

Environmental Authority: Transformations and Relocations in Global Modernity

Autoridade ambiental: transformações e relocações na modernidade global

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ABSTRACT

As a public good, the environment has traditionally been handled by public authorities. However, with globalization conventional state environmental authority is transformed, relocated and deterritorialized. New non-state environmental authorities emerge. This paper conceptualizes the shifts in and relocation of environmental authority structures and illustrates this with examples from the fields of certification and labeling and environmental partnerships. While relocation does take place, new environmental authority structures are often mixes of state and non-state authorities. The paper finally assesses these developments, reflecting on the conventional criticism of the poor environmental and democratic potentials of such new non-state environmental authorities.

Key words: environmental state; globalization; partnerships; ISO 14000; legitimacy.

RESUMO

Como um bem público, o meio ambiente tem sido tradicionalmente controlado pelo poder público. Contudo, com a globalização, a autoridade convencional do Estado em lidar com as questões ambientais é transformada, transferida e desterritorializada. Novas autoridades ambientais não estatais emergem. Este artigo conceitua as mudanças e relocações nas estruturas do poder ligado às questões ambientais, ilustrando com exemplos dos campos da certificação e rotulagem e parcerias ambientais. Enquanto ocorre essa relocação, novas estruturas de poder ambiental se formam da mescla de autoridades estatais e não estatais. Por último, é feita uma avaliação desses desenvolvimentos, ponderando sobre a crítica convencional que faz emergir os limitados potenciais democráticos e ambientais dessas novas autoridades não estatais.

Palavras-chave: Estado e ambiente; globalização; parcerias; ISO 14000; legitimidade.

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Introduction

Environmental authority has traditionally been linked to the state and state organizations. The state authority to rule and regulate on environmental problems was tight up with the conventional framing of environmental goods as collective goods, and environmental problems as market failures, which could not be dealt with by economic and market institutions. Hence, from the 1950s onwards states were key in dealing with the growing environmental challenges that came along with the rapid economic development and industrialization in developed countries.

Thus, we saw – and still see in many developing and industrializing countries – rapid increases in the capacities of state environmental authorities. First, the national environmental authorities increased their number of staff and budgets during the 1960s, 1970s and most of the 1980s, as well as their capacity to regulate via enhanced legal frameworks, environmental policies, planning, measures and instruments. With that they also increased their control and enforcement capacity. Second, a similar process took place at the decentralized and local state authorities. Capacity building, budget increase, and empowerment enhanced the authority and power of local environmental state organizations. Third, and a little later in time, state authorities increasingly got engaged in bi- and multilateral environmental accords, enhancing their (collective) authority beyond national borders.

It was only later in the 1980s that this undisputed state environmental authority witnessed its first problems. Where neo-liberal ideologies and programs of deregulation and privatization (such as those in the UK and the US) came together with accusations on state failures in environmental protection (cf. JÄNICKE, 1986), environmental state authorities were challenged in their up till then ongoing expansion of environmental capacity. But a new wave of environmental concern, fuelled by the Brundtland report (WCED, 1987) and the United Nations Conference on Environment and Development (1992), prevented a significant set back in state environmental authority and capacity in entering the last decade of the former Millennium. This decade was formative in the building of state environmental authority in many of the developing, industrializing and transitional countries. Moreover, it witnessed a rapid increase in the number of multilateral environmental agreements being

negotiated, concluded and ratified. And in many developed nations state environmental authorities stabilized until the mid 1990s.

But towards the end of the 1990s state environmental authorities became seriously challenged. From then onwards environmental authorities faced (discussions on) budget cuts and staff reductions. It is also around that time that state authorities experienced their competences and regulatory power being jeopardized, challenged or even actually diminished in several respects. And non-state actors and arrangements began to opt for replacing states in environmental protection. But how should we interpret these developments? Is it just the ups and downs of Down's (1972) Issue Attention Cycle of environment? Is it a new round of neo-liberal privatization and deregulation, not too dissimilar from the one in the 1980s? Are we witnessing a fundamental shift in environmental authority, from state and politics to other domains and institutions in modern society? Or are the geographies and territories over which environmental authority has to be executed deterritorializing, making conventional nation-state environmental authorities no longer apt for its task?

If the first two reasons would adequately explain the pressure felt by environmental state authorities at the turn of the millennium, this pressure would have largely disappeared by the end of 2006 when especially climate change caused a new boost to the environmental agenda globally. But this seems at best only partially the case. Hence, in this paper we will explore to what extent there is something more fundamental and structural at stake with the pressure felt by environmental state authorities (cf. MOL; BUTTEL, 2002). This paper will start with developing a theoretical understanding of authority and its shifts, against the background of late modernity. Subsequently, it analyses two fields of shifting environmental authority, labelling and certifications, and environmental partnerships. The final section evaluates the degree and nature of environmental authority shifts.

Globalization and environmental authority

The foundation of any concept or idea of authority today still relates back to Max Weber's theory of authority (WEBER, 1947). Authority is interpreted by Weber as the power to command or rule and the duty to obey. But, ac-

ording to Weber and many who followed him, authority is different from coercive power as it rests on a certain degree of voluntary compliance, and it exercises legitimate social control through a belief system with shared norms. Thus authority is closely bound up with legitimacy: “authority represents a fusion of power with legitimate social purpose” (RUGGIE, 1982, p. 398). Authority also requires a basic trust and a degree of cooperation in the development and institutionalization of habits, norms, rules, and shared expectations.¹ Weber distinguished three forms of authority: legal authority, charismatic authority and traditional authority. In modern organizations, bureaucracies and states, legal authority through impersonal principles dominates, rather than traditional or charismatic authority. Weber’s notion of authority has been debated widely (cf. BLAU, 1963), and has been understood in its specific historical context of early twenty century Europe; but the essence of Weber’s interpretation of authority still remains valid. And especially the separation of authority from power/coercion, from persuasion, and from negotiation is still widely held as useful, and applied by most scholars.²

But Weber’s notion and classification of authority has also been widened beyond the three conventional categories of authority. Guess (2001), for instance defines five forms or categories of authority: epistemic authority (related to knowledge and expertise), natural authority (which comes close to Weber’s charismatic authority), de facto authority (which is in fact coercive power), de jure authority (overlapping with Weber’s legal/bureaucratic authority) and moral authority. Herbst (2003) adds to this the category of media-derived authority, which is especially relevant in current times of an information society (see also Mol, forthcoming, on that). And Hall and Biersteker (2002) include illicit authority of mafias and mercenaries. But one of the main lines in recent debates on authority questions especially the idea that authority is very much bound up with the public domain.³ Limiting authority to the public

domain, which is much in line with a Weberian notion of authority, would make private authority impossible, by relating the legitimate “right to rule” or authority completely to the public sphere. Cutler and colleagues (CUTLER, 1999; CUTLER *et al.*, 1999b+c), Hall and Biersteker (2002) and Ronit (2001), among others, have argued forcefully that the disassociation between authority and private spheres can not be maintained. Cutler and colleagues illustrate with much empirical and historical detail that private market authority has existed for long in various forms (e.g. guilds, cartels, business associations, private regimes), mainly meant to regulate market interactions and prevent further state intervention, both domestically and internationally. Hall and Biersteker (2002) further widen the category of private market authority with private moral authority, including authoritative civil society actors and arrangements in legitimately regulating social practices.

There seems to be growing consensus around the idea that at least since the 1990s private authority is gaining ground vis-à-vis public authority. And three explanations can be distinguished (cf. CUTLER *et al.*, 1999b) that clarify this shift from private market authority to public authority.⁴ Strongly based in institutional economics is the explanation of higher efficiency and lower transaction costs of private market authority above public authority, especially in settings with international transactions where no centralized political authority exists. The second explanation relates to the powers of the architects of private authority, and the power produced through private authority for those who rule once it is established. Inequalities and structural advantages enable the construction of private authority structures, especially in times and situations where (specific) private actors dominate. Thirdly, the increasing importance of private authority has been explained from a historical perspective, where the expansion of markets vis-à-vis states, the furthering of globalization and the loss of state sovereignty facilitate and enable private authorities, while public author-

¹ Institutions differ from authority in that they i) are more comprehensive by including non-authoritative rules and resources; (ii) they do not necessarily involve trust, a sense of obligation and legitimacy. But the emergence of authority is preconditioned by the existence of a social institution.

² For instance, Aykens (2002) uses the Weberian distinction between authority and power for criticizing the retreat of the state as analyzed by Susan Strange (1996). Along a similar line Conca (2005, p. 118) makes a sharp distinction between influence and authority in analyzing the role of non-state actors in global environmental politics.

³ This is also partly reflected in the philosophical debate on the impossibility to reconcile the autonomy and responsibility of individuals under liberalism and the obedience to an authority (cf. FRIEDMAN, 1990).

⁴ But there is less consensus on and explanation of a shift from public authority to private moral authority.

ity becomes under pressure.⁵ The three explanations are not really mutually exclusive, cannot always be disentangled, and strengthen each other in explanatory power. While the first two explain why also in previous historical periods private authority existed, and why and how actors press for or seize private authority, the latter explains why currently private authority seems to be on the rise. Our interest here is especially to what extent and how currently, under conditions of globalization, the sources and localizations of authority are changing, especially with respect to environmental authority.

Globalization and state authority

There is less and less disagreement among social scientists that globalization is fundamentally – rather than marginally – reshaping modern society, and not in the least the position of the state in that. The general conclusion of most globalization scholars is that under conditions of globalization the state is losing sovereignty, governing capacity and authority. Arguably, Saskia Sassen's recent work is most relevant to understand the changing state authority in what she calls the shift from a nation-state assemblage to a new global assemblage.

With her strong basis in the analysis of global financial markets, Saskia Sassen (1994; 2006) shares the conclusion of many scholars of a growing loss of state authority through a destabilization of the nation state system or assemblage, but she contradicts several of them in refusing to interpret this in terms of the irrelevance of governability, the withering away of the state, or the overall devastating consequence of a mounting market power. From Sassen's work, three specifications can be derived that are key to an improved understanding of the changing nature of authority. First, it is not so much the irrelevance of the state but the partly replacement of state authority by market authority, and the denationalizing of state capacities (through growing authorities beneath and beyond the nation-state) that are at stake in global modernity. This can be witnessed in five modalities (SASSEN, 2006, p. 192ff):

1. the proliferation of private agents, with their rules and norms, to handle domains once exclusive to governments;
2. the marketization of public functions both at the national and international level;
3. the growing influence of private agents in internationalizing political ruling;
4. the circulation of private norms and aims through the public domain, where they are represented as being public;
5. the shift of public regulatory functions to the private sector, where they emerge as private services.

Second, even if globalization adds to decreasing state capacity and authority via a shift of authority from state to market and a deterritorialization of authority, such authority must still be shaped, channeled and enabled by institutions and networks which are rooted in (the system of) nation states. While the flows of global capital seem to become independent of place and territory, they are not foot-loose and are still (also) based in what Castells (1996/1997) calls the space of place: localities where local cultures, local networks and local conditions matter in shaping, enabling and channeling global networks and flows. Third, while overall there is a loss of state authority vis-à-vis market authority, this process of diminishing state-powers needs to be qualified along two lines. Emphasizing an overall loss of state authority should not lose sight of major internal transformations in authority and their differential consequences for various state sectors. Some state sectors (e.g. the president, the treasurer) get strengthened through globalization, others become weak (representative institutions, agencies). At the same time, we can witness the fact that the mounting market authority at several instances is activated for governing public goods or the common good. Private interest governments and market-based systems of standardization, accounting and control can not be invalidated from a public good perspective by just referring to them being performed by market actors and being framed in terms of market authority.

⁵ Porter and Ronit (2006, p. 44-46) classify five bodies of literature that tried to capture what they label self-regulation since the 1980s, of which globalization studies is the last and most recent one.

Finally, while Castells' space of flows strongly resembles the infringements of economic-technological systems on lifeworld localities, with only local protest identities as marginalized counter-powers, Sassen illustrates and makes conceptual space for global networks of local-based NGOs that do organize "counter-authority" against the dominating logic and authority of the market, often referred to as private moral authority. Globalization lengthens the distance between the state and its citizens – resulting in the shrinking of the welfare state and the elimination of a range of citizen entitlements – but it also opens up new spaces for informal political actors outside the established political system (an insight not too far away from Beck's category of subpolitics). As Van den Burg (2005), Herbst (2003) and Mol (forthcoming) have argued, digital technologies and the media are very much enabling citizen-consumers – but also other actors striving for authority – in this respect.

In conclusion then, for Sassen the destabilization and undermining of the nation-state through globalization, does not leave the state irrelevant and bereft of all its capabilities, nor does it lead to the dissolution of governability. Ulrich Beck (2005) seems to be in line with Sassen's understanding of the state, but he develops a stronger focus on the strategic actor roles for nation-states under cosmopolitization (and his perspective is strongly centered on Europe). Beck asks how nation-states can make the necessary transformation into cosmopolitan states⁶, within a cosmopolitan regime or a global assemblage? The basic strategy Beck offers is simple and radical at the same time. States should 'free' themselves from being territorially rooted in the "space of place" and participate in transnational networks. The present "rooted character" of nation-states gives them a comparative disadvantage to transnational, deterritorialized global business agents who have "wings" and know how to operate in the "space of flows". State and nation should become separated in a similar way as once state and religion became separated. The transnational arena provides new opportunities, authority and power resources for individual states. If states continue to cling to their national outlook, other actors will be happy to do the job for them: global market actors will develop and expand forms of (private) regulation and

authority that better fit their logic and interests and give them maximum room for maneuver vis-à-vis diminishing state authority. Private actors will create quasi-states without democratic and political legitimacy and in the end succeed in realizing a further rolling back of the nation-states in the global power game.

The second element of Beck's cosmopolitan state strategy is the development of a transnational storyline in the form of a new transnational ideal, defended *sui generis*. A "common human awareness of the global" (BECK, 2005, p. 82) is a necessary component of cosmopolitanism. And the making visible, tangible and concrete of worldwide risks such as climate change, GMOs, global market risks, does contribute substantively to this awareness raising job. But Beck seems to rely very strong on the educational, dramaturgic potential of negative experiences, and leaves virtually unexplored the attractiveness and awareness raising capacity of positive logics, rooted in the established forms of successful environmental governance and effective forms of management and control of risks: Fair Trade networks and chains, City Climate Action networks, and private authorities around environmental standardization and eco-labeling raise also a transnational awareness.

Authority and environment

In understanding the revision of the (environmental) state in the emergence of a "global assemblage", the concept of authority is useful. It helps us to analyze how environmental authority, in the 1980s still fully belonging to the (formal) public political realm and exercised by the nation-state, has been both transformed and relocated under conditions of globalization. The transformation of state environmental authority goes parallel to Ulrich Beck's notion of the cosmopolitan state. The linking of nation-states in transnational environmental networks, particularly in Europe, is increasingly seen as an inevitable strategy for states to remain in charge of environmental protection. When investigating or theorizing upon the relocation of public authority in the global age, most general social sci-

⁶ A cosmopolitan state is defined by Beck as a state which is "neutral" towards nationality and allows national identities to exist side by side (compare different religions existing side by side). The cosmopolitan state is supportive for transnational identities and goals, and allows "dual citizenships". In sum, it does away with "the other" as organizing principle for national politics (BECK, 2005).

ence scholars turn their face towards the market, also when reflecting on the field of environment. As globalization is first of all economic globalization, the shift of state environmental authority is most likely to occur towards market authority, with all the critical and problematic consequences related to that. Most scholars (e.g. CASTELLS, 1997a; AMAN, 2002; BECK, 2005) conclude that under conditions of globalization shifting authority (i) will be mainly from the state towards the market, and hardly to civil society; and (ii) such shift should generally be perceived as of limited relevance for strengthening *environmental* authority. It is here that Sassen (2006) and Hall and Biersteker (2002) are complementary, as they (i) seem to acknowledge that a relocation of authority to markets is not in principal devastating for social and environmental agendas, and (ii) that civil society can also become a locality of environmental authority – often labeled moral authority –, and not just the container of protest identities, a last resort against a dominant, massive and evil empire.

This last point is more strongly emphasized within the environmental social science literature. The diversification or hybridization of environmental authority under current conditions of globalization is particularly relevant when it strengthens a private moral authority. In analyzing what they call the fluidization of regulatory space under globalization, Lipschutz and Fogel (2002, p. 122ff) identify the different sites of authority of non-governmental organizations in the ongoing privatization of environmental regulations under neo-liberal globalization. The monopolized environmental authority of the state that dominated much of the 20th century is now spreading and diffusing and NGOs manage to acquire some of it, particularly with respect to deterritorialized practices. In a more or less similar way, Conca (2005) challenges the monocultures of state authority by analyzing new authoritative agents in global environmental politics, among which NGOs, transnational advocacy networks and expert scientific/epistemic communities, whose authority is often based on knowledge and expertise, or representing and articulating values and moral claims. Conca (2005, p. 193) is correct in concluding that not many have given the institutionalization of these new kinds of non-state authority serious thought. The emphasis is on new agents and

networks, but not so much on embedded and enduring roles and rules that form and give shape systematically over larger stretches of time. But it is remarkable that neither Lipschutz and Fogel nor Conca pay any serious attention to the relocation of environmental authority to the market, probably because they don't see such non-state environmental authority as of much relevance for environmental safeguarding. It is especially the ecological modernization school-of-thought that has theorized and debated the shifting environmental authority from states to – among others – private markets, including the institutionalization process coming (or not coming) along with that (e.g. MOL, 2001).

This diversifying and shifting environmental authority is especially relevant under conditions of globalization. The change, diversification and relocation of environmental authority away from the nation-state and the political sphere goes together with a deterritorialization and denationalizing of environmental authority, so much needed under globalization. Different forms of authority have “jurisdiction” over different territorial stretches. Market authorities might relate multiple small localities within multiple nation-states through production networks and chains. Non-state moral and epistemic authorities might even have more non-geographically bordering capabilities, and are thus further deterritorialized, as in the case of the digitalized worlds of NGOs, global civil society networks or epistemic communities.⁷ Thus the demonopolization and denationalizing of state environmental authority materializes through the growing importance of various forms of non-state environmental authorities. These non-state environmental authorities also existed under the nation-state assemblage, but largely within and subsumed by a dominant public environmental authority. This has changed within a global assemblage (cf. Figure 1).

Non-state environmental authorities

Two decades ago production and consumption processes were basically regulated by state environmental authorities, who were legitimized to set standards, enforce and control them and as such protect national environmental

⁷ Although interesting, we will be less concerned in this paper with the shift of state environmental authority to epistemic environmental authority.

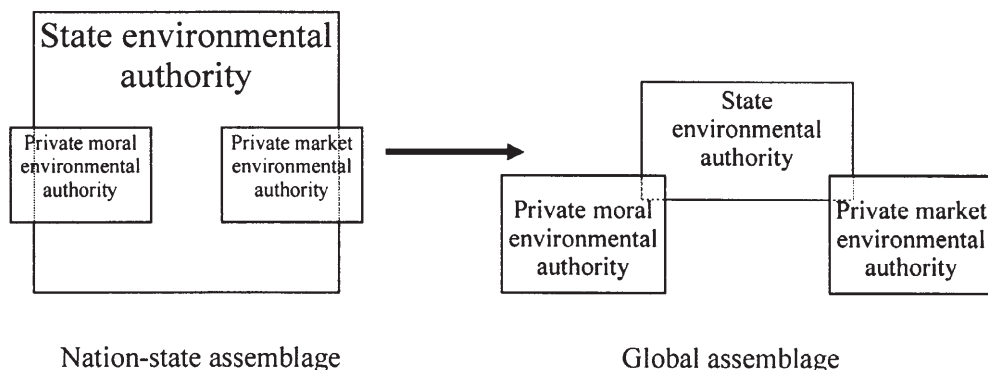


FIGURE 1 – DIVERSIFYING AND SHIFTING ENVIRONMENTAL AUTHORITY UNDER GLOBALIZATION.

qualities. Under globalization, diminishing state authority, and environmental state failures, other non-state environmental authorities have gained their place in legitimately ruling and regulating the environment.

Private market authority has played for a longer time a role in governing private entities. But all these forms of private authority (i) remained largely at the national level (cf. Figure 2) and (ii) largely remained in the area of business, economics and private goods and hardly entered the field of public goods. Private authority had only a marginal role with respect to environmental goods in the 1980s. Business associations, through private interest government, acquired limited authority in the field of environmental management towards its members, among others with respect to environmental reporting requirements, dissemination of environmental information, and sometimes certification and labeling.⁸ Only after the 1992 Rio de Janeiro and the 2002 Johannesburg summits on environment and development, business councils, organized private interest groups and market arrangements started to develop several international codes of conduct, certification and labeling, environmental partnerships, environmental services companies and networks, and other programs.⁹ These various forms of

private environmental authority included close relations of trust, cooperation and legitimacy between government(s) and business, involving often some kind of governmental monitoring and accountability structures. This, however, becomes more problematic at the international and global level. Global forms of private environmental authority are less involved with formal organizations (and more with networks of organizations or institutional arrangements), and function no longer with the boundaries of public environmental authorities.

Civil society organizations have also not been absent in regulatory affairs, nationally (e.g. the various nature conservation organizations) and internationally (e.g. the Red Cross). But within the field of environment, their main concern over the last decades was to locate environmental authority as much as possible at the (environmental) state. It is only recently, under conditions of globalization and especially at the transboundary level, that these organizations actively aim to acquire and seize environmental authority, and apply and use that authority in various environmental coalitions and institutional arrangements with state and non-state actors.

⁸ There is an interesting line of inquiry into the role of business associations in private regulation – with some attention to environmental reform – especially performed in the late 1980s and early 1990s (e.g. STREEK; SCHMITTER, 1985; JACEK, 1987; MARTINELLI, 1991). An immature and weak associational landscape prevented such private authority models to emerge in developing countries, but weak states – for instance in Africa and Bangladesh – did enable other private authority forms on public goods. Most of the national forms of private authority involve formal organizations, as Ronit (2001, p. 570) correctly notices.

⁹ The UNCTAD (1996; 2003) have provided further information and inventories of self-regulation of private actors in environmental management.

I will illustrate this in two cases: (i) the relocation of environmental authority to private authority via certifications and labelling in (transnational) economic networks; and (ii) the reshaping, relocation and multiplication of environmental authority in new public-private arrangements and partnerships.

Labeling and certification

A field where non-state environmental authority has strongly emerged during the last 15 years is on environmental certifications and labeling. Although starting in the late 1980s nationally, environmental management and auditing systems for private producers have especially developed and spread as a new private environmental authority in the 1990s, strongly enhanced by globalization processes. The systems have been globally standardized and certified. While in the early 1990s various systems of standardization and certification were developed in parallel (and in competition), towards the turn of the millennium the International Organization for Standardization ISO14000 series came out as the global standard for environmental

auditing and management systems and their certification. Figure 2 gives evidence of the rapid adoption of ISO 14000 certified systems in companies around the world. These corporate environmental auditing practices have moved from the OECD countries – mostly via transnational companies and the global networked economy – to domestic companies in industrializing societies, strongly pushed by business-to-business relations and civil society requests for transparency and information. The International Organization for Standardization negotiates and designs the ISO standards and the certification procedures. Figure 3 provides the growing number of new ISO standards annually, giving evidence of growing private authority, especially globally (MATTILI; BÜTHE, 2003). Although membership of ISO is by country, usually a private national standard developing organization is member, and not a governmental organization. The over 180 technical committees, 550 subcommittees and 2.000 working groups that design the standards consist of experts representing industries and other groups, but – again - not governmental authorities nor civil society groups. Funding of ISO and the small secretariat (around 170 full time staff) is private. Industries also hardly involve governmental authorities in international standard setting negotiations and

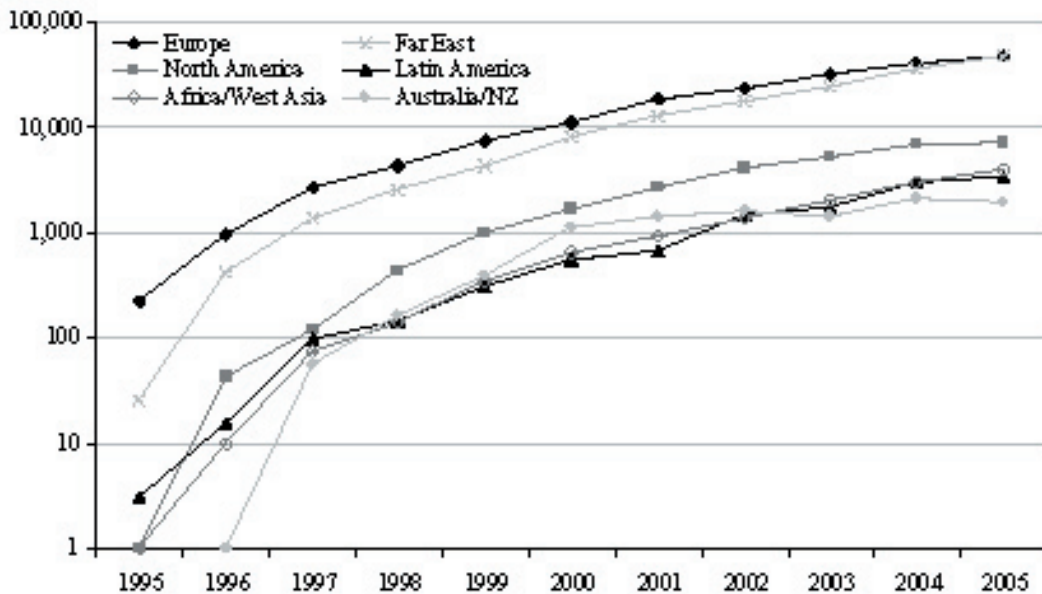


FIGURE 2 – ISO 14001 CERTIFIED FIRMS IN DIFFERENT REGIONS OF THE WORLD, 1995-2005 (SOURCE: ISO WEBSITE).

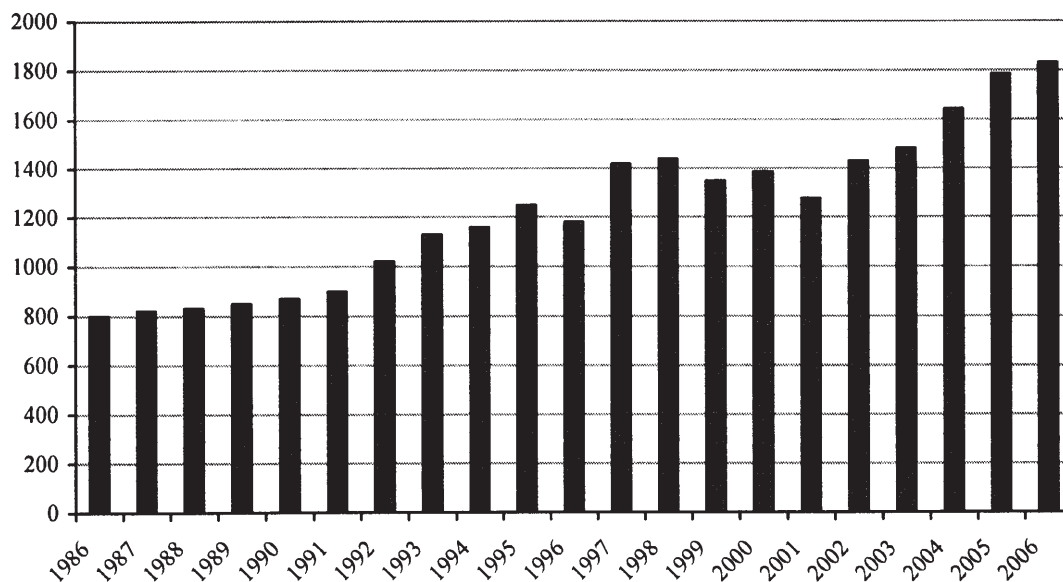


FIGURE 3 – NEW ISO/IEC STANDARDS ANNUALLY, 1986-2006 (SOURCE: ISO AND IEC ANNUAL REPORTS).

procedures (MATTILI; BÜTHE, 2003, p. 39ff), although these standards are often codified in regulation afterwards. In all, this is a private sector dominated international authority structure.¹⁰

A more diffuse development is happening with respect to green product certification and labeling. Most advanced industrialized states have now one or more state-recognized and sanctioned eco-labeling programs for various products (e.g. on organic food, wood, recycled products, cars, green energy etc.), and incidentally international state-run eco-labeling programs are being developed (e.g. in the European Union). But besides – and increasingly overwhelming – these state-sanctioned and often state-organized eco-labels and product information schemes, a blossoming

of private initiatives can be witnessed. From local or national producer/sector organized initiatives, to truly global innovative industry-NGO eco-labeling initiatives, such as those of the well known Forest Stewardship Council and Marine Stewardship Council.¹¹ The environmental labeling and product certification schemes have become a worldwide phenomenon. Various standardization organizations and arrangements are in place with respect to product labels. Some of them are indeed clear organizations, other take up hybrid organizational forms or are rather arrangements, which bring together various (business, NGO and state) organizations, each drawing on their own resources and constituencies, and thus credibility and legitimacy.

¹⁰ Not all countries have however equal influence. Developing country companies, governments, and environmental NGOs, have been only marginally involved in the drafting of, for example, the ISO 14000 series (KRUT; GLECKMAN, 1998; CLAPP, 2005). For instance, of the 141 developing countries, only 50 had full members of International Organization for Standardization ISO in the late 1990s and only 25 had (often not very active) participants in Technical Committee 207 on environmental management (and its various sub-committees), which deals with most environmental standards. In contrast, all developed countries have members and almost all were actively involved in TC 207 negotiations from its establishment in 1993 onward (cf. KRUT; GLECKMAN, 1998, p. 40-62). In 2006, some 35 developing and transitional economies had members in TC 207. Mattili and Büthe (2003) provide interesting data of the considerably larger influence of European members vis-à-vis U.S. members in the ISO. See for similar data on the Codex Alimentarius standards: Henson and Jaffee (2007).

¹¹ A rich literature from various disciplines has emerged on the various forms, impacts, and arrangements involving public, private and mixed labeling schemes (cf. MAGAT; VISCUSI, 1992; OOSTERVEER, 2007). But the global labeling schemes are not always that global as they meant to be. The innovative and much celebrated MSC and FSC labeling schemes are developed to function globally, but in 2006 17 of the 19 certified fisheries under the MSC label and over 80% of the certified area under the FSC label were located in developed countries.

Crucial – from an authority point of view – in these labeling and certification programs are not just the standardization organizations but also the private certifying and inspection organizations, who should make sure that labels and certificates represent what they claim to represent. And there is a wide variety among them. Established in the late 19th century as a French grain shipment inspection house, SGS¹² is at the moment the world leading authority in inspection, verification, testing and certification of products and processes in all sectors, with over 42.000 employees in a network of around 1.000 offices and laboratories around the world. They are also an auditor for ISO certifications. Control Union¹³ (which includes former Skal International) is a smaller and more targeted global network of companies, laboratories and certifiers in among others the food, feed and wood sector. Their central certification branch in the food and wood sector had in 2005 over 100 employees, with an equivalent of inspectors and certifiers in many national offices in numerous countries. They translate (governmental and non-governmental) environmental requirements into eco-labeling schemes, but also organize stakeholder support and influence, assess what can be and what can not be certified and inspected, and inspect and certify products (along the whole line of the value chains and the transport routes).¹⁴ These major certification companies do more than just inspecting whether standards are fulfilled; they are actively involved in developing and designing such standards, which make them indeed a global private authority. There also many smaller ones, who are less involved in standard setting procedures and content.

But there is more at stake here than just a simple relocation of environmental authority from state to market. First, in these labeling and certification arrangements, the state is never absent and environmental authority is thus never simply private or non-state authority. Each label, certificate and product-information system should be understood as a complex arrangement of actors designing the standard, organizations verifying information, routes for transmission of the label or information, arrangements and strategies to deal with uncertainty and trust, and us-

ers that are addressed with such certifications and labels. While some of these actors and organizations are private in nature (either commercial or non-profit organizations), others are state organizations. The initially voluntary company systems of auditing have increasingly found base in legal requirements on, for instance, environmental reporting.¹⁵ Combinations of private market, private moral and public authority can be also witnessed in various product labeling schemes, be it often with different arrangements. The point that needs to be made here is that these arrangements draw on multiple authorities (often related to multiple actors), be it for different cases and situations in different mixes. It is still rare that state authority is completely excluded in environmental regulation; and if so then private authority shows mixes of business related market authority, NGO-based moral authority and expert and knowledge authority of epistemic communities. Böstom (2006) calls this the logic of inclusiveness in standardization organizations.

Second, these diversifying or shifting environmental authorities come along with a deterritorialization of authority and governance, and are as such closely linked to processes of globalization. The fact that these environmental authorities have to work across national boundaries, in the global networks and flows of production and product trade, makes that national state authorities do no longer fit as the sole environmental authority. That is also not too surprising as labels and process certifications – whether based on environmental criteria or other – are closely bound with the global economy.

Environmental partnerships

An area where such a mixing or merging of various environmental authorities has been most prominent is in so-called environmental partnerships, or partnerships for sustainability. In these partnerships, public environmental authority often partners with other sources and locations of authority, in order to strengthen the environmental capacity and power to reach set goals. Partnerships in the field of

¹² Available in: <<http://sgs.com/>>.

¹³ Available in: <<http://www.controlunion.com/main/default.htm>>.

¹⁴ They run various programmes such as EUREPGAP, Greengold label (on palm oil use in biomass energy production), Tesco nature's choice, Utz kapeh coffee, and organic production.

¹⁵ Denmark was the first European country with legislation on mandatory company environmental reporting in 1995 (with a revision in 2002), soon to be followed by the Netherlands, Norway, Sweden, Spain and others (HOLGAARD; JØRGENSEN, 2005).

environmental and sustainability have a history of some two decades, but it is especially since the 1992 UNCED conference and even more after the Johannesburg summit of 2002 that they are sky-rocketing and globalizing.¹⁶ Globalization, environmental state-failures and (global) governance have provided fertile ground for the emergence and spreading of so-called cross-sectoral environmental partnerships. Many of these partnerships still have a national outlook in that the partners are located within one nation-state. But then the rationale for such partnership is to be found in the complexity linked to globalization and the impossibilities for states to details and pattern the regularities for environmental governance also within their territory. Hence, other partners, and with that often sources of authority are called in. But a major part of these new cross-sectional partnerships are transnational, either by the nature of their partners, and/or by the geographies they aim to cover (cf. BÖRZEL; RISSE, 2005; ANDONOVA; LEVY, 2003).

Compared to labels and certifications, these environmental partnerships are not necessarily strongly rooted in the global economy of products and production processes. Various recent inventories of multi-sectoral environmental partnerships illustrate that these do not dominate in industrial products or productions processes, but rather on water, nature conservation, and energy (cf. OECD, 2006; available in: <<http://webapps01/un.org.dsd.partnerships/public/wecome.do>>). So, while some of the standardization organizations behind labels can be interpreted as partnerships (as for instance illustrated by Börzel and Risse, 2005, and Böstrom, 2006), the two categories are far from the same. Environmental partnerships share with labels and certification a shift of authority from public arrangements of environmental protection towards a multiplicity and combination of authority sources. And they share with the former category an involvement of state authorities, rather than a full replacement of state authority by private authority. Most partnerships link, in a stronger or weaker form, state environmental authority with other sources of authority in developing and implementing their arrangements and rules. Some scholars even claim that partnerships hardly have any additional regulatory capacity or authority, and if they develop some it is basically to strengthen the

already powerful. Still, by their “inclusiveness” partnerships increase moral authority.

Yet, where the literature on certifications and environmental labeling is in general positive in terms of the articulation and use of new sources of authority that make a difference in ruling on environmental protection, the evaluations on environmental partnerships are much more ambivalent. While it is acknowledged that the emergence of environmental partnership should be interpreted in terms of the search for new forms of environmental governance under globalization conditions, and some scholars are convinced of their future career (cf. WADDELL; KHAGRAM, 2007), it seems that especially the national partnerships that function in a clear institutional structure are successful in gaining authority, often even at the cost of state authority. While the global partnerships, that lack a clear institutional setting or even face an institutional void such as many of the World Summit on Sustainable Development partnerships, find it much more difficult to gain or execute environmental authority.

Concluding assessment

The emerging private authority in the areas of rule-making, standard-setting and implementation, and partnerships should be seen in perspective. As states withdraw from some of their tasks and functions that we traditionally associate with public authorities due to globalization processes, lack of state capacity, a high level of complexity or a changing ideology, other actors or institutional arrangements might step in and seize authority. But these forms of private or non-state authority are often either legitimized by governments or legitimacy is acquired through other authorities (such a moral and scientific authority). In that sense, we should be careful of roughly concluding that a change is taking place from state environmental authority to a market authority, and that such a process goes against the interest of stringent and effective environmental protection, for several reasons. First, while the conclusion of a diminishing state environmental authority can indeed be witnessed increasingly, it does not mean that private market

¹⁶ See the data base of the World Summit on Sustainable Development (JOHANNESBURG, 2002) partnerships at:<http://webapps01/un.org.dsd.partnerships/public/wecome.do>. Over 330 international partnerships had been registered through the WSSD by mid 2007.

environmental authority is enhancing or gaining ground, as several other non-state forms of environmental authority are gaining ground. Second, where private market environmental authority is emerging it is often still related to and legitimized by state environmental authority. Third, it proves also too simple to equate private market environmental authority with poor environmental records, as among other ecological modernization scholars have learnt us.

At the same time there are reasons for further critical inquiry into the changing environmental authority structure under conditions of globalization. While current shifts in environmental authority away from the nation-state take place under relatively prosperous environmental conditions, the question emerges whether these new environmental authorities hold under high consequence risks. Will environmental state authority not move back in when serious environmental risks occur, such as in the case of Tsjernoby, global bird flue, or severe catastrophes due to climate change? Or can these non-state environmental authorities also reverse without any environmental state authority back-up, and under what kind of condition might this happen? This all seems to be closely related to the degree and strength of institutionalization of these new non-state environmental authorities in markets, civil societies and science; but it also depends on the degree to which these non-state authorities are able to maintain their legitimacy and capacity as Biersteker and Hall (2002) argue, especially under severe challenges. For instance, will private insurance structures collapse under ongoing climate catastrophes? Will civil society moral authorities be able to keep their legitimacy when they increase their power, influence and thus compromises in ruling environmental challenges

though coalitions? Will the partnerships structures be able to overcome conflicting interest, and push for radical climate change and over-fishing mitigation? Will the moral authorities of environmental NGOs have enough power and legitimacy to ban the trade in endangered species? We are only starting to see the first steps of non-state environmental authorities under conditions of globalization, and much experiences and research lies ahead for assessing their strengths, continuity and power.

Finally there is the question of democratic accountability on non-state authorities. Especially with respect to public agendas non-state actors are not considered normatively entitled to act authoritatively, because they lack the political accountability to wider constituencies than just their members. But in an interesting contribution James Meadowcroft (2007) is less straight forward in rejecting the democratic credentials of non-state authority structures. Although the democratic outlooks of – in his case – partnerships can certainly not be taken for granted, he does see potentials in creating and constructing accountability mechanisms via the interaction between public and private authorities. Representation, deliberative interactions and accountability linkages need than become part of designing new environmental authority structures that are effective in meeting the challenges of environmental governance under conditions of globalization. This will only be possible in new interlinkages, arrangements and interdependencies between state and non-state environmental authorities. In that sense, the delinking and full replacement of environmental state authorities for non-state environmental authorities is both empirically limited and normatively undesired.

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