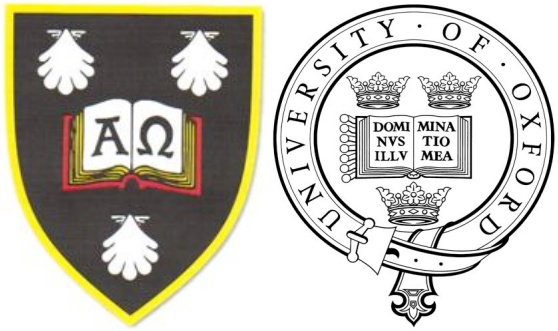
The Clean Development Mechanism (CDM) and the Legal Geographies of Climate Policy in Brazil

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30 September, 2009



Thesis Submitted for:
DPhil. (Geography/Environmental Change)
Supervisors: Prof. D. Liverman & Dr. D. Frame

(99,974 words)

CERTIFICATION

I, JOHN C. COLE, HEREBY CERTIFY THAT, EXCEPT WHERE OTHERWISE STATED AND ACKNOWLEDGED, THIS THESIS, *THE CLEAN DEVELOPMENT MECHANISM (CDM) AND THE LEGAL GEOGRAPHIES OF CLIMATE POLICY IN BRAZIL* IS MY SOLE AND UNAIDED WORK. I FURTHER CERTIFY THAT THIS THESIS INCORPORATES ALL CORRECTIONS AND AMENDMENTS THAT THE CORRESPONDING EXAMINERS REQUESTED OR REQUIRED, AS APPROVED BY THOSE EXAMINERS IN ACCORDANCE WITH THE CORRESPONDING UNIVERSITY REGULATIONS.



JOHN C. COLE

The Clean Development Mechanism (CDM) and the Legal Geographies of Climate Policy in Brazil

John C. Cole

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The Clean Development Mechanism (CDM) and the Legal Geographies of Climate Policy in Brazil

Abstract

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The Kyoto Protocol Clean Development Mechanism ('CDM') allows developed countries to invest in developing country projects, to effect both greenhouse gas emission reductions and sustainable development, in exchange for carbon credits. This study considers how Brazilian CDM projects currently promote or inhibit sustainable development in Brazil. Brazil originally proposed the CDM-type framework, led the developing countries in the multilateral negotiations, and now ranks third globally for CDM project investment.

The critical legal geography literature and corresponding hybrid analytical framework is applied to analyse the overlapping and multi-layered legal space of CDM projects in the context of an uneven physical and human geography. It applies legal and qualitative social research methods including textual analysis of English and Portuguese-language documents, onsite visits, semi-structured and unstructured interviews, focus groups and case studies of twelve Brazilian CDM projects of varying project types to consider:

- The environmental policymaking processes underlying Brazil's position in the international climate negotiations and how that

position impacts Brazil's assessment of proposed CDM projects' sustainable development benefits;

- The role of the Brazilian Proposal from the 1997 Kyoto Protocol negotiations in Brazil's ongoing assessment of proposed CDM projects;
- Brazil's enunciated sustainable development criteria for CDM projects against the criteria actually applied;
- The role of state environmental licensing authorities and non-state actors in defining appropriate sustainable development benefits for CDM projects; and
- The resulting (neo-)regulatory framework for Brazilian CDM projects' sustainable development benefits in the context of legal pluralism.

This dissertation concludes that Brazil's CDM-specific domestic regulation is driven by the negotiating positions Brazil has taken in the international climate negotiations, most notably the 1997 Brazilian Proposal. As a result, Brazilian government-based CDM-specific regulation only considers the CDM projects' Greenhouse Gas emission reductions benefits. Brazilian approval of domestic CDM projects also entails confirmation of administrative compliance with certain non-CDM specific regulatory frameworks, but institutional capacity issues within state and local regulatory agencies tend to undermine the effectiveness of assessing administrative compliance rather than legal and regulatory compliance. This government-based regulatory framework is augmented by non-state actors, who have a

neo-regulatory impact on corporate activity through demands for sustainable development benefits, giving rise to corporate sustainability programmes. There is scope for this neo-regulatory impact to extend to addressing sustainable development issues more broadly through NGO engagement with local and state environmental licensing authorities in the determination of appropriate environmental licensing conditions. In each case, the achievement of substantial sustainable development benefits is impeded by the lack of a mature multi-stakeholder dialogue involving a local government and civil society. As a result, corporate actors dominate consideration of appropriate sustainable development benefits.