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Working Paper

Environmental justice and governance: Theory and lessons from the implementation of the European Union's habitats directive

CSERGE Working Paper EDM, No. 03-05

Provided in Cooperation with:

The Centre for Social and Economic Research on the Global Environment (CSERGE), University of East Anglia

Suggested Citation: Paavola, Jouni (2003) : Environmental justice and governance: Theory and lessons from the implementation of the European Union's habitats directive, CSERGE Working Paper EDM, No. 03-05, University of East Anglia, The Centre for Social and Economic Research on the Global Environment (CSERGE), Norwich

This Version is available at:

<https://hdl.handle.net/10419/80298>

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Acknowledgements

The support of the Economic and Social Research Council (ESRC) is gratefully acknowledged. This work was part of the interdisciplinary research programme of the ESRC Centre for Social and Economic Research on the Global Environment (CSERGE).

I also thank Sylvain Martinez, Kjell Sevón, and Gianluca Solera from the Greens | European Free Alliance for good discussions on the subject of the paper as well as Sergio Rosendo for helpful comments on a previous version of it.

ISSN 0967-8875

Abstract

The paper investigates the role of justice in protected areas governance. The paper argues that protected areas governance faces a need to justify itself for the involved and affected interest groups in order to guarantee its legitimacy and effectiveness. The legitimacy of governance solutions is argued to rest on both distributive and procedural justice. On one hand, the distribution of beneficial and adverse consequences of protected areas governance must be justifiable and justified. On the other hand, decision-making regarding protected areas has to satisfy expectations regarding procedural justice. The paper exemplifies these arguments by analysing the experiences in implementing the European Union's Habitats Directive. The paper demonstrates how the lack of attention to distributive and procedural justice has resulted in conflicts which have delayed the implementation of the directive and have undermined its effectiveness.

Keywords: Environmental governance, protected areas, justice, participation, Habitats Directive

1. Introduction

Protected areas governance has been a practice-driven area of environmental management. One reason for this is that the roots of protected areas governance extend to the establishment of first national parks such as the Yellowstone and the Yosemite in the United States during the latter half of the 19th century, when neither life sciences nor social sciences could offer elaborate justifications and guidance for establishing and designing governance solutions. Motives for the establishment of early national parks such as the Yellowstone also varied from the desire to secure revenue from tourism to desires to create national symbols.

Economics could offer a justification for and inform the design of protected areas governance but economists have not been very interested in the subject. They have been more keen on other environmental policies, eagerly expressing their views on the justification (or its lack) and design of various policy interventions. Their prescriptions have frequently included the setting of welfare-maximising policy goals and the use of market-mimicking policy instruments (see Paavola and Bromley 2002). The weak appeal of protected areas governance may reflect the fact that economists do not have much to offer for it. Protected areas governance is seldom pursued solely for the improvement of human welfare and it focuses on goods for which it is difficult (albeit not impossible, as various suggestions for biodiversity protection credit systems illustrate) to establish markets. What economic research exists on protected areas management tends to focus on the monetary value of species or habitats as one possible justification for interventions in this area.

However, an alternative economic approach to protected areas governance is available. The last decade or so has witnessed the emergence of a new institutional approach to the management of natural resources and environmental quality at the local and international levels (see Baland and Platteau 1996; Berge and Stenseth 1999; Bromley 1992; Keohane and Ostrom 1995; Ostrom 1990; Ostrom *et al.* 2002; Ostrom *et al.*, 1994; Young 1994, 2002a, 2002b). This interdisciplinary approach has discredited "the tragedy of the commons" and has indicated under what circumstances and institutional arrangements communities can manage natural resources they depend on in a sustainable way. While this research has focused on common-pool resources and their management under local and international governance solutions, it can be extended to formal national policies as well as to resources that have different physical attributes (see Paavola 2002).

One attraction of the new institutional approach is that it can shed light on the implications of the design of governance institutions and the role of justice in

protected areas governance. For the new institutional approach, conflicts over the use of environmental resources are the reason for the existence of environmental governance. The other way round, the purpose of environmental governance is to resolve conflicts over the use and protection of environmental resources. Different institutional solutions obviously differ with respect to their capacity to resolve conflicts. Moreover, justice is intimately involved in the resolution of conflicts and will thus influence the effectiveness and outcomes of governance solutions.

This paper suggests how the new institutional approach can be used to examine the governance of protected areas. The paper also uses the new institutional approach to shed light on the role of justice in protected areas governance and in environmental governance in general. The paper will also illustrate and exemplify the arguments by applying the new institutional approach to the European Union's Habitats Directive, the primary institutional solution for biodiversity protection in the European Union.

In what follows, the second section outlines the new institutional approach and discusses its application to protected areas governance. The third section discusses the role of justice in environmental and protected areas governance. The fourth section analyses the implementation of the European Union's Habitats directive. The conclusions discuss the policy relevance of arguments presented in the earlier sections of the paper.

2. Environmental Governance, Conflicts and Interdependency

The literature agrees that environmental governance exists to facilitate and manage collective action and cooperation, and to resolve conflicts (Young 1994: 15). It also agrees that institutional arrangements are the instruments with which decisions that resolve environmental conflicts are implemented. However, much less attention has been spent on what are the sources of environmental conflicts and whether there are systematic differences in the nature of environmental conflicts that would call for different institutional solutions in order to resolve them (however, see Schlager, Blomquist and Tang 1994; Schlager and Ostrom 1992; Schmid 1987). Answers to these questions would shed light on how the relationships (fit) between governance problems and solutions influence the effectiveness and outcomes of environmental governance. They are also important for extending the new institutional approach from its conventional domains – the analysis of local common property regimes and international environmental conventions for the governance of common-pool resources – to new areas of application.

Protected areas governance is one possible area of application for the new institutional approach. The first question from its viewpoint is: what is the environmental resource we are talking about here? The answer is not straightforward. Protected areas have been established to conserve or preserve certain natural resources but protected areas governance can hardly be argued to reduce to natural resources management. Sometimes concerns for certain plant or animal species have provided the incentive for the establishment of protected areas, while at other times the incentive for their establishment has been the preservation of increasingly scarce types of ecosystems. We can encompass these concerns by biodiversity protection but even that would not, in all likelihood, exhaust what protected areas governance is all about. For example, often there are issues of landscape and natural and cultural heritage at stake.

Biodiversity, landscapes and heritage have certain attributes in common that set them apart from common-pool resources. Units of flows of common-pool resources are, by definition (see Ostrom, 1990), rival in consumption. For example, fisheries generate flows of fish: when a fish is captured it is not available for others. Biodiversity, landscapes and heritage are in turn public goods. More specifically, they are all goods that can be used simultaneously by a number of users resources so that an additional user does not decrease the ability of others to use the resource. For example, a majestic landscape can be enjoyed by a large number of people at the same time. Similarly, a certain stock or amount of biodiversity confers benefits to a number of people simultaneously. In both cases, users obtain benefits from the existence of a stock of the resource

rather than from a flow of resource units. While goods such as biodiversity, landscapes and heritage make a joint use by a number of users possible, their capacity is typically finite and sometimes quite limited.

The consumption attributes of biodiversity and common pool resources are thus different but they do often share another important attribute. It is difficult to prevent or exclude people from enjoying or using both kinds of environmental resources. This resource attribute makes it difficult to establish effective private property rights in common-pool resources and suggests collective action and ownership arrangements instead. Public goods may or may not portray the difficulty of exclusion. Small protected areas with few access points may be easy to control but bigger areas with diffuse boundaries are not. Resources such as (ecosystem) biodiversity are even more difficult to control and to exclude from. The implication here is the same as with common-pool resources. Collective action and provision are needed and markets cannot be relied on to generate adequate supply.

What then is the significance of the attributes of biodiversity and heritage in comparison to those of common-pool resources? When the difficulty of exclusion is present, it suggests collective action and provision with respect to both kinds of resources. However, the difference in consumption attributes results in some differences in governance problems and solutions. In the case of common-pool resources, rivalry in use and difficulty of exclusion may result in competitive extraction that decimates the resource. This is the famous “tragedy of the commons” or, rather, tragedy of the open access as new institutional scholars have rightly pointed out (see Bromley and Cernea 1989; Ostrom 1990). With regard to common-pool resources, the conflict is about who has a right to extract a unit of resource. This conflict can be resolved by establishing communal property rights or environmental regulations that determine the rights of competing resource users. Jointly used resources such as biodiversity and heritage present a slightly different dilemma. On one hand, these resources are available for all when they are available for one agent. There is thus an incentive to ride free on the effort of others to provide the resource. If nothing is done to constrain free-riding, nobody will make the sacrifices needed for the continued provision of the resource. Moreover, same quantity and quality of the resource is available to all and cannot be altered to suit individual preferences. Thus the conflict is: how much of the resource and of what quality should be provided and how the costs of provision should be distributed? Governance institutions will have to resolve these issues in one way or another and create either free riders or unwilling riders (see Brubaker, 1975).

Joint impact goods and common-pool resources generate different kinds of conflicts because their resource attributes engender different interdependencies between the involved agents. Interdependence exist when one agent’s choices influence the alternatives or choices of other agents. Interdependence is omitted in the conventional economic approach although it is a commonplace in the real world. Rival consumption of common pool resources makes competing resource users interdependent because one user’s consumption precludes that by another one. Joint consumption of resources such as biodiversity, landscapes and heritage in turn means that whatever quantity and quality is made available for an agent, it also determines the choice sets of other agents. One agent’s decision to ride free on the efforts of others will also increase the costs others will have to carry.

The concept of interdependence clarifies how environmental governance resolves environmental conflicts. Interdependent agents end up in a conflict because their alternatives and choices are tied together in a way which does not permit everybody to realise their interests simultaneously. Somebody’s interests are realised while those of others will be frustrated. These choices between interests are hardly a matter of optimising as the conventional economic approach suggests. Those whose interests are frustrated by an environmental decision are hardly persuaded about the legitimacy of an environmental decision by demonstrating that it was optimal or welfare-maximising to endorse and realise the interests of others. The legitimacy of environmental decisions hinges on distributive and procedural justice, which I will discuss in greater detail in the following section.

3. Justice in Environmental Governance

Understanding the role of justice in environmental governance requires that we examine the motivations that inform individuals' interdependent choices and behaviour. Environmental governance literature does not usually dwell much on its behavioural assumptions. It often shares the conventional economic assumption according to which agents seek to improve their welfare or utility. Alternative behavioural motivations such as environmental stewardship are sometimes acknowledged but explicit attempts to broaden behavioural assumptions are rare. Yet a more nuanced treatment of human motivations is needed to understand environmental conflicts and collective choices necessitated by them.

Early economists understood that individuals pursued either psychological pleasure or what enhanced their material wellbeing. Both of these early assumptions regarded that individuals are motivated by the enhancement of their personal welfare, although they had different notions of what personal welfare is. Conventional economics moved beyond these welfarist assumptions when Hicks and Allen (1934) redefined utility as the degree of preference satisfaction. This definition recognises plural motivations but argues that a common measure (utility) exist for aggregating the degree of their satisfaction (see Georgescu-Roegen 1968). All of these assumptions are problematic. Welfarism does not reflect the actual diversity of human motivations while preference utilitarianism commensurates the diversity of motivations that it, in principle, allows. Moreover, preference utilitarianism is often mistakenly interpreted in a welfarist manner: the maximisation of utility is thought to imply the maximisation of welfare as well (see Sen 1973; 1977).

It is more useful to acknowledge that individuals have a number of motivations that cannot be brought together under any notion of utility. Individuals are frequently interested in their own welfare as conventional economics suggests. However, they may also act on concerns for the welfare of other humans or non-humans. Sometimes individuals seek outcomes such as the preservation of an endangered species they consider intrinsically valuable – or avoid outcomes such as extinction that they consider intrinsically bad. Finally, individuals sometimes act on principles without regard to any of their consequences. For example, certain duties may be assumed to respect the rights attributed to other humans or non-humans (see Paavola 2002). I am arguing that there are different reasons to pursue / oppose protected areas governance. Some pursue protected areas governance because of its positive welfare consequences. Others consider its consequences inherently good so that they are worth pursuing even if that would require welfare sacrifices. For still others species may have a right to exist and we have a corresponding duty to respect that right, for example

through protected areas governance. Those who object protected areas governance can also do so on a number of grounds – not only because it is in their economic interest.

It is common to argue that peoples' values – which underlie motivations – differ, but I am making a particular argument for what I call “radical pluralism”. Even conventional economics recognizes that A may prefer the conversion of a unit of rainforest to a pasture while B prefers its preservation. It would argue that the agent able and willing to pay more should have his or her way with the rainforest, either with or without compensating the other agent for any losses. There is a sense in which the compensation rule would be just when A and B are self- and welfare-centred. In the unrealistic world constructed by the standard economic assumptions, B would be indifferent between some amount of compensation and the loss of a unit of rainforest. However, the conclusion changes if we are more realistic and allow B to consider the preservation of rainforest as the right thing to do or an intrinsically valuable outcome. Now B would think that it is impossible to put a monetary value on a unit of rainforest and, as a consequence, would not be indifferent between some amount of compensation and the loss of a unit of rainforest and. More generally, welfare goals are incommensurable with goals regarded as intrinsically valuable outcomes, as well as with rule following that is not goal-oriented.

Individuals and groups involved in environmental conflicts may thus act on conflicting and incommensurable motivations that are based on different value premises. This kind of radical pluralism complicates collective environmental decision-making because value premises influence what resolutions are considered just. For example, even the certainty of positive welfare consequences might not justify the adoption of an international emission trading scheme for greenhouse gases to some of its opponents. Any acceptable justification ought to provide reasons for why, under the prevailing circumstances, would it be better to adopt a trading scheme rather than some other solution to allocate emission reductions (see Bromley and Paavola 2002). These reasons must explain why certain considerations such as social welfare ought to be considered decisive in a policy choice and why other considerations, such as the loss of an endangered species or ecosystems as distinct from mere welfare consequences, can be considered secondary in nature or be omitted completely. Other environmental choices such as those related to protected areas governance are similarly based on best reasons for undertaking them, and they may or may not relate to welfare concerns.

Sufficient reasons for environmental decisions relate to both distributive and procedural justice. Distributive justice matters because environmental decisions

and governance institutions resolve whose interests in environmental resources are realised. The familiar rules of equity or distributive justice such as Aristotle's just deserts, Bentham's greatest happiness for the greatest numbers, Rawl's maximin and other approaches such as "no envy" and "equality" (see e.g. Young 1994) are not likely to be satisfactory when radical pluralism prevails. They all focus on the distribution of some notion welfare and thus do not acknowledge the attainment of non-welfarist goals. To put it in another way, those holding non-welfarist motivations have no reason to be satisfied or persuaded with appeals to or use of these rules of distributive justice. Another problem is that they propose universal solutions to distributive dilemmas. Yet the notion of pluralism would suggest that different rules are likely to be used to resolve different dilemmas.

Communitarian and pragmatist theories do better in the latter respect because they argue that justice is specific to particular communities and that rules of justice are tentative and likely to vary across communities, issues and contexts (see Radin 1996). While these theories have some problematic features of their own, such as cultural and moral relativism, they offer some important heuristics for the task at hand. In essence, these theories suggest a compartmentalised notion of justice which has it that different rules of justice are likely to prevail in different spheres of justice. This kind of notion of justice is compatible with and able to accommodate pluralism. For example, a rule such as Walzer's (1983) complex equality – which requires the absence of domination by one group of people across "spheres of justice" – could secure the legitimacy of pluralist environmental decisions. On the other hand, the existence of a number of spheres of justice does not reduce the degree of pluralism in any of the spheres. It would still be difficult to agree on justice rules.

The achievement of "non-domination" requires certain features from the process through which collective decisions are being made. More broadly speaking, the legitimacy of environmental decisions rests in part on procedural justice (see e.g. Lind and Tyler, 1988). Procedural justice encompasses such issues as the recognition of stakeholders, the acknowledgement and hearing of their concerns, the participation of stakeholders in decision-making, and the distribution of decision-making power (see Paavola and Adger 2002). Procedural justice is important because it can assure those whose interests are not endorsed by a particular environmental decision that they maintain the possibilities for having their interests to count in other decisions. It also enables the affected parties to express their dissent or consent with environmental decisions and to maintain their dignity, whether or not their interests are realised by an environmental decision.

To conclude, both distributive and procedural justice are needed to legitimate environmental decisions when it is acknowledged that people have broader concerns than just their narrowly construed economic welfare. Distributive justice will matter, but in a broader sense of whose interests and values will be realised by environmental decisions and the establishment, change or affirmation of environmental governance institutions. Procedural justice is also needed in order to justify decisions to those who have to accept that their interests and values are sacrificed to realise some other interests and values. In what follows, I will exemplify these arguments by showing how the issues of distributive and procedural justice have played out in the protection of species and habitats in the European Union.

4. Lessons from Natura 2000

In the European Union, nature conservation is based on the *Birds Directive* (1979) and on the *Habitats Directive* (1992). The main aim of the Birds Directive is to maintain populations of wild birds, especially to protect endangered, vulnerable, rare and other species of birds that are considered to merit special attention. The directive identifies the establishment of special protection areas (SPAs), ecologically informed management of biotopes outside these special protection areas, and the re-establishment of destroyed biotopes as the main bird protection measures. It also imposed limitations on the killing and capture of naturally occurring wild birds and the taking of their eggs. The Habitats Directive provides for the creation of a European network of special areas of conservation (SACs) which is also known as Natura 2000. The directive lists priority natural habitat types and priority species that member countries should specifically consider when designating special areas of conservation. My analysis will focus on the Habitats Directive although most of my observations and arguments apply equally to the Birds Directive.

The Habitats Directive's Article 3 requires the member states to designate sites for habitat and species conservation in conformance with the guidance provided in the Annex I and Annex II of the Directive. The directive set the deadline of June 1995 for transmitting a list of designated sites to the European Union's Commission. Article 5 empowers the Commission to request amendments from a member state if its list does not adequately reflect its habitat types and priority species. The Commission can also have the omitted sites included into the list by the Council's unanimous decision if member states do not collaborate voluntarily. The Commission and the member states were to select Sites of Community Interest (SCIs) from the submitted lists by June 1998. Finally, the member states are to designate the selected sites as Special Areas of Conservation (SACs) – which, together with the SPA sites designated on the basis of the Birds Directive, form the Natura 2000 network. The deadline for the completion of the third stage is 2004 (see Lasen Diaz 2001, pp.288-89).

The Habitats Directive also establishes rules for the management of conservation sites. Article 6 provides that the member states have to take steps to avoid such deterioration of SACs which would compromise the directive's objectives. It also requires the assessment of projects that can have significant effects on the sites either on their own or in combination with other projects. The article provides that the authorities in member states should agree to a project only on the condition that it does not endanger the integrity of the site and suggests (but does not require) that public consultation could be used before making decisions. The article also provides that member states should undertake

compensatory measures if overriding economic and social reasons make the project necessary despite its adverse consequences to a site. When these adverse consequences would fall on priority habitats and species, only projects related to public health and safety can be considered as having such overriding reasons.

In addition to the above discussed core articles of the Habitats Directive, its other articles make some important provisions for nature conservation in the European Community. For example, Article 8 makes Community co-financing available for the management of sites that host priority natural habitats or priority species and specifies measures towards co-financing. Article 12 in turn sets requirements for other measures for the protection of species in the member states, including those regarding the capture, killing, disturbance, keeping and selling of specimens of species; destruction or taking of eggs; and deterioration or destruction of nesting and resting places. Finally, Article 17 requires the member states to report on the implementation of measures required by the Habitats Directive every sixth year.

The implementation of Habitats Directive has been controversial and it has not conformed with the originally adopted deadlines. The Commission of the European Union has taken several member states – including Denmark, Finland, France, Germany, Greece, Ireland, and the Netherlands – to the European Court of Justice because of their failure to submit lists of designated sites in conformance with the deadlines and other requirements of the Article 3 (see Commission of the European Union, 1998), and because of some member states' failure to take measures identified in Article 6 to prevent the degradation of sites. Most member states are still making amendments required by the Commission to their lists of designated areas, so the selection of Sites of Community Interest (SCIs) is also lagging behind the original deadline of June 1998. In fact, the first SCIs were chosen only in the end of 2001 and the member states are expected to establish SACs by national legislation thereafter. Thus it seems highly unlikely that the Natura 2000 Network will exist by 2004 as prescribed by the Habitats Directive.

There are many reasons for the slow implementation of the Habitats Directive. Several authors have argued that the establishment, interpretation and implementation of Habitats Directive reflects the relatively greater power enjoyed by the environmental non-governmental organisations (ENGOS) at the European level of decision-making than in the national political arenas (see Fairbrass and Jordan 2001a; Weber and Christophersen 2002). This means that the EU priorities and the national priorities do not necessarily meet and may be in conflict. Thus it could have been possible that the member states did not prioritise and allocate adequate resources to the implementation of the Habitats

Directive (see Alphonandery and Fortier 2001; Fairbrass and Jordan 2001b). Even without this lack of enthusiasm, the original implementation timetable was ambitious. Low political priority and tight timetable resulted in further problems. The Habitats Directive delegated to the member states the task of promulgating procedures for designating sites for Natura 2000 network. Member states followed the orientation of the directive and designated sites on the basis of scientific criteria. This strategy resulted in conflicts all over Europe.

In France, the lack of public consultation in the designation process inflamed forest owners and hunters, who questioned both the science-based site designation and the quality of scientific information on which the designations were based, arguing that it was often superficial and past its “use by date”, and at times simply wrong (see Alphonandery and Fortier 2001). Local residents, owners of agricultural land and forests, hunters, and other stakeholder groups were excluded from the site designation process also in Finland, Germany and the United Kingdom (see Hiedanpää 2002; Krott *et al.*, 2000; Stoll-Kleemann 2001a; 2001b; Ledoux *et al.*, 2000). The excluded groups staged protests and even hunger strikes (see Hiedanpää 2002). In contrast, ENGOs were able to influence and participate in the site designation process because they could offer resources and expertise that the national governments and administrative agencies needed but did not have for the task at hand (see Weber and Christophersen 2002). The ENGOs could also pressure member state governments and administrations by making complaints of non-compliance with deadlines and provisions of the Directive to the Commission, which in turn referred the cases to the European Court of Justice (see Fairbrass and Jordan 2001b).

While arguments regarding the mismatch of European and national priorities certainly have merit and in part explain the slow progress and contested nature of nature conservation in Europe, I argue that conflicts over the establishment of Natura 2000 Network were in part caused by the omission of justice concerns in the Habitats Directive and its implementation. That is, it would probably have been possible to implement European priorities at national levels had it been done differently and more sensitively. The Habitats Directive sought to establish protected areas which do not exclude human use but would rather balance economic, social, cultural and ecological concerns. This means that a group of people making use of the sites would need to alter or to give up their current uses. Despite acknowledging the need to balance different concerns regarding nature conservation, the directive based the designation process exclusively on scientific criteria and did not make any provisions regarding the recognition and hearing of involved stakeholder groups. The formulation of designation process was delegated to the member states without any guidelines. The member states

also failed to make provisions for the acknowledgement of concerns for procedural justice.

The emergence of conflicts over the designation process are no surprise retrospectively. The lack of information and the resulting ambiguity regarding the implications and consequences of designation created a perception that existing users of designated sites would stand to lose. There was thus an important perceived issue of distributive justice in the conflict which should have been acknowledged in advance. It could have been taken into consideration by clarifying the consequences of designation to existing users, by justifying the imposition of constraints on their current uses and, where necessary, by providing for flexibility and compensatory measures such as credit banking (see Ledoux *et al.*, 2000) or payments for the provision of ecosystem services.

Yet we cannot explain these conflicts only on the basis of distributive justice and we would be ill-advised to resolve the conflicts exclusively by the means of distributive justice. Full compensation for attenuation of private property rights can hardly be considered just, because it would place the whole financial burden of legal change on the public and paralyse public policy. In other words, exclusive reliance on compensation as a measure of distributive justice would ask too much from those who want to advance nature conservation and protect economic interests too steadfastly. Then again, in another sense measures of distributive justice such as compensation do not go far enough. For example, it is difficult to understand how compensation could adequately deal with those whose non-welfarist concerns, say for the continuation of a customary way of life, are sacrificed. They cannot be fully compensated in the ordinary sense of the word but this does not mean that they should not be compensated or that their concerns simply do not matter.

This brings in procedural justice. The Habitats Directive had elements such as co-financing which could have responded to the concerns for distributive justice, and recent works on the economic benefits of conservation measures indicate that some of the original fears regarding adverse economic consequences were unfounded (see e.g. Balmford *et al.*, 2002; ten Brink *et al.*, 2002). Thus it appears that the conflicts over the Habitats Directive were first and foremost about procedural justice. The accounts of these conflicts indicate that it was the lack of recognition, voice and right of participation that most infuriated excluded interest groups. Not surprisingly, many member states had to revise designation processes so as to improve the recognition and hearing of affected stakeholder groups. For example, France suspended the Habitats Directive in 1996 and started the designation process anew with public consultations in 1997 (see Alphonandery and Fortier 2001). The revised process resulted in a much reduced

list of designated sites and also otherwise failed to realise conservation goals. However, it remains a good question whether this was a result of a participatory process or the lack of trust created by the earlier designation process. Other member states were also forced to adopt more participatory designation processes and the right to participation and consultation in environmental decisions has since received greater attention at the European level as well.

5. Conclusions

Protected areas governance is necessary to provide joint impact goods such as biodiversity, landscapes and heritage that are also sometimes called public goods. Protected areas governance involves the resolution of conflicts between different interests in the use of environmental resources that comprise the protected areas. These conflicts typically take place between those who want to conserve or preserve important and increasingly scarce environmental resources and those who want to make economic use of such resources. This paper has argued that justice considerations are important in the resolution of these conflicts and the choice of governance solutions, because they will influence the legitimacy and effectiveness of governance solutions.

The importance of justice concerns becomes obvious on the basis of conceptual analysis as soon as a realistic view of human behaviour is adopted. The making of this point was one important goal of the paper, but it also sought to demonstrate the importance of justice considerations in practice by briefly analysing the difficulties in the implementation of the Habitats Directive in the European Union. Disregard for distributive consequences and procedural justice provides an important explanation for the conflicts all over Europe over the implementation of the directive. These conflicts have already significantly delayed the directive's implementation. The delayed acknowledgement of procedural concerns may also compromise the directive's goals, because the lack of trust has resulted in diminished lists of sites and can undermine voluntary compliance with the future management plans. For this reason, there is an urgent need to clarify the governance of sites that will comprise the Natura 2000 Network. The directive refers to the need of management plans for some sites but remains unclear about most aspects of their management in the future. Yet the management plans and procedures will importantly influence how competing interests in the use of protected areas are balanced and how legitimate and effective the management will be. The problem of recognition and participation of stakeholders is thus far from resolved.

The European experiences have also wider importance as the Habitats Directive is but one example of multi-level governance solutions for nature conservation and the protection of biodiversity, species and habitats. The recognition, hearing and participation of stakeholder groups is difficult to arrange in all multi-level governance solutions. This is not a reason to abandon or reject either multi-level governance or participatory processes. It is rather a reminder that the lack of adequate attention to relevant justice issues may also compromise the legitimacy and effectiveness of other multi-level governance regimes such as CITES and CBD. These regimes do pursue valuable and widely shared goals but the actual

attainment of those goals requires the recognition of developmental and other goals that are also at stake.

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