Global Normative Production for the Tutelage of Sustainability

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The present study aims to analyze the legal guardianship of sustainability and the problem of the method in the use of sources of global law. Assuming that the effective legal guardianship of sustainability is not only done within the national states, we seek to present Global Law and its normative sources as an alternative for achieving sustainability. However, the problem takes shape when there is no specific system for these flows of circulation of legal models, respecting the normative standards and the particularities of each context. Using the case related to the palm oil production chain in Brazil, a methodology that defends the analysis of demands, the extraction of the rector principles and the proposition of solutions that interrelate the local and the global, is defended as a methodology. For the development of this research, we used the inductive method, operationalized by the techniques of operational concepts, case study and bibliographic research.

Keywords: Sustainability, Global Law, Method, Normative Production

INTRODUCTION

The present study aims to analyze the legal guardianship of sustainability and the problem of the method in the use of sources of Global Law. Assuming that the effective legal guardianship of sustainability is not only done within the national states, we seek to present Global Law and its normative sources as an alternative for achieving sustainability.

However, the problem takes shape when there is no specific system for these flows of circulation of legal models, respecting the normative standards and the particularities of each context. Using the inductive method and analyzing the case of the regulation of the palm oil production chain (*Elaeis guineensis*) in Brazil, it is argued that the construction of legal frameworks for highly relevant legal assets, such as sustainability, involving local and global concerns, cannot be carried out by national normative institutes alone, without consideration of transnational standards, or that the mere importation of foreign normative frameworks into the national legal system will be valid.

As a research hypothesis, this article presents a method highlighted for the symbiosis between National Law and Global Law, in the matter of normative production that demands: first, the understanding of phenomena in an analytical way; then, the extraction of the relevant principles of each studied phenomenon, to finally discuss the interrelationships of these actions in their multiple situations.

The following propositions and evidences start from the theoretical study on the bases of Global Law and its actors, focusing on the legal guardianship of sustainability. To this end, specifically in the palm oil production chain, the performance of social actors in the Pará producing region, the Ministry of

Agriculture, Livestock and Supply, the Palm Oil Sector Chamber, the companies and the Roundtable on Sustainable Palm Oil (RSPO), based in Malaysia, stand out.

The RPSO, typically a "*global governance*" and self-regulating institution, plays a relevant role, since, using a global, specialized and collegiate composition, it sets goals and regulations for the palm oil sector, certifying exemplary conduct and indicating correction points, with important emphasis on the management aligned with sustainability standards in their various faces. However, for the attainment of the necessary parameters of legal guardianship of sustainability, the involvement of states and their institutions is indispensable. Here proceeds the confluence between Global Law, Sustainability and National Rights.

The *Being* and the *Duty* of Global Law

Law as an applied social construction, has as its first condition the search for instruments to limit powers, above all. It is no longer just a means of social ordering. With this, it needs to keep in its core a perspective of *duty*, of social functionality. The emergence of new matrices of power requires a new right to contain excess and project expectations that can be realized in the near future.

Notably the processes of globalization increasingly created a world territory, a new supranational and transnational order that allows for the circulation of people, ideologies, capital, goods, assets and services, which demonstrates the reduction (crisis) of the state[1] and institutes instruments of global governance. In Armin von Bogdandy's words, internationalization[2] has become a way of life[3].

As Günther Teubner[4] expressed, the driving force of law is no longer the yearning for legal limitation of absolute domestic powers; but, above all, the regulation of polycentric dynamics related to the circulation of models, capitals, people and institutions in physical and virtual spaces.

To this extent, it is necessary to reconsider the existing relations between law and state, between public and private, national and international, between the different legal scenarios and the legal authorities, under penalty of exhaustion of the models resulting from endless fractures. The current power to which states are related in their own instances does not represent the notion of equity that derives from the concept of sovereignty and international law, while international law in its private bias also does not correspond effectively to emerging expectations and demands[5].

In fact, in the emergency dynamics that is presented, in this case, specifically of a double nature, since it involves the Anthropocene and the Law, it is imperative to establish elementary ruptures to overcome the “state-centric” nuclear scheme; discarding theories and practices cultivated in isolated, unique and exclusive “moments” to look at a web of complex and varied sense coalitions and the analysis of a multipolar circulation of institutions[6].

Accordingly, the decline of the national state and the rise of a global paradigm of law stems substantially from the penetration of governance criteria into state affairs and public policies, logistically supported by technological advances. Economic globalization determines a reflexive process of juridical globalization, which goes beyond the observation of Crouch[7], since the globalization of juridical behaviors is equally observed, as is the personal and optional choice of precedents in the *civil law* tradition between other "customs".

Thus, the globalization process needs to be understood as an expression of a systemic interdisciplinarity[8]. Global Law, however incipient as it may be, has as its object the understanding and regulation of relations arising from transnational and globalizing flows. These flows are not restricted to the globalization of the second postwar period, whose great specificity derives from the polycentricity that governs the globalization of the third millennium.

Therefore, if national law is confined within the territorial limits of national jurisdiction, with validity and rigor arising from hierarchical orderly conditions, if international law results from mutual and reciprocal agreements governed by the sovereignty of states and formal equality, Global Law, in turn, dispenses with the central role played by states. In addition to providing your presence, when you are a participant, it does not give you different conditions in dealing with legal relations. In turn, the protection of sustainability cannot be left in spaces of difficult communication and low effectiveness.

The state retains a relevant role, Global Law is not proposed to be the death of the state. Its aim is to break the split between the domestic spheres and the external spheres of legal phenomena taken over by states. In the same vein, Global Law has in its core the condition to include not only states and their institutions as recipients of its normative prescriptions, but, in the same position, it sets parameters for individuals, with a clear manifestation of their global condition and authority. exercised on the margins of state authority.

As Saskia Sassen teaches, Global Law is based on the possibility that there is a law that is not centered on the national legal system, as observed in the context of international law, and that is not only conditioned on the harmonization of national legal systems. Thus, Global Law contemplates clearly transnational public domain systems and almost absolute private autonomy systems.[9]

Underlining the concept of Global Law proposed in this text, with the typical attributes of transnationalism - from which Global Law comes - pointed out by Philip Jessup, it is concluded that "[...] every law that regulates actions or events that transcend national borders. Both international public and private law are included as well as other rules that do not entirely fit into these categories"[10].

Global Law, has the promoter function for the establishment of channels of opening and interpenetration of the normative precepts issued by multiple agents of public and/or private nature, that besides the contribution in the production of the norm, before the power that concentrates, exercise control and corrective duties, together or in place of state bureaucratic functions. Precisely because of the magnitude of its power, propositions of legal models are essential to its submission.

Even with the above arguments and factual analyzes, the issue of the existence of a Global Law remains a controversial subject. Whether in the aspect of being a right or not, or in the capacity of being global or not. The fact is that in the face of episodes of the weakening of states and displacement of domestic issues to globalized spaces, legal science was slow to dedicate qualified studies. It left its inertia thanks to the provocations of sociology, economics, anthropology, political science, and international relations.

Given this scenario, it is urgent to presuppose that Global Law is not global if, on this point, the interpretation of the existence of a universalist anti-state reality prevails, whose approach is not supported in this article. As previously stated, Global Law aims to establish normative instruments beyond state exclusivity capable of reaching the multiplicity of actors who move through global means[11]. In the proposition made here, the global attribute serves to systematize the legal phenomena that share generated extra, trans or supraterritorial facts, as pointed out by Maria Mercè Darnaculetta i Gardella[12], without universalist or absolutely global claims. What is envisaged, unlike the universalist orientation is the building of materially standardized legal assumptions. Moreover, globalization is too diverse for absolute and totalizing conditions to exist.

In conclusion, Günther Teubner summarizes the existence of Global Law on edifying columns that support the crossing of borders from inter-systemic bases, the normalization of social relations through highly specialized norms, the degree of independence of each of these actors. in relation to the states and the normative variation since the primacy of verticalization and unification of the norms on certain territory is no longer relevant[13]. The case of the guardianship of sustainability is emblematic at this point; after all, there are substantially no conditions for sustainability to be projected only over the borders of national states. Either sustainability advances globally, or there will be no change in the state of art.

The confluence of these episodes makes Global Law, on the one hand, express the energy generated by the globalization on law and its institutions; From another point of view, it arises from the need to establish *rule of law* requirements for its actors and their actions.[14]

The juxtaposition of these possibilities is the clever alternative, at least for the moment, to escape the slogans that evaluate current state authority, but otherwise fail to innovate with the state of art. The projections that signal the gradual loss of state normative capacity, the erosion of state political power, the minimization of states acting effectively on the international scene, and the growing cooperation of state bureaucracy with the transnational initiative are correct.

However, the mere condition of contemplation of this "collapse" only aggravates the condition of legal protection of important assets. Globalization imposes varying pressures on domestic and

international law. To dwell in inertia gives full conditions for the spread of the global powers without shields. The building up of Global Law is aimed precisely at addressing global problems through global actors and global legal precepts, so that denying the existence of Global Law only contributes to the widening of the most perverse aspects of globalization.

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At this point, law as a social manifestation is seen as a vital form of the social body throughout history. This story signals the construction of the legal according to plural models, without generalist pretensions, which uses plurality as a substantial source of law, not stifling it in law, but reconciling customs, jurisprudence and doctrine. Thus, normative production has a true syncretism, whereby ancient inheritance is not purged.

As Paolo Grossi points out, the emergence of the Modern State, for political and institutional reasons, considered normative production as a natural activity exclusively linked to it, making law a merely formal process. To this end, the law has been reduced to a set of commands whose producer will be the authority with effective coercive power[15]. Being such power subject to the flows of sovereignty, understood as the ability to impose its will on its territory, the Modern State unites exclusively all authority.

Consequently, it becomes possible to analyze the neutralizing aspect promoted by the construction of the Modern State, by elevating the principle of territoriality and political sovereignty as its raison d'être. Since then, what is observed is the hegemonization of normative capacities, associated in the production, application and enforcement of norms only in the nucleus of the national state, delimiting its incidence due to the territorial confinement it exercises.

In substantial terms, Saskia Sassen highlights a *modus operandi* that does not fully satisfy the modern state project, notably in its ability to enforce its legal order, since in its view states are currently undertaking a process of denationalization of their legal frameworks. and their institutions. As a result, interactions between territory, authority, and rights produce fundamental "*dovetails*" between the medieval, the national, and the global. Given this, there are mechanisms and expedients similar to those developed before the Modern State, but were not derogated at the height of this[17].

From the fragility of traditional national actors, spaces of weakness become (notably) after World War II, transnational interests constituted through new institutions, difficult to characterize in light of the modern political-legal glossary[18]. The traditional homogeneity in political-legal thinking had been lost. To a greater or lesser extent, a scenario of institutional tension has arisen, in which the "old" state institutions and, by the same token individuals, encounter feelings of turbulence[19].

The recurrence of events of economic, environmental, sanitary, social, humanitarian, energy crises, as well as the rise of risks arising from the terrorist threat has accelerated the formation of polycentric clusters for the management and regulation of these new manifestations. On the other hand, the accelerated development of new technologies, goods and services, led to the normalization of these from different state flows[20].

This diagnosis represents the exhaustion of the monist-dualist state and international institutions[21], as Philip Jessup had predicted, but with much more consistent gears than those anticipated in the mid-1950's[22]. Global Law strands are articulated at multiple levels, governments, local administrations, intergovernmental institutions, ultra-state and national courts, *networks*, hybrid (public-private) bodies, non-governmental organizations and individuals themselves.

In a similar vein, the position of Harold Koh is advanced, for whom the process of transnationalization of law is embodied in the complementarity of action of the actors responsible for activating the process (*transnational norm entrepreneurs*) together with government supporters (*governmental norm sponsors*), which together develop transnational/global normative standards[23].

Broadly speaking, globalization promotes a radical change in the powers in operation at various levels, including ideological, institutional and normative power, with the respective social interactions that find new arrangements at all times. Notwithstanding the challenges already set forth, the emergence of Global Law multiplies public-private, or genuinely private, mixed institutions that perform public functions or in global networks. The power of state legal systems, therefore, to produce law itself in

absolute form is gradually reshaping itself, reshaping the very historical and political category of national sovereignty toward a still hybrid matrix characterization.[24]

Given this context, it becomes possible to set the standard of normative sources of Global Law much more as channels of communication and presentation of precepts endowed with greater effectiveness for each phenomenon, given its specialty. Even if at some moments, juxtapositions and/or overlaps are observed, the ways of communication contribute to the development of the law, if faced substantially. As a consequence, the notion that the normative prescriptions that underpin Global Law do not originate in formal, vertical, descending, downward-style flows *gains strength*. Although Global Law may incorporate national norms derived from a fundamental hypothetical norm, matured at the hegemonic state level, when inserted into the field of Global Law, there will be no stratification in terms of its formal aspect.

In large part, the lack of formal stratification can be explained on the following aspects. First, from an institutional point of view, due to the absence and dysfunctionality of a totalitarian and sovereign global authority, vested in the power to "legislate". The interpretation of both the impossibility and the unviability of this authority prevails. Then, establishing a universal legislator for all matters to project valid consequences for society would be an invitation to naivete. Moreover, while Global Law shares basic principles and global spreading, on the other hand, in its birth there are transparent conditions of specialization, pluralism and fragmentation of legal models[25].

In these new times, normative production can be equated with the precepts ordered by the idea of supply and demand. That is, for new intersubjective relations developed, new legal predictions are required to regulate the facts. Thus, even if there is a private regulation, its purpose ends up satisfying public needs, first by the confusion between public and private, and then by responding to the demands made. Such behavior helps to understand the function of the sources of Global Law, the instruments by which they express themselves, the attribute of authority, and the substantiated emergence of *soft law* and self-regulation devices.

Given this, it is possible to affirm that Global Law is based upon normative sources produced in absolutely diffuse areas and with a wide material spread. Between aversions, juxtapositions and/or overlaps, Global Law moves from national sources to private regulations. Constitutions and contracts are listed as a legal basis. Treaties or acts depriving executive powers guide legal behavior. Secular precedents or governance standards aim to standardize institutions and their actors.

In turn, the legal protection of sustainability at the dawn of legal globalization and Global Law shares the same institutional and normative challenges. However, it is necessary to point out the emergency condition of overcoming these impasses that reach the normative mechanisms and the authority of the institutions responsible for the effectiveness of the norms.

As a first point of reflection, it is urgent to ratify the global condition of legal assets related to sustainability. Notwithstanding its characterization as rather diffuse, on the other hand, the construction of state sovereign borders does not prove capable of confining ecological systems in political zones. Even if this were successful, the condition of environmental equilibrium or imbalance would be reflected in other states. Therefore, given its nature, the environment and, consequently, its protection are global, cross-border and intergenerational values and responsibilities. Therefore, the exercise of attributions of authority and normative production calls for diffuse and unmonopolized projections, at the same time, which interrelate with the externalities arising from actions and omissions.

Adequate environmental protection challenges not only the precepts of Global Law at the cross-border level, but essentially the normative mismatch between national states and international organizations in the work of producing and enforcing the environmental standard. Systematic and institutional pre-emption by the United Nations to address the issue of environmental protection as a matter of priority and the interstate normative trade of legal precepts that regulate the environment, without being exclusively linked to the dictates of monism and/or legal dualism. represent this normative cloudiness for global legal goods.

Global, transnational, supranational and international institutions, rooted in other legal orders, now have a noticeable and formative impact on national institutions. The speed that is printed is basically oriented by the external-internal flow[26]. However, in light of Richard Falk's teachings, proof of this

reallocation of authority lies in the shrinking of the United Nations, especially in the case of the environment with the marginalization represented by UNEP with respect to the originally desired universal protagonism, directly derived from erosion. the state capacities of its members[27].

In this regard, the weakness of international law, represented by the lethargy of the UN, is proportionally linked to the state crisis. However, moving along these lines, it must be considered that while the UN faces difficulties in asserting itself as an effective authority, certain organizations, agencies and other related bureaucratic branches succeed, mainly because they can provide concrete answers to contemporary problems. Thus, the authority to thrive in times of globalization is that recognized as effective in the face of emerging needs.

But the authority of "global governance" institutions is also increasingly embedded in the fold of this logic, as evidenced by the mechanisms of extra-legislative legislations, global environmental and administrative law, and specialized international courts. In liberal and democratic states, authority is closely linked to the duty of public institutions to serve the common interest and to abide by fundamental principles[28], principles that must be mirrored in global expedients. It is not for any other reason that Global Law under construction cannot depart from the substantial satisfaction of participation, transparency, democracy, human rights and the guardianship of sustainability.

If national legislatures go down a curve with regard to their authority and institutional capacity to regulate social flows, public regulation of self-regulation, according to Maria Mercè Darnaculleta i Gardella[29], exemplarily demonstrates the ascendancy of specialized forms of state intervention in society, not necessarily conforming to their geographical territories.

It is evident that the extremes in the action and/or commission of the responsible institutions may fall into illegality. As Laura Nader[30] points out, there is an overflow of legal conditions for illegality when, for example, the process of formal production of the norm and the fulfillment of its attributes, results from mere legislative importation aimed at the concentration of powers within the state or within the territory of transnational corporations, characterizing only as new forms of imperialism or colonialism, since besides subverting the pre-existing local norms, they leave the authority formally responsible for the execution of the provisions. These are norms produced from illegal practices or incorporated by extra-legislative solutions that at certain times challenge the judiciary to preserve or break illegal conditions.

Global, transnational, and supranational institutions usually differ from international institutions in that their acts regularly represent social interaction in the legal areas of states, and are not tied solely to the point of state centralism[31]. One of the most widespread demonstrations of these phenomena is associated with the growing wave of new specialized bodies with control and regulatory responsibilities, competing or even subtracting progressively observed state functions in eco-social matters, from certifications, stamps, indicators and *rankings*. As a result, internally, the Legislature first and then the other powers of each state become devoid of their public authority to entities outside the political-institutional glossary.[32]

Thus, given a logical analysis, it is possible to affirm that if the authority contracts in the national (domestic) territory; due to the horizontal movements, it can expand (or retreat) consequently in the extraterritorial sphere, according to its condition of responsiveness[33]. This fluctuation in this case provides a privileged place for the assessment of competences. This results in certain structural requirements for international organizations, in particular when it comes to sustainability protection principles and related legal assets.[34]

Again, if this challenge is observed in the face of more specific cuts, the practice of self-regulation, through regulated control, may reveal a tendency to shift from the tax authority model to cooperative and consensual forms of action, according to the Global Law model, where " the hierarchy of the country around it and the unit of action breaks down in stagnant compartments."[35]

In addition, the complex regime of production, application and enforcement of law, based on complex and fluid networks, especially due to the diffusion of authority and the plurality of non-verticalized normative sources, rekindles the appreciation of the institutional theory of legal pluralism by Santi Romano[36]. Beyond legal pluralism, Santi Romano's contribution deserves to be extended to the logic of

the authority-territory legal relationship, on precepts of plurality, complexity, dynamics, not always vertical or binary, but open and systemic[37].

The Problem of the Method

The consolidation of Global Law, with specific actors, institutions and mechanisms, feeds the problem of the symbiosis that exists between public spheres with private spaces, internally and/or externally to the geographic territories of national states. Sometimes, sources pour in from national public domains with projection and effectiveness in the extra-national private sector and, in other cases, derive from private initiative aimed at the behavior of public institutions, whether governmental or not.

The circulation of normative sources of substitute for Global Law prevails in the most varied, multidirectional directions, with points of convergence or divergence practically impossible to be evaluated in the abstract. Therefore, the study about the normative sources of Global Law is not structured vertically only and primarily in the place of production of the norm, but significantly considers its dynamics and its extension, according to its effectiveness.

Therefore, if initially the clash about Global Law was restricted to its existence and empirical demonstration, nowadays the largest point of investigation needs to be dedicated to the procedures and flows for circulation, transplantation and normative production related to Global Law, not being limited to the comprehension. hegemonic state production of normative production, given the increase of influences from NGO's, corporations and global networks of protection of legal assets considered relevant, such as the environment.

The advent of the phenomenon of legal globalization matters in a relevant debate about the normative sources of law in times of globalization and about the geopolitical and institutional place of the production of norms in the dawn of these new times. It is not just a question of defining the limits of the powers of national states to establish binding, effective and effective normative precepts, but also of analyzing the progress of new private, non-state, plural and specific normative mechanisms that deal with the most varied social behaviors.

According to Marcelo Varella, three phenomena demonstrate the fragmentation of law: The first, associated with the multiplication of normative sources that affects one of the basic elements of international law. The second, represented by the emergence of private regimes that focuses directly on the argument of the hierarchy of norms and their means of validation. Finally, the multiplication of conflict resolution mechanisms exposing the decentralized condition of power.

Given this, in parallel with the emergence of Global Law is the need for an effective method for understanding and systematizing the circulation of legal models. At a time when the model sustained by sovereign state legislative production does not fully meet current demands and the monism-dualism scheme remains powerless, new methodology needs to be tested.

The proposition made here is not intended to refute earlier models, typical of national and international law, but to fill in the gaps and fragmentations arising from global law. After all, the law in the strict sense will continue to be produced by the national legislature; International treaties will continue to be signed, so that the present method does not aim to interfere in this field, but, in equal measure, to subsidize practices of understanding the motivational basis of certain domestic and international norms.

In this sense, in adapting to the model tested in the legal comparison framework, the method presented here for Global Law and its interfaces aims, first, to understand the phenomena in an analytical way; then, the extraction of the relevant principles of each studied phenomenon, to finally discuss the interrelationships of these actions in their multiple situations[38].

The understanding of phenomena in an analytical way is justified by the urgency of exhaustively measuring social, institutional, anthropological, environmental, economic and political demands that challenge legal treatment. It is not possible to provide legal answers that are sustained from the point of view of effectiveness without presenting and studying the issues that motivate them. The success of Global Law in dealing with demands that are peculiar to it, among them the protection of the environment, permeates the proper understanding of resisted claims. The fact that Global Law is recorded with attributes of specification more than in any other field requires the precise analytical assessment of

the point whose regulation it intends to focus, under penalty of being symbolic only. In this sense, it is very useful to use indicators and *rankings* from the rapidly expanding *global governance* technique[39]. In the case of effective legal oversight of sustainability, not only reports from NGO's, societies, observatories and environmental movements are needed, but satellite indicators (in this case, for example: World Bank's Good Governance and Rule of Law, Millennium Development Goals, Transparency International, Human Rights Wacth, International Standard Organization, Roundtable on Sustainable Palm Oil (RSPO) etc.) that contribute to more appropriate reflection, implication, possibilities and practices.

Regarding the extraction of the relevant principles of each studied phenomenon, it is important to recognize that the current stage of Global Law allows us to identify globally valid and enforceable legal principles, as an example, such as the dignity of the human person, the *rule of law*. law, due process of law, equality, the ideal of human rights, transparency and also the expedients of the guardianship of sustainability. Like these, others can be entered and updated. In turn, the main point of reflection is precisely the construction of globally shared and necessary legal precepts of satisfaction. Although Global Law has no hegemonic universalist claim, the present state of art signals a paradigmatic change in the procedures of circulation of legal models, which materially start to build hierarchical arguments or basic assumptions, whose gravitational force can guide the others. matters and legal claims under regulation.

Concerning the interrelationships of these actions in their multiple situations point out the thought of validity of the normative alternatives produced before the original problem and its social, institutional and normative context. At this moment, the solutions offered by Global Law give priority to the feasibility of their propositions. Following Laura Nader's warning this is the point of gauging the legitimacy or not of the suggested/adopted measure. Notwithstanding the factual adherence, its compatibility with the relevant principles of each phenomenon, non-violation of human dignity, human rights, the *rule of law* and the legal protection of sustainability, cannot be excluded, for example. Thus, it enables the observance of control of constitutionality, conventionality and legality of acts when internalized by national or conventional legislative channels. In this sense, both hard and flexible norms; national, international or global; formal or material.

The Case of the Regulation of Palm Oil Production in Brazil

In light of the above, it must be considered that the objectives of Global Law and also of sustainability are not fulfilled only in the theoretical plan demand for conditions and actions of effectiveness of the theoretical planes. Given this, and with the purpose of satisfying the motivation of this article, the case of the regulation of palm oil production (*Elaeis guineensis*) in Brazil is quite relevant, while looking for typical normative mechanisms of Global Law, inputs to promote and protecting sustainability.

Originally from the west coast of Africa, the palm from which oil is extracted for the basic industry, food and energy, in the face of growing global demand, was introduced into spaces hitherto occupied by tropical forests, with high temperatures and significant rainfall, finding ideal natural conditions in Indonesia, Thailand, Malaysia, Ecuador, Colombia and Brazil. In the case of Brazil, the Amazon is a highly sensitive and threated ecosystems.

Even accounting for over 60% of the vegetable oil trade, the acceptance of palm oil is increasingly controversial, especially in Europe, precisely because of its environmental impact. On the other hand, the social impact should be recorded, as its production chain essentially involves small producers integrated with refining companies. In absolute numbers, Brazilian production is small, approximately 1% of the world total, with a trade deficit. In addition, with a markedly higher aggregate cost than its competitors.

The birth of the national palm cultivation strategy dates back to the time of Superintendência de Desenvolvimento da Amazônia (SUDAM), with the developmental goal for the Amazon. However, only in the last twenty years has such culture been able to consolidate and obtain consistent results. In turn, the palm cultivation initiative has evolved in a business way, without appropriate means of regulation and regulation of the sector, its activity and its impacts.

As João Paulo Veiga and Pietro Carlos Rodrigues attest, Brazil's leading growing company, still in the 1990's, saw the rise of global economic, social and environmental pressures for agroindustrial activity in environmentally sensitive areas. According to the study conducted by the researchers cited above, the company is positively evaluated by public administration entities, non-governmental organizations and labor unions “as a company that internalizes the negative social and environmental impacts of palm cultivation and refining in the country."[40]

However, for the present text, the most emblematic aspect derives from the certifications, stamps and indicators obtained from transnational/global actors. The company from Pará has 14 certifications, namely: RSPO; FSSC 22000 ISO 9001; ISO 14001; ISO 22000; OHSAS 18001; Social Eco; Organic Seal; BioSuisse; Japanes Agriculture Standard; United States Department of Agriculture; Korean Certified Organic; Greenpeace and Kosher Scorecard.[41]

Thus, when the business gathers certifications of respect in the environmental, social, worker protection, quality and production of organic products, it can satisfy the normative requirements of sustainability, gathering in its activities the dimensions of environmental, social, economic, technological, environmental and energetic safeguards.

Institutionally having a concern with certifications for the business and its developments, in this case, allows a double appreciation. From a normative-environmental point of view, it supplements the normative voids in the national legal system, specifically not only by the biome in which it is located and the traditional population around it, but also by the generalist nature of the national legislation that specifically deals with this business activity. From the political and economic point of view, when the company decides to raise the standard of discipline and integrity in its activity, betting on profitable and demanding niches, it promotes the phenomenon of leveraging the average competition pattern, in this case, both nationally and internationally. Thus, competition becomes unfeasible if conducted through demeaning levels, as the paradigm itself has been improved, with regulation and regulation stemming from instruments drawn up by transnational/global actors.

However, all these certifications, seals, rankings and standards represent the fragmentation and specialization inherent in Global Law, which plays a relevant role in inducing the qualification of individual and institutional expedients. However, for the satisfaction of the legal guardianship of sustainability it is necessary, complementarily that the national states introduce in their legislation equivalent models, as well as, elaborated public policies to achieve their objectives.

Unlike what João Paulo Veiga and Pietro Carlos Rodrigues put forward, supported by Michael Porter, it is not just a matter of producing a regulatory framework to protect the company's reputation and the onerousness of competitors seeking to enter the market (in this case, palm oil)[42]. Here, even, would be a confrontation with the norms that deal with international trade, trade barriers and protectionism[43], considering trade/economic protectionism as a conduct that inheres violations of the logic of sustainability. Basically, regulating national determinants of legal activities and business, in the light of Global Law, aims to minimize the possibilities of divergences, collisions or normative absences between the national and the global.

With regard to sustainability, this emergence is much stronger from the point of view of the protected legal good and the compulsory need to constitute a universally valid model, since the boundaries are not absolutely insignificant in this case. The preservation of divergences, collisions and normative absences between the national and the global, in the case of the legal protection of sustainability, only nourishes the state d'art of systematic violations of the legal assets involved.

Considering that the legal protection of sustainability requires synchronization between local and global, it does not seem to make sense that national governments do not exercise their regulatory powers, on the grounds of prior standardization issued by global actors and/or companies. The existence and effectiveness of normative instruments such as *soft law* and/or self-regulation does not prevent national states from promoting their typical functions, to the point of defending the relevance of regulated self-regulation practices, for example[44].

In the case of the Brazilian palm oil production chain, the sector's political engagement and the outstanding performance of its actors impacted the development of specific regulation, the approval of

public policies for the production chain and the constitution of the Palm Oil Sectorial Chamber, by act of the Ministry of Agriculture, Livestock and Supply, materialized in Decree-Law 7,172/2010[45] and Ordinance 592/2010.[46]

Since then, through the normative interaction and strategic public policies, both national and transnational, have been able to ensure valid standards of sustainability in a highly sensitive space. The interaction of state agents, local society, workers, companies and transnational organizations, at the local level, in the Palm Oil Sectorial Chamber and in the Roundtable on Sustainable Palm Oil (RSPO) is advancing through land tenure and ecological agro-planning expedients. incentives for integrated subsistence family farming, social credit lines, internalization of basic services, labor security, collective settlements, cooperatives, reduction of environmental impacts and waste generation.

In this case, the promotion of sustainability in its multiple and interdependent environmental, economic, social, technological and humanitarian aspects should be observed. To the same degree, it demonstrates the indebted need to build standards of sustainability associated with equivalent global and local legal protection. Sustainability has long ceased to be a political choice and is peremptorily a new paradigm of law[47]. The position arising from technical, environmental, social and commercial norms produced by global/transnational actors, according to their own standards, has highlighted relevance. However, for the full success of the legal guardianship of sustainability, it is important that local social sectors and governmental entities of the state, converge in objectives, principles and rules for the regulation and regulation of the activity.

In light of the above, the Brazilian case on the regulation of the palm oil production chain confirms the feasibility of the proposed methodology for the use of normative sources of Global Law for the regulation of national/domestic demands. Through interactions between local, national and global actors, the construction of Brazilian norms first took into consideration the understanding of phenomena in an analytical way (economic demand for production, geolocation and impacts); then, the extraction of the relevant principles of each studied phenomenon (protection of the Amazonian environment, low-income population, social rights, economic activity) to, in the end, discuss the interrelationships of these actions in their multiple situations, providing a normative framework associated with public policies for implementation, even serving as a reference for other states, thus improving the legal protection of sustainability transnationally.

Finally, the Brazilian case of standardization of the palm oil production chain, while legally assuring sustainability protection, proves that it is possible, in times of intense global pressure, to articulate according to rules of the *rule of law*, effective legal norms, effective and efficient solutions that meet local desires and dialogue with international standards, without merely transcribing or internalizing.

Final Considerations

Notwithstanding the considerations already presented throughout the argument, the case of the national regulation on the palm oil production chain (*Elaeis guineensis*) confirms the hypothesis raised for this article. That is, there is a possibility of using a method to equate national normative production without neglecting standards defined under Global Law, either through *soft law* and/or self-regulation.

Therefore, it is recommended that special care be taken at specific stages of this process of exercising regulatory functions. First, the understanding of phenomena analytically; Then, the extraction of the relevant principles of each studied phenomenon, to finally discuss the interrelationships of these actions in their multiple situations. In the case under consideration, the procedures adopted, nationally and globally, and the income statement obtained by the parties directly and indirectly confirm the accuracy and feasibility of the method presented.

In matters that go beyond the legal guardianship of sustainability there is a prominent emergency to be addressed. No one will save the world individually; no national state can invoke authority for this in isolation. The construction of normative standards and feasible programmatic policies for sustainability goes beyond the integration of people, institutions, states, companies, interest groups, non-governmental organizations and international organizations.

Considering the nature of the legal good to be protected, it makes no sense to talk about legitimacy/illegitimacy of action. All are legitimated and obliged with the tutelage of sustainability, and must, therefore, articulate in complex, fluid and dynamic networks, which operate on multiple levels, that is the relevance, therefore, of Global Law. But that does not mean that national states and domestic actors leave the scene; rather, they are called upon to perform their duties under relocated conditions. Here is the importance of the proposed method for the normative production activity, after all, there is a clear notion that the exacerbated attachment to dualism/monism, in the theme of sustainability, only provides what can be seen in the case of the Paris Agreement on Climate and US governmental behavior, a clear setback in matters of the legal protection of sustainability.

ENDNOTES

1. The warning of Sabino Cassese deserves to be reproduced in this square: "Finally, the transnationalism of the global legal order suggests caution in speaking of the crisis of the state and of escaping towards the global level, because the dynamics of the global administrative system is largely dependent upon the state or its fragments." CASSESE, Sabino. Beyond the State. Bari/Rome: Laterza, 2006, p. 12-13.
2. Such a word has no connection with the precepts of international law, but signals the state of transposition of the national.
3. VON BOGDANDY, Armin. Common Principles for a Plurality of Orders: A Study on Public Authority in the European Legal Area. International Journal of Constitutional Law, Oxford: v 12, n 4, Oct. 2014, p. 986.
4. TEUBNER, Gunther et al. Transnational Governance and Constitutionalism. Oxford: University of Oxford Press, 2004.
5. BENDA-BECKMANN, Franz von; BENDA-BECKMANN, Keebet von; GRIFFITHS, Anne. The Power of the Law in a Transnational World. Anthropological Enquiries. New York: Berghahn, 2012, p. 05.
6. CANOTILHO, José Joaquim Gomes. “Whites” and Interconstitutionality. Itineraries of Discourses on Constitutional Historicity. Coimbra: Almedina, 2008, p. 283. In addition: “State authority and power have become diffused in an increasingly globalized world characterized by the freer trans-border movement of people, objects and ideas. This has led some international law scholars, working from the American liberal tradition, to declare the emergence of a new world order based upon a complex web of transgovernmental networks.” LAMBERT, Hélène. Transnational Law, Judges and Refugees in the European Union. In: GOODWIN-GILL, Guy S.; LAMBERT, Hélène.
7. In these terms: "The large multinationals have often exceeded the administrative capacity of the individual nation states. If they do not appreciate the tax or regulatory regime in a country, they threaten to move elsewhere and the states are increasingly competing with each other in their willingness to offer favorable conditions, as they need those investments". CROUCH, Colin. Post-Democracy. Rome-Bari: Laterza, 2005, p. 35.
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13. TEUBNER, Günther. Global Bukowina. In: TEUBNER, Günther (ed.). Global Law Without a State. Brookfield: Dartmouth, 1997, p. 07-08.
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16. ROMANO, Santi. Comments on the Legal Nature of the Territory of the State. In: ROMANO, Santi. Minor Writings. v I. Milan: Giuffrè, 1950, p. 167-177.

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19. GIUDICE, Alessio lo. Establish the Postnational. European Identity and Legitimacy. Torino: G. Giappichelli, 2011.
20. Although working with the theory of legal regimes, the arguments of Salem Hikmat Nasser should be highlighted: "Transnational legal regimes, to be legal, must presuppose a different definition of law, in order to differentiate them from what legal regimes do. They are part of public international law, or must presuppose a broader, more inclusive definition that can encompass both sets of norms, rules, etc. In the same breath, international trade law, environmental law, lex mercatoria, lex constructionis, lex digitalis, are offered as examples of these functional regimes that would be the expression of the fragmentation of global law." NASSER, Salem Hikmat. Global Law in Pieces: Fragmentation, Regimes and Pluralism. Journal of International Law, Brasilia, v. 12, n. 2, 2015 p. 104.
21. According to Armin von Bogdandy: "They also lead into a dead end from the point of view of theories designed to capture the entire legal constellation, both analytically and normatively. Dualism ultimately shares the fate of the traditional principle of sovereignty. Monism with public international law at its apex shares the weaknesses of world constitutionalism as a paradigm for grasping the existing law." VON BOGDANDY, Armin. Common Principles for a Plurality of Orders: A Study on Public Authority in the European Legal Area. International Journal of Constitutional Law, Oxford: v 12, n 4, Oct. 2014, p. 1005.
22. "I shall use, instead of 'international law', the term 'transnational law' to include all law which regulates actions or events that transcend national frontiers. Both public and private international law are included, as are other rules which do not wholly fit into such standard categories" JESSUP, Philip. Transnational Law. New Haven: Yale University Press, 1956, p. 136.
23. KOH, Harold Hongju. Why Transnational Law Matters. Faculty Scholarship Series, 2006, Paper 1793. Available at: http://digitalcommons.law.yale.edu/fss_papers/1793 Accessed: 20 May. 2017
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28. VON BOGDANDY, Armin. Common Principles for a Plurality of Orders: A Study on Public Authority in the European Legal Area. International Journal of Constitutional Law, Oxford: v 12, no 4, Oct. 2014, p. 990.
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30. NADER, Laura. Law and the Frontiers of Illegalities. VON BENDA-BECKMANN, Franz; VON BENDA-BECKMANN, Keebet; GRIFFITHS, Anne. The Power of Law in a Transnational World. New York: Berghahn, 2012, p. 56-67.
31. VON BOGDANDY, Armin. Common Principles for a Plurality of Orders: A Study on Public Authority in the European Legal Area. International Journal of Constitutional Law, Oxford: v 12, no 4, Oct. 2014, p. 990.
32. "The overlap of different powers on the same territory or the multidimensionality of those same powers is revealed, since they exercise influence and declare themselves competent at the same time in dimensions of social life that would be autonomous. These characters contrast conspicuously with the systemic unity of the order, above all if we continue to understand it in the sense of modernity so to classically speak." CATANIA, Alfonso. Metamorphosis of Law. Decision and Rule in the Global Age. Rome-Bari: Laterza, 2010, p. 07.
33. FALK, Richard. Law in an Emerging Global Village. A Post-Westphalian Perspective. Ardsley: Transnational Publishers, 1998, p. 28 ss.
34. VON BOGDANDY, Armin. Common Principles for a Plurality of Orders: A Study on Public Authority in the European Legal Area. International Journal of Constitutional Law, Oxford: v 12, n 4, Oct. 2014, p. 993.

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42. From the original: "However, there is no point in this competitive strategy if it is not accompanied by public policies that produce a regulatory framework that projects the company's reputation and at the same time places a burden on competitors. Social and environmental regulation projects reputation and at the same time acts as a market barrier (PORTER, 2004)." VEIGA, João Paulo; RODRIGUES, Pietro Carlos. Transnational Arenas, Public Policies and Environment: The Case of Palm in the Amazon. Environment and Society, São Paulo, v. XIX, n. 4, p. 1-22 n Oct.-Dec. 2016, p. 10.
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