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Who should do what in environmental management? Twelve principles for allocating responsibilities

Erik Mostert*

TU Delft, Stevinweg 1, 2628 CN Delft, Netherlands

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ABSTRACT

In environmental management there is often discussion on the allocation of responsibilities. Such discussions can continue for a long time and can form an obstacle for effective action. In this article twelve normative principles for the allocation of responsibilities are identified, coming from three different sources: the arguments used in discussions on responsibilities, Dutch and European law, and the environmental management literature. The principles are (1) capacity, (2) lowest social costs, (3) causation, (4) interest, (5) scale, (6) subsidiarity, (7) structural integration, (8) separation, (9) solidarity, (10) transparency, (11) stability (but not standstill), and (12) acquired rights. These principles point to fundamental tensions in environmental management and sometimes conflict with each other. At the same time they may help to resolve conflicts by providing common points of reference that are independent from the often conflicting interests of the discussants.

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1. Introduction

This article is based on the assumption that responsibilities in environmental management matter. The argument is simple: how the environment is managed depends on who manage it, and this depends at least partly on the allocation of responsibilities. This argument seems to run counter to modern governance approaches that emphasize collaboration in networks rather than formal responsibilities (e.g. Crona and Hubacek, 2010; Rhodes, 2007; Sørensen and Torfing, 2009). Yet, much of this collaboration takes place in the shadow of formal arrangements (Bulkeley et al., 2012). Formal arrangements such as the allocation of responsibilities structure the arena where collaboration takes place. They can set up new management organizations, platforms and procedures and

provide governmental and non-governmental actors with sources of legitimacy and legal powers, thereby helping them to gain access to or increase their influence in the relevant governance networks. Depending on the complexity of the arrangements, they can facilitate or complicate collaboration. Besides, not all environmental management is collaborative: much still follows a top-down regulatory approach (Klijn, 2008).

According to the Oxford English Dictionary, “responsibility” refers to a specific task, obligation, duty or assignment; to the capability of fulfilling this task, etc.; and to accountability for this task, etc. (Simpson and Weiner, 1989). Applied to environmental management, we may distinguish between responsibility for policy making, for taking measures, and for financing measures. From a legal point of view, responsibility may entail the competence to act to fulfil this responsibility, in

* Tel.: +31 15 2787800.

E-mail address: e.mostert@tudelft.nl.

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Table 1 – Overview of principles for the allocation of responsibilities.

| | |
|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Capacity | Responsibility for specific tasks should be given to actors that possess or can develop the resources needed to perform these tasks well. |
| 2. Lowest social costs | Total costs for society should be minimized. |
| 3. Causation | Those causing a problem should be (financially) responsible for its solution. |
| 4. Interest | Those with an interest in a management task should be (financially) responsible for this task. |
| 5. Scale | The management scale should match as much as possible the scale of the management issues. |
| 6. Subsidiarity | Tasks should be performed at the lowest possible level. |
| 7. Structural integration | Responsibilities for closely related tasks should be combined in one hand. |
| 8. Separation | Tasks should be allocated to different actors if a system of “checks and balances” is needed, for instance to prevent that specific interests are overlooked. |
| 9. Solidarity | The risks and burdens that the members of a group have to face or carry should be shared by the group as a whole. |
| 10. Transparency | The allocation of responsibilities should be clear. |
| 11. Stability (but not standstill) | The allocation of responsibilities should not change too often, but it should be adapted to changing circumstances. |
| 12. Acquired rights | Acquired rights – not acquired wrongs – should be respected and if necessary compensation should be offered. |

many cases excluding others to do so. Moreover, it usually entails financial liability for damage that occurs if the responsibility has not been fulfilled well.

Responsibilities are not always regulated clearly or to everybody's satisfaction. Often different parties claim responsibility and thereby influence. This happened for instance in the Netherlands in the 1970s and 1980s, when the ministry responsible for water management and the ministry responsible for environmental management quarrelled extensively over the question who should become responsible for water quality control (Mostert, 2006). In other cases nobody wants to take responsibility because of the costs of necessary measures and of possible financial claims (“policy avoidance”: Glasbergen, 1989). A clear example of this is the discussion on urban groundwater control in the Netherlands, which lasted for almost a quarter of a century, from 1983, when the issue was first raised in Parliament, to 2007, when the Dutch water management act was modified and the municipalities were made responsible.

Unclear or contested responsibilities and in particular policy avoidance can form an obstacle for effective action, and closure is often difficult. Many political and financial interests are involved, and what one party gains in terms of political influence or lower contributions, the others may lose. Yet, the allocation of responsibilities is not a pure zero-sum game: some allocations may result in lower costs, more benefits or a distribution of costs and benefits that is considered more fair than others.

There is currently little guidance on what constitutes a good allocation of responsibilities. The well-known principles of “good governance” are not very specific on this issue (e.g. Graham et al., 2003; Hill, 2013; Lockwood, 2010). Other strands of literature are much more specific, such as the literature on polycentric governance (e.g. Galaz et al., 2012; Hooghe and Marks, 2003; Ostrom et al., 1961; Skelcher, 2005), transnational governance (Bulkeley et al., 2012), fit and interplay (Moss, 2012; Young, 2003, 2008) common pool resources management (e.g. Agrawal, 2001; Cox et al., 2010; Ostrom, 1990, 2010), scale (e.g. Dewulf et al., 2005; Gibson et al., 2000) and adaptation (Mees et al., 2012). These literatures yield important insights in

different aspects of the issue, such as the role of community-based organizations and local governments and the relation between management scale and the scale of the management scale. The problem is that these different insights have not yet been integrated into a more comprehensive approach.

The aim of this article is to develop such an approach. It will identify twelve normative principles for the allocation of responsibilities. In the next section, the methodology that was used for identifying these principles will be presented. This is followed by a discussion of the principles themselves (Table 1). In the final section, the potential use of the principles in practice will be discussed. In addition, the methodology used will be discussed and recommendations for further research will be given.¹

2. Methodology

The principles presented in this article come from three different sources. The first is law, in particular Dutch and European water law (Mostert, 2014; Rijswick and Havekes, 2012). Law reflects social values, as well as power relations, and although it is not always observed in practice, it has a special status and usually cannot simply be ignored.

The second source is the arguments used in discussions on the allocation of responsibilities. I focus on four Dutch discussions, concerning urban groundwater control; flood protection; the future of the water boards, the regional water managers in the Netherlands; and intergovernmental relations generally. I have followed these discussions for years (e.g. Mostert 1998). In addition, I have conducted complementary literature study, focusing on Dutch professional journals, advisory reports and policy documents. The arguments used in these discussions may have been used strategically to legitimize preferred solutions and promote specific interests,

¹ An earlier version of the list of principles has been published in the Dutch journal *Tijdschrift voor Water Governance* Mostert, 2013. *Het waterelftal: verantwoordelijkheden in het waterbeheer*. *Tijdschrift voor Water Governance*, 9–15.

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