisdictions among same members of international environmental regime reveals a huge gap compared to policy perception at international level

INTRODUCTION CONT

- ❖ States assert their sovereignty over bioresources but the interests of indigenous communities/local communities raise legitimate questions in the policy regulation discourse
- ❖ Protecting socio - environmental concerns of local communities raises further controversial questions in regards to the power balance in CBD regime regulation
- ❖ Local communities negotiate policies and projects with actors (States & corporations) who possess overarching knowledge so they usually lose fundamental socio - environmental rights due to imbalance in power parity

INTRODUCTION CONT

❖ Figure 1.1



Finding the equilibrium in CBD regime regulation

MULTIDISCIPLINARY TOOLS TO UNDERSTANDING POLICY REGULATION

- ❖ This paper explores the following questions: whether environmental policy negotiations based on the CBD takes socio - environmental rights of local communities into proper account or contributes instead to violation of these rights?
- ❖ It treats these questions from a multidisciplinary standpoint - drawing from disciplines other than law
- ❖ Do institutional frameworks under the Convention promote the goals of the instrument or do they perhaps operate inefficiently?
- ❖ Sociologists conceive the CBD as a system rooted in the theory of institutionalism

MULTIDISCIPLINARY TOOLS TO UNDERSTANDING POLICY REGULATION CONT

- ❖ Most importantly, two essential elements qualifies an international institution: legitimacy & efficiency
- ❖ According to sociologists, these 2 elements can sometimes clash with one another
- ❖ Sticking with institutionalised rules often clash with efficiency criteria (Meyer & Rowan)
- ❖ At the same time, coordinating and controlling activities in order to promote efficiency undermines an organisation's ceremonial conformity and compromises its support and legitimacy (Powell & DiMaggio 1991)
- ❖ Fairly speaking, the CBD regime operates effectively when exclusively assessed on a global platform and the reverse is the case if compared to its effectiveness at domestic levels - in developing countries

MULTIDISCIPLINARY TOOLS TO UNDERSTANDING POLICY REGULATION CONT

- ❖ Organisational success depends on factors other than efficient coordination and control of productive activities: organisations which are isomorphic with their environments gain the legitimacy and resources needed to survive (Powell & DiMaggio)
- ❖ Obligations pledged at global/international level are rarely followed to the letter, at domestic levels - due to all sorts of conflicting domestic priorities, local politics, economic exigencies and vested interests.
- ❖ More bleak exemplification of the impact of the Convention in many developing countries is so to speak both a regime and State failure to promote sustainable international environmental policies (Orazulike 2012)

MULTIDISCIPLINARY TOOLS TO UNDERSTANDING POLICY REGULATION CONT

- ❖ How does the discipline of political science view institutional effectiveness: CBD?
- ❖ Political scientists contend that there is often an inherent tendency of many to confuse effectiveness with sheer impact (Le Prestre 2002)
- ❖ Effectiveness based on political philosophy encompasses: problem solving; goal attainment; implementation; compliance; behavioural change; co - operation & normative gain

WHY MUST COMMUNITY PARTICIPATION BE INFORMED?

- ❖ Informed community participation is an institutional approach to dealing with legitimate stakeholder concerns through the provision of expert support to vulnerable stakeholders on issues concerning the promotion of a regime's sustainable goals.
- ❖ Local communities usually lack policy expertise necessary for understanding the full stretch - point scenarios under which domestic or international regulatory policies could impede guaranteeing their socio - environmental rights
- ❖ The primary duty would not necessarily be to make decisions for local communities during the participation process; instead they would advise on the policy implications of community decisions concerning bioresource exploitation activities and as well provide more effective options

RESOURCE/ECONOMIC DIMENSION TO POLICY REGULATION

- ❖ Regimes may indeed save valuable time and resources by ensuring that entire policy frameworks are geared towards effectiveness
- ❖ At least, to demonstrate that the current CBD mechanism is flawed from sustainability, economic, environmental and socio - cultural perspectives; may persuade governments to pay attention to tangible and intangible benefits of transforming current CBD system
- ❖ ‘...some scientists blame deforestation for causing the enormous 1988 floods in Bangladesh that left 25 million people, out of a total population of 110 million homeless...’ (Gardner & Stem 2002)

SOCIO - POLITICAL DIMENSION TO POLICY REGULATION

- ❖ Policy negotiations in the Rio+20 Convention confirms research postulations in this paper in terms of the dynamics of power imbalance within CBD institutional system
- ❖ ‘Achieving sustainable energy for all is not only possible, but necessary - it is the golden thread that connects development, social inclusion and environmental protection.’ (Ban ki Moon, UN News Service June 2012)
- ❖ Key elements of human rights based approach found its way into the Rio+ 20 outcomes policy: *the principle of participation*, accountability, non - discrimination, empowerment, the rule of law and democracy (Navi Pillay, UN Press Release June 2012)

LEGAL & ETHICAL DIMENSION TO POLICY REGULATION

- ❖ Frustration of civil society organisations on the Rio+20 outcomes policy is perfectly explained by traditional norms which govern the *modus operandi* of international institutions
- ❖ Regimes are traditionally dominated by States but powerful multinational business enterprises permeate institutional rules through economic influence, commercial partnership with States and veiled representations - commonly known as lobbyists
- ❖ So to overlook existing inequality in the power balance which exist within the CBD regime will certainly conceal an important aspect to understanding flaws in the system, namely power imbalance which the regime accommodates

LEGAL & ETHICAL DIMENSION TO POLICY REGULATION

- ❖ A legitimate institutional system ought to entrench procedures that encourage ‘informed community participation’
- ❖ This factor would not only legitimise the CBD but is also a baseline for measuring genuine institutional commitment to promoting sustainable environmental policies, human rights and modern democratic style participation (informed community participation)

CONCLUSION

- ❖ Due to the fact that current institutional system merely promotes community participation, local communities possess by far, low bargaining power when they negotiate policies with powerful actors like multinational corporations or States
- ❖ Assuming that international law encourages mandatory allocation of a chunk of proceeds coming from the exploitation of bioresources to cater for health related problems caused by exploiting such bioresources, the right to health for local communities would be systematically enshrined into domestic laws: at least to the extent that alleged health rights stem from the act of exploiting bioresources

CONCLUSION

- ❖ The CBD can make or break policy system within its regime
- ❖ When our current CBD regime is transformed to a sustainable environmental regime, policy debates would definitely begin to take a different shape
- ❖ Regulatory policies may probably begin to deal with debates concerning how we can use science & innovation to avert environmental disasters or how to use our knowledge of impending environmental crisis to mitigate the supremacy of natural forces over human science
