

The Central Role of Environmental Justice in Corporate Governance

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Despite aspirational discourses of the “circular economy”, it has been long established that economic processes inherently require the extraction of new resources and the production of waste (Georgescu-Roegen, 1971). Only 7% of economic resources by tonnage, including energy carriers and materials, are recycled (Haas *et al.*, 2015). The remaining 93% needs to be extracted anew every single year, opening new mines, wells and landfills. Things are made worse by an economic paradigm of compound growth and investment return maximisation which demands more energy and materials every year.

In this economic scenario, companies are central players that orient their structures, strategies and actions in the search for new resources. But all extraction invariably has an ecological impact. As companies propose and develop new extraction sites, they are met with the resistance of those whose livelihoods most directly depend on good environmental conditions, generally the already poor and marginalised (Martínez-Alier, 2003, 2023).

In this vein, corporations are the key actors enacting what is known as ecologically unequal exchange (Hornborg, 1998). This process leaves the environmental impacts of extraction in the world peripheries and concentrates the benefits in industrial cores, with time accruing what environmental justice movements reclaim as an ecological debt (Roberts and Parks, 2009). This is precisely what Kapp (1950) described as a system of “shifting costs”, and what orthodox economists and corporations aptly categorise as economic externalities in an effort to impose the commodification of ecological relational values (life, identity, tradition, spirituality, etc) that are incommensurable with instrumental values (ie: monetary interests) (Himes and Muraca, 2018).

As investors demand higher returns, and local communities resist the encroachment of extractive projects in their lands, environmental conflicts become central determinants of corporate governance. The political ecology of extraction is preponderant in all corporate relationships, external and internal. As vehicles of a power struggle between those demanding more extraction and environmentalists defending their lifeways, the structure and actions of companies will be guided by three strategy categories: cooperative, co-optive and confrontative.

By cooperative strategies we understand the set of actions looking at minimising the ecological impacts of their operations. We can see many corporate reports praising their efforts at enhancing the efficiency of their processes. This is in large part incentivised in an effort to cut costs, but also in an effort to reduce environmental concerns and mobilisation against their operations (Montabon *et al.*, 2007). Concerned investors may demand greater efficiency measures, companies will set up sustainability branches, hire environmental engineers, and adopt indicators of ecological efficiency. But there are limits to efficiency, and it is inevitable that all economic activity has an ecological impact and will be opposed by those affected (Huesmann & Huesmann, 2011).

Cooperative strategies are thus very limited in their capacity to manage environmental conflicts. Companies need to also adopt co-optive strategies. In this category we can place the burgeoning adoption of voluntary industry standards (ie. Equator Principles, Responsible Business Alliance, etc) and commitment to non-binding global agreements such as the SDGs, the Paris Agreement or the UNGPs. Companies are compelled to adopt voluntary measures and set up compliance teams to their own policies in order to avoid external regulation and maintain a social licence to operate, and not necessarily to actually minimise the impacts of their operations (Christmann & Taylor, 2002). These are generally framed in the relationship between the company and the state. In fact, companies balance their efforts between adopting pre-emptive voluntary measures and lobbying governments to keep regulation at a minimum (Lyon and Maxwell, 1999). The co-option of states is in most cases natural, as corporate and state interests generally overlap and their relationship is mutually beneficial.

Still in the co-optive category, we can also find Corporate Social Responsibility (CSR) programmes (Marens, 2013). Rather than managing the relationship with the state, these are centred in the relationship between the company and the local communities affected by their operations. In the best of cases, CSR initiatives seek to compensate for the impacts of extraction with other social benefits. However, unlike CSR initiatives some of the ecological impacts are irreversible and do not go away once the company has obtained what it wanted. Moreover, ecological values are many times incommensurable with instrumental values, and no school buildings, monetary compensation, or litter-picking campaign will be able to compensate for it. And despite many communities being grateful for the impact of CSR in their communities seeing they have no other option to abide, we often see opposition to these programmes by environmental justice organisations. In fact, the concept of Corporate Social Irresponsibility (CSIR) has been adopted in academic circles as a critique to such programmes.

Finally, corporations also spend a great deal of resources in managing their relationship with the general public. Environmental conflicts are often valuation contests confronting opposing ways of giving meaning to nature. Companies spend big in marketing campaigns and philanthropic donations to publicly-reputed institutions to hegemonize the public valuation system giving priority to an instrumental view of the environment, magnifying the utility of extraction, and invisibilizing the impacts on the environment and frontline communities (Llavero-Pasquina, 2023). Environmental justice organisations fight back by uncovering the true socio-ecological and economic costs of extraction. In parallel, ESG indexes and rating agencies benchmarks are

tools to appease the environmentally-conscious investors, but in their quantitative systematisation they fail to account for the values and life-experiences of those directly affected by extractive operations (Maher, 2020). It is interesting to contrast the ESG rankings with the companies topping the list of environmental conflicts documented in the EJAtlas (Temper *et al.*, 2018).

But as ecological impacts are inherent in economic activity, and some of these impacts cannot be compensated by any measure offered by companies, firms need to employ confrontative strategies. If companies want to get what they want, they need to overpower those resisting their projects. To that effect, companies organise legal teams and set up institutional arrangements to protect them against any environmental liability claims. They attempt to obtain SLO (social licence to operate) (SLO) (Prno and Slocombe 2012), meaning communities' acceptance of ongoing projects. The reality is that "acceptance" is sometimes achieved by violence and fear. What is more, some companies will use Strategic Lawsuits Against Public Participation (SLAPPs) to intimidate opponents and as a chilling effect on future environmental resistance (White, 2005). Companies will also draw upon state forces to protect their interests and in extreme cases will hire their own security detail to fend off activists targeting their operations. In local settings, firms play divide and rule tactics by means of coercion and reward to establish counter-resistance groups (Dunlap, 2023), or bribe local authorities to rally support for their projects (Berenschot *et al.*, 2022).

In sum, both the external (customers, state, local communities) and internal (investors, workers, directors) relationships of a company are in part shaped by environmental conflict. Corporate governance responds and adapts to a political ecology of extraction, where their projects are imposed by market and by force upon the marginalised to concentrate benefits in the hands of a few. Corporate agendas are thus resisted by environmental justice organisations defending their bodies, territories and way of life (Saes *et al.* 2021, Bontempi *et al.* 2023). The economic process becomes a power struggle which companies need to navigate by adopting cooperative, co-optive, and confrontative strategies and organising their structures accordingly.

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