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Legitimacy for Ecological Restoration in a Multilevel Governance Context - Changes and Challenges

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Abstract: The implementation of Natura 2000 has met with considerable resistance from farmers, fishermen, foresters and other local residents in most EU member states. In response to the rural protest the majority of governments gradually abandoned their centralist, top-down approach and increasingly switched towards methods of participatory and interactive policy making. However, the results of the more participatory and interactive modes of policy-making are far from clear. Some welcome this tendency to incorporate the interests of all stakeholders and the attendant integration of nature objectives in other policy fields, while others lament the 'dilution' of the original nature goals, in the sense that less hectares will be designated as nature areas, and that the type of nature to be realised will shift from deeper to lighter shades of green. The tendency toward new forms of governance is not only questionable with respect to the effectiveness of nature policy but also with respect to its legitimacy. While some applaud this tendency as a triumph of local democracy, others fear the emergence of neo-corporatist politics and the attendant formation of power blocs of special interest groups and social movements that assert themselves as defenders of the public interest without a clear democratic mandate. What are the most important stumbling blocks for successful nature conservation policy at the moment and how can these be overcome?

Keywords: biodiversity policy, increasing public support and participation

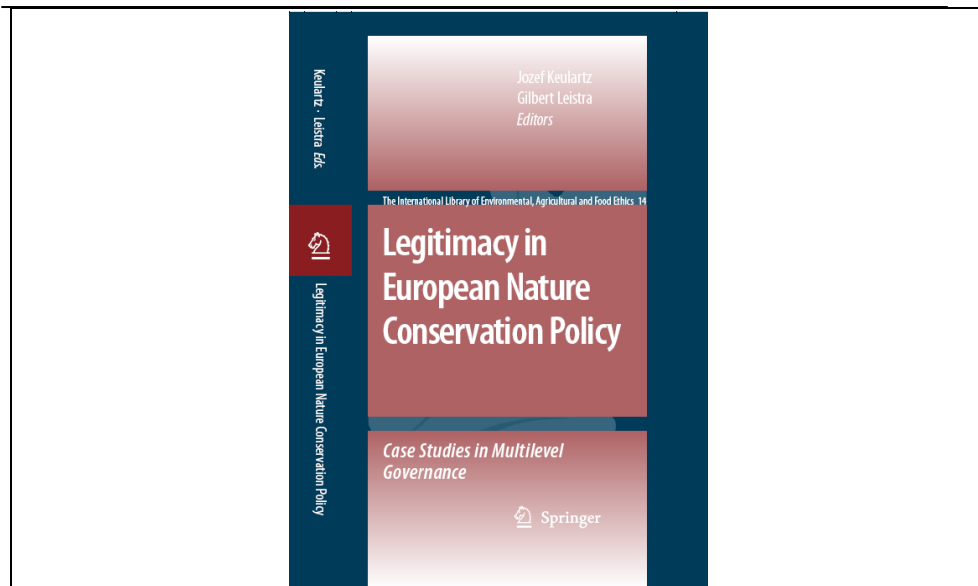
Introduction

Nature 2000, which encompasses both the Habitats and Birds Directives, is the most important legal framework in the field of nature conservation in Europe. These directives are legally binding texts that require the individual member states to translate them into national legislation. If the member state fails to pass the required national legislation, or if the national legislation does not adequately comply with the requirements of the directive, the European Commission can initiate legal action through the European Court of Justice (ECJ).

Although significant successes have been achieved, reflecting the largely uncontested nature of the overall goals of Natura 2000, we can, nevertheless, observe increasing implementation problems in the different EU member states. The difficulties and delays that have beset implementation in the 'old' 15 EU member states (i.e. states granted EU membership before May 2004) have resulted in several member states – including Denmark, Finland, France, Germany, Greece, Ireland, and the Netherlands – being taken before the ECJ by the European Commission for failure to submit lists of designated sites in accordance with the Habitats Directive.

The 1992 habitats directive was adopted very much in a top down fashion with relatively little consultation of stakeholders and policy actors on the ground who have to implement the Natura 2000 measures. But these low levels of consultation and representation triggered high levels of resistance. In response, member states have increasingly resorted to more participatory forms of decision-making. Public consultation, interactive governance, and deliberative democracy are some of the key models that are currently being used in many member states to overcome opposition, enhance the legitimacy of policy outcomes, increase the quality of decision-making and facilitate implementation. However, whether these new modes of governance will be able to reduce the implementation deficit in nature protection policy remains to be seen.

Towards a sustainable future for European ecosystems – Providing restoration guidelines for Natura 2000 habitats and species



Problems: output deficiency and democratic deficit

First, the inclusion of a wide range of stakeholders in the policy-making process is usually costly and time-consuming. It therefore may delay the urgently needed adoption of policy measures such as protection measures for species which are threatened by extinction.

Second, the shift from a top-down to a bottom-up approach everywhere in Europe seems to go hand in hand with a 'dilution' of the original nature goals, quantitatively (in terms of hectares) as well as qualitatively (from deeper to lighter shades of green). For instance, In Poland, the preliminary list of Natura 2000 areas covered about 20 per cent of the country's area. However, due to severe criticisms of the designation process by local authorities, foresters and water management institutions, the final national list, prepared for submission to the European Commission, was reduced to about half of its original size. Another example, in France the total area of sites proposed to the EU dropped from the initial figure of 13 per cent in 1996 to 7 per cent at the end of 2002.

Third, the democratic quality of the consultation process with local stakeholders is questionable. The consultation process is about bargaining rather than arguing. It falls severely short of the criterion of inclusiveness because the fate of nature and biodiversity is actually placed in the hands of that 10 per cent of the population who happen to live in the countryside. Too much stress on interactive policy will make politicians and policy-makers hostage to local interests at the expense of broader interests, in particular, the interests of future generations in a healthy and beautiful natural environment.

Conflicting interests and ideas

These problems are partly caused and partly aggravated by conflicting member state interests and conflicting social interests. For instance, nature protection measures for threatened species may trigger unintended negative consequences for other species and/or legitimate societal interests such as fishing or farming. This can be illustrated by the case of the great cormorant. Since 1979, when the EC Birds Directive was enacted, cormorant numbers have increased fairly dramatically. This very success of conservation policy poses a threat to certain fish species and led to conflicts with fishers and anglers organisations.

Nature management conflicts are not only deepened by the different and often diverging interests of member states and stakeholders but also by the different ideas about the most appropriate nature protection measures. The various stakeholders have different perceptions or visions of nature. Farmers and foresters generally have a functional vision of nature, whereas nature conservationists sometimes have an arcadian vision and sometimes a wilderness vision of nature. The functional vision considers nature primarily in terms of its value to humanity, focusing on such aspects as timber production, fishery yields and opportunities for recreation. In contrast, proponents of the wilderness vision particularly value nature in its unspoiled state, characterized by authentic species and natural constitutive processes such as erosion and sedimentation, dispersion, and predation. The utilization of nature is only acceptable if the effects are negligible. The arcadian vision takes more of an intermediary position. It focuses on semi-natural and extensively used cultural landscapes where human impact is considered to be positive when it contributes to biodiversity and the landscape. Its proponents stress the cooperation between humanity and nature and often refer to historical elements, traditional knowledge of land management, and both extensive and small-scale utilization practices.

Nature management conflicts can also be aggravated by differences in the kind of knowledge that the various stakeholders have. EU environmental policy has heavily relied on scientific knowledge during the agenda setting and decision-making phases. The purely scientific legitimation underlying Natura 2000 has proven to be both a strength and a weakness. To its benefit, Natura 2000 can claim strong support from ecological experts in other supranational and national conservation organizations. However, the scientific legitimation of Natura 2000 is also a source of weakness because the scientific ecological concepts underlying the Natura 2000 network seem to invite a technocratic, top-down mode of policy-making that is increasingly being rejected by local constituencies as too insensitive to local interests, too paternalistic for modern tastes and too elitist for modern democracies. Moreover, scientific knowledge may not pull policy makers in the same direction as local knowledge that can play an important role in the bottom up management of nature protection sites. Local traditions and conservation practices have made important contributions towards the conservation of nature protection sites such as the Bergö-Malax Outer Archipelago in Finland and the North Yorkshire Moors in the United Kingdom.

Boundary-work and the need to re-establish trust

Until now the introduction of more participatory and interactive modes of policy-making has not resulted in a significant reduction of the implementation deficit with respect to Natura 2000. A large number of local actors in many member states have generally remained suspicious of wide consultation efforts by the EU and/or national governments about Natura 2000 measures during the implementation phase because they were not consulted during the decision-making phase, i.e. when the birds and habitats directive were adopted. It usually will not be easy to establish a strong notion of trust during a post-decision phase.

To re-establish a high degree of trust needed to facilitate the implementation of nature protection policy measures and to overcome the aforementioned problems and conflicts we need to invest in ‘boundary-work’, that is: in constructive efforts to support communication and cooperation across the borders between communities with different interests and ideas.

This requires what Schön and Rein (1994, 207) have called ‘double vision’: “the ability to act from a frame while cultivating awareness of alternative frames”. We should learn to ‘squint’ so to speak in order to see things from different angles simultaneously. As soon as people become aware *that* they use different frames their diagnoses and prescriptions will lose much of their obviousness. Such a critical reflection can bring people together again to discuss their differences. Awareness of and sensitivity to differences are crucial if we want to foster and facilitate collaborative conflict resolution and integrative problem solving to prevent further degradation of our natural resources.

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