

THE ROLE OF GLOBAL CIVIL SOCIETY IN IMPROVING CORPORATE ACCOUNTABILITY FOR AIR POLLUTION

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Air pollution is a transboundary issue that cannot be defined to specific regions or states. Importantly, it causes damage to both environmental systems and human health, the latter of which has encountered a significant lack of discussion in political and public discourse. Despite the transboundary nature of air pollution, there has been a noticeable absence of multilateral cooperation on the issue, especially that which assures the accountability of the largest polluters to the public, namely Transnational Corporations (TNCs). States are a central vehicle of vertical accountability mechanisms, but these vertical mechanisms are insufficient to improve the accountability of corporations to the global public for air pollution and its impact on human health. Civil society has historically functioned as a 'norm entrepreneur' in regard to environmental issues. For instance, institutionalising norms of corporate responsibility to sustainable practices in the form of Corporate Social Responsibility (CSR). There is potential for civil society to frame air pollution as a human rights issue due to its negative impact on human health, generating global normative change. This would shift a significant amount of attention to the global public, which has the potential to increase the accountability of corporations to the public via horizontal, bottom-up accountability mechanisms, thereby shaping national and international policy.

Introduction

Air pollution is a problem of environmental degradation that cannot be confined to any specific region or state. Air pollutants travel transnationally, being carried by various air flows, which results in the production of air pollutants in one region, and their presence elsewhere (Lidskog and Sundqvist, 2011). The greatest global polluter is the energy sector, followed by the agriculture, the transportation and the industry sectors (Zhang et al., 2017). Namely, American oil companies produce not only greenhouse gases but also carcinogenic pollutants (Katz, 2012; The Lancet, 2016).

Due to its transboundary nature, air pollution requires global cooperation (DeSombre, 2014). Yet, there has been a distinct absence of multilateral agreements on the problem, and regulation has largely been left to states (Redgewell, 2015). Air pollution is of particular significance due to the impact on not only environmental systems, but also human health. The World Health Organisation (WHO) estimates that outdoor air pollution causes 4.2 million deaths per year (Who.int, 2019), which is set to increase (The Lancet, 2016). Importantly, distributions of the negative health effects of air pollution are not equal. “[H]otspots of mortality” exist in regions with the highest industrial activity (Zhang et al., 2017: 706). Some regional populations face greater damage to their health from dangerous levels of air pollution, representing a significant geographical injustice (Lidskog and Sundqvist, 2011).

Many powerful private actors like large Transnational Corporations (TNCs) have a major contributing role to global air pollution, and subsequently negatively influence on human health. Accountability of these organisations to the public is, however, expected to be achieved only through vertical state means (Newell, 2008). Accountability requires making “power answerable to the right standards” (Goodhart, 2011: 58). It relies on actors being liable for their actions as well as enforcing punishments when these actors shirk these responsibilities (Newell, 2008).

Using the lenses of norms and accountability, this normative essay argues that vertical accountability mechanisms via states are insufficient to tackle air pollution (Newell, 2008). They do not successfully hold polluting corporations accountable to the global public for the negative consequences of air pollution, especially to human health. I argue that global civil society is a ‘norm entrepreneur’ in global public policy, which successfully influences the

emergence, dissemination and institutionalisation of norms (Finnemore and Sikkink, 1998). This has prompted improved corporate responsibility to the public, heightening the public accountability of corporations via horizontal, bottom-up activism (Newell, 2008). I argue that air pollution is an issue which global civil society should analyse from a human-rights lens, despite commonly being regarded as only an environmental issue. I conclude that this is essential to improve the accountability of corporations to the global public through horizontal, bottom-up accountability mechanisms that have the potential to improve state and international policy.

Vertical Accountability

In the global policy of accountability for air pollution, the norm has been vertical state accountability mechanisms that regulate corporate pollution within national borders (Newell, 2008). This state-centric focus has been long-standing. Since the UN environmental conference in Sweden in 1972, state sovereignty over natural resources and pollution has been ubiquitous in global policy on environmental problems (Lidskog and Sundqvist, 2011). Following agendas such as the Johannesburg Summit in 2002 have continued this, focusing on voluntary commitments by states to reduce pollution (DeSombre, 2014). States are deemed the central vehicle of regulation and accountability for the public regarding corporate air pollution, despite being embedded within a globalised, deregulated economic system that has created many powerful, polluting and transnational corporate actors. This generates many problems for the accountability of corporations to the public for their polluting activities.

One such problem is that the variation in existing regulation and accountability mechanisms between states makes accountability delimited and dependant on national contexts (Drago, 2014). The economic clout of TNCs and their mobility between jurisdictions creates gaps in the level of public accountability achieved by states (Koenig-Archibugi, 2004), and especially so in industrialising states. The economic interests of corporations are often favoured over the impact of their behaviours on the public due to international pressures to industrialise. This makes it especially challenging for states to successfully regulate and hold corporations accountable to the public for environmental problems when governments rely heavily on corporate investment (ibid.). In this

sense, Newell (2008) suggests that governments, particularly but not exclusively in developing countries, become accountable to corporations due to their economic power and mobility, rather than governments being a dependable implementer of well-enforced public accountability procedures. As highlighted by Newell, rapidly industrialising states are one particular context where corporations hold considerable economic power over governments, creating issues for accountability. For instance, in India, there is a significant connection between air pollution and mortality, as shown by research conducted in Mumbai that presents air pollution as a notable public health issue, especially for poorer citizens (Patankar and Trivedi, 2011). There has been poor implementation of any official regulations to manage pollution in India, despite a strong legal and bureaucratic foundation in the country (Kathuria, 2007). Though the Indian government has various regulatory structures to hold polluters accountable to public bodies, such as state boards and technical reports that review industry pollution from sites (Hadden, 1987). Accountability mechanisms in India continue to rely heavily on informal regulations (Kathuria, 2007) and voluntary reporting of pollution, with very little enforcement for those that over-pollute (Hadden, 1987). Nadel (1975) highlights that these voluntary reporting approaches are poor mechanism for public accountability, as corporations are under no formal legislation to provide reports. Additionally, reports are not guaranteed as corporations may desire to maintain secrecy over information for competitiveness, hindering answerability and enforcement by public bodies when there is secrecy surrounding how these corporations operate (ibid.). Reports might also expose limited measures taken by corporations to reduce air pollution, which would require additional resources to resolve (Hadden, 1987). This could potentially lead to reduced productivity and competitiveness, and thus deter incentives to provide these reports. Furthermore, industrialising states face a conflict of public interest when trying to improve corporate public accountability domestically. More affluent countries such as the US have the influence and resources to prosecute and fine over-polluters, making it the “strict control model” (Drago, 2014: 59). Conversely, rapidly industrialising states face a conflict of interest as the state’s intentions to minimise environmental damage and harm to human health is often overshadowed by a simultaneous public desire for foreign investment (Hadden, 1987; Koenig-Archibugi, 2004). In rapidly industrialising countries, mechanisms of public

accountability are often poorly implemented due to a lack of resources for enforcement and power to punish over-polluters (Hadden, 1987).

Interdependency between the state and corporate investment is, however, not just an accountability issue confined to industrialising states. For instance, in Australia the affiliation of the state and the coal industry is an obstacle to improving public accountability over the negative impact of harmful emissions from coal mining have on the health of populations surrounding the mines (Higginbotham et al., 2010). The coal industry is a significant economic sector in the country. Australia has substantial coal and fossil-fuel energy reserves, despite many opportunities for a successful renewable energy industry, such as with solar power (Byrnes et al., 2013). The current policy framework, however, favours non-renewables, such as coal, generating barriers to the renewable energy sector which still requires significant investment (ibid.). Furthermore, there is a consistent endorsement of the coal industry within Australian media despite growing concerns over greenhouse gas emissions (Bacon and Nash, 2012). The economic leverage of the coal industry in Australia, therefore, makes state incentives for improving corporate public accountability for health impacts poor. For example, royalties from multinational mining corporations in just one mining region generated \$1.3 billion dollars for the state between 2009 and 2010 (ibid.). Higginbotham et al., (2010) highlight that this has created problems for accountability as the air pollutants from power generators and mines have negatively impacted the health of populations around these sites. Yet, the state has prioritised the economic benefits of coal corporations operating in the area, choosing to resist public pressure from local civil society for greater accountability for polluting practices on the impact of communities (ibid.).

Horizontal Accountability

As discussed above, the interdependency between corporate investment and state interests has proved to be an obstacles to the accountability of corporations to the public via the state. Transnational civil society activism has been influential in bringing about global normative change, reforming state-centric, vertical approaches to create new norms of global, bottom-up, horizontal public accountability (Newell, 2008). This is promising for the improvement of public accountability of corporations to the public without

relying on national governments as the primary vehicle, especially in the domain of air pollution.

Civil society activists have functioned as 'norm entrepreneurs' or "actors who promote new global norms" (Bloomfield, 2015: 310) surrounding issues of corporate accountability to the public for environmental degradation and the associated human costs. Koenig-Archugi (2004) argues that actors in global civil society have become "accountability entrepreneurs" that improve "public accountability of business in light of the inadequacy of state action" (pp. 255).

Central to generating new global norms is framing, which raises the profile of an issue into public and political consciousness (Finnemore and Sikkink, 1998; Payne, 2001). 'Norm entrepreneurs' are agents who "translate ideas into normative structures" and frame normative ideas to successfully persuade an audience (Payne, 2001:38). As 'norm entrepreneurs' (ibid.), global civil society has historically and successfully framed the issue of a lack of corporate accountability to the public by emphasising the close relationships between corporations and society by highlighting the responsibility of corporations to be accountable to not just stakeholders and profits, but to the well-being of global society as a whole (Newell, 2008). However, there are questions over whether actors within civil society such as NGO's can be democratically accountable to the global society they claim to represent (Rootes, 1999). The benefits of these actors addressing environmental issues on a global stage have been significant in the past, which provides potential for normative change surrounding air pollution.

One example in which civil society has successfully framed an environmental issue as a social one is by raising the profile of economically marginalised groups. These groups are also neglected in international decision-making, despite being the worst affected by the impacts of environmental degradation perpetuated by unsustainable corporate behaviours (Newell, 2008; Wapner, 1995). For instance, in Japan, civil society successfully emphasised how localised Japanese populations had become victims of environmental injustices such as air pollution by industry and business, which had been overlooked due to pressure for Japan to industrialise and develop (Avenell, 2017; Brucksch and Grünschloß, 2009). The experience of these marginalised groups was highlighted through various platforms such as the Earth Summit in 1992 in Rio (Avenell, 2017). Such profile raising functions to frame environmental pollution through its social impact, emphasising

the relationship between corporate pollution and society to improve corporate public accountability. This led to a "paradigm shift" in Japanese policy which now emphasises the relationship between corporate environmental damage and its social impacts (Brucksch and Grünschloß, 2009: 313).

Global civil society also utilises channels such as the media to frame certain environmental issues to highlight hidden injustices to the global public and to create normative and political change. "Frames are crafted by norm entrepreneurs so as to resonate with audiences" (Payne, 2001: 37). For instance, Greenpeace is one actor within civil society that has successfully been a 'norm entrepreneur', catalysing the global anti-whaling norm. As Wapner (1995) highlights, Greenpeace brought global public attention to the issue of whaling through framing and media stunts. Novel images of the unethical practices in whaling were portrayed to the public via the media, engendering awareness in the global public consciousness of the environmental injustices of whaling. These images shape public and political sentiments, creating global anti-whaling norms. Thus, creating political change is possible via means other than state regulations (Wapner, 1995).

More recently, Dauvergne (2018a) highlighted how civil society has engaged in activism that has strengthened anti-microbead norms by raising public awareness and prompting public resistance to the use of plastic micro-beads in skincare. Particularly challenging is the governance of microplastics because microplastics are durable and dispersed globally (Dauvergne, 2018b). Additionally, the industry often intends to curb accountability, withstand government regulation, and place emphasis on consumer responsibility (Dauvergne, 2018b). Activism from civil society has however, successfully brought attention to the impact of marine micro-plastics to the public, shaping public consciousness and influencing consumers resistance to the purchase of products containing microbeads (Dauvergne, 2018a). Subsequently, these norms have become institutionalised by governments that follow this public consensus, creating bans on products containing plastic microbeads and pressuring corporations to make voluntary commitments to reduce these in their products (ibid.). This reflects how successful bottom-up, horizontal norms raise awareness of environmental issues in the global public consciousness. Corporate accountability for polluting practices can be improved through the efforts of global civil society as 'norm entrepreneurs' to diffuse norms among the public, which eventually

shape formal government policy.

Global civil society has also contributed to the institutionalisation (Finnemore and Sikkink, 1998) of horizontal, bottom-up public accountability norms. Private corporations have become increasingly aware of the power of civil society in shaping global public awareness of corporate behaviours. Subsequently, corporations have moved towards numerous voluntary mechanisms that improve accountability from the bottom-up and demonstrate corporate awareness of a responsibility to act on public environmental concerns and voluntarily commit to sustainable practices. One such example of the institutionalisation of this norm is the emergence of Corporate Social Responsibility (CSR), a consequence of pressure from environmental NGO's that have emphasised the social and environmental responsibilities of corporations (Winston, 2002). The UN's Global Compact, for instance, is a movement in which thousands of businesses have committed to self-regulation of their environmental and social impact considering the failure of governments to enforce public accountability (Scherer and Palazzo, 2011). This has led to business commitments to reducing pollution, for example through pollution-minimising technologies across production (Unglobalcompact.org, 2019).

Air Pollution, Human Rights and Improving Accountability

Though civil society has had an influential role in institutionalising norms of horizontal public accountability of corporations, mechanisms like CSR do not go far enough as they lack rigorous legislative power. CSR has been criticised as corporations have significant influence in defining what constitutes 'responsible' activities, while simultaneously prioritising profit-making (Rhodes, 2016). Furthermore, CSR mostly measures environmental impact from self-reported business activity reports, which can lack transparency (Newell, 2008; Nadel, 1975).

For instance, the Volkswagen emissions scandal in 2015 demonstrates how corporate self-interest can undermine voluntary commitments to sustainable and ethical operations, as the company managed to conceal the reality of its emissions from the public using 'defeat devices' (Rhodes, 2016). Global civil society has been successful at institutionalising norms of horizontal public corporate accountability through examples like CSR. However, policy must extend beyond voluntary commitments. Otherwise, TNC's continue to exist in void of

rigorous legislation both from states and from the international community (Scherer and Palazzo, 2011).

To improve corporate accountability to the public for air pollution beyond current CSR, a rights-based approach should be taken. Air pollution is not just an environmental problem, but a human-rights issue due to the impact on human health. Global institutions such as the World Health Organisation (WHO) have importantly made this connection between health and human rights (Who.int, 2019). Actors within global civil society should do more to emphasise this. As 'norm entrepreneurs', framing should be utilised to generate global normative change via the public that connects air pollution produced by TNCs to human-rights violations. Importantly, they should highlight the negative effects of air pollution on human health, particularly for marginalised populations. In addition, global civil society should increasingly raise the profile of human-rights issues surrounding air pollution, similarly, seen with the successes of anti-whaling and anti-microbead movements.

For illustration, I focus on the issue of gas flares in Nigeria and how framing may improve corporate accountability to the public. Katz (2012) brings to light how in Nigeria toxic, carcinogenic emissions from gas flares used in corporate oil drilling have contributed to elevated cancer rates among citizens surrounding the drilling areas. This is despite claims from the government that flaring no longer occurs. Katz (2012) highlights how public accountability of corporations for continued flaring and its associated negative impacts on health is undermined by the economic power of oil corporations over the state. This example demonstrates that in order to create horizontal public accountability in response to the failure of vertical state mechanisms, civil society actors should effectively mobilise global public opinion on these issues of air pollution from a human-rights frame. By utilising the media as an organisational platform, global public attention can be brought to the human-rights injustices faced by marginalised populations, such as those in Nigeria, caused by the corporate denial of a citizens' right to health by the continued use of flaring.

It is necessary to consider how 'norm entrepreneurs' are not the only agents acting in norm dynamics. 'Norm antipreneurs', seeking to maintain the status quo as argued by Bloomfield (2015: 310), may disturb normative change via norm entrepreneurship by suggesting that the new norm is alarmist or by undermining it. There is certainly room for contestation over the significance of air pollution as a human rights issue given that the existing

consensus is the prioritisation of industrialisation and development. This is heavily entrenched in discourse, policy, and accountability mechanisms as emphasised in the examples provided earlier. Therefore, considerable advantages are provided to 'norm antipreneurs' maintaining the current status quo (Bloomfield, 2015), who may claim that corporate investment industrialisation provides more significant economic benefits to the state, that outweigh costs to human health.

Nevertheless, civil society has the potential to successfully generate this new norm as air pollution will be associated with a significant and established normative framework: human rights. Finnemore and Sikkink (1998) highlight that new normative ideas are persuasive when connected to an entrenched theory. The human rights frame is one that has significant clout in the global policy domain. As Goodhart (2011) asserts, "human rights do command a meaningful global consensus today" (pp. 58). If global civil society were to raise global public awareness of the human-rights injustices of air pollution via a focus on health, there would be potential to subsequently influence normative change associated with air pollution in the public domain, as has been done with anti-microbeads and marine plastic. Raising global public awareness of this via organisational platforms would disseminate the norm that corporate air pollution negatively affects human health, which should be regarded as a human rights violation. Injecting this into the public consciousness would further horizontal public accountability by giving power to informed consumers to resist and to shame corporations that contribute to poor human health through irresponsible behaviours like flaring.

This horizontal, bottom-up public accountability approach would form vertical formal legislation and mechanisms of accountability through government action. In countries such as Nigeria corporate influence over the state is significant (Katz, 2012), pressure from the global public for corporations to be more accountable might empower these governments to exert a stronger influence over polluting corporations, as has been observed in the Japanese case. Ideally this would further create formal international laws to hold corporations universally accountable to the public for such practices, although international law has largely been practically unsuccessful as corporations are often prioritised to protect trade and capital in the global system (Newell, 2008). Beginning with the diffusion of a human-rights normative frame to air pollution would be an accessible mechanism for global civil society to increase public corporate

accountability for air pollution. It would put pressure on national governments and international institutions to implement policies and targets to better manage irresponsible corporate air pollution practices.

Conclusion

Public accountability of corporations for air pollution has been largely left to states to implement. Nevertheless, vertical state mechanisms have failed to bring about suitable public accountability for corporate air pollution, as this is dependent upon the context, interests and capacities of the state. Global civil society has been influential in transforming norms of public accountability from those that are vertical and state-led to horizontal, bottom-up norms of corporate responsibility to global society, institutionalised through examples such as CSR. Nevertheless, global civil society must go further to raise awareness of the injustices of air pollution to improve public accountability for the impact of this on human health. In this essay, I have proposed that in order to create meaningful global public policy on air pollution that holds corporations publicly accountable, global civil society must utilise human-rights framing to raise global public awareness of the injustices many populations face from the negative health impacts air pollution has on various populations around the world. Transnational corporations should transnationally be held accountable by the global public for their contributions to air pollution and its health impacts. By raising awareness of this issue, global civil society has the potential to create new global norms about air pollution and human-rights, and to improve vertical accountability measures achieved via states and international law before requiring action from horizontal public accountability mechanisms.

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