

Law and Policy in Brazil: Protecting the Forest and Enhancing Communities

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Abstract

A continuing problem in dealing with issues of global environmental protection is striking a balance among conservation and citizens' rights and quality of life. This research focuses on whether policies and practices of international and domestic law in Brazil can serve as a model for other areas in addressing the dilemmas of environmental sustainability and the betterment of citizen's livelihood. Applying qualitative methodologies, we examine laws and policies from the 1990s to the present, such as Brazil's federal and state laws, U.N. major documents and treaties, and speeches from important political figures. Using the Amazon region in Brazil as a case study, we argue that one approach to this problem is to have both domestic and international law working in strengthening local communities' quality of life at the same time that it seeks environmental preservation by giving more independence to local communities and promoting their environmental friendly practices.

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Chapter One: Introduction

Overview and Significance of Topic

The value of the Brazilian Amazon is astounding and immeasurable. It is “the largest single reserve of biological organisms in the world.” Scientists estimate that there are between five to thirty million different plants and something in between 800,000 and five million species (Romano 1999, 68) in Brazil’s rainforest. Many animal and tree species may not yet have been discovered. The scientific community sees the rainforest as a great asset. The cure for incurable diseases may be in the forest’s vast biodiversity. Furthermore, the rainforest acts as a carbon sink and cleanses the world’s atmosphere from carbon dioxide and decelerates the unwanted climate change.

The rainforest, in spite of its importance, is being deforested at alarming rates, approximately 8,000 square miles a year between the years of 1995 and 2005 (Ministry of the Environment Data). Highly profitable, non-environmental-friendly economic practices, such as cattle ranching, crop-growing (Romano 1999, 68), mining, lumbering and government-developing programs are responsible for the deforestation of the Brazilian Amazon. For instance, government construction of hydroelectric dams and highways require clearing of forest land which in turn encourage urbanization of the region that leads to direct or indirect deforestation of Brazil’s rainforest (CIFOR Annual Report 2006).

Global warming and the loss of the Amazon’s rich biodiversity are often cited in the news as consequences of deforestation (Browder, and Godfrey 1997). What we seldom (Capuzzo 2007; Rohter 2007) hear in the literature is the violation of human rights occurring in the Brazilian Amazon region in the name of development and profit.

Communities of first peoples and traditional peoples are being displaced along with their environmentally-friendly way of life.

While certain groups are struggling, others are flourishing, from an economic and political standpoint, by using the rainforest lands as a means to profit (Rohter 2003). This prosperity, however, only enriches a few (Hecht, and Cockburn 1989). Hence, it is highly relevant to understand the political power of groups involved in this dilemma and the role of institutions in enforcing these laws.

In spite of continuing deforestation, groups within and outside Brazil are fighting against the destruction of the forest. One example is the Brazilian government and international governmental institutions. The rule of law in Brazil and the international rule of law protect the environment and the human rights of the people living there. Government agencies in Brazil such as the FUNAI (National Foundation of the Indian) and the IBAMA (Brazilian Institute of the Environment and of the Renewable Natural Resources) are domestic and international institutions, respectively, charged with the implementation of these laws.

Institutions, however, have not achieved the desirable levels of success in enforcing these laws. Deforestation and violation of human rights continue and these are issues that need to be addressed immediately. Although these institutions may be slowly evolving they are not addressing immediate issues as quickly as needed. We argue for laws that take into account the lack of institutional effectiveness and urgency to solve this problem. These new laws should promote environmentally-friendly economic practices while restricting the commercialization of non-environmentally-friendly products. To implement these laws, new institution would have to be created. Although we do not

address the specifics of these new institutions we argue that they can be created and successfully perform their functions with realistically attainable amounts of funding or staff.

For this project, we applied qualitative research methods. We gathered information from newspapers, academic journals, speeches of governmental figures, and books. This project synthesizes current statistics, laws, and speeches of important governmental figures in respect to the rainforest dilemma. The main goals of this project are to add current information and present new ideas to the greater literature on deforestation in the Brazilian Amazon. This project also summarizes major studies on the international rule of law as well as Brazilian policies. This paper presents ideas which must be seriously considered by politicians from within Brazil and outside. We also discuss the importance of civil societies, I/NGOs, and IGOs in contributing toward a better society. It is our hope that this research contributes to a fair and just solution to these dilemmas.

The following section provides the reader with key terms and definitions, and then we move on to discuss these critical issues.

Key Terms and Definitions

The Amazonia rainforest is the equivalent of the Amazon Biomass (below).

The Amazon Biomass is an ecosystem located in the South American states of French Guiana, Guiana, Suriname, Colombia, Bolivia, Ecuador, Venezuela and Brazil. Brazil hosts 63% of the total Amazon biomass. Currently, 20% of Brazil's rainforest has disappeared (Guardian, January 25, 2008), and the number continues to go up.

Amazônia Legal was created by Law No. 1806 of December 6 of 1953. The law established the region comprised of seven full states and parts of other two states. By creating the region, the law seeks economic development but also takes the needs of the local community and the environment as limiting factors to economic development. The Amazônia Legal region represents 59% of the Brazilian (more than half of the continental United States) and it encompasses 63% of the rainforest total biomass.

In 2004, it was 60% covered with forest (Original area was 74%). 27.5 billion dollars or 6.1% of Brazil's GDP (2002). Land distribution: 24% Private, 33 % Indigenous reserves, 10 % Special Areas (Military, Protected Ecosystems), and 33% Disputed Lands or Lands with no ownership

Accession is, according to the Black's Law Dictionary, "the act of acceding or agreeing."

Civil Society is a term that is broadly used in this research. It refers to citizens in general, from Brazil and abroad and/or their associations.

Convention is, according to the Black's Law Dictionary, "An agreement or compact, especially one among nations; a multilateral treaty."

Covenant is, according to the Black's Law Dictionary, "A formal agreement or promise, usu. in a contract."

Environmentally-Friendly Economic Practices: Economic practices that preserve or promote the sustainability of the environment.

IBAMA: Brazilian Environment and Renewable Natural Resources Institute.

International Community is used similarly to civil society. It encompasses civil society, international organizations, institutions, government, association, and NGOs.

International Law refers to rules of conduct that are binding on international actors in relations, transactions, and problems that transcend national frontiers. In its initial phase international states were regarded as the only legitimate international actors. In the 20th Century, states ceased to be the sole subjects of international legal rules. This makes possible the application of norms of conduct to a wide range of individuals, and institutions.

Sources of International law as established by the International Court of Justice include: International Conventions, International Custom, General Principles of Law, Judicial decisions, and teachings of the most highly qualified publicists of the various nations.

Nongovernmental Organization is, according to the Black's law Dictionary, "any scientific, professional, business, or public-interest that is neither affiliated with nor under the direction of a government; an international organization that is not the creation of an agreement among countries, but rather is composed of private individuals or organization. Examples of nongovernmental organization, which are often granted consultative status with the United Nations, include Amnesty International, Greenpeace, and the International Committee of the Red Cross."

Ratification is, according to the Black's Law Dictionary, the "adoption or enactment, where the act is the last in a series of necessary steps or consents."

Treaty is according to the Black's Law Dictionary, "an agreement formally signed, ratified, or adhered to between two nations or sovereigns; an international agreement concluded between two or more states in written form and governed by international law."

United Nations is, according to the Black's Law Dictionary, "an international organization established in 1945 to promote and ensure international peace and security, to promote friendly relations between nations, and to contribute to resolving international problems related to economic, social, cultural, and humanitarian condition."

World Trade Organization is, according to the Black's Law Dictionary, "the body charged with enforcing intellectual-property provisions of the GATT treaty. WTO comprises the signatories of the Uruguay Round of GATT negotiations."

Chapters Preview

The rest of this paper contains six sections. Chapter Three presents a literature review of the major literature pieces written on deforestation in the rainforest and the distribution of political power in the Brazilian Amazon region. Chapter Four presents the thesis statement of this project and will explain where this paper situates in respect to other research in the field. The fifth chapter supports the thesis statement. The sixth and final chapter summarizes the main points of this paper, notes possible future research, and suggests ideas for future policies and political action.

The following chapter provides the reader a broad overview of the situation of the Brazilian rainforest vis-à-vis the communities and interests in the Amazônia Legal, in Brazil as a whole, and the International Community.

Chapter Two: Communities, Political Power, and the Brazilian

Rainforest

To better comprehend rainforest issues, it can be helpful to understand the groups from the region and their interests. Some of these groups are the first peoples, the traditional peoples, people that live in the rainforest cities, cattle-ranchers, and soy producers. This section describes these groups with a focus on their political power. Political power refers to a group's ability to meet its needs and wants.

First Peoples

The Amazon rainforest is vital to the first peoples for it is their home. Environmentalists hold the first peoples in high-esteem because of their ability to live in communion with the rainforest. Lutzenberger, an ecologist and former Brazilian Environmental Minister under the Collor administration of 1992, once said: "the rainforest Indian is a true ecologist. He knows the forest as no modern ecologist can possibly know it" (2001).

Nowhere in the literature used for this project was a deep and thoughtful discussion on the use of the term indigenous found. In school in Brazil, just like we learned that Columbus discovered America, we also learned that the Indians were named after the people from the country of India, in Southeast Asia. The literature provided no discussions on the inaccurate use of the term and the implications of misusing this term.

The Oxford English Dictionary fails to critically analyze the word "Indian" and describes it simply as "belonging or relating to the race of original inhabitants of America and the West Indies" (Moran 1993). The problem with this definition is that it is not only a disservice to both groups of people in that they are being treated as if they are the same,

but also because it fails to recognize that the term was used by “those who discovered the Americas.”

Besides inaccurately defining a group of people, what further exacerbates the problem is that the term still is used today. The lack of discussion available reveals the inertia of the academics to subvert negative trends that have for long been engrained in our formal education and culture. Although many Brazilians may identify themselves as Indians, this should not be considered as an indicator that the use of the term is acceptable. This also raises the good question of whether I, a western and privileged Brazilian, should question Brazil’s first peoples’ choice to define themselves as Indians. Part of the issue with my challenging their use of such term is loaded with my own privilege of being part of the dominant culture that imposes its will on Brazil’s first peoples without asking them whether they are in agreement with the idea.

In spite of the uncertainty of what is the right definition and the right thing to do, we are going to take a risk and refer to the indigenous peoples as Brazil’s first peoples. We do concede that the use of this term may still be problematic. However, this term seems to come closer to describing these groups and as problematic as labeling them as “Indians.”

In Brazil, 170 groups of Brazil’s first peoples exist (Oxford English Dictionary Online) totaling roughly 300,000. This data, however, varies in the literature (Ramos 1998). Some of these first peoples are the *Xavantes*, *Suruí*, and *Yanonamo* (Lutzenberger 2001). The population of first peoples was much larger prior to the arrival of the Portuguese in the 1500s (Moran 1993).

The rainforest is important to the first peoples because their survival depends on it. In this context, survival refers to the first peoples' ability to obtain food in the forest, to have a safe home, to have access to natural medicines, and to teach their culture and way of living to their newborns. With continuing deforestation, groups of first peoples are increasingly concerned with the current and yet to come generations for their ways of life and their exposure to the dominant western Brazilian culture.

Corporations, cattle ranchers, government development programs, and lumbering companies continue to advance their non-environmental friendly economic practices in the rainforest. Because they have little political power in Brazil, there's little hope that any politicians or authorities will stand up for their cause. The first peoples discarded even Lula, Brazil's populist President, as a potential political ally because of Lula's lack of political support in a land conflict dispute between the first peoples and western Brazilians (New York Times October 15, 2004). Brazil's first peoples and their way of life will continue to decimate if these economic activities continue.

Another example of this lack of political power is a couple of letters written by the Kayapó Indians of Paraná. The letters were sent to Mato Grosso's governor, the World Bank and to Brazil's Attorney General. In these letters they spoke of governmental projects that are in violation of Brazil's law (Moran 1993) because the government failed to consult Brazil's first peoples in respect to their stance on these projects.

Traditional Peoples

The traditional peoples are not nearly as ecologically sophisticated as the first peoples. Much like the first peoples, however, they depend on the rainforest to survive. Many of the traditional peoples are *seringueiros* and *ribeirinhos* (Rubber tappers and

people from the riverbank communities, respectively) (Heyck 2002). The traditional peoples when facing difficulties to make a living, will work for cattle ranchers (Barbosa 2000) and lumbering companies, unlike the first peoples (Heyck 2002). Much like the first peoples, the traditional peoples have little political power in Brazilian. The story of the *seringueiros* illustrates why.

The *seringueiros*, who are originally from Northeast Brazil, worked in a system of “semi-slavery” (Barbosa 2000). They migrated to the North region of Brazil in the first migration wave of 1870 and in the second migration wave of 1941 (Heyck 2002). In the second wave, they migrated because of the government’s policies encouraging the people to go to the North so they could find new opportunities. These policies were publicized as a “Brazilian dream” type of campaign promoting a better life. Once arriving to their new destination they encountered several difficulties such as malaria, inhumane working conditions (Heyck 2002) and lack of basic governmental services (Moran 1993). The promises of the “Brazilian Dream” were hollow.

Most likely, the real motivations of the government’s “Dream” policies were twofold: to alleviate the land battles in Northeast Brazil and to colonize the Brazilian rainforest. They did not seek the welfare of the people from the Northeast. Examples of the government’s mendacity toward the *seringueiros* and the traditional peoples are abundant.

However, the *seringueiros*, the first peoples, and other groups have been able to organize and contest the dominant forces that are taking control of their destiny. The *seringueiros* have been classified as the “most engaged in the grassroots movement to save Amazônia, and thus their livelihood (Barbosa 2000).” Former *seringueiro* Chico

Mendes and Marina Silva are well known and respected in Brazilian society (Hecht 1989). Chico organized *seringueiros* and created a strong political force in the region. Cattle-ranchers murdered Chico for he was interfering with their interests. Marina Silva has been a successful state Senator and Environmental Minister. In 2007 the United Nations Environmental Programme gave her the Champion of the Earth award for her work toward environmental conservation and the improvement of the life of the rainforest peoples (United Nations Environmental Program News).

Urban population, Cattle Ranchers, and Soy Bean Producers.

When writing about the rainforest peoples it is important to acknowledge the people that live in urban areas of the Amazônia Legal. There are close to sixteen million people (IBGE Census 2007) or roughly sixty-eight percent of the people living in that region. There's little written about this group's relationships with the rainforest, other than that they are both directly and indirectly responsible for deforestation (Browder, and Godfrey 1997) and that the local urban sector "consumes beef" (Hecht 1989). The literature lacks information on the political power of the urban population as well. Understanding their political power essential, however, for they represent a important segment of the population that can help the rainforest people and the environment.

Representing a small segment of the Amazônia Legal's population, the cattle-ranchers, as opposed to the urban populations of the rainforest, are widely discussed in academia and in the news (Hecht 1989). They arrived in the rainforest in the 1970s after the collapse of the rubber industry in the state of Acre and the government's developmental initiative to encourage development in the region (Wallace 20007). Much

of this ranching also takes place by both rich cattle owners and small land owners (Hecht 1989). The cattle ranching industry generates employment opportunities for a large number of settlers that migrated from the Southern region of Brazil (Hecht 1989) and the Northeast. Most people that they employ work in clearing lands that are to be subsequently used for ranching activities.

With the growing political power of the *seringueiros* in connecting human rights and environmental issues in the late 1980s, the cattle ranchers organized powerful lobbying groups in Brazil's capitol, Brasilia. The Brazilian cattle ranching industry is the leading exporter of beef by volume (USDA Economic Research Service), of which thirty-five percent was exported to the European Union (Wallace 2007).

The soy producers, similar to the cattle-ranchers, are very relevant for this discussion. Recently, soy has been an emerging crop in the Amazon region in terms of both profit and land use. There is evidence of direct and indirect relationship between the increase in the production of soy and deforestation (Rohter 2003). Some soy producers hold great political power. One example is Blario Maggi. Maggi is the current governor of the state of Mato Grosso, one of the Amazônia Legal states. He is known as the King of Soy and his business enterprise, the Maggi Group, is the single-leading producer of soy in the world (Wallace 2007). Maggi's governorship and the political power and success of his business enterprise are clearly directly related.

Summary

The Brazilian Amazon is important in different ways to many groups within and outside Brazilian society. In addition, it should be clear by now to the reader that the distribution of power among these groups is very unequal. In the following chapter we

will present two literature review papers covering information on two different but related topics: sustainable development in a broad sense and law and policies vis-à-vis the rainforest.

Chapter Three: Literature Reviews on Sustainable Development, Policies, Laws, and the Rainforest

Sustainable Development

The Amazon region has the “richest collection of biodiversity on earth” (Kellman 2001, 147). The forest has the property of removing carbon dioxide from the atmosphere and is commonly referred to as the “cauldron of biodiversity,” (Romano 1999, 67) because it “contains the largest biodiversity of organisms in the world” (Romano 1999, 67). Among the food products that the forest naturally generates are tapioca, cocoa, pineapple, Brazil nuts, cashews, passion fruit, as well as more exotic fruits, such as the “cocona” (Klosek 1998, 138). Natural resources such as copper, iron, and manganese are also available in the region (Klosek 1999, 138). The Amazon is crucial for water cycling that generates rainfall for the region and the surrounding area, carbon sequestering by holding and absorbing carbon dioxide and therefore slowing global warming, and rich biodiversity (Wallace 2007). Also, it is rich in biodiversity and natural resources such as timber, aluminum, copper, tin, nickel, iron, manganese, natural gas and gold (Hirakuri 2007).

Common sense tells us that in the midst of such ample biological wealth, the government would do its best to protect the environment. But, this rich biodiversity is disappearing at alarming rates. Statistics say that 20 percent of the rainforest’s original mass has been deforested (Guardian, January 25, 2008). Although there is contention as to the exact deforestation rates (Hall 2000), these rates are, nonetheless, quite high. Among the consequences of deforestation are “loss of biodiversity” (Fearnside 2000) and “loss of water cycling” (Fearnside 2000). Damage to the economy, provision of basic

human services, and the continuation of life, are listed as a few of the consequences of loss and biodiversity, water cycling, and other environmental damages that result from deforestation (Rayfuse 2007). Klosek notes that some of the consequences are “large-scale losses of life, property, and capacity to produce food” (1998, 130). José A. Lutzenberger, a prominent Brazilian environmentalist and former Brazil’s Minister of the Environment (2001), found that the same amount of land that is used to produce beef would yield about ten times as much food in terms of fruit, game, and fish (2001, 124). There are also direct links between deforestation and global warming and ranked Brazil as a leading producer of greenhouse gases, and indicated that more than three quarters of those emissions are a result of deforestation in the Brazilian Amazon (Rohter 2007; Wallace 2007). In addition Brazil’s first peoples are directly affected because of deforestation. According to Klosek Brazil’s first peoples have two options: “extinction or integration,” (1998, 135) and that those who survive are “forced to migrate to overcrowded cities where they join the ranks of the destitute and unemployed” (1998, 135). Traditional peoples also struggle. Data revealed that 1,681 rural workers involved with rural land conflict have died, but there were only twenty-six trials and fifteen murder convictions (Klosek 1998, 133). Also, loggers violate the rights of Brazil’s first peoples as well as land property owners (Cleary 2000). Other activities such as gold mining, although with no direct links to deforestation caused great havoc to Brazil’s first peoples population (Cleary 2000). The government also impacts the first peoples. Through its developmental projects, such as dams, thirty different first peoples’ lands have been flooded (Perrez 1998, 571).

Much like the consequences, there are causes leading to deforestation (Kellman 2001, 148). Most of these causes can be “described as human-initiated activities (Kellman 2001, 148).” Cleary, a history professor, found that the main forces behind deforestation are ranching, agriculture, timber extraction and urban expansion (2000). Studies show agriculture as responsible for ninety percent of the deforestation (Romano 1999, specifically because of “slash and burn agricultural techniques and ranching” (Romano 1999, 71). The Brazilian government has been directly involved in this process through its “early incentive programs aimed to increase the industrial, agricultural, and ranching uses of the land, thereby increasing the conversion of forest to other uses” (Kellman 2001, 148) and “has spent billions of dollars building roads, hydroelectric dams, and other development projects designed to encourage settlement in the Amazon” (Kellman 2001, 148).

Brazilian scientists list “public politics (environmental and economic), institutional (fragility), agrotechnology, and socio economic (i.e.: population, income, food demand), that intersected and acted synergistically in the deforestation of the Amazon, as the main cause for deforestation” (Rodrigues 2004). Lutzenberger criticizes the Brazilian government because of its strong ties with business and the economic development technocracy that hinders the government from acting in the solution of important issues while by encouraging the struggling population to move to the Amazon and work as settlers (2001). Although forest fires may be considered a non-human lead initiative, they are “usually started by farmers in the dry season, to clear scrub in an effort to make the land available for agricultural uses” (Kellman 2001, 148)” and “have also played an enormous role in the reduction of the rainforest” (Kellman 2001, 148).

Sustainable development means something in complete contrast with the current situation in the rainforest region. Sociologist Gould acknowledges the deep discussion surrounding the use of the term sustainable development and offers a definition similar to Desta's (Gould 2006). Desta's definition of sustainable development encompasses social, cultural, and political needs and wants and the idea that sustainable development must take in account that needs of those already here, of those different parts of the world, and the needs of the future generations (1999). Major documents like the Stockholm Declaration on the Human Environment, and the treaties derived from World Conference on Environment and Development meeting, also included sustainable development in their language (Magraw 2007). Pearce, an economist, defines sustainable development from an economic perspective where economic development is continuing and ever evolving (Pearce 1998).

For the purposes of the Brazilian case, it is helpful to further define sustainable development. In addition to environmental protection, social development, and economic development, sustainable development also seeks to meet human's needs and intragenerational, intergenerational, and international equity. Human basic needs include food, shelter, medicine, livelihood, and community (Gould 2006). These needs must be met without compromising the ecosystem. The ecosystem is compromised at the moment that ecosystem and its functions are threatened. (Gould 2006).

Laws, policies, and politics

Global warming issues began to be discussed in the international community forums and during the 1992 Earth Summit in Rio de Janeiro. Developing countries were suspicious as developed countries proposed the setting of a global environmental

protection agenda (Desta 1999). North-South tensions were settled with the introduction of the concept of Common but Differentiated Responsibilities (CBDR). Principle 7 of the Rio Declaration defines CBDR, and Article 4 of the United Nations Framework Convention on Climate Change is a commonly used provision incorporated in most MEAs (Multilateral Environment Agreements) (Magraw 2007) which defines common but differentiated responsibilities as the idea that developing and developed states must work in collaboration to achieve the goals outlined in the treaties, collaboration vis-à-vis the transference of financial resources and technology and where the overarching needs of developing countries, such as poverty, are acknowledged as developing countries' priorities.

International conferences and campaigns boosted national governments efforts to protect their environments. In Brazil, President Collor launched *Operação Amazonia* (Amazonia Operation) prior to the 1992 Earth Summit Conference. In 1997, in line with the Forest for Life Campaign of the World Wide Fund for Nature (WWF), the Brazilian government promised to increase the rain forest totally protected areas from four to ten percent by the year 2000 (Hall 2000). By 2007 the Amazônia Legal reached about twenty-percent of protection in the forms of Conservation Units without taking into account Brazil's first peoples lands and other Conservation Units that are not from the Federal or State units (Instituto Socioambiental). Recently, the United Nations has made a series of statements addressing environmental issues (United Nations News Room). Secretary-General Ban Ki-moon is emphasizing the importance of the United Nations in acting as a forum for these discussions (United Nations Press Article). Up until November 16 of last year, Brazil had been praised as a "green giant" and a "leader in the

fight against global warming” for reducing the deforestation rates by half in the last two years (Gateway to UN’s System Work on Climate Change).

As a result of international campaigning and domestic pressure, in 1989 the Brazilian government created the IBAMA (Hall 2000), which stands for Brazilian Institute of the Environment and of the Renewable Natural Resources. According to the current Brazilian Environmental Minister, Marina Silva, since the creation of IBAMA, Brazil has enacted successful policies in respect to environmental protection in the Amazon. She says that in 1989 there were 134 federal protection units that totaled 15 million hectares (One hectare is approximately 2.5 acres), now there are 288 federal protected unities that total 70 million hectares. Hall and Cleary however, are not as positive in relation to IBAMA and Brazilian environmental policies as the Minister of the Environment is. According to Hall, findings dated back to 1996 show that there were only 150 field personal covering an area of 68 federal protected units and for the whole region there were 265 IBAMA field personnel employees. Hall also noted that in 1999, Minister of the Environment, Sarney Jr., dismissed IBAMA employees for unlawfully allowing extraction of timber in lands under their jurisdiction (2000). Also, there are recent reports of a similar trend of arrests where, since 2003, 140 government employees were arrested for involvement with the illegal sale of timber (Ministério do Meio Ambiente 2006/07).

A matter of deserving attention is the pivotal role that market forces play in the Amazonian environment. Cleary thinks that nothing will stop deforestation but market forces (Cleary 2000). Hall adds that critics suggest that deforestation cannot be controlled by environmental policies but instead is a function of economic factors and climate

phenomena such as the El Niño that cause forest fires (2000). On the other hand, Hirakuri acknowledges the deficiencies of Brazilian's environmental laws but presents a number of recommendations on how the law can become more efficient in terms of forestry management. Hirakuri's book's final chapter consists of recommendations that are divided in factors that can be changed and factors that are more difficult to change. Among factors that can be changed she lists regulatory, market, and social control/consensus oriented approaches. Under the factors that are more difficult to change are forest culture, forest land tenure, and legitimacy of the government (2003).

Romano adds that there is an ineffective enforcement of the laws and that in order for the situation to improve there must be "institutional education and change" (Romano 1999, 71). Kellman states that the Brazilian Constitution guarantees "a healthy and stable environment" (2001, 152) for all Brazilian citizens, but notes that the promise of the Constitutional Amendments "has been 'illusory.'" (2001, 152) She also writes about the NEP (National Environmental Policy) and the "progressive environmental legislation" (2001, 152) that resulted because of its creation. These laws, according to Kellman, were not effective because of different factors countering its enactment (2001, 152). Article 14 of the National Environmental Protection Law is an example of this. The law establishes harsh financial penalties for those who violate it (Kellman 2001, 158). This law, in spite of its strength on paper, is not implemented (Kellman 2001, 158). José Paulo Sepúlveda Pertence, Chief Justice of the Federal Supreme Court of Brazil, highlighted the tensions between a conservative legal culture and its intersection with the need for economic development that results in lack of accountability of environmental regulations (Kellman 2001, 158). The Saint Louis Law Journal also published a study of Brazil's legal system

that revealed that the Brazilian judicial branch has the tendency to side with corporations (1996, 1340).

Dantas and Leite, Brazilian law professors from the southern region of Brazil, see Brazil's legal system more positively by acknowledging Article 225 of the Brazilian Constitution as a step forward toward reaching environmental preservation (Dantas, and Leite 2002, 61) since it imposes criminal and civil liabilities to those who violate the law (Dantas, and Leite 2002, 61). Fernando C. Walcacer, also a law professor in Brazil, supports Dantas and Leite by affirming that the Brazilian 1988 Federal Constitution reveals new opportunities for success in respect to the effectiveness of the rule of law (Walcacer 2002, 55). Walcacer also writes about the Brazilian Environmental Crime Act of 1998 (No. 960.5/98) and describe it as "huge breakthrough for the guarantee of rights for our future generations" (Walcacer 2002, 59). He also said that a chapter of the Environmental Crimes Act elevates the degree of criminal liability of actions that are harmful to the environment such as deforestation of areas under the protection of the government as well as any damage to the nature that are within conservation units (Walcacer 2002, 56). The Environmental Crimes Act also expands the application of criminal liability to parties that are indirectly involved with deforestation such as "those transporting, selling, storing wood and other vegetable products without proper licensing, as well as those trading or using unlicensed chainsaws" (Walcacer 2002, 59). However, much like Dantas and Leite, Walcacer offers little evidence, or references leading to the evidence, that these laws are being effectively implemented.

A study of Latin American countries revealed that "weak enforcement seems to be caused more by a lack of human and financial resources and institutional capacity than

by lack of adequate legislation” (Kellman 2001, 145). These laws depend on the judiciary and on the environmental agencies in order to succeed. IBAMA struggles because of lack of funding and human resources (Romano 1999, 171). In addition, the specific budget for the environmental protection program is expected to decrease from \$492 million to \$367- in the 1999 budget (Kellman 2001, 148). In 2007, IBAMA employees went on strike due to possible cuts in the budget and staff. This lack of funding and human resources partially explains the continuing deforestation in the region, for the institutions equipped with the protection of the forest are not running on full speed.

Hall also writes substantially on the many laws that are being enacted by the government, laws that are needed, important bills that are in the process of becoming law and laws that have potential to be very efficient. Also, he introduces political factors that can shift trends of human rights violations and deforestation in arguing that the traditional peoples of the rainforest should take ownership of the forest’s natural resources and subsequently build an economy centered on their activities (2000).

Francisco “Chico” Mendes is one of these people. Chico was a *seringueiro* who gained political power and fought for the environmental cause in the late 1980s. There are also people outside Brazil making dedicated to the cause of the people and the environment. American nun Dorothy Stang raised awareness on important issues in the rainforest and serves as an example that people from outside Brazil are not only focused in profiting with the rainforest natural resource but, instead, are working for a dignified and honorable cause that seek the benefit of the people in the rainforest as well as the environment. They were both murdered because of their activism and are seen by many as sources of inspiration to continue in the struggle.

Brazil's current Environmental Minister Marina Silva is another political leader worthy of acknowledgement. Marina grew up in a poor family with limited resources. After finding her way up in life she now advocates for the traditional peoples, the first peoples, and the environment. She has been acknowledged for her human rights and environmental protection record, has refused to reduce herself to mendacity and has been candid in her work by remaining true to herself. In 2007 the UNEP, the United Nations Environmental Programme awarded Brazil's Environmental Minister, Marina Silva, with the Champions of the Earth award. The UNEP stated that deforestation rates decreased as a result of Marina's work (United Nations Environmental Programme). Grander names like Marina, Chico and Stang bequeath hope to those who still believe that there is a fair and equitable solution for the rainforest dilemma, and many other dilemmas in need of immediate reparation.

Other political leaders have contradictory records in respect to the environment and human rights issues. One example is President Sarney who launched the "Nossa Natureza" package in 1988 and established the IBAMA (Hall 2000). These two pro-environment initiatives are contrast Sarney's past political engagements. For instance, for five years in the 1960s Sarney was the governor of the state of Maranhão, which is partially situated in the Amazônia Legal. During that period, the Brazilian government and its military initiated a major development project in the Amazon region that consisted of land clearing activities. Up to this date Maranhão is by far the most deforested of all the Amazônia Legal area states presenting a 66% level of deforestation, a fact acknowledged by Hall himself.

Since the 1940s, the Brazilian government's attitude toward environmental protection has been seen as "one of resistance to a perceived plot by rich nations to keep the poor away from developing" (Klosek 1998, 135). In the early 1980s the Brazilian environmental protection chief, Paulo Nogueira-Neto, said that Brazil has completely changed "We have changed 180 degrees" (Shabecoff) in respect to a push of environmental friendly laws and thus portraying the government protecting the rainforest. Lutzenberger, however, commented on Nogueira-Neto's statement as "no more than 'lip service'" (Shabecoff). In the late 1980s, Brazil's then foreign minister said the following in a United Nations Conference on the Environment and Development meeting: "Brazil does not want to transform itself into an ecological reserve for humanity. Our greatest duty is with our economic development" (Romano 1999, 71).

In the 1997 Earth Summit+5 forum, set up to review the promises of the 1992 Earth Summit, Brazil's government was criticized for not holding up its promises. However, in that same year, Brazil joined South Africa, Germany, Singapore, and the United Nations in a joint committee to reduce deforestation across the globe (Kellman 2001, 148). Also, the Brazilian government has been working with the World Wide Fund for Nature. In 2003, the WWF and the World Bank made an agreement with Brazil in which the government created the Amazon Region Protected Areas program that comprises areas larger than New York, New Jersey, and Connecticut combined (Rohter 2007).

Last year, President da Silva said "The challenge that we have overcome is knowing how to use the jungle and how to preserve the environment while allowing people's lives to be improved" (BBC News). Lula's comment is among the most positive

statements and reflects sustainable development concepts and was made in the context of recent data revealing a decrease of twenty percent in deforestation rates. He states that much of this success is because of the government's effective environmental regulations (BBC News). However, skepticism exists as to the recent decreases in the deforestation being a result of the government's environmental regulations. Recent data suggests a record-breaking rate of deforestation that is a result of stimulating market demand (Guardian, January 25, 2008).

The former President of the IBAMA supported the government's developmental initiatives by stating "Brazil has an international obligation to improve the lives of the seventeen million people who live there and to make use of our comparative advantage" (Romano 1999, 71). This statement raises interesting questions because first, why is the head of Brazil's environmental agency making such a conflicting statement, isn't he supposed to be pro-environment? Are those seventeen million people really benefiting from the economic development? Isn't deforestation actually negatively affecting their ways of lives?

International organizations and bodies also have an impact on deforestation. The International Monetary Fund (IMF) and the World Bank invested heavily in development in the rainforest by providing funds for the conversion of "millions of acres of tropical rainforest and cropland to pasture land to raise cattle for the international beef market" (Klosek 1998, 123). The IMF no longer continues this practice, but the damage that it has caused remains. Transnational corporations are also playing a role in the deforestation of the Brazilian Amazon. Klosek cites specifically to American, Japanese, and European companies that are set up in the Brazilian Amazon and receive government incentives

that directly lead to deforestation (Klosek 1998, 127). Although these companies generate income and employment, when we take in consideration sustainable development, these types of economic practices become undesirable.

The international community can, instead, play more positive roles. According to Fearnside, they can make important contributions, both through its wealth and through its intellectual and technical capabilities (Fearnside 2000). Klosek states that the international community should assist Brazil in dealing with environmental matters because the whole world benefits from the forest and contributed to deforestation. Romano promotes the idea of educating the population as a means through which the goal of preservation can be achieved. The Brazilian scholars, on the other hand see the issues of deforestation differently. Dantas and Leite and Walcacer see the law as positively evolving and promising in many different aspects.

Summary

This literature review informed the reader on the facts and functions of the forest and the main causes behind deforestation. It also informed the reader of the situation of the situation of the first and traditional peoples. This section also provided a discussion on recent development trends and how it differentiates from sustainable development. We also expose the political leaders, policies and laws that relate to the environmental and human rights dilemma. We found that Brazilian institutions lack much needed financial resources and staff, and that important political figures are not fully committed to sustainable development. There are also political leaders who were fully committed to the environment and human rights cause, and one of them is currently involved in the struggle. We also found that the international community has played a negative role in

the region but has a great potential for helping the people in the rainforest region as well as for protecting the forest. We suggest that one of the ways that the international community can achieve this goal is working with Brazil in altering market mechanisms that negatively impact the forest and the people. This strategy can be twofold. To the same the international community and Brazil can absent from negative behavior, it can also play a positive role by encouraging environmentally-friendly economic practices in the region. Specially those practiced by the first and traditional peoples.

Chapter Four: A Closer Look at the Intersections of Brazilian and International Law and Institutions

We argue for a realistic and specific solution for the rainforest dilemma. We propose that the Brazilian law, in collaboration with the international law, only permits the commercialization of rainforest products that are sustainably produced in the Brazilian Amazon. This proposal encourages environmental conservation, and as a consequence, protects the rights of the rainforest peoples. The goal is to find a common ground between improving the human rights of the people, protecting the environment, and promoting economic development. We also argue for a need in creating market mechanisms that encourage the environmentally-friendly practices of the first peoples and the traditional peoples, as Hall suggested. This must be done so in a way that preserves the integrity and the identity of both groups.

Politicians in Brazil and politicians in the United States, the European Union, China, India, and other major importers of Brazilian products, must all take this idea seriously. Unfortunately, it is very unlikely that these law makers will pass such legislation even if such idea is presented to them. With that in mind, the global civil society must organize. The dimension of the people affected in the name of “economic development” and concerned with this issue is wide enough to create a promising global environmental justice movement.

In the next chapter we explain why the Brazilian and International laws need to improve so that it can best guarantee the human rights of the rainforest and safeguard the Brazilian rainforest from continuing deforestation.

Brazilian Law.

Since the 1820s Brazil has had different constitutions addressing environmental issues (McGee, and Zimmerman 1990, 530). The Brazilian Constitution of 1988, the current constitution, is seen as the most effective in addressing environmental problems (Walacer 2002, 59). Brazilian Constitutional Article 225 highlights the importance of preserving the environment and safeguarding it for present and future generations. Also, it instills the responsibility for its protection on both the government and people. The law demands that before any use of Brazil's natural resources occurs, there must be assurance that it will not harm the environment. Those who harm the environment are to be sanctioned and are obligated to replenish their damage to the environment.

The Brazilian Federal government, as ordered in the Constitution, is charged with protecting the dignity of the people as well as promoting a free, just, and unified society. Another objective is to eradicate poverty and marginalization, reduce social and regional inequalities, and promote the welfare of all people without discrimination based on race, sex, color, age, or any other form of discrimination. Constitutional article 231 specifically addresses the rights of the Brazil's first peoples and recognizes a distinct group whose lands are to be protected. If the government is to use any natural resource available in the Brazil's first peoples' lands, it must do so only with the authorization of the Brazil's first peoples, who will be also compensated for it. Moreover, the Brazil's first peoples may only be removed from their lands if there is catastrophe or an epidemic outbreak that threatens the first peoples or Brazil's sovereignty. In that case, the land shall be returned immediately to the first peoples.

The Brazil's first peoples' legislation is similar to Article 225, both with respect to content and application. There are many examples of the Brazil's first peoples' rights being violated. Ironically, in some circumstance, the government itself is the perpetrator of such actions. These almost poetic Constitutional articles have led one United Nations Official to consider Article 225 as the most advanced environmental legislation in the world (McGee, and Zimmerman 1990, 531). Unfortunately, these high ideals stay only on paper, and current violations of human rights and deforestation rates demonstrate why. Although they represent high principles, the laws don't have the needed institutional support so that it can be successfully applied. While these constitutional laws lack institutional support, agro business and cattle ranching continue to grow and profit and have the government institutions providing support for their practices. Human rights and environmental degradation and human rights violations are the result of their overarching power in Brazilian and global politics.

For the purposes of this research, understanding the International rule of law is as important as understanding the Brazil law. In this next section, we will introduce the international laws and treaties relevant to the situation of Brazil's first peoples and environmental degradation in the Amazônia Legal.

International Law.

The United Nations was created in 1945 (Basic Facts About the United Nations). As of 2006, 192 countries are part of the United Nations (United Nations Member States Growth). The main purpose of the United Nations is to create peace among states and serve as a forum for states to meet to solve international problems (Charter of the United Nations). Eleanor Roosevelt, then widow of former President F. D. Roosevelt, chaired the

committee that drafted a landmark achievement of the United Nations: The United Nations Universal Declaration of Human Rights (United Nations Website). Brazil, like many countries, signed the UNDHR (United Nations Website). The UNDHR, although a non-binding document (United Nations Website), is the base of binding treaties that are relevant to the traditional peoples and the Brazil's first peoples that inhabit Brazil's Amazônia Legal region.

In 1992, Brazil acceded the International Covenant on Economic, Social and Cultural Rights (United Nations Website) and the International Covenant on Civil and Political Rights. Article 1 Section II of both documents state that "in no case may a people be deprived of its own means of subsistence" (International Covenant on Civil and Political Rights). Unfortunately, there are no references on covenants from either convention that explains the meaning of subsistence in the section. This reveals a lack of seriousness on the part of the international rule of law, that is reflected on the human rights and environmental issues that we discuss in this paper. Brazil is clearly in violation of this article given the displacement of the Brazil's first peoples due to continuing deforestation of forest land. Moreover, as already mentioned in this paper, the traditional peoples' and the rural workers' rights have their rights violated as well. The leading factor is, of course, the demand of the Brazilian economy on the rainforest resources that leads to deforestation.

With this continuing frenetic destruction of the Brazilian rainforest, one would think that there are no international laws regarding the environment. The answer is yes and no. The Rio Declaration and the Statement of Forest Principles are two important documents that establish high ideals in respect to a state's treatment of its natural

resources, but they are non-binding (United Nations Website). On the other hand, the CBD (Convention on Biological Diversity) and FCC (The Framework Convention on Climate) are legal binding documents (United Nations Website).

In 1994 Brazil signed the CBD (Convention on Biological Diversity Website). The CBD seeks to conserve biodiversity and recognizes states' difference in achieving this objective (Convention on Biological Diversity Website). The FCC, which Brazil signed in 1994 (FCC Website), requires states to work in cooperation in curbing the emission of green house gases that contribute to climate change. This call for cooperation challenges the idea that the Brazilian government and society are the only ones to blame or to find the solution. To the same extent that the Brazilian government and people are indifferent toward rainforest issues, the European Union, Japan, China, India, and the United States continue to purchase non-environmental friendly products of the rainforest, and also contribute to the destruction cycle.

For this reason, we need to consider altering market mechanisms and their set of rules. Expanding on Bederman's statement that the "most potent tool for protection of species is linking enforcement mechanisms to the global trading order" (Bederman 2004)" we need to link protection of rainforest land and the Brazil's first peoples and traditional peoples to the global trading order.

This idea is grounded on legal principles. In the 2007 G-8 Summit in Heiligendamm, Germany, countries reaffirmed the Common But Differentiated Responsibilities (CBDR) principles (Kirova 2007), first mentioned on the Article 7 of the Rio Declaration on Environment and Development. It is through its own willingness in collaboration with the EU and the United States and other major consumers of Brazil's

rainforest product that Brazil's rainforest will be preserved and the rainforest peoples will survive.

The Great Need for Realistic Laws

Authors pose different solutions for the human rights and the environmental issues in Brazil vis-à-vis the rule of law. We think however, that many of those solutions are not the best ones for solving this issue. By the time that their proposed system will be functioning in full scale, many people will have their basic rights violated and many trees and biodiversity will have disappeared. Ignoring market mechanisms while giving trust that tough law enforcement will solve the deforestation problem can yield detrimental results. Although long-term changes are appreciated, we need solutions that will solve the problem in a timely fashion.

One idea worthy of research is in respect to laws and regulations controlling market mechanisms. Brazil's environmental dilemma is a global issue. Many states foreign to Brazil consume products that directly spring from the rainforest. Beef is one of these products. Cattle ranching, as we have seen before, is extremely harmful to the environment and the communities that live in the Amazon region. Restricting the commerce of beef in the global economy will reduce the demand for beef and as a result decrease deforestation. The same goes for all other products that are produced in Brazil that spring from non-environmental-friendly economic practices.

Changing these laws can be a great challenge given the powerful interests groups within and outside Brazil that will do all within their great power to halt such radical but needed changes. Understanding the laws and regulations that control market mechanisms can add significant information and insights on how to best go about these changes.

Understanding that changes can take place is equally important because of the diverging interests in the rainforest resources.

The CBDR principle supports the argument presented in this paper and the major laws within and outside Brazil to promote environmental preservation and the protection of the rights of the rainforest peoples. Although these principles are highly relevant, they are nothing but ideas if we don't have institutional support to apply them.

Brazilian government institutions are clearly not yet equipped to apply human rights and environmental laws. The difficulty to implement the Brazilian constitution is one example of this. Hence, the need for laws that are sensitive to the enforcement limitation of Brazil's institutions is evident. Thus, the idea presented in this paper: creating specific laws based on Brazilian and international laws. These specific laws would limit the commercialization of non-environmental friendly products only. Such laws are more likely to be implemented for it doesn't require much institutional sophistication to enforce these laws. One thing is to oversee the entire Amazon region, about the size of half of the continental United States. Another thing is focus on the origin of the products that are being commercialized and prohibit commercialization of rainforest products from the rainforest area. The international community, through international organizations and mechanisms as well as their domestic institutions must also play a role in ensuring that the products that Brazil is exporting are environmentally-friendly. It is important to highlight the importance of exporting environmentally-friendly products produced in the rainforest area. Traditional people and first peoples, throughout their year in the region have learned how to best use the land without harming it. These people can create products that can serve well the market, products that range from food

products to art and handcraft products. If an economy around these economic practices and techniques can be created and supported in Brazil and outside Brazil, many will benefit for the people in the rainforest will no longer be oppressed and the environment is likely to be preserved.

At this moment in time, such laws are unlikely to exist. Not because the market will crash or because this is not smart economics, but because there is no political power to do so. Whether in Brazil, the United States, or Europe, business and economic interests, most of the time, dominate politics and decide the fate of the state. We must keep the hope, however. Many NGOs, members of civil society, and government institutions are fighting for justice. However, many more need yet to join the cause. The answer lies on understanding how we can engage the unengaged on this political journey toward a fair and equitable solution for all.

Summary

In this chapter we presented our solution for the dilemma and why we think that our solution is desirable. Our solution is founded on a collaborative effort among the laws of Brazil's government and foreign states. This collaborative effort is unlikely to occur, however, without an increased participation of civil society and NGOs on the political process.

Chapter Five: Institutions, NGOs, and Global Civil Society: Solving the

Dilemma

Institutions

Current Brazilian institutions play different roles in determining the fate of the people of the rainforest and their environment. State agencies such as the MMA (Ministério do Meio Ambiente, or the Ministry of the Environment) and FUNAI, are charged with the protection of the environment and the Brazil's first peoples, respectively. On the other hand, the MDICE (Ministério do Desenvolvimento, Indústria e Comércio Exterior, or the Ministry of the Development, Industry, and External Commerce) promotes economic development.

To what extent these agencies are accomplishing their objective varies according to who answers this question. With the current boost of the Brazilian economy, one could argue that the MDICE is a successful agency, while the MMA, with recent findings of high deforestation rates, lies on the other side of the spectrum. It could be said that the FUNAI is not even on the scale because of the long-time oppression and negligence from the part of the government toward the Brazil's first peoples.

Taking a closer look at the MDICE's mission statement however, one can argue that the agency has not accomplished its objective. Its mission reads: "Construct a competitive Brazil, just and fair in opportunities, in cooperation with productive sectors, through actions that result in the improvement of the quality of life of the population" (Brazilian Government Website). Critically reading the mission statement we learn that the part on "just and fair in opportunities" represents an idea that is yet to be found in Brazil.

Their MDICE's mission statement also includes "the improvement of the quality of life of the population." The issue lies on the steps that institutions are not taking to accomplish that goal. It is common knowledge that, within and outside Brazil, only a few benefit from economic progress. Brazil continues to have one of the highest rates of inequalities in the world (World Bank 2006). Also, another question worthy of explanation is: does improving the quality of life of the population include the next generations? The answer for this question directly relates to the rainforest dilemma.

Expecting MDICE, or any other economic related state agencies in Brazil to improve the current situation can be quite unreasonable. This is not to deny that these institutions contribute to the problem, but they are not fully responsible for the problem. To the same extent, however, they are responsible for playing a role in solving the problem.

The rainforest products that are exported must enjoy the support of Brazilian institutions to become appealing and trusted in the international market. But, in order for these products to enter the market of foreign states, they need the institutional support of foreign state agencies that will ensure that the product enters their market. Hence, agencies similar to Brazil's MDICE in the EU, the United States, India, China, and other consumers of Brazil's non-environmentally-friendly products, hold a great deal of responsibility over current and past deforestation rates and the human rights violations that have resulted from this development.

As previously stated the MMA is a governmental agency that combats deforestation. Recent alarming deforestation trends suggest that the MMA – and other similar governmental institutions have not been able to tackle deforestation considerably.

Furthermore, there is evidence of “institutional failure” in the cases of the FUNAI and the IBDF, for they failed to reduce the societal and environmental impact of the government’s development initiative in an Amazon region state (Rodrigues 2004). It was found that in times of scarcity of good wood, the FUNAI would grant logging permits to companies interested in quality wood available in Amerindian lands (Rodrigues 2004). It should be clear by now that there’s much room for improvement in Brazil’s institutions, but how about the foreign states’ institutions?

Foreign institutions outside Brazil indirectly address the issues herein discussed. One example is the council strategy of 11 March 2002 at the European Council in Barcelona on environmental integration in the external policies of the General Affairs Council ACT (EU: Activities of the European Union Website). The ACT’s summary states “trade negotiations and relations must also take account of the environment” (EU: Activities of the European Union Website). In addition, they call for corporate responsibility and vow to systematically integrate “environmental considerations into the international institutions’ activities” (EU: Activities of the European Union Website).

The EU is to be applauded because it seeks addresses important issues. It also is to be criticized for there are no specific laws in the EU that concretely seek to regulate market mechanisms, the main force behind deforestation and the violations of human rights in Brazil. It is important to understand that institutions like the EU can be very helpful in promoting environmental and human rights protection in Brazil.

NGOs and Civil Society

In addition to institutions, NGOs and civil society are relevant for this discussion. Transnational and local NGOs play important roles when actively engaged in protecting

the rights of the people and protecting the environment. In some instances, they were able to succeed. Maria Guadalupe Moog-Rodrigues, in “Transnational Advocacy Networks in Brazil, Ecuador, and India” (Rodrigues 2004), provides the example of the Rondônia network, in Northern Brazil, and how it was able to successfully represent the people and the environment.

The Rondônia network was created in the 1980s and mobilized environmental and human rights NGOs from and outside Brazil, activists, consultants, the media, and concerned individuals (Rodrigues 2004). The network was successful in pushing the Planaflores policies to become more environmental friendly. If it would not have been for the pressure of the Rondônia network, Planaflores would be almost like the Polonoroeste. The Polonoroeste was a developmental program that negatively impacted Rondônia’s society and environment (Rodrigues 2004).

Although the Planaflores differed from the Polonoroeste in its design, in its first two years it didn’t keep its promises on protecting the environment. (Rodrigues 2004). The Rondônia network was able to reestablish itself and worked smoothly in implementing its effective strategies (Rodrigues 2004). As a result, it was able to affect implementation, but not with enough powers to make Planaflores an ideal sustainable development project (Rodrigues 2004).

Rodrigues conveys that real changes in policy in the Amazon region need yet to occur. This is by no means, dismissing any progress and success of the various networks and action in the Amazon region. The point is that there’s a need for a greater movement that is effective enough to alter policies in significant ways.

Looking at a similar issue but from another perspective, Rinku Sen in “Stir Up,” presents valuable information on creating such a movement. In the introductory chapter of her book, she eloquently acknowledges not having the answer to all questions and states that there is still much more to be discovered (Sen 2003). Also, although her book focuses in community organizing in the United States, many of her teachings can be applied to the rainforest case scenario.

One example is the concept that organizations work to avoid negative outcomes, but that significant shift in policies requires a large number of people involved in social movement. (Sen 2003). This idea directly relates to Rodrigues’s statement that there has been no substantive shift in Amazônian politics. Sen, thus, provides an answer for this dilemma that consists of building a movement large enough to enact such shift in policy core values. The overarching question, then, is: how can we create such a movement to solve the Amazônia dilemma?

A social movement, according to Sen, cannot be created by following certain rules and techniques. Rather, there are sets of preconditions, based on organizations’ design, that can lead to the creation of such a movement (Sen 2003). Three of these preconditions are: (1) Creation of support complementary organizations that work in collaboration, (2) Fundraising, and investing money in fundraising strategies so that organizations are not relying solely on foundation grants, and (3) Respect and courteous relationship among organizations (Sen 2003). Sen highlights that local organizations are the foundation of such movements (Sen 2003). The latter statement is quite similar to Rodrigues’s thesis statement that transnational networks success is dependant on the work that is done by the local members of these network. (Rodrigues 2004).

Sen strongly encourages constantly expanding the number of active members in the organization for it to be effective (Sen 2003). On the functionality of the organization, she emphasizes the importance of the organization's ability to take direct action whenever needed (Sen 2003). In the Amazônia case, a direct action can take many different shapes and forms.

Sen also speaks of the organization's ability to connect with the media, and how difficult it may be, due to financial constraints, to raise awareness on the issues that the organization is tackling (Sen 2003). The goal, however, can be attained by the traditional means of organizers directly addressing the people (Sen 2003). Paying attention while instilled with sense of action is quintessential for the development of organizations, says Sen. By paying attention, a group is able to make sound judgments about what is important and relevant to their work. She also acknowledges that action is a necessary risk that gives life to the vision attained from the process of paying attention.

Given the need for engagement of large numbers of people in order to achieve substantial shift in policies, it is important for NGOs to engage civil societies in this process. Creating concise alliances – much like the Rondônia network, can yield favorable results. These actions should not be directed toward mobilizing only Brazilian civil society. Civil societies in the EU, and in other countries that import Brazil's non-environmental friendly product, play a very important role in the solution of the dilemma. To the same extent that civil societies in the EU contribute to deforestation and subsequently, violation of human rights, they can also play a key role for the solution of this dilemma.

Summary

This sense of interconnectedness and that people in distant places care about similar issues is very empowering. It can boost the participation of civil society in protecting the rights of the people and the environment. It is important to understand that this is not the only example of collaboration. Ideally, collaborations must continue to exist and address a wide range of global issues that need solutions in a timely fashion. This dream is possible and at this very moment there are people that are working toward making it a reality. Many more people need to engage in this process, however. It is by one person at a time joining the cause, that we can live in a better world, not only for the people in the Amazônia and the environment, but for the people that are struggling with hunger, enjoyment of basic human rights, and ability to fully develop as healthy individuals and communities.

The Amazônia dilemma is a big issue that requires vision and actions. Governmental institutions, NGOs and civil societies within and outside Brazil, are together, capable of working toward the dream of safeguarding the rights of the people that live there as well as protecting the environment. It is crucial to highlight the need for engagement of civil society on this matter. NGOs and governmental institution alone, will only avoid a greater damage. If civil society, however, actively participates in the process, great shift in policies can occur.

Chapter Six: Observations, Conclusions, and Future Research

Multiple human rights violations are occurring in Brazil and throughout the world. States around the world are facing deep crisis and not enough is being done about it. Many are dying of hunger in different places around the world, the Chinese government exploits its migrant workforce (Human Rights Watch 2008), the Israeli government demolished the property of Palestinians without warning (Amnesty International 2008), Kenya's death toll exceed 1,000, and 200,000 died in Darfur (Reuters). These issues, although not directly related to the rainforest issues, are similar in many ways for it relates to the violation of people's rights.

One question worthy of asking is: if Brazil's civil society is not standing for issues of hunger, issues regarding its oppressed black population, sexism, homophobia, , severe inequality, disability issues, religious tolerance, among other forms of oppression, why would Brazil stand up for the Brazilian trees, the "primitive" Brazil's first peoples, and the "backwards" traditional peoples? Or for that matter, why would the international community, who has its own issues (similar to Brazil) care about these issues?

The answer to these questions is what makes politics a science and puzzles and challenges passionate people from all segments of society who want to see a better world. The passionate and conscious ones, however, need yet to increase in numbers – for if they would be many we would be much less likely to see many of the issues that we referred to in the last two paragraphs. We truly believe, however, that if the people of the world would know better, they would do something about these issues. "Know better," in addition to formal education, also speaks of developing a sense of compassion, moral,

and spiritual greatness (West 2007). Developing these faculties in human beings is then, quintessential for the advancement of humanity and for the solution of serious issues.

If we are to find a solution for these problems everyone is needed whether they are wealthy, illiterate, a first people, atheist, transgender, able bodied, or from Papua Guinea. We all are important and needed in the struggle for making this world a better place. The rainforest dilemma is just one of those struggles. And it is only through the work of an active global citizenry that the dream of preserving the environment and the rights of the people will become a reality. The people themselves can push forward for the creation of new laws that realistically address these issues. The challenge is how to awaken those who are sleeping.

This research does not stop here. There is much room for further research. One question worthy of researching is how can we push forward cultural change so that we, as citizens, are ready to confront pressing issues in need of immediate solutions? Research on the creation of institutions that would implement the laws herein suggested can also be beneficial. Another possible research topic could be a deep and thoughtful discussion on the use of the term Brazil's first peoples or a thorough report on human rights and environmental legislations that are being proposed to various governments with respect to Brazil's rainforest dilemma. Also, concise research on community organizing and grassroots work in Brazil can be of great importance toward getting closer to the solution that we all are looking for. Possibilities for future research are countless.

References

- Amnesty International*. 2008. "Palestinians Homes Destroyed Without Warning." <http://www.amnesty.org/en/news-and-updates/news/palestinian-homes-demolished-without-warning-20080311> (Accessed March 15, 2008).
- Asayehgn, Desta. 1999. *Environmentally Sustainable Economic Development*. Westport, Connecticut: Praeger.
- Ban Ki-moon: Leadership and Climate Change. Press Articles, 23 September 2007. http://www.un.org/sg/press_article_climate.shtml (Accessed March 31, 2008).
- Ban Ki-moon: At the Tipping Point. Press Articles, November 16 2007. http://www.un.org/sg/press_article_climate3.shtml (Accessed March 31, 2008).
- Black's Law Dictionary, 8th ed. Saint Paul, MN: Thomson/West.
- Barbosa, Luis C. 2000. *The Brazilian Amazon Rainforest: Global Ecopolitics, Development and Democracy*. New York: University Press of America.
- Basic Facts about the United Nations – The United Nations: Organization. <http://www.un.org/aboutun/basicfacts/unorg.htm> (Accessed March 27, 2008).
- Bederman, David J. 2004. *International Law Frameworks*. New York, NY: Foundation Press.
- BBC News*. "Brazil Amazon Destruction Slows," <http://news.bbc.co.uk/2/hi/americas/6944808.stm> (Accessed January 6, 2008).
- Brazilian Amazon Rainforest Data: http://www.amazonia.org.br/guia/detalhes.cfm?id=249415&tipo=6&cat_id=44&subcat_id=184
- Brazilians Battle Indians: 'This is our Land.' 2004. *New York Times*, October 15. *Oxford English Dictionary Online*. <http://www.nytimes.com/2004/10/15/international/americas/15brazil.html?pagenumber=2>
- Browder, John O., and Godfrey, Brian J. 1997. *Rainforest Cities: Urbanization, Development, and Globalization of the Brazilian Amazon*. New York, NY: Columbia University Press.

- Capuzzo, Jill P. 2007. "Rainforest Politics Strides Onto the Boardwalk." *New York Times*, June 24.
http://www.nytimes.com/2007/06/24/nyregion/nyregionspecial2/24mainnj.html?_r=3&sq=brazil%20rainforest&st=nyt&adxnnl=1&oref=slogin&scp=1&adxnnlx=1203830374-ieO/7BJpSXS7TBVmXkhiFg&oref=slogin (Accessed February 23, 2008).
- Charter of the United Nations. <http://www.un.org/aboutun/charter> (Accessed March 27, 2008).
- CIFOR Annual Report 2006: Building Success.
http://www.cifor.cgiar.org/publications/pdf_files/AReports/AR2006.pdf
(Accessed March 31, 2008).
- Cleary, David. 2000. "Small-Scale Gold Mining in Brazilian Amazonia." In *Amazonia at the Crossroads: The Challenges of Sustainable Development*, ed. Anthony Hall. London: Institute of Latin American Studies.
- Convention on Biological Diversity: List of Parties.
<http://www.cbd.int/convention/parties/list.shtml> (Accessed March 27, 2008).
- Convention on Biological Diversity: Rio de Janeiro 1992.
<http://www.un.org/millennium/law/xxvii-24.htm> (Accessed March 27, 2008).
- Dantas, Marcelo B. & Leite, José R. M. 2002. "Brazil and Environmental Damage." *Florida Journal of International Law* 15 (Fall): 59-60.
- European Union: Activities of the European Union – Summaries of Legislation
<http://europa.eu/scadplus/leg/en/lvb/l28166.htm>
(Accessed April 18, 2008).
- Fearnside, Philip M. 2000. "Deforestation, Impacts, Environmental Services and the International Community." In *Amazonia at the Crossroads: The Challenges of Sustainable Development*, ed. Anthony Hall. London: Institute of Latin American Studies.
- Gateway to the United Nations System's Work on Climate Change.
<http://www.un.org/climatechange/newsroom.shtml> (Accessed March 31, 2008).
- GINI Index;
<http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN025449.pdf>

- Gould, Kenneth A. 2006. "Promoting Sustainability." In *Public Sociologies Reader*, ed. Judith Blau and Keri E. Iyval Smith. Maryland: Rowman & Littlefield.
- Hall, Anthony. 2000. "Environment and Development in Brazilian Amazonia: From Protectionism to Productive Conservation." In *Amazonia at the Crossroads: The Challenges of Sustainable Development*, ed. Anthony Hall, 102. London : Institute of Latin American Studies.
- Hecht, Susanna, and Cockburn, Alexander. 1989. *The Fate of the Forest: Developers, Destroyers, and Defenders of the Amazon*. New York: Verso. (PAGE 183);
- Heyck, Denis L. D. 2002. *Surviving Globalization: In Three Latin American Communities*. Toronto, Ontario: Broadview Press.
- Hirakuri, Sofia R. 2003. *Can Law Save the Forest?*.
http://www.cifor.cgiar.org/publications/pdf_files/Books/Law.pdf.
 (06/30/2007).
- Human Rights Watch*. 2008. "China: Beijing's Migrant Construction Workers Abused." <http://hrw.org/english/docs/2008/03/12/china18244.htm>
 (Accessed March 15, 2008).
- IBGE Census 2007: Acre State.
<http://www.ibge.gov.br/estadosat/perfil.php?sigla=ac> (Accessed March 31, 2008).
- International Covenant on Civil and Political Rights.
<http://untreaty.un.org/sample/EnglishInternetBible/partI/chapterIV/treaty5.asp>
 (Accessed March 27, 2008).
- Johannesburg 2002: United Nations Conference on Environment and Development. http://www.un.org/jsummit/html/basic_info/unced.html
 (Accessed March 27, 2008).
- Kellman, Janelle E. 2001-2002. "The Brazilian Legal Tradition and Environmental Protection: Friend or Foe?" *Hastings International and Comparative Law Review* 25 (Spring): 145-147.
- Kirova, Iskra. "The General Assembly Informal Thematic Debate." *UN Chronicle Online Edition*, August 14, 2007.
http://www.un.org/Pubs/chronicle/2007/webArticles/081407_roadtobali.htm
 (Accessed March 27, 2008).
- Klosek, Jacqueline. 1998. "The Destruction of the Brazilian Amazon: An International Problem." *Cardozo Journal of International and*

- Comparative Law* 6 (Spring): 119-138.
- Lutzenberger, José A. 2001. "Who is destroying the Amazon rainforest?" In *Tropical Rainforests: Latin American Nature and Society in Transition*, ed. Susan E. Place. Wilmington, Del.: Scholarly Resources.
- Magraw, Daniel B., and Hawke, Lisa D. 2007. "Sustainable Development." In *The Oxford Handbook of International Environmental Law*, ed. Daniel Bodansky, Jutta Bruneée, and Ellen Hay. New York: Oxford University Press.
- McGee Jr., Henry W., and Zimmerman, Curt. 1990. "The Deforestation of the Brazilian Amazon: Law, Politics, and International Cooperation." *University of Miami Inter-American Law Review*. " 21 (Summer): 513-530.
- Ministério do Desenvolvimento, Indústria e Comércio.
<http://www.desenvolvimento.gov.br/sitio/interna/interna.php?area=1&menu=1680> (Accessed March 27, 2008).
- Ministry of the Environment of the Environment Website. www.mma.gov.br.
- Moran, Emilio F. 1993. *Through Amazon: Eyes Ecology of Amazonian Populations*. Iowa City: University of Iowa Press.
- New York Times*. 2005. "The Amazon at Risk."
<http://www.nytimes.com/2005/05/31/opinion/31tue3.html> (Accessed March 14, 2008).
- Office of the High Commissioner of Human Rights: International Covenant on Economic, Social, and Cultural Rights.
http://www.unhchr.ch/html/menu3/b/a_cescr.htm (Accessed March 27, 2008).
- Pearce, David W. 1998. *Economics and Environment: Essays on ecological Economics and Sustainable Development*. Northampton, Mass: Edward Elgar.
- Perrez, Franz X. 1998. "The Efficiency of Cooperation: a Functional Analysis of Sovereignty." *Arizona Journal of International and Comparative Law*: 515:571.
- Ramos, Alcida R. 1998. *Indigenism: Ethnic Politics in Brazil*. The University of Wisconsin Press: Madison, Wisconsin.
- Rayfuse, Rosemary. "Biological Resources." In *The Oxford Handbook of International Environmental Law*, ed. Daniel Bodansky, Jutta Bruneée,

and Ellen Hay. New York: Oxford University Press.

Reuters. "Sudan rejects U.S. human rights criticism."

<http://africa.reuters.com/wire/news/usnL13277698.html> (Accessed March 15, 2008).

Rodrigues, Maria Guadalupe Moog. 2004. "Global Environmentalism and Local Politics: Transnational Advocacy Networks in Brazil, Ecuador, and India." Albany, New York: State University of New York Press.

Romano, Cristina S. 1999. "Brazilian Government Policies Towards the Amazon Rain Forest: From a Development Ideology to an Environmental Consciousness?" *Colorado Journal of International Environmental Law and Policy* 19: 65-67.

Rohter, Larry. 2003. Relentless Foes of the Amazon Soybeans. 2003. The New York Times, September 17.
<http://www.nytimes.com/2003/09/17/international/americas/17BRAZ.html?paganted=2&ei=5007&en=d3b8dc0bcec988e8&ex=1379131200&partner=USERLAND>

Rohter, Larry. 2007. "In the Amazon: Conservation or Colonialism?," *New York Times*, July 27.

<http://www.nytimes.com/2007/07/27/world/americas/27amazon.html>
(Accessed March 14, 2008).

Rohter, Larry. 2007 "Brazil, Alarmed, Reconsiders Policy on Climate Change." *New York Times*, July 31.

<http://www.nytimes.com/2007/07/31/world/americas/31amazon.html?scp=8&sq=brazil+deforestation&st=nyt> (Accessed February 23, 2008).

Scott Wallace, "Last of the Amazon" National Geographic, January 2007.

Sen, Rinku. 2003. "Stir it Up: Lessons in Community Organizing and Advocacy." San Francisco: Jossey-Bass.

Shabecoff, Philip. "Brazilian Aide Speaks of Shift to Concern for Environment," *New York Times*,

http://www.lexisnexis.com/us/lnacademic/results/docview/docview.do?risb=21_T2787795692&format=GNBFI&sort=RELEVANCE&startDocNo=1&resultsUrlKey=29_T2787795695&cisb=22_T2787795694&treeMax=true&treeWidth=0&csi=6742&docNo=2 (Accessed January 6, 2008).

The Guardian. 2008. "Deforestation: Amazon's Rescue Reversed: Space Imaging Gives the Lie to Brazil's Recent 'Great Achievement' of Halting Rainforest Destruction: Deforestation August-December 2007." January

25.

<http://www.guardian.co.uk/brazil/story/0,,2246620,00.html> (Accessed February 23, 2008).

United Nations Framework Convention on Climate Change: Status of Ratification.

http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php (Accessed March 27, 2008).

United Nations Environmental Programme: Champions of the Earth.

<http://www.unep.org/champions/Winners/winners2007/silva.asp> (Accessed March 31, 2008).

United Nations Food Programme: Who are the Hungry?

http://www.wfp.org/aboutwfp/introduction/hunger_who.asp?section=1&sub_section=1 (Accessed April 18, 2008).

United Nations Members States: Growth in the United States membership,

1945-present. <http://www.un.org/members/growth.shtml> (Accessed March 27, 2008).

A United Nations Priority: Universal Declaration of Human Rights.

<http://www.un.org/rights/HRToday/declar.htm> (Accessed March 27, 2008).

The Universal Declaration of Human Rights.

<http://www.un.org/rights/50/carta.htm> (Accessed March 27, 2008).

USDA: Economic Research Service:

<http://www.ers.usda.gov/AmberWaves/April06/Findings/Brazil.htm> (Accessed March 31, 2008).

West, Cornell. Interview in the Tavis Smiley's PBS Show.

http://www.pbs.org/kcet/tavissmiley/archive/200701/20070112_west.html (Accessed May 1, 2008).

Walcacer, Fernando C. 2002. "Brazil and Environmental Damage." *Florida Journal of International Law* 15 (Fall): 54-57.

World Development Indicators 2006, World Bank.

<http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN025449.pdf>