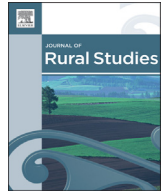




Contents lists available at ScienceDirect

Journal of Rural Studies

journal homepage: www.elsevier.com/locate/jrurstud

Property institutions for rural land conservation: Towards a post-neoliberal agenda

Ian D. Hodge ^{a, *}, William M. Adams ^b

^a Department of Land Economy, University of Cambridge, 19 Silver Street, Cambridge CB3 9EP, UK

^b Department of Geography, University of Cambridge, Downing Place, Cambridge CB2 3EN, UK

A B S T R A C T

Keywords:

Rural land management
Biodiversity conservation
Forest management
Property institutions
Post-neoliberalism
Environmental governance

The delivery of ecosystem services and conservation of biodiversity relies on the control of rural land for the provision of public benefits. Much has been written about the progress of neoliberalisation, typically implying that land management decisions are increasingly being left to market forces. However, less has been made of the areas in which the state has extended its control over land or where freehold rights have been attenuated. At the same time, there are intimations that the neoliberal hegemony may be waning. This paper explores approaches to the governance of rural land beyond the neoliberal agenda, drawing particularly on two cases: the proposals for the privatisation of the Public Forest Estate in England and the subsequent recommendations of an Independent Panel on Forestry, and the emergence of Large Conservation Area initiatives introduced by non-governmental organisations. It is important to recognise that the crafting of institutions determines the mix of private and public values of land and the incentives for management. We focus particularly on three important elements of governance. Institutional blending relates to the ways in which property rights area spread amongst different interested parties. These arrangements identify the residual claimant that bears the risk and final return from land holding. Ultimate oversight of property use requires public trust to be identified. Research is needed on the operation of these institutions in practice. Governments will need to develop approaches to be able to define and promote public values in rural land uses.

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1. Introduction

Neoliberalisation has brought about significant changes in the ways in which nature is governed (Peck and Tickell, 2002; McCarthy and Prudham, 2004; Castree, 2008) and in the way it is conserved (Hodge and Adams, 2012; Büscher et al., 2012). More generally, ecosystem services have become an increasingly important element in environmental policy, and of framing environmental management (Kosoy and Corbera, 2010; Norgaard, 2010). The delivery and maintenance of ecosystem services relies fundamentally on the control and management of rural land. This applies especially in the conservation of biodiversity and landscapes, where effective provision typically requires long term commitment to land uses that generate lower financial returns than are available through more market driven alternative uses and managements, and implementation at a scale that is typically greater than the areas of land under any single land ownership. Such provision is

generally regarded as being for the public benefit and beyond the reasonable expectations of delivery by a private owner (Lockie, 2013). In such a context, the conservation of rural land may be implemented in various ways, including public ownership or payment of incentives to private owners by the state through some form of targeted payments for ecosystem services (Kosoy and Corbera, 2010) or agri-environment payments (Uthes and Matzdorf, 2013; Hodge, 2014). However, such an approach faces a number of limitations (Hodge, 2001). The delivery needs to be directed through some type of environmental contract that sets out the requirements and payments involved. This creates problems of adverse selection and moral hazard, and inevitably cannot cover all possible contexts and contingencies. Moreover, contracts are for a finite period of time and this creates uncertainty as to the capacity of the arrangement to deliver conservation benefits over the long term.

An alternative to the implementation of an environmental contract, or in parallel with it, is the potential for the development of alternative property arrangements over the land. Alternatives to private, commercial land ownership can address a variety of the

* Corresponding author. Tel.: +44 1223 337134; fax: +44 1223 337130.
E-mail address: ih3@cam.ac.uk (I.D. Hodge).

limitations of environmental contracts. The property owner, whether a public body or non-profit organisation, can share the public policy objectives that motivate the implementation of environmental contracts, while at the same time leaving the choice as to how best to deliver environmental benefits to the land owner/manager on the ground. The owner/manager thus bears the opportunity costs of resource management decisions and in principle can select the socially optimal approach to delivery of the conservation objectives.

The introduction of public or collective property ownership would appear to fly in the face of the current policy presumptions of neoliberalism that have pushed back the realm of the state and expanded the role of the market. In this paper we argue that neoliberalism has been less pervasive in terms of its influence over rural land and property relations in the UK than has generally been acknowledged in the literature (e.g. Harvey, 2005). While neoliberalisation has been extensively discussed, particularly in the geographical literature, albeit recognising its complexities and internal inconsistencies, other disciplines, such as in environmental sciences or in law, have given greater emphasis to the expansion of the role of the state in regulating private interests and the socialisation of property relations. There is also a discussion of the possibility of a 'post-neoliberal' era (e.g. Peck et al., 2010), and certainly neoliberalism continues to evolve, creating opportunities for private sector, government and civil society organizations to pursue their interests and agendas. In this context, it is timely to review the possibility of alternative property arrangements that may be appropriate for the delivery of land conservation objectives in a world in which the policy assumptions and prescriptions may be less dogmatic and more flexible. Public policy towards rural land conservation and the management of rural places offers a particularly fruitful area for analysis, given the import ecosystem service benefits associated with alternative management arrangements and, in the UK, the predominance of private land ownership. Until the late twentieth century, government influence over rural land management had been limited to that achieved through public ownership and regulation. The introduction of new policy approaches over the past thirty years has expanded the capacity of government to promote rural land conservation across a majority of the rural land area.

In Section 2 we outline the contested nature of neoliberalism and some alternative perspectives from other disciplines. We then argue in Section 3 that neoliberal institutional mechanisms have the potential to enable and expand state influence over rural land conservation. In Section 4 we introduce two cases that have informed our thinking about the potential property institutions: the plans to sell the Public Forest Estate and the adoption of Large Conservation Areas. The requirement to craft institutional arrangements to reflect particular contexts and determine values is introduced in Section 5. We then discuss three key elements in institutional development: institutional blending, the residual claimant and public trust. Finally, we draw some conclusions in Section 6.

2. Intimations of post-neoliberalism

The neoliberal project has been a major focus for public policy around the world for more than a quarter of a century, spreading from the early doctrines of monetarism and privatisation, through to a plethora of forms of neoliberalism. Harvey (2005, p. 2) comments that neoliberalism is "in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade".

A key argument at the micro level is that privately owned firms operate so as to maximise efficiency. The decisions within the firm will ultimately be directed by the residual claimant who receives the net returns and bears the residual risk arising from the activity of the firm represented by the net cash flows, the difference between the stochastic inflows of resources and the promised payments to agents (Fama and Jensen, 1983b). The owner, as the residual claimant, will have a clear incentive to maximise the difference between cost and returns and to monitor employees' behaviour in order to promote this objective. She will select amongst the institutional arrangements available within the firm, contracts with external agents or market operations in order to make the best use of the firm's capacity and resources. Efficiency will be driven by competition in markets for inputs and outputs, obliging firms to be sensitive to customer preferences and to finding cost effective production methods. Inefficient firms will be at a disadvantage, losing market share or facing potential bankruptcy or takeover by competing managers who can make better uses of the firm's assets. Under neoliberal governance, these same arguments are deployed to the management of public bodies. In the United Kingdom there was a resurgence of interest in privatisation under the incoming Conservative/Liberal Democrat government in 2010, notably in the context of forestry. However, the debate about privatisation differed from the debate that was prevalent when the Conservatives were previously in power in the early 1990s. While there is evidence that privatisation can in certain circumstances improve the performance of economic activity, it is increasingly disliked by the public, potentially because the potential benefits have been oversold by governments (Kikeri and Nellis, 2004). The beneficial effects of privatisation are essentially dependent on the introduction of effective competition in product and capital markets (Kay and Thompson, 1986; Vickers and Yarrow, 1991) and this does not necessarily rely on the ownership of the assets (Letza et al., 2004).

Similar arguments apply to the conservation of rural land. Demsetz (1967) argues for the superiority of private property rights in land ownership in promoting efficiency. But even Adam Smith, the icon of liberalism, recognised a role for public land ownership. He was concerned that the Crown owned substantial areas of land but that these were poorly managed and failed to deliver as much revenue as they should do. He commented that "When the crown lands had become private property, they would, in the course of a few years, become well-improved and well-cultivated" (Smith, 1776, p. 421). However, he recognised that this would not apply to all land. "Lands, for the purposes of pleasure and magnificence, parks, gardens, public walks, &c. possessions which are everywhere considered as causes of expense, not as sources of revenue, seem to be the only lands which, in a great and civilised monarchy, ought to belong to the Crown" (p. 422). This suggests that, in his view, rural land used for the provision of public goods might be retained under public ownership.

The contested and contradictory character of neoliberalism is well recognised. The scope of neoliberalisation has been extended to embrace a complex of policy directions (McCarthy and Prudham, 2004; Peck and Tickell, 2002) and is not homogenous or universal (Castree, 2008). More straightforward developments of privatisation, including 'roll-back neoliberalism' (deregulation and dismantling of the activities of the state) or 'roll-out neoliberalism' (regulatory reform and reconstruction of the state around neoliberal models) have been succeeded by further elaborations, some involving an increased degree of state intervention. Harvey (2005) recognises the internal contradictions where the neoliberal state "is itself forced to intervene, sometimes repressively, thus denying the very freedoms it is supposed to uphold" (p. 69). Sandberg and Wekerle (2010, p. 53) for instance, in the discussion of the

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