



# Steering urban environmental quality in a multi-level governance context. How can devolution be the solution to pollution?



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## ABSTRACT

Devolution is advocated as a solution to scale mismatches in urban environmental governance. However, urban environmental quality is a multi-scalar issue: its various aspects – noise, soil, odour, air, water et cetera – are influenced by processes at multiple spatial and temporal scales. Decisions by municipal authorities that benefit local environmental quality may, therefore, conflict with higher-level environmental objectives. Managing the effects of urban development on each of these various aspects, then, is not only a matter of attributing authority to the ‘right’ jurisdictional levels; rather, it is about organizing effective interplay among these levels. This paper compares two fundamentally different ways in which such interplay has been institutionalised in the Netherlands. Two examples illustrate these approaches and show that they may lead to different results. One approach is to devolve the authority to decide about the desired environmental quality upon the municipal level. The second approach is to have local authorities and polluters comply with centrally issued standards and, meanwhile, give them more leeway to negotiate the necessary emission reductions. Whereas the former offers the desired degree of flexibility, the latter guarantees that objectives are achieved. It is from the trade-off between flexibility and legal certainty that the choice for either of these approaches results. This paper contributes to the scientific debate on managing urban environmental quality in a multi-level governance context by demonstrating how the two approaches work out in practice and what their advantages and disadvantages are. The paper very preliminarily judges the two approaches and suggests a third one combining the advantages of both.

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## 1. Introduction

Urban environmental quality results from bio-geochemical processes involving all sorts of polluting agents and occurring at multiple spatial scale levels, ranging from the local (e.g. odour; noise) to the global (e.g. ozone depletion; climate change). It is broadly recognised that governing each of these environmental quality aspects requires governance at the corresponding administrative level (Cash et al., 2006; Cumming et al., 2006; Newig and Fritsch, 2009). This entails devolving authority from the central state to more appropriate levels of governance. These can be supra-national bodies, such as the European Union or lower tiers of government (e.g. provinces or municipalities), but also governing bodies specifically tailored to fit a certain spatial scale, such as river

basins in the European Water Framework Directive. Generally, in decentralised states, these arrangements are made in accordance with the subsidiarity principle, which states that “*decisions within a political system should be taken at the lowest level consistent with effective action*” (Jordan and Jeppesen, 2000; p. 66). This principle can be traced back to political theories from the second half of the 19th century, in relation to efficiency of government action, but has gained a more specific meaning in the context of the European Union (EU), where it pertains to the allocation of national and supranational responsibilities (Jordan and Jeppesen, 2000).

It thus depends upon the issue – or, more exactly, on the geographical scale of the bio-geochemical and social processes that underlie the issue – at what administrative level decisions are taken. This, however, does not mean that, for any particular environmental problem, there is only one optimal administrative level where decision-making should take place. Kastens and Newig (2007, p. 243), for instance, demonstrate how the European Water Framework Directive is implemented in national legisla-

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tion, arguing “that ‘implementation’ not only means carrying out orders from above in a technical sense, but also involves important elements of political bargaining, much decision power being delegated to regional and even local scales”. Young (2006) found that scale-dependent interplay between government institutions may take various forms, including dominance (of one institution over another), separation (i.e. firm delineation of each government level’s competency) and negotiated agreement (resulting in co-management by the administrative levels involved).

Devolution has the benefit of bringing the level of decision-making down, when appropriate, to the regional and local levels that are better informed about the specific details of the local situation, can more flexibly adapt to them and can more readily ensure participation of stakeholders (Cohen and McCarthy, 2015; Newig and Fritsch, 2009). Participation, in turn, can enhance the environmental quality that results from the decision at hand and can facilitate implementation (Drazkiewicz et al., 2015; Newig and Koontz, 2014). Thus, devolution and participation of non-state – i.e. civil society and business – actors lead to a multi-level governance landscape, in which lower tiers of government, rather than replacing higher levels of the state, execute the authority that was devolved upon them, in deliberation with civil society and business actors, all within certain limits and under certain conditions set by higher tiers of government (Hooghe and Marks, 2003; Steurer, 2013).

Several authors, however, contend that failures in such a multi-level governance system lead to an ‘implementation gap’ between (supra) national goals and outcomes at lower levels (cf. Pressman and Wildavsky, 1984). In the case of the Irish policy on climate change, McGloughlin and Sweeney (2011) indicate that such a gap exists and that, in the absence of statutory requirements for local authorities, the local level is not the most efficient. Flynn (2000) reviewed the performance of local European authorities regarding several aspects of environmental policy, and concluded that decentralisation generally fails to bring improvements. In the United States’ forestry policy, Koontz (1999) found that, at the federal level, participants favour environmental interests, whereas at the lower level of individual states, they favour economic interests. Cohen and McCarthy (2015), reviewing the literature on decentralisation, also argue that if devolution and decentralisation are taken too far, undesirable governance outcomes may ensue that run counter to objectives at higher spatial or administrative scale levels; their examples include inequitable outcomes of participatory water governance and undermining of democracy and accountability by ‘local partnership governance’.

Instead of facilitating decision-making in environmental governance and enhancing consideration of environmental aspects, devolution could thus be expected to result in quite the opposite. The question, then, is: can governance arrangements be shaped in such a way that environmental quality can be optimally promoted at all spatial and temporal scale levels, while still allowing for flexibility at the local level? This question is particularly pressing when a single action or project has – possibly detrimental – effects at multiple scale levels, each being dealt with at distinct administrative levels. Urban (re) development is such an issue – in particular in situations where environmental impacts are high. Noise, for instance, is considered to be a local phenomenon, yet its sources are active on a higher spatial scale and it is regulated by environmental policies on a local, regional and even national administrative scale. The same development may also influence air quality on a regional scale. Cash et al. (2006) term this ‘cross scale, cross level dynamics’, indicating that an occurrence at a certain level of one – e.g. administrative – scale influences processes at multiple – higher and/or lower – levels of e.g. a spatial scale. Termeer et al. (2010) argue that these cross-scale and cross-level issues are not only dealt with by

increasing the fit between scales but also by improving the links between administrative levels.

Thus, some type of coordination among the respective government tiers is necessary, shaping the way in which devolution is institutionalised. Environmental problems that are typically local in scale, such as noise and odour nuisance, could be solved by making well-informed trade-offs at the municipal level. However, the environmental quality that would result from such a trade-off may well conflict with norms that, for reasons of efficiency or fairness, are issued by the national state and that cannot be adapted to the particularities of any local development. Clearly, delivering local tailor-made solutions is then being frustrated, because some elements of the issue to be decided about locally – in this case an urban plan – fall within the competence of higher government tiers. In short, local decision-making is being paralyzed. The other way around, leaving deliberations to only local stakeholders introduces the risk of them turning a blind eye to social and environmental issues at larger geographic or temporal scales. The outcome of local deliberations may then run counter to objectives of higher-level authorities.

Based on scientific literature about urban environmental policies (see Section 2), this paper compares two ways in which interplay between government tiers can be institutionalised and illustrates these, using two distinct cases from the Netherlands. One approach is to devolve the authority to negotiate permissible levels of pollution upon state and non-state actors at the municipal level. The other is to have local authorities and polluters comply with centrally issued standards and facilitate them in negotiating the means needed for this compliance. This paper aims to characterise these two approaches and illustrates their advantages and drawbacks with respect to governing environmental quality in a multi-scalar context. The Dutch situation provides a good example because here, due to the country’s high population density and high level of economic activity, it often occurs that sensitive areas are in the vicinity of possibly intrusive activities. To prevent stalemate in urban development, both above-mentioned approaches have been institutionalized.

This paper is further constructed as follows: first, we present and characterise the two institutional approaches. Cases are presented in Section 3 and subsequently discussed in Section 4. In the final section, we present our conclusions.

## 2. Governing urban environmental quality at multiple scales: two approaches

Several authors note that the classical hierarchical steering, entailing detailed, substantive standards that leave lower-level authorities little leeway for flexible implementation, is being replaced by more procedurally focussed policies that have more flexible and open-ended implications on the substantive side (De Roo, 2000; Driessen et al., 2012; Knill and Lenschow, 2000; Newig and Koontz, 2014). Following this distinction and thinking of ‘policy’ as the mobilization of resources or means to achieve certain goals, we distinguish a ‘goals approach’ and a ‘means approach’. In the former, the authority to set permissible levels of pollution is devolved upon the municipal level; this competence to set quality standards may be limited by the central state, e.g. through procedural requirements or by imposing a certain quality band width. The latter approach is based on the more traditional policy implementation scheme – where local governance is tasked with carrying out implementation of higher-level policies – but, in addition, facilitates negotiations between local authorities and polluters about the means necessary to, ultimately, comply with higher-level environmental quality standards.

In the following subsections, both approaches are briefly characterised. Driessen et al. (2012) have characterised several modes

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