

Chapter 2

A Starting Point: Understanding Governance, Good Governance and Water Governance

Abstract Governance has been a widely and deeply discussed concept in the political sciences. As global freshwater resources have become increasingly degraded and impacts of climate change begin to take hold on local hydrological systems, scholars and practitioners have increasingly recognised a crisis of governance. This chapter presents a broad overview of governance theories and discusses the shifts from state centric notions of ‘government’ to a wider range of governance modes and types, as a way of contextualising the shift from a ‘command and control’ paradigm in water governance to more decentralised, integrated and flexible approaches.

Keywords Developments in water governance • Institutional arrangements • Integrated water resources management • Scales of governance • Physical and human boundaries

2.1 Understanding Governance

Though widely debated, governance is generally a more inclusive concept than ‘government’, reflecting the negotiation between society and government in effectively implementing socially acceptable allocation and regulation by mediating behaviour through values, norms and laws (Jordan 2008; Treib et al. 2007; Mayntz 2004). Governance is broader than just the government, incorporating both state and non-state actors, both private and public. According to the UNDP, governance has been defined as ‘the exercise of economic, political and administrative authority to manage a country’s affairs at all levels. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences’ (UNDP 1997).

This evolution from top down, centralised and hierarchical concepts of government to governance, represents a shift to a new form of governing society that is more inclusive and cooperative than the traditional ordered rule of government and concept

of political steering; moving from placing state governments and political authorities at the centre of action to control socio-political processes to meet socio-economic goals (Mayntz 2006). While government refers to the autonomous authority of the state regime, governance relates to the network of private and public actors and structures, which interact to solve societal issues (Grote and Gbikpi 2002). Non-governmental actors are no longer seen as passive 'citizens' but as active 'stakeholders' (Grote and Gbikpi 2002), through their participation in public-private networks and interactions.

Governance thus allows us to conceptualise the complex arrangement of relationships and rules needed to manage and distribute resources in today's world, where traditional federal and top down structures of command and control may no longer suffice. However, since forms of governance still take place within the jurisdiction of nation states, scholars have acknowledged that higher jurisdictions, i.e. constitutionally superior states, are likely to not only steer networks but also unilaterally change the rules of the game (Rhodes 2007). Therefore, the role of government in the setting and application of legislation and regulation remains key. Academics have endeavoured to bring clarity to the conceptualisation of governance through the classification of different forms of governance, through the dimensions of politics, polity or policy (Treib et al. 2007). Politics represents the process of how (collective) actors translate different preferences into policy choices and different interests into unified action. Policy denotes the political steering and decisions made for and implemented in a society. Polity is the framework of formal and informal rules of the game (i.e. institutions) that direct the behaviour of actors within a society (Keman 2006; Héritier 2002). The institutionalist approach is linked to the polity mode, conceiving governance as a system of rules that shape actors' actions (Ostrom 2005).

Institutions and governance are interlinked and often synonymous concepts from a definitional perspective. For example, in the field of new institutionalism, North (1990) has described institutions as the rules that govern the behaviour of actors. In the same field, institutions are seen as including the governance structure and organisation, demoting the institutional arrangement (Saleth and Dinar 2004 in Herrfahrdt-Pähle 2010b). Ostrom (2007) defines institutions as laws, regulations, policies and property rights that define ownership, disposition and use rights to a natural resource, as well as the policies for protection and exploitation of a resource. Institutions can therefore be rules, or sets of rules (i.e. arrangements), that structure social interaction by shaping or constraining actor behaviour (Helmke and Levitsky 2004; North 1990). In a narrower sense, however, institutions are often synonymous with formal bodies and organisations (e.g., national ministries, sub-national agencies, multi-stakeholder management institutions, and planning departments; and the policies, plans, and other actions carried out by those organizations).

Institutions are also categorised as having formal or informal forms, differentiating the 'nature of processes of development, codification, communication and enforcement' (Pahl-Wostl 2009, p 356). Formal institutions tend to have their rules enforced by a state actor and are openly codified and officially accepted (e.g. legally binding documentation: regulation, constitutions, resource ministries, formal basin management

organizations). Informal institutions convey norms of behaviour and socially shared rules that may be self-enforcing or enforced outside official channels, i.e. the unwritten rules of the game (e.g. traditions, social and cultural norms, organisational codes of behaviour, personal networks, community saving groups, black market) (Helmke and Levitsky 2004). Informal institutions can be as influential and shape behaviour as effectively as formal institutions, and thus often play an important role in natural resource management at the local level (Berkes and Folke 2001; Helmke and Levitsky 2004; North 1990).

Traditions and customs encompassing what is right and wrong, or acceptable from a risk perspective (e.g. value structures) can shape formal institutional outcomes and support or undermine the trust in and effectiveness of governance outcomes. For example, Helmke and Levitsky (2004) cites an example from Chile's executive-legislative power-sharing mechanisms, for how an informal institution can create incentives for behaviour that alter the substantive effects of formal rules without directly defying them, thus reconciling actors' interest with existing formal institutions circumventing the process of formal reform. They present how the 'Leaders of the Democratic Concertación inherited an "exaggeratedly strong presidential system" and a majoritarian electoral system that ran counter to their goal of maintaining a broad multiparty coalition. Lacking the legislative strength to amend the 1980 Constitution, Concertación elites created informal mechanisms of inter-party and executive-legislative consultation aimed at counteracting its effects. These power-sharing arrangements "enhanced coalitional trust" in a formal constitutional setting that otherwise "provided very few incentives for cooperation." (Siavelis 1997 in Helmke and Levitsky 2004).

Both formal and informal institutions play an important role in water resources management in their potential to set rules and demarcate responsibilities between actors; co-ordinate mechanisms to minimize jurisdictional overlaps or deficiencies; bridge the gap between political and natural boundaries; match responsibilities, and serve as authorities and facilitators of action (GWP 2004, p 44). Young (2002) and Herrfahrdt-Pähle (2010a) elucidate the importance of ensuring a close fit (across and between different spatial, institutional or jurisdictional scales) between social and ecological systems through the existent institutional interface. Effective and fitting institutional arrangements (including compatibility between formal and informal institutions) to demarcate and coordinate rights and responsibilities are critical in areas or periods of abundance, but become even more crucial during periods of change (more extreme drought or flooding), scarcity, or generally more arid climates (Herrfahrdt-Pähle 2010a; Meinzen-Dick 2007; Ostrom 1990; Helmke and Levitsky 2004; Young 2002).

At this point, some theoretical clarity is called for, not only to elucidate how these terms will be used for the purposes of this book, but also to clarify the difference between the terms water governance and management, which are often used interchangeably. For the purposes of this piece of research, institutions are defined according to their broad and formal definition, i.e. more than just an organisation, but officially enforced or recognised (i.e. not informal social norms). Governance relates to the different processes of making and setting rules and institutions that

takes into account the different actors and networks that negotiate acceptable positions in balancing trade-offs in policy and its instruments (Pahl-Wostl 2009). As the UNDP (1997) states, 'Governance is seen as encompassing institutions, as well as the broader laws, regulations, policies and actions with which natural resources are managed, as well as the networks of influence beyond just government, such as civil society, private sector actors, and non-governmental organisations'. Management on the other hand, is concerned with the application of these rules and operationalisation of the policy visions with the practical aspects of water allocation, protection, prevention of harm from extremes (Folke et al. 2005; Pahl-Wostl 2009).

The negotiation of different roles (state and non-state; formal and informal) in policy formulation and implementation in governance has been elucidated through the discourse on different types of governance (Rhodes 2007). The classification of different governance modes also has been defined by distinguishing between bureaucratic hierarchies, networks and markets (Thompson et al. 1991). The concentration of these modes in different national settings tends to be influenced by the political regime within the country depending on the diverse 'economic, cultural and political norms of a country and the behaviours or the legislature and legislators' (Rogers and Hall 2003, p 8), namely the informal institutional setting. Hierarchical governance refers to the traditional model of top down political system with highly centralised government and institutions. In many developed countries, this form of governance has been supplanted by the growing implementation of the concept of subsidiarity (the performance of functions at the lowest appropriate level).

The network mode is dominated by informal institutional arrangements and the participation of state and non-state actors and together with market based governance has received increasing attention over the past few decades for its flexibility and ability to provide access to new forms of knowledge (Kooiman 2003), but is vulnerable to challenges of accountability and legitimacy¹ if membership is not representative. Market based modes tend to be dominated by non-state actors across formal and informal institutions, and became a trend with increasing voracity from the 1970s in attempts to resolve issues previously assigned to traditional centralised command and control regulation, such as economic growth, social inequity and environmental pollution (Meinzen-Dick 2007; Freeman and Kolstad 2007). The concept of market led governance transfers resource allocation mechanisms to the private sector and the market, seen as more efficient than hierarchical forms of regulation. The laissez faire market model, prominently supported by Milton Friedman and the Chicago School, enjoyed considerable attention, particularly in the context of the neo-liberal governance approach taken in Chile during the Pinochet regime (Bauer 1997; Klein 2008; Valdes 1995). However, there is growing recognition that pure market modes are quite rare and that market based mechanisms require effective regulation to ensure social and environmental needs are met (Bakker 2003; Freeman and Kolstad 2007).

¹ For a definition of legitimacy see later discussion of good governance in Sect. 2.2.

As the notion of authority has scattered from the central state – to networks to market based – attention has turned increasingly to the multi-level and distributed forms of governance, initially through studies comparing federal and centralised systems (see Ammom et al. 1996 in Pahl-Wostl 2009) then more prominently through the study of the complex multi-level interactions in the European Union (EU) by Gary Marks (Hooghe and Marks 2003). Likewise, polycentric governance systems have long been discussed in the social sciences, but have recently been increasingly focussed on in relation to complex adaptive systems (Pahl-Wostl 2009), which shall be discussed in more detail later. Polycentric governance is determined to be ‘a system of many centres of decision making which are formally independent of each other’ (Ostrom et al. 1961; Huitema et al. 2009) and thus, like multi-level governance (MLG) ‘implies the decision making authority is distributed in a nested hierarchy and does not reside at one single level’, be that a central government, regional governments or municipalities, or indeed individuals or markets (Pahl-Wostl 2009, p 357).

Normative assumptions have been made about the linkages between different forms, modes and types of governance and their legitimacy, as well as their ability to adapt to a changing environment (Pahl-Wostl 2007). However, the discourse is seen to be gradually moving from ascribing one panacea as superior to another, rather to looking at issues of fit, interaction and compatibility (Meinzen-Dick 2007; Young 2002; Freeman and Kolstad 2007). In reality, however, neat conceptual constructs tend to be replaced by hybrid forms and thus many academics and organisations alike tend to encapsulate all three modes within their definitions of governance (Pahl-Wostl 2009; UNDP 1997). Distributed governance is one concept that has arisen to more effectively encompass the combination of formal and informal institutions (Kooiman 2000), representing a more dynamic relationship between different societal forces. It arises out of the recognition that neither the state nor the market can resolve social and environmental problems alone. This interpretation of governance is less ‘Statist’, more society orientated, and is primarily concerned with the manner in which governance systems provide a balance of power between different formal and informal state/society interactions, as well as the role of civil society and policy networks.

2.2 Good Governance

In the 1980s the concept of good governance was taken up from a more normative perspective, with the development of criteria of normatively ‘good governance’ (Pierre 2000; WB 2002). These criteria sought to guide the repair of the failures of the decreasingly legitimate top down governance structures, by focussing on alternative modes of actor constellations helping to resolve common issues from different perspectives. By the 1990s it was becoming used from a more analytical perspective in the social sciences as a mean of assessing public policy arrangements in empirical research (Kooiman 1993). The concept of good governance has become popular over recent decades, in response to the notion that ‘more

effective governance regimes or systems need to be designed/created to overcome government failure, market failure and system failure or a combination of these' (Rogers and Hall 2003, p 24).

Legitimacy is seen as a core concept of good governance (as an output), dependent on a number of inputs that are represented by a number of key components of governance identified as determinants of good governance. These indicators include participation, leadership, accountability and trustworthiness, effectiveness and transparency (see following section for more detail). The UNDP Regional Project on Local Governance in Latin America elucidates governance legitimacy is the proper functioning of institutions and their acceptance by the public, which is in part enabled by the efficacy of government and the achievement of consensus by democratic means as well as the ability of political, social and economic rules to solve conflicts between actors and adopt decisions. This highlights the role of actor networks and institutions in participative and effective governance processes for achieving good or legitimate governance, on which the following section shall expand.

A number of studies and institutes have defined diverse key components central to achieving good governance, which tend to encompass a range of normative values and public policy objectives which are seen as socially desirable (e.g. accountability, transparency, participation, justice, efficiency, rule of law and absence of corruption' UNDP 1997). The World Bank considered four key components as being central to achieving good governance: public sector management, accountability, legal framework for development, and transparency and information. In addition, the Asian Development Bank (ADB) also identifies four elements of key importance to governance; predictability, participation, transparency and accountability (Allan 2008). Generally, 'good' governance tends to relate to a 'regulatory system that shows qualities of accountability, transparency, legitimacy, public participation, justice, efficiency, the rule of law and absence of corruption' (Brugnach et al. 2008, p 423). These indicators tend to encompass a range of normative values and public policy objectives which are seen as socially desirable.

There are, however, practical challenges for these conceptual constructs of good governance inputs. For example, a central question that relates to participation is whether the involvement of non-governmental organisations and sub-national actors and authorities empirically leads to easier management of diverse interests, increased compliance with formal rules, or just further complicates the decision making process and decreases efficiency through resource intensive participative processes (Pahl-Wostl 2009). Rogers and Hall (2003) note that the proliferation of non-accountable NGOs that have often filled the governance vacuum from weak local governments results that often organisations calling for action have little responsibility for the actions which they propose. Furthermore, country specific contexts, in terms of contrasting political, cultural and geographical particularities, inevitably mean that a sweeping definition of good governance cannot be applied to all situations; rather different interpretations of what good governance means, depending on the national context, are available and governance reforms should be framed within the context of local conditions and existing public policy practices in order to be successful.

2.3 Water Governance: The Rise of New Standards

Water governance refers to the range of political, social, economic and administrative systems that are in place to develop and manage water resources, and the delivery of water services, at different levels of society. (GWP 2000)

At its simplest, water governance systems not only decide who gets how much water, when and how but also protect resources from pollution, through the implementation of socially acceptable allocation and regulation of water resources and services (Rogers and Hall 2003). Water governance develops and sets the rules, roles and responsibilities of all involved stakeholders (local and national government, private sector, civil society) regarding ownership, administration and management of water resources (Rogers and Hall 2003). Hurlbert et al. (2008) describes this as an institutional process that defines the organisation and management of the interrelationships between society and water resources. It is a process that is constituted by many different stakeholders, each with their own interests, decision making processes and instruments including legal rulings, norms and acts. Since the water sector does not exist in isolation, but is intricately connected to broader political, economic and social developments, water governance is influenced by issues relating to the current governing regime and the wider concerns of civil society that may help or hinder the development of water governance arrangements (Rogers and Hall 2003). The external impacts of political power and competing priorities often define the relationships between different organisations and stakeholders (Hurlbert 2008).

Property and use rights are a central element in water governance due to the potential role different forms of ownership can play in the internalisation of externalities,² the realisation of efficiencies and the added security for long term investment (Thobani 1995; Demsetz 1967). Rights can be land-based or riparian, or use-based (including market-based or based on historical use) and tend to be categorised into different forms of ownership (communal, private, state, open access) (Demsetz 1967). The link between water law and property rights is important, partly through the role of formal or informal institutions (state, courts or community) in enforcing, monitoring and protecting the relevant property or use rights. Furthermore, clear and suitable definition of water rights and appropriate accompanying legislative and regulatory frameworks are seen to assist in the reduction of negative hydrological effects on third parties when water is transferred to other economic activities (Thobani 1995). There are however, a number of outstanding questions and different versions of what the appropriate definition, valuation and measurement of water

² Demsetz 1967, p 348: *Externality is an ambiguous concept. For the purposes of this paper, the concept includes external costs, external benefits, and pecuniary as well as non-pecuniary externalities. No harmful or beneficial effect is external to the world. Some person or persons always suffer or enjoy these effects. That converts a harmful or beneficial effect into an externality is that the cost of bringing the effect to bear on the decisions of one or more of the interacting persons is too high to make it worthwhile, and this is what the term shall mean here. "Internalizing" such effects refers to a process, usually a change in property rights, that enables these effects to bear (in greater degree) on all interacting persons.*

rights (and natural resources in general) may be in the quest for efficiency and effectiveness, as well as the minimisation of social and environmental externalities. This is further complicated in the case of water rights because hydrological realities are not as fixed, regular or constant as land, building and other commodities.

A number of studies have drawn heavily on the empirical examples of water governance and have suggested there were certain levels and combinations of institutional organisation and regulation which allowed effective water governance to develop (Maas and Anderson 1978; Keohane and Ostrom 1995; Netting 1981). These studies signaled that no single model of effective governance could be set, since different systems should fit the social, political, cultural, economic and environmental contexts within which they must operate. However, certain principles and criteria have been considered essential elements in assessing water governance frameworks. Many organisations (World Bank, ADB, GWP, UNDP, and World Water Council Water Action Unit) and researchers have employed criteria established by a variety of actors in the international water industry, which draw on the aforementioned empirical evidence, to guide the assessment and reforms of water institutions globally. In the past decade, a number of different principles of good governance have been proposed 'to assist in the fair, effective and environmentally sensitive management of water' (Brooks 2002, p 4 in Hurlbert 2008).

Much of the discussion about water governance has moved towards debating the administrative and geographical levels at which it should be managed, the weak governance of public or private water utilities, the issue of private sector participation, the context specific nature of water governance (i.e. which laws/modes of governance work in which countries) as well as the importance and means of reducing water demand. In recent years, the intensity of debate in both academic and practitioner's fields has led to internationally agreed standards such as the Dublin Principles being adopted by the water community, as a means to set a common bar for water governance.

2.4 Integrated Water Resources Management

After the dominance of steady state resource management and the 'hydraulic mission' from the 1950s to early 1990s, a new approach of good governance and IWRM became more dominant in the face of the crisis of governance and continuing degradation of global water systems. In recent years, the intensity of debate in both academic and practitioner's fields has led to internationally agreed standards such as the Dublin Principles being adopted by the water community, as a means to set a common bar for water governance. The Dublin Statement on Water and Sustainable Development was adopted at the International Conference on Water and the Environment (ICWE) in Dublin, Ireland, in January 1992. The statement was adopted in response to what was seen as a growing threat posed to sustainable development through the misuse and growing scarcity of freshwater resources. It was then commended to world leaders at the UN Conference on Environment and Development in Rio de Janeiro in June, 1992. The conference statement and associated principles expressed a holistic and

multi-disciplinary approach to global water issues that covered environmental, social, political and economic issues (Solanes and Gonzalez-Villareal 1999). In this context, the principles are seen to be nested in the concept of distributed governance (Rogers and Hall 2003, p 14), primarily through its focus on the participative role of civil society and non-governmental organisations.

The guiding principles define the need for concerted action to reverse present trends of overconsumption, pollution and threats from drought and flooding. In doing so the principles defined the need for a holistic approach to water management to effectively take account of the linkages across land and water uses over catchment areas; for a participatory approach that allows decisions to take place at the lowest appropriate level and with public consultation; that women should be granted a central role in water management and the protection of water resources and that this should be better reflected in institutional arrangements; and finally that as water has an economic value it should also be recognised as an economic good, as a means to achieve efficient and equitable use, while still recognising the basic right of all human beings to have access to clean water and sanitation at an affordable price.³

The Dublin Principles are one of many influencing sets of guidelines which are relevant to the management paradigm of IWRM, and both have risen to almost universal acceptance in the current environment of increasing pressures on water resources from the nexus of population pressures, consumer patterns, management issues, climate change, biodiversity loss, growing destruction and pollution of aquatic ecosystems and increasing cross-sectoral competition. IWRM is one response to the goal of managing these increasing pressures while balancing the need to protect and conserve water resources and water based ecosystems. The Global Water Partnership defines IWRM as ‘a process which promotes the co-ordinated development and management of water, land and related resources in order to maximise the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems’ (GWP 2000, p 22). In IWRM, greater emphasis is placed on collaborative governance of the multiple values of water, and also seen as one means of increasing the capacity of water management in the face of climate change.

IWRM has taken on significant currency as a means of ensuring ‘equitable, economically sound and environmentally sustainable management of water resources and provision of water services’ (Rogers and Hall 2003, p 4). As can be seen from this statement, as well as the conceptual criteria of IWRM proposed by the Global Water Partnership-Technical Advisory Committee (GWP-TEC) (GWP 2000), the three overriding criteria IWRM reflect social, economic and environmental conditions, namely, economic efficiency (in order to use increasingly scarce water resources with maximum efficiency), equity (basic right of access to adequate water quantities and quality) and environmental and ecological sustainability (ensuring sustainability of water resources and riparian ecosystems that support it for use by future generations).

³ Refer to: <http://www.gwpforum.org/servlet/PSP?iNodeID=1345>

Water managers and scientists have progressively looked to IWRM to help mitigate not only governance failures of the past, but also increasing uncertainty in the future (Huntjens et al. 2011; Lach et al. 2006; Medema et al. 2008). For example the GWP has developed an IWRM toolbox with a range of instruments that may address governance failures (GWP 2000). The GWP prescribes three groups of substantive elements that should support the implementation of these criteria. The complementary components of an effective water resources management system are seen to include core elements of the governance system, including relevant management instruments (operational instruments for allocation, regulation, monitoring and assessment, informational and economic instruments), an enabling environment (general framework of policies, legislation, mechanisms for participation and cooperation) and clear institutional roles of different levels and stakeholders (levels of action, management boundaries and capacity building) (GWP 2000, p 30).

The GWP purports that the general consensus of the water community is that IWRM is the 'only viable way forward for sustainable water use and management' (Rogers and Hall 2003, p 30). Yet there is still considerable debate on how the paradigm is implementable in the governance realities that must apply them and whether the prescriptions of IWRM actually generate successful outcomes in practice (Engle et al. 2011; Ingram 2011; Medema et al. 2008; Meinzen-Dick 2007). Many of the principles for good water governance (framed within IWRM) from organisations such as GWP, WWC are also seen as providing important insights in establishing best practice criteria for developing adaptive policy in the face of climate change (Hurlbert 2009; IISD 2006). However, just as with previous trends, the greater range of conditions identified by researchers as being conducive to creating effective institutions, the more loss of nuance in broader policy application of such principles (Merrey et al. 2007).

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