Ecological Economics 148 (2018) 170–177

Contents lists available at ScienceDirect

Ecological Economics

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

Analysis

Environmental Governance – From Public to Private?

Arild Vatn

Faculty of Landscape and Society (Landsam), Department of International Environment and Development Studies (Noragric), Norwegian University of Life Sciences (NMBU), Noragric/NMBU, P.O. Box 5003, 1432 Aas, Norway

ARTICLE INFO

Keywords:
Environmental Governance
Privatization
Market Creation
Public Goods
Motivation
Transaction Costs

ABSTRACT

This paper analyzes the expanded role of private actors and markets in environmental governance. The public goods dimension of environmental services renders privatization and trading challenging. To illustrate the key issues involved, a series of privatization efforts and market creations are reviewed. Despite the focus on privatization, the empirical material shows that the role of the state is still very pronounced. It defines the commodities and property rights, and plays a key role in setting up and regulating the markets. In the case of payments for ecosystem services, public authorities even appear as the dominant 'trader'. Privatization and markets may reduce costs of delivering the service, while this is not universally true. Moreover, the service delivered often is transformed to make trade possible. Finally, high transaction costs may prohibit the creation of markets. The conflict between public goods delivery and private profit motive makes public control both important and difficult. Finally, several distributional issues following this neo-liberal development are highlighted.

1. Introduction

Environmental governance is moving towards an expanded role for private actors and markets. This neo-liberal trend includes e.g., privatization of environmental resources, programs like payments of ecosystem services as well as carbon markets. Moreover, private rule-making have become increasingly important – e.g., certification.

This development represents a change in the institutional basis for the management of many environmental resources. Originally, environmental policy was dominated by public regulations based on legal and economic instruments. Over time, there seems to be a shift towards more 'private regulation'. It is argued that this will enhance efficiency – e.g., Pagiola and Platais (2007). The development is also thought to lessen the burden on public budgets. At the same time, privatization and markets face limitations in a sphere like the environment. The aim of this paper is to study the new trend to see what the institutional landscape looks like and to what extent expectations have been met.

The paper is divided in six parts. First, I give a brief overview of what characterizes environmental resources from a socio-political and natural science perspective. Second, I explain the conceptual framework used in the analysis. The analysis is divided in three parts focused at a selected set of cases regarding a) changes in property rights towards increased private ownership of resources; b) the creation of markets in environmental services; and c) the development of self-regulation i.e., the move from state law to private rule making. Finally, I conclude by discussing and summarizing the findings and offering explanations for the patterns observed.

2. Characterizing Environmental Resources

Nature is of great economic, social and cultural importance. First, we all live off nature and how access to these resources is distributed is crucial. For the poor, it may even influence the capacity to survive. Defining e.g., property rights seems important also to avoid over-exploitation.

We do, however, not only live off, but also in and with nature (O'Neill et al., 2008). The significance and meaning of nature is complex as well as culture specific. Environmental values may pertain to certain places. Nature is moreover common in the sense that what one does to e.g., a forest has implications for others. It therefore becomes a tense political and social issue as to who should have the right to 'use' these resources, what should be for individual use and what should be under common decisions.

From a biophysical perspective, ecosystems are complex networks of processes including species transforming and transferring matter and energy. We talk of bio-geochemical cycles of different spatial and temporal scales. Variation in life forms – biodiversity – is crucial for the dynamics of ecosystems and their resilience (Odum and Barrett, 2005).

The above observations have several implications for environmental governance. First, we have the issue of rights to resources and how shifts in such rights influence people's opportunities. Second, environmental values may both be quite idiosyncratic as well as highly

E-mail address: arild.vatn@nmbu.no.

https://doi.org/10.1016/j.ecolecon.2018.01.010
Received 6 September 2017; Received in revised form 18 December 2017; Accepted 9 January 2018

interdependent. This creates limits to commodification, substitution and trade. Third, environmental problems are typically the sum of actions of many producers and consumers. They systemically affect third persons as in the case of pollution. Large numbers of people may be involved. Hence, the individual motivation for reducing problems is weak as gains of such actions are spread over many others – i.e., the so-called free-rider problem. In the realm of our physical environment, coordination of individual actions is therefore difficult both technically and motivationally.

3. Governance Structures – The Conceptual Basis for the Analyses

The move towards an increased role of private actors and markets in environmental governance may be seen as a change in governance and governance structures. The concept of governance refers to the purposeful effort to steer or manage sectors of society in certain directions (Koimann, 1993). The concept of governance structures typically refers to the actors involved and the institutional structures defining these actors and facilitating their interactions (e.g., Vatn, 2015a).

Regarding the actors, one may distinguish between economic, political and civil society actors. Economic actors hold rights to resources through property or use rights – as private, public or common property (Bromley, 2006). Many resources are, however, under open access. That has typically been the case for environmental resources like water and air. While land may be parceled out, many processes or 'services' linked to it cannot be easily demarcated – e.g., biodiversity, movements of water and various gases.

Political actors, such as parliaments and traditional leaders, have the power to define who hold rights to various resources and how such rights can be transferred. We may talk of regulatory or customary law based on third party power. Civil society actors – such as political parties and NGOs – are important not least in bringing legitimacy to political processes, including establishing fora for interaction between decision-makers and the wider society.

Institutions/rules for interaction and appropriate behavior are also important in environmental governance. Key formats here include trade, command and cooperation. There may also be areas of a society where no interaction rules are defined. Again, that is typical for many environmental issues – e.g., rules for various types of pollution may not exist.

Institutions are crucial to (environmental) governance. As already emphasized, they define rights and responsibilities. They also influence the level of transaction (or interaction) costs (Williamson, 1985). Finally, different actors and institutional contexts are characterized by specific types of motivations (Hodgson, 2007; Vatn, 2009, 2015a). Motives may be based on what is best for the individual actor – like profits or individual utility. They may, however, also be based on what is best for the group or even for 'the other' – what is seen as appropriate behavior (March and Olsen, 1995). The type of motivation involved is moreover expected to influence how easy it is to facilitate coordination among actors. Taken together, these observations imply that choice of governance structures for handling environmental issues – like establishing markets – may exercise considerable influence on outcomes.

The above concepts and perspectives are used to organize the study. I will look at implied changes in rights, transaction costs and motivational structures and ask to what extent the changes imply increased efficiency. In doing so, I will also look at how complexity and the related challenges regarding commodification have been handled. I will finally look at what the development has implied for the role of the state. I have chosen to study a set of example areas, capturing key dynamics as well as variations across the field. In each case, I will emphasize the most important dimensions and issues. Hence, there will be some variation in focus across sub-sections.

4. Privatization

Privatization is typically understood as shifting property/use rights from state/public or communities to private entities. Privatization is observed in a large number of sectors. To illustrate key dynamics, I have chosen to emphasize two – land and water services.

4.1. Land

Land is an example of an environmental resource that is among the easier to privatize. Bromley (1991) emphasizes, however, that in some cases land is not productive enough to carry the extra costs of privatization. Moreover, attaching property rights to land is often mainly nominal w.r.t. demarcating all the processes involved linking land, water and air.

Privatization of land is certainly not a new process. Nevertheless more than 80% of forests are publicly owned (Agrawal, 2007) and large tracts of pasturelands are under common property arrangements. Here I will focus at a rather recent development of great significance recognized as 'large land deals' or 'land grabbing' implying acquisition in the form of purchase or long term lease of large areas of land in low income countries – typically by foreign investors (Cotula, 2012; White et al., 2012). This development seems to have peaked after the steep increase in food prices in 2007–08. According to Anseeuw et al. (2012), about 200 million ha were traded between 2001 and 2010. This is over eight times the size of the UK. About 2/3 of the deals were in Africa, while there are agreements of this kind made on all continents except North America and Western Europe. Agribusiness and financial investors as well as foreign states are key actors. Hence, many of the deals are not examples of privatization, rather trade between states. Some buyers are coming from the North, but actors from countries like China, India, Saudi Arabia and Qatar are important (Deininger and Byerlee, 2011; Anseeuw et al., 2012; Cotula, 2012). Opportunity for profit making and international food security issues explain the trend. Some investments are purely 'speculative', expecting future gains from increased land prices linked to prospects regarding biofuel, carbon projects and the like.

Deininger and Byerlee (2011) emphasize that this form of land deals has the capacity to reduce poverty by increasing rural activities. While having some merit, this argument is questioned by several authors, emphasizing not least the dispossession of local communities and the low compensations they receive, if any, when land is transferred (e.g., Li, 2011; De Schutter, 2011; Fairhead et al., 2012). The land deals are often made in cases where there are competing rights' claims. States formally own the land in the sense of being a 'custodian of the people', while communities have 'use rights', typically held in common and based on traditional authority. Therefore, the shift in property rights – including leasing – may as well be one from common property to private or in some cases even (foreign) state property. Li (2011) emphasizes that states often accept low prices to attract foreign capital. Conditions regarding local compensation are often not met (ibid. Anseeuw et al., 2012). While income from exports increases due to the transfer of rights – which may be important for the state – authors like De Schutter (2011), Li (2011) and White et al. (2012) argue that if the aim is reduced poverty and increase food security, strengthening the rights of the local poor – individually or collectively – would be better.

As already indicated, 'privatization' turns out to not be a simple and homogeneous trend. Another example of land transfers – albeit much smaller in scope – illustrates the complexities further. It regards the expansion of land trusts. It is included here to illustrate that privatization of land may involve quite different motivations from those dominating 'large land deals'. Land trusts are non-profit private organizations working for conservation of land and depending on donations and grants. As conservation agents, they have a history back to the late 19th century, while we observe a substantial increase in activities since the 1990s. Land trusts are typically a Northern phenomenon – found