Effective Legal Governance and SES Resilience in the Baltic Sea

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Abstract

One of the main reasons for the rise of international environmental law was the need for states to agree on how to govern common shared resources, and handling transboundary effects. The issue of the eutrophication in the Baltic Sea is indeed in this sense a complex problem. It is a marine area shared by many and thus the object of large pressures from numerous pollution-sources within different territories. It can be regarded as a large-scale social-ecological system (SES).

As the perspective of SES resilience mirrors the dynamic relationship between the human social systems and the natural ecological systems, the human impact cannot be disregarded in discussing ecological change, governance and management strategies. This relationship also has to be included in the review of environmental laws. Law in these terms is a profound driver for change in SES.

In recent years new legal initiatives have been developed to tackle the problem of eutrophication in the Baltic Sea on an international and regional scale. This has been pursued through international action programmes, through the introduction of new EU legislation, and not least through the embrace of the concept of an Ecosystem Approach. A concept that encourages a more holistic approach to legal environmental governance and also shares many common denominators with the basic principles for governance found within SES resilience research. Hence the Ecosystem Approach has become an important tool for integrating such governance principles within the legal approaches and measures taken.

As a result, it is an interesting and important task, to further investigate the compatibility of these principles for governance with the basic foundations and principles of environmental law. However, resilience and adaptive governance as concepts are hard to interpret and transfer into law. These concepts seem to clash with some of the core concepts and functions of legal systems. Law also has other functions, such as maintaining the rule of law and creating legitimacy and trust in international relations. Those aspects of law demands a certain level of stability in the system. In addition, to large extent the research on resilience governance reflects the governance of small and local ecosystems where incentives for action are different than in an international setting. Thus, when approaching the questions of sustainable social-ecological systems and what signifies adaptive and transformative measures in terms of governance of large-scale ecological systems, the parallels between concepts might not be directly translatable. To find the answers on what is compatible, what is effective, and what is not, we have to review functions and the aims of the governance measures. We also have to regard the issue of temporal and spatial scales and its implication both for governance
and legal regulation. Investigating the compatibility with law and SES resilience does not only provide answers in regards the effectiveness of the legal frameworks within the Baltic Sea area, but will also contribute with valuable knowledge to the general applicability of SES Resilience theories for governance.

**Keywords:** Law, Resilience, Social, Ecological Systems, Adaptive Governance, Marine Common, Pool Resources, Inter, disciplinary