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13. Beyond islands of sustainability? Opportunities and challenges of jurisdictional approaches in tropical forest governance

Philip Schleifer

In an increasingly turbulent world, the crisis of nature and our climate is deepening. Tropical deforestation is at the center of this crisis. Between 2000 and 2010, the average annual rate of primary forest loss in the tropics rose by 30 percent to 3.7 million hectares (Butler 2019). For comparison, this is a land area larger than Belgium being cleared every year. Much of this forest loss is driven by agricultural expansion, with a few forest-risk commodities (cattle, oil palm, soy, and timber) accounting for about two-thirds of total tropical deforestation in recent decades (Trase 2018). The large-scale destruction of forest ecosystems has dramatic ecological and social consequences. It is a major cause of climate change and biodiversity loss. A special report on land use by the International Panel on Climate Change (2019) highlights that all pathways that limit global warming to within 2 °C require reduced land conversion. In addition to ecological consequences, deforestation also raises major livelihood and social justice concerns. About 1.6 billion rural people, including many Indigenous communities, live in and around tropical forests (Newton et al. 2020). Deforestation thus threatens their economic well-being and traditions.

As the global deforestation crisis continues, so have efforts to govern it. In the 2010s, there was a major push to leverage the power of global supply chain actors to achieve “zero deforestation” (Lister and Dauvergne 2014; Schleifer 2016). However, the effectiveness of these supply chain initiatives in reducing deforestation has been limited. Some analysts even call their impact “elusive” (Taylor and Streck 2018). Instead of transforming global agriculture, they create “islands of sustainability” on the ground—i.e., isolated sites of improved practices, which, focused on individual supply chains, are limited in their conservation and livelihood effects. To achieve sustainability at scale, practitioners promote jurisdictional approaches as a new pathway (Earth Innovation Institute 2018). Going beyond a focus on deforestation-free

supply chains, these programs pursue integrated, jurisdiction-wide sustainable development agendas, including environmental, economic, and social policy objectives. A high level of local government involvement is central to the overall approach. However, this does not mean that jurisdictional programs are confined to the local level. On the contrary, they cross scales and aim to combine and reinforce domestic and transnational governance interventions (Nepstad et al. 2013).

Contributing to this book's objective to explore potential pathways toward sustainability in a time of global turbulence, this chapter explores this "jurisdictional turn" in tropical forest governance. It proceeds in three steps. First, it describes the conceptual origins, features, and diffusion of jurisdictional programs in the global tropics, with illustrative examples from Brazil and Indonesia. Second, it explores the emerging transnational community of practice in this issue area. Third, it reflects on the opportunities and challenges of jurisdictional approaches to scale sustainability.

BEYOND ISLANDS OF SUSTAINABILITY

In 2010, the members of the Consumer Goods Forum (CGF), a network of 400 leading global retailers and consumer goods manufacturers, pledged to eliminate deforestation from their supply chains by 2020. At the 2010 Cancun Climate Summit, the World Wide Fund for Nature, the world's largest environmental NGO, welcomed the development: "The scale, geographical presence and purchasing power of [these] companies could transform these commodity markets and help put an end to tropical deforestation in countries like Brazil and Indonesia" (Consumer Goods Forum 2010). However, ten years on, the 2010s have been called "tropical forests' lost decade" (Butler 2019), and the zero-deforestation supply chain movement has been criticized for missing its targets by a very large margin (Taylor and Streck 2018). To increase the effectiveness of corporate commitments, leading academics and practitioners recommend that more companies adopt zero-deforestation commitments with immediate implementation deadlines and sanction-based implementation mechanisms (Garrett et al. 2019). However, others warn that even if big-brand companies cleaned up their global supply chains, they would only create "islands of green in a sea of deforestation" (Gaworecki 2015).

To scale sustainability beyond individual supply chains, so-called jurisdictional approaches have gained ground in tropical forest governance in recent years. The jurisdictional approach belongs to a broader class of landscape approaches with roots in the biodiversity conservation literature. Biodiversity conservation has been practiced in a landscape context since the 1980s, with conservation interventions focusing on ecologically important landscapes. Responding to international policy agendas on sustainable development, a new

generation of landscape programs has evolved over the past decade (Reed et al. 2016). The jurisdictional approach can be understood as a subset of this new class of sustainable development-oriented landscape programs. While the approach is still in an early stage of development, several key features are beginning to emerge.

First, jurisdictional programs are defined by policy-relevant boundaries. This is the key difference to landscape approaches, which are focused on ecologically relevant boundaries. The scale of the jurisdictional approach thereby depends on the country context, including factors such as the distribution of political authority to make land use decisions across levels of government and the existence of institutional capacity (van Houten and de Koning 2018: 7). Broader definitions include both national and subnational jurisdictional scales. However, most jurisdictional programs are situated at the subnational scale, typically the second or third administrative level in a country. Within these administrative boundaries, the objective is to achieve “jurisdictional sustainability,” which is the “successful transition to sustainable development—encompassing social, environmental, and economic dimensions—across an entire political geography” (Earth Innovation Institute 2018: 1). Second, jurisdictional programs are conceived as government-led multistakeholder processes. They are described as a “formalized collaboration between government entities and actors from civil society and/or the private sector” (von Essen and Lambin 2021: 161). In practice, the degree of government involvement in jurisdictional programs can vary. However, initiatives with very high or very low levels of government involvement are typically considered to fall outside the jurisdictional approach. Third, moving away from a narrow focus on zero-deforestation, the jurisdictional approach embraces a broad definition of sustainability, which acknowledges the interdependences of human and natural systems and seeks to integrate environmental, economic, and social policy objectives.

An important entry point into the development of jurisdictional programs was provided by the Program on Reducing Emissions from Deforestation and Forest Degradation, or REDD+. Established in 2008 under the United Nations Framework Convention on Climate Change, REDD+ assists developing countries in building governance capacities and providing results-based payments for forest protection. Initially focused on the project level, REDD+ has evolved to include capacity building and finance mechanisms for jurisdiction-wide initiatives. While political enthusiasm for the REDD+ agenda has declined, the program helped develop policy networks, institutional knowledge, and organizational structures for sustainability practitioners to further develop the jurisdictional approach (Seymour et al. 2020: 4–5).

Over the past decade, the jurisdictional approach has gained significant momentum in tropical forest governance. A recent mapping identifies 25 juris-

dictional programs, which encompass nearly 40 percent of the world's tropical forests (von Essen and Lambin 2021). In particular, Brazil and Indonesia, which rank number one and number three in the world in terms of their tropical forest area, have seen jurisdictional action on deforestation. Their federalist systems, which give local governments significant authority over land use decisions, make them fertile ground for the approach.

In Brazil, numerous states have taken steps to develop visions, targets, and implementation mechanisms to advance jurisdiction-wide sustainable development objectives. Nine Brazilian states have joined the Governors' Climate and Forests Task Force, a global network of subnational governments committed to low-emission rural development and to halting deforestation (GCF Task Force 2021). One of the most advanced jurisdictional programs can be found in Mato Grosso (Milhorange and Bursztyn 2018). Located in the Cerrado biome, Mato Grosso is Brazil's agricultural powerhouse, providing about one-third of the country's total soy production. However, the state's high deforestation rate, which exceeded 10,000 km² by the mid 2000s (GCF Task Force 2019), created pressure on Mato Grosso's government to transform its carbon-intensive development model. At the Paris Climate Conference in 2015, the governor of Mato Grosso launched the Produce, Conserve, and Include Strategy, a jurisdictional program, which integrates the state's REDD+ program, global supply chain initiatives, and municipal-level climate action into a state-wide vision and governance structure for low-emission rural development.

Indonesia has also emerged as an important policy laboratory for the jurisdictional approach in recent years (Seymour et al. 2020). A pioneering district of the jurisdictional approach in the Indonesia context was Berau district in East Kalimantan. In 2008, the governor of Berau and the Nature Conservancy began a dialogue about a low-emissions economic development strategy for the district. A multistakeholder working group was formed to develop an institutional framework and action plan for deforestation reduction. In 2009, the Berau Forest Carbon Program was launched and began implementing pilot projects throughout the district. Initially focused on the pulp and paper industry, the program soon broadened its scope to include palm oil production, the main driver of deforestation in the district (Mafria et al. 2018). Supported by the Nature Conservancy, Berau Regency launched a jurisdiction-wide sustainable palm oil program in 2015. The program seeks to increase transparency in oil palm licensing, improve the district's system for social and environmental impact assessment, and strengthen smallholder inclusion and productivity. The Berau Forest Carbon Program has served as an important point of reference for other jurisdictions in Indonesia. Today, seven Indonesian provinces are members of the Governors' Climate and Forests Task Force, formulating province-wide visions and roadmaps for low-emission rural development (GCF Task Force 2021). Moreover, at the district level (the second

level of local government in Indonesia) the Linger Temu Kabupaten Lestari (“Sustainable Districts Association”) brings together nine districts from across Indonesia to develop and implement sustainable land use plans (LTKL 2021).

A TRANSNATIONAL COMMUNITY OF PRACTICE

The development of jurisdictional programs is driven by a transnational community of practice. At the center of this community is a coalition of sub-national governments and international and local NGOs. For example, in Mato Grosso, Governor Pedro Taques was an important political driver behind the development of the state’s Produce, Conserve, and Include Strategy. Similarly, in Central Kalimantan, Governor Teras Narang supported the province’s Roadmap to Low-Deforestation Rural Development. International NGOs have served as “backbone organizations” for many of these programs. In this role, they provide important coordination and management functions to support and steer the network of actors working toward jurisdictional sustainability (Hovani et al. 2018: 19). The Nature Conservancy, the Earth Innovation Institute, and the Sustainable Trade Initiative have functioned as backbone organizations for jurisdictional programs in Brazil, Indonesia, and other tropical forest countries.

Supported by grants from philanthropic foundations and international development agencies, such as the Packard Foundation and the German Agency for International Cooperation, the jurisdictional approach community of practice has grown considerably in recent years. As many organizations are moving “beyond certification” (New Foresight 2018), jurisdictional programs are increasingly central to the forest conservation strategies of international NGOs and their local partners. At the transnational level, the Tropical Forest Alliance, a multistakeholder platform initiated by the CGF and the United States government to support companies’ transitions to deforestation-free supply chains, has evolved into an important forum for exchange for the jurisdictional approach community of practice. Since 2019, the Tropical Forest Alliance has hosted the Jurisdictional Exchange Network and the Jurisdictional Approaches Resource Hub, which, among other activities, organize regular webinars for sustainability practitioners.

While global buyers have long been reluctant to accept responsibility beyond their supply chains, this is beginning to change. Failing to meet their 2020 zero-deforestation targets, transnational corporations have stepped up their engagement in jurisdictional and landscape programs. An important catalyst for this was the COP26 Climate Summit, which put nature and the nexus between agriculture and deforestation at the center of international climate negotiations. As part of the CGF’s newly formed Forest Positive Coalition of Action, leading retailers and consumer goods manufacturers announced a new

commitment at COP26 “to transform landscapes to the equivalent of the coalition’s combined production base footprint of palm oil, soy, paper packaging and beef into forest positive landscapes by 2030” (United Nations Framework Convention on Climate Change 2021).

There also are efforts underway by standard-setting and certification organizations to develop standards, verification systems, and platforms for linking jurisdictional programs to global market actors. The Roundtable on Sustainable Palm Oil, the leading global certification program in the palm oil sector, is currently testing its jurisdictional certification system in several subnational districts in Ecuador, Indonesia, and Malaysia (RSPO 2021). Likewise, the ISEAL Alliance, a meta-standard setter in the sustainability certification space, recently published its good practice guidelines for making credible jurisdictional claims (ISEAL Alliance 2020). Another platform to connect global buyers to jurisdictional programs is the SourceUp initiative of IDH (IDH 2021). There also is the Indonesia-focused Terpercaya Initiative of the European Forest Institute, which is developing key performance indicators for jurisdictional sustainability in Indonesia. In partnership with Trase, a supply chain transparency initiative, the Terpercaya indicators have recently been incorporated in the Transparency Pathway tool, which develops a methodology to trace subnational jurisdictions’ supply chain links to consumer countries (EU REDD Facility 2022).

OPPORTUNITIES AND CHALLENGES OF JURISDICTIONAL APPROACHES

The emerging features of the jurisdictional approach resonate with several debates in the broader sustainability governance literature. Specifically, it answers recent calls by academics for a stronger role for the state (Bartley 2018), enhancement of institutional complementarities (Cashore et al. 2021), and prioritization of marginalized actors in sustainability governance (Kashwan et al. 2020). Against the background of these debates, the remainder of this chapter reflects on the opportunities and challenges of the jurisdictional approach to advance sustainable development objectives in the global tropics. The arguments aim to stimulate discussion and future research in this area.

Opportunities

Harnessing the power of public authority

The jurisdictional approach and its focus on domestic government involvement is a response to the perceived limits of transnational private regulation. As described above, a major limitation of private market-based mechanisms is their tendency to create islands of sustainability on the ground. The jurisdic-

tional approach is designed to overcome this limitation. Its theory of change aims to harness the convening and regulatory powers of domestic government actors to galvanize support and to scale sustainability interventions across entire jurisdictions, as opposed to individual supply chains. Therefore, the approach foresees the creation of government-led multistakeholder bodies. Participating government representatives should have executive and regulatory authority to engage in policy reform and to create a jurisdiction-wide regulatory framework for low-emission rural development (see RSPO 2021: 14). Depending on the distribution of regulatory competencies in a country, the level of jurisdictional programs can vary. In most tropical forest countries, including Brazil and Indonesia, it is the second or third administrative level. These midsize scales are considered to be the “sweet spot” wherein programs can be adapted to local contexts but are large enough to contribute to large-scale sustainability transformations (von Essen and Lambin 2021: 165).

Creating public–private complementarities

Conceived as arenas in which REDD+, global supply chain initiatives, and domestic policies interact (Nepstad et al. 2013), the jurisdictional approach is thought to provide an opportunity to enhance public–private complementarities in sustainability governance (Pacheco et al. 2018). As previously described, the CGF’s Forest Positive Coalition of Action, which brings together the world’s leading retailers and consumer goods manufacturers, has recently embraced jurisdictional and landscape programs as a key element of its post-2020 forest conservation strategy (CGF Forest Positive Coalition of Action 2021). As part of its Strategy for Collective Action in Production Landscapes, the coalition presented plans to scale up 22 jurisdictional and landscape initiatives in Brazil, Chile, Indonesia, Malaysia, Mexico, and Russia (CGF Forest Positive Coalition of Action 2021). As previously mentioned, NGOs and certification organizations have also intensified their efforts to develop the infrastructure of standards, verification systems, and market platforms necessary to enable large-scale “jurisdictional sourcing” (Boshoven et al. 2021). Practitioners hope that linking global market actors to local jurisdictions will give a major push to the jurisdictional sustainability agenda in the coming years.

Prioritizing marginalized actors

The jurisdictional approach also resonates with recent calls for more participation from, social justice for, and prioritization of the poor in sustainability governance (Kashwan et al. 2020). Local communities, smallholders, and Indigenous people are often excluded from systems of socio-ecological governance. Consequently, their traditions, values, and customary rights are poorly reflected in these institutions. In particular, conflicts over land rights are a problem, which existing governance mechanisms, such as certification

schemes, have struggled to address (Köhne 2014). These shortcomings have important livelihood and justice implications. Studies also show that empowering local communities is key to developing effective institutions to govern tropical forests (Muttaqin et al. 2019). With its broad sustainable development agenda, the jurisdictional approach is more attuned to these issues. As a place-based mode of governance, the approach also offers more access points and opportunities for local participation and deliberation. Indeed, the rights and livelihood concerns of local communities, smallholders, and Indigenous people are an important priority for the jurisdictional approach community of practice (Hovani et al. 2018: 31–33).

Challenges

Succumbing to “dreams of domestication”

Scholars of private business governance have long called for “bringing the state back in” (Mayer and Gereffi 2010: 18). Indeed, there is growing consensus that transnational private regulation cannot replace or transcend the state and that domestic regulatory contexts matter greatly for the adoption and implementation of sustainability standards (Bartley 2018). There are thus good reasons to welcome the involvement of local government actors as a central element of the jurisdictional approach’s theory of change. At the same time, it is important to remember that, in many cases, transnational private regulation developed in response to weaknesses of public regulatory institutions in the Global South. These weaknesses have not disappeared overnight. This generates a risk that the proponents of the jurisdictional approach succumb to “dreams of domestication” by creating expectations and agendas that are far too ambitious for local authorities, institutions, and the realities on the ground (see Quack 2020). In countries like Indonesia, local governments often have weak managerial and enforcement capacity, problems with collusion and corruption are widespread, and conflicts over land rights undermine public trust in the state and its representatives (Gecko Project 2017). Closely tying the success of jurisdictional programs to the support of local government also risks compromising the longevity of these programs. As the experience of Central Kalimantan and its jurisdictional program shows, political turnover after elections can quickly undo years of progress (Boyd et al. 2018). Another risk is that local elites misuse these programs to “greenwash” past environmental destruction to satisfy big-brand companies and their sustainability agendas. Indeed, there is evidence to suggest that many jurisdictions with high-profile sustainability agendas have historical tropical deforestation rates that far exceed the global average for the global tropics (von Essen and Lambin 2021: 163).

Limits to big-brand sustainability

As the world's leading retailers and consumer goods manufacturers pledge to support jurisdictional and landscape programs to meet their global climate and biodiversity commitments, the limitations of big-brand sustainability should not be forgotten. On a structural level, big-brand companies' contribution to overconsumption of natural resources continues to be a root cause of the global environmental crisis. Selling consumers ever more products is inherent to their business models and their various sustainability strategies have changed little about this fact (Dauvergne and Lister 2012). The declining power of leading northern firms in a world of "polycentric trade" (Horner and Nadvi 2018), in which forest-risk commodities are increasingly consumed by southern countries, is another structural limitation. As yet, no company from China or India—the world's largest importers of forest-risk commodities—has joined the CGF's Forest Positive Coalition of Action. Beyond these structural limitations, the experience with the 2020 zero-deforestation agenda provides a cautionary tale. Big-brand companies have set and missed ambitious targets before. Against this background, the CGF's Strategy for Collective Action in Production Landscapes' lack of detail is not a promising sign. Another reason for concern is the strategy's timeline. After a short start-up and learning phase (up to 2023), an implementation and scaling-up phase (2023–2025) will lead to a "steady phase" (from 2025 onwards), in which programs are "scaled up and deliver landscape/jurisdictional level forest positive outcomes" (CGF Forest Positive Coalition of Action 2021: 22). There is a risk that big-brand companies, eager to make a bold move to deflect from past failings, underestimate the complexity of these processes and the time and resources needed to develop them.

Persistence of exclusionary practices

The jurisdictional approach community of practice highlights social inclusion as an important policy objective. This includes the empowerment of Indigenous people and local community-based conservation (Hovani et al. 2018: 31). But existing research on community-based natural resource governance in the Global South shows that power asymmetries and exclusionary practices are very difficult to overcome. In complex multistakeholder settings, imbalances in power and resources among stakeholders often lead to political compromises being imposed in a top-down manner (Ponte et al. 2021). This also poses a challenge for the jurisdictional approach and its theory of change. While the involvement of local state actors is one of its most celebrated features, it is important not to forget that the history of state formation in many of these countries is deeply entangled with colonial legacies and disputes over land rights and land ownership (Cramb and McCarthy 2016). In the post-colonial period, conflicts over land rights have continued, with state elites often impos-

ing foreign notions of legality and sustainability on local communities while ignoring customary land rights (Myers et al. 2020). Research suggests that these practices remain a major challenge for existing jurisdictional programs. Exploring how jurisdictional programs across 11 tropical forest jurisdictions protect the rights of local communities and Indigenous people, a recent study finds that the rights of these groups are often not formally recognized and that this limits their ability to participate in policy formulation (DiGiano et al. 2020).

CONCLUSION

To address the problem of commodity-driven deforestation, companies around the world have joined certification programs and have implemented zero-deforestation commitments in their global supply chains. However, instead of putting an end to the global deforestation crisis, these supply chain-centered initiatives have created islands of sustainability on the ground. Contributing to this book's agenda to identify pathways toward sustainability in an era of global turbulence, this chapter explores the opportunities and challenges of the "jurisdictional turn" in tropical forest governance. A new mode of place-based multistakeholder governance with jurisdiction-wide sustainable development objectives, the emerging features of these programs resonate with recent calls by academics for a stronger role for the state, the creation of public-private complementarities, and the prioritization of the poor in sustainability governance. While cautiously optimistic about the jurisdictional approach and its potential to improve tropical forest governance in these dimensions, this chapter underscores the need for critical analysis in this area. Such analysis advances understanding of the challenges involved, including the risk that sustainability practitioners succumb to "dreams of domestication," (once again) overestimate the power of big-brand companies, and underestimate the difficulties of addressing power asymmetries and exclusionary practices in complex multistakeholder settings.

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