

Innovative Approaches to the Interaction of Law, Policy, Actors and Institutions in Water Governance

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ABSTRACT

This paper presents an examination of the interactions between law, policy, actors and institutions in the governance of water. The paper claims that law and policy each play important, complementary, yet sometimes competing, roles in water governance.

In many parts of the world there is a potential conflict between the improvement of people's livelihoods and the protection of aquatic and riparian ecosystems. This necessitates an IWRM approach which takes into account both livelihoods and the protection of biodiversity, as at the heart of any potential conflict between livelihoods and the protection of nature lies the question of whether resource use, especially the use of natural resources such as water, leads inevitably to resource depletion and to negative effects on the ecosystem. There is often an inherent acceptance that livelihoods and protection are incompatible. This is of course not always the case, resource users may decide not to destroy the water resource and may decide not to for a variety of reasons. Laws and legal frameworks may be one of these, perhaps best described as formal constraints; however, many other incentives to protect ecosystems are in place in the case areas, as will be shown in this paper.

The major challenge facing the governance of water is not in itself the quality or quantity of legislation or policy; it is the implementation of these laws and policies. Any approach wishing to understand the lack of success of water law and policy in many parts of the world must therefore begin by analysing the processes through which these are implemented. In this respect, while there are in principle differences in levels of potential enforcement between law and policy, in practice both of these forms of influencing behaviour are usually left in the hands of the same institutions and organisations. In many areas these are usually the government authorities, departments of the environment and state or county authorities. The complexities of modern political systems often result in decisions, both legal and policy-orientated, being moved along from the political sphere into the administrative sphere. There are a number of reasons for this, such as limited detailed knowledge of specific issues, the wish to de-fuse sensitive political conflicts by leaving their resolution to the implementation process etc. The process often creates confusion between the politicians who are responsible for making laws and decisions that determine policy, and the civil servants who are responsible for implementing them. This paper therefore also analyses the actor-networks responsible for implementation of the laws and policies, and the interactions between the organisations and institutions that form these networks.

KEY WORDS: *Policy, Law, Science, Institutions, Stakeholders.*