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Multilevel governance of the commons and environmental sustainability

Gobernanza multinivel de los bienes comunes y sostenibilidad ambiental

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ABSTRACT

In this introductory article we address the concepts of “common goods” and “multilevel governance” from a theoretical perspective, while at the same time, the different contributions to this monographic issue of the journal *Gestión y Análisis de Políticas Públicas* are presented. A series of articles which, as will be seen, deal with particular cases in which, against the common backdrop of environmental sustainability, sectoral policies are deployed on the basis of relational governance patterns and focused on the specific issues of water and the fight against climate change. As can be seen in the development of the text itself, the management of uncertainty and complexity emerges as a recurrent and crucial theme, justifying different institutional mechanisms to achieve consensus, where possible, involving a variable number of actors and territorial levels.

KEYWORDS

Commons; multilevel governance; environmental sustainability; water policy; climate policy.

RESUMEN

En este artículo introductorio abordamos desde una perspectiva teórica los conceptos de «bienes comunes» y «gobernanza multinivel», al tiempo que presentamos las diferentes contribuciones a este número monográfico de la revista *Gestión y Análisis de Políticas Públicas*. Una serie de artículos que, como se verá, versan sobre casos particulares en los que, con el común trasfondo de la sostenibilidad ambiental, se despliegan políticas sectoriales sobre la base de pautas de gobierno relacional y centradas en las materias concretas de agua y lucha contra el cambio climático. Como se observa en el propio desarrollo del texto, la gestión de la incertidumbre y la complejidad emerge como tema recurrente y crucial, justificando diferentes mecanismos institucionales para lograr consensos, cuando ello fuera posible, que impliquen a un número variable de actores y niveles territoriales.

PALABRAS CLAVE

Bienes comunes; gobernanza multinivel; sostenibilidad ambiental; política hidrológica; política climática.

SUMARIO

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1. INTRODUCTION

The very logic of successive research work often leads to the concatenation of initiatives and projects which in turn give rise to new creations, whether initially planned or not, which advance the process of knowledge. In this way, it could be said that the most immediate reason for the proposal of this special issue of the journal *Gestión y Análisis de Políticas Públicas* is to be found in a previous trajectory of collaboration of its coordinators and substantiated in different initiatives and activities. Among these, the organisation of working groups at the Spanish Political Science (AECPA) congresses in Salamanca and Girona in 2019 and 2022 and, especially, the research on multilevel governance in water policy, carried out together with Juan Antonio Ramos (URJC) and Jaione Mondragón (UPV/EHU), stand out (De la Peña *et al.*, 2022).

The original purpose of this research was to study shared government for the management of water as a common good in the particular Spanish multilevel context. In this study we were basically concerned with studying the interaction between different levels of government involved in the management of water resources in such a complex scenario as the river basin district. All this in a scenario in which the Water Framework Directive has proposed a conceptual and procedural shift that has required the strengthening of institutional and social dialogue in the Spanish territorial model based on autonomous communities.

Logically, this research allowed its authors to meet other researchers whose works dealt with the study of multilevel governance applied either to water or to other environmental resources, which in turn led to a meeting of several of the authors that appear here, at a conference held at the Rey Juan Carlos University in October 2022.

On the basis of this experience, the possibility of publishing a monograph in the GAPP Journal was considered, which offered an ideal forum for expressing this interest in the analysis of the multilevel management of the commons, specifically those related to environmental sustainability, which, due to their characteristics, may range from a local community scale to an international or global scale; or which, in other words, can be well delimited, transboundary or having no clear frontiers. Moreover, the importance of intergovernmental relations is essential to understanding the dynamics of public action in multi-level governance systems. This approach emphasises the relationships that are established between different political-administrative actors involved in decision-making, taking into account the instruments that are used to manage them and the final consequences for the implementation of public policies.

The aim of this special issue, therefore, is to bring together a number of articles (three reviews will also be included) that share a concern and analysis of the management of the commons as shared resources involving different public and private actors.

In this sense, the different studies on the commons remind us that the complexity of many of these assets and resources means that sophisticated and multi-level governance systems are required, rather than

entrusting them to a single agent or level of government. It is not surprising, therefore, to find a variety of experiences that show us different models of associative designs and of coordination and cooperation created for the management of the commons, whether from a sectoral, territorial or comparative perspective. This gives rise to different mechanisms and types of collaboration that facilitate the management of the complexity associated with governance systems characterised by the interaction between a large number of actors.

2. COMMONS MANAGEMENT IN THE FRAMEWORK OF ENVIRONMENTAL SUSTAINABILITY

From a historical point of view, the concept of the commons alludes to a pre-modern reality, basically a subsistence economy, in which the majority of human beings had equal and self-managed access to the resources provided by nature. Hence, the enclosures of common lands in England, which took place as early as the 15th century and practically uninterrupted until the 18th century, are often cited as the trigger for “the great transformation” (Polanyi, 1957) through which a structure of private property is progressively consolidated –precisely at the expense of these commons– which will lead to an accumulation of surpluses and further industrialisation.

This new system was based on the political organisation of the modern state which, at the same time, was to consolidate itself by providing legal and juridical cover for the new order of things. This would pave the way for the consolidation of a capitalist economy, while at the same time extending the idea of property as an exclusive domain related to the notions of territoriality and sovereignty of the state, which originated in Absolutism (Mattei, 2013, p. 57). In any case, the “private property (market)-public property (state)” dichotomy appears to be associated with a specific time period –modernity– as well as with a specific spatial location: the developed economies. The consolidation of this duality is therefore inversely proportional to a system of common goods that would make up that part unaffected by the modernising impulse, which cannot be appropriated by market actors and which has remained with us throughout this time, albeit marginally.

This is why, in the context of the systemic crisis of recent years, there seems to have been a certain revival of interest in the commons. The latest globalisation has brought about a new imbalance in the state-ownership binomial in the form of a frank withdrawal of the former from the market, identified with the crisis of welfare systems and the neoliberal turn of recent decades. This has been reflected not only in privatisations or new forms of government management, but also in a marked increase in inequalities. It is in this context, then, that common goods reappear as an alternative to both the traditional path of the state and that of the market, as they are characterised by aspects that refer to the community, such as universality, cooperation and participation, as opposed to the exclusionary, competitive and ultimately socially disintegrating dynamics of the capitalist system. In short, the widely commented erosion of the legitimacy of liberal-democratic systems, as well as the absence of emancipatory ideological projects, would trigger a return to the commons favoured by the new possibilities of an interconnected world through new technologies.

This general climate has an immediate translation to the academic world: in view of the above mentioned, the relevance acquired by Elinor Ostrom’s work in the field of the commons is not surprising, leading the American author to win the Nobel Prize in Economics in 2009. In her approach, common goods are featured by the fact that they simultaneously combine the characteristics of high rivalry of use and difficulty of exclusion, which would place them in a kind of intermediate environment compared, on the one hand, to public goods based on non-rivalry and universality; and, on the other, to private goods, subject to rivalry and exclusion insofar as they are only available to certain individuals or social groups, whether through legal or market arguments. Based on this principle, the resources of common use, public goods, commons, etc. take on different forms depending on the sphere in which they appear, whether natural (environment, water, air, etc.), social (cultural goods, historical memory, knowledge, etc.), material (urban facilities) or immaterial (internet). In any case, it is important to bear in mind the problematic objectification of these goods, as they hardly fit into the subject-object duality of modernity (Mattei, 2013, p. 67).

As is well known, the objective of Ostrom’s research, developed under a neo-institutionalist approach, is fundamentally aimed at detecting those success factors that make the management of common resources or common goods possible (Ostrom, 2011, pp. 165 et seq.), thus opposing the widespread perception of the thesis of the tragedy of the commons, by which Garret Hardin concluded that the latter were little less than unviable given the cumulative effect of individual rationality maximising self-interest. Ostrom contradicts the commonplace conception of human beings as “homo economicus” in order to emphasise the willingness to cooperate as long as there is a favourable institutional context.

In any case, the management of common goods, as shared resources, involves different public and private agents located at different territorial levels, given the interdependence and insertion of common-use resources at other levels, successively nested in systemic and complex structures that should give rise to polycentric governments, as the American author herself points out (Aguilera, 2021, pp. 356-358). Depending on the resource in question, they can range from a local community scale to an international or global scale, while they can be well delimited (a community space or a library), transboundary (rivers flowing through more than one country) or have no clear boundaries (knowledge or the ozone layer) (Hess & Ostrom, 2016).

While the bulk of research on common goods has focused on those made up of natural resources, in recent decades studies on other resources such as knowledge and information have been added. Issues such as public health coordination, humanitarian aid in the face of natural disasters, cyber security, etc. also represent an important part of a global knowledge commons in need of research and best practices (id.).

3. MULTILEVEL GOVERNANCE

In this monograph, we relate common goods to a theoretical construct that is increasingly used in the field of political science, namely “multilevel governance”, whose usefulness lies in the fact that it should mark the way in which those are currently approached and managed politically.

On the one hand, it is known that the concept of governance, in its classic definition, directly alludes to a more inclusive, relational and interactive model of decision-making that would somehow complement the logics of the state and the market (Rhodes, 1996; Kooiman, 2003) and which is apparently more in line with the idea of power as an “empty place” (Innerarity, 2020). In a broad sense, governance refers to the guidelines and norms through which a political community tries to govern itself in a certain normative sense, highlighting two basic aspects: interaction and complexity, affecting regulations, public policies and decisions aimed at remedying a public problem through a collective course of action. Thus, it involves different public or private actors and takes place in certain institutional, economic, social and historical structures. This, from an analytical point of view, challenges us to study how relationships are articulated in this multiplicity of actors when making decisions concerning public problems, as well as to understand that new ways of designing, implementing and even evaluating policies are necessary given the growing difficulty in conceiving the effects of these policies and the need to integrate dispersed knowledge in a context of uncertainty.

In this sense, the main explanation for the phenomenon of governance has pointed to the loss of states’ decision-making capacity in favour of non-institutional actors: a process that dilutes the traditional concept of government as the centre of political control of society and based on the notion of authority and sovereignty. In contrast to this approach, governance proposes a new model that justifies consensual decision-making by multiple public and private actors with diverse interests and even, often, dissonant visions of the same reality. Consensus is built (or not) within more or less cohesive networks of sectoral policies (Rhodes & Marsh, 1992).

This same power-dispersing logic suggested by governance reappears in the Political Science literature when dealing with relations between governmental actors as state sovereignty seems to migrate in both a supra- and sub-national sense (Marks & Hooghe, 2001), configuring normative and institutional frameworks that bring into contact agents whose sphere of action is deployed through successive territorial levels. In other words, we speak of multilevel governance to define patterns of interaction that take place at different scales defined by their own organisational structure and with a decision-making capacity that cannot be undermined by other territorial spheres without generating an institutional crisis. It is not a concept far removed from classical federalism, although multilevel governance has the particularity of emphasising the aspect of the decision-making process and of including the role of non-institutional actors, as opposed to the institutional and formalistic propensity of the former (Zürn *et al.*, 2010, pp. 2-4).

From a more critical perspective, multilevel governance has also been interpreted as a new version of the intergovernmental relations approach with its own risks insofar as, by emphasising process, it may end up obscuring real decisional responsibility, as well as hindering the necessary accountability to the citizenry (Peters & Pierre, 2002, p. 429). In any case, it makes up an entire body of scholarship of whose practical expression those of us who live within the European Union are particularly aware. In this sense, the performance of EU institutions themselves has been presented primarily as an exercise in power-sharing between states and institutions, with a view to seeking consensus between different levels, which has required a wide repertoire of formalising agreements based on both formal and informal mechanisms (Bomberg, 2004, p. 81).

It is true that not all sectoral policies have been equally receptive to these new patterns of multilevel governance: historically, there has been notable resistance to a supra-nationalisation of state competences in areas such as defence, foreign policy and identity-related policies (Jordan, 2001). However, it is no less true that policies particularly connected to what we call “common goods”, such as sustainable development or more specifically the environment, are among those most clearly subject to a multi-level pattern of decision-making (Fairbrass & Jordan, 2001, p. 148). By way of example, it has been calculated that 63% of all laws passed in Spain in this specific area between 1986 and 2007 derive from EU norms (Palau & Chaqués, 2012, p. 184). Along the same lines, Wälti (2010, p. 420) adds another argument by highlighting that the multilevel governance approach is particularly promising when it comes to accounting for the process of drawing up environmental public policies, given that these involve specific territorial areas such as natural spaces, river basins, coastal ecosystems, etc., which justify the concurrence of different jurisdictions and government structures.

We will therefore see below how the political management of the commons and multilevel governance have come together in order to achieve the systemic challenge of sustainability. If we take into account that, as mentioned above, common goods transcend the state-market duality and that they are based on principles such as participation, solidarity or co-responsibility, a mode of political management adapted to the guidelines of the paradigm of multilevel governance is practically imposed. Even more so if we focus our attention on those common goods of an environmental nature. Although the examples we will see here are varied and adjusted to the particularities of the specific cases, they all refer to basic and essential resources for the planet, such as water and climate. Throughout all of them, we will see that the aforementioned principles of interaction between diversity and complexity tend to be repeated.

4. STRUCTURE OF THE MONOGRAPH

In this monograph we present seven articles that focus mainly on water policy and climate policies. This work allows us to explore different approaches and actions in different countries, focusing, to a greater or lesser degree depending on the case, on intergovernmental relations and multilevel governance, within a context of common goods.

The case studies presented cover different geographical and cultural contexts, which also makes it possible to observe how different States face the challenges that water management and climate change may pose, considering their political-administrative structure, as well as their system of intergovernmental relations and multilevel governance. The cases of analysis are developed in: Spain, Portugal, Ireland, Sweden, Malaysia, and Thailand.

The block related to water policies consists of three articles. These articles, with different approaches, have the Water Framework Directive as their contextual framework. In one case, a question of policy capacity of the body in charge of basin management is raised; in another case, the situation of international basins, and finally, the possibility of Europeanization or not of water policy in Spain.

The first one is the article by Alberto de la Peña and Jaione Mondragón (UPV-EHU) on “The governance of river basins after the Water Framework Directive: increase of functions and loss of policy capacity of the hydrographic confederations”. This article analyzes the Water Framework Directive (WFD) and its double mandate: prioritizing conservationist objectives and adapting water policies to multilevel governance guidelines, which led the water administration in Spain to face the challenge of a substantive and procedural modification of its functions at the beginning of the 21st century. This study focuses on the Tajo and Ebro rivers basins and the hydrographic confederations. In both cases, the planning and decision-making promoted by the WFD, as the article shows, has not only made visible the divergent approaches of the different regional governments, but has also given voice to the hardly reconcilable interests of a good number of private actors, thus shaping a new system of governance in which a loss of policy capacity on the part of the river basin hydrographic confederations seems to be observed. The starting hypothesis that the authors consider is whether the hydrographic confederations have effectively lost their cognitive capacity in relation to the complexity of the public problem and their capacity to lead the planning and management processes because of the new framework established by the WFD. The answer to this question is not easy and cannot do without the different types of nuances that they set out in their work. One of the conclusions they point out is that the evolution undergone by the Administration and a certain political will to control has not allowed a real commitment to the hydrographic confederations. The conflicts and processes that have taken place in these two interregional demarcations illustrate the multilevel management of common goods.

Amparo Sereno Rosado (Instituto Superior de Contabilidade e Administração de Lisboa) presents the article “The Albufeira Convention 25 years later: Spanish-Portuguese water diplomacy and multilevel governance in the face of climate change”. It addresses the Spanish-Portuguese relations in water management in international basins, analyzing the Albufeira Convention (1998), which undertakes cooperation for the protection of the Spanish-Portuguese basins. This Convention was partly the result of what the author calls the “hydro diplomacy” which arose due to the concern generated both by the Tajo-Segura water diversion and the 1994 National Hydrological Plan. The article also deals with the functioning of the existing cooperation organizations which make it possible to implement this Convention. The analysis of the different moments of crisis in Spanish-Portuguese relations must do, among other issues, with the non-fulfillment of the flows foreseen in the Agreement, and with the water transfers that had to do with the international basins, although other elements generating tensions should not be overlooked. The investigation asks whether the two States have cooperated to be able to share the water of the international basin adequately or whether they have acted as rivals trying to monopolize the flows for their own internal basins. From what can be observed, the Albufeira Convention is durable and consistent with both international environmental law and Community regulations (WFD) and allows the adaptation of the flow regime. The Commission for Accompanying and Developing the Convention, which centralizes cooperation between Madrid and Lisbon, does not allow the participation of other types of stakeholders (Autonomous Communities, municipalities, civil society, etc.), which leads one to think that the applicability of multilevel governance is not really considered. Furthermore, the author considers that this institution is a weak institution that should be more at the margin of governments, seeking the use of water as a common good and not a system of competition for water.

The article by Montserrat García López (University of Malaga) entitled “Europeanization and water and environmental governance: Progressive adjustments and elements for debate in the case of Spain”, also has the Water Framework Directive as a backdrop and considers in this case the process of Europeanization of water policy. Her starting hypothesis is that the Spanish system is not aligned with the European system in water management, and that the inertias of water management in Spain condition convergence with Europe, which in turn gives rise to a series of questions that he tries to find out. She compares different elements of governance at the European and Spanish levels, proposing options for elimination, modification and/or maintenance to be aligned with European policy. On the other hand, she examines water reuse as a possible leverage element when converging with the EU in terms of water and in terms of climate change policy. Despite the transposition of the WFD, the author concludes that the Spanish system is not aligned with the European one. The inertias of the past in Spain are still in force, the expectations of participation of the new stakeholders are not fulfilled, and the territorial divisions are not overcome. The river basin districts are recognized according to the Directive, but the concept of district seems to go beyond the concept of river basin. From 2019 there is a new reference framework, the European Green Pact, which aims at climate neutrality in 2050, which may mean a change of model for Spain, and in fact something is glimpsed in the Green Paper on Water Governance (Gobierno de España, 2020).

This is followed by four articles focusing on different aspects of climate policy, which is one of the most serious public problems facing governments today. As with other issues addressed in the monograph, the climate issue is complex and closely related to the commons. From multilevel governance approaches in different countries and levels of government, to the issue of sustainable mobility which clearly impacts on GHG reduction, and culminating with the Habitats Directive, which is linked to the carbon sinks involved in the peatland issue.

In the case of the article by Mercedes Alda-Fernández and Juan A. Ramos (Rey Juan Carlos University), “Climate policies in multilevel governance contexts: Intergovernmental relations at the subnational level in Spain”, the emphasis is placed on intergovernmental relations (IGR) since it is a fundamental component of the study of this policy. Their object of study focuses on the IGR that take place at the subnational levels of government in Spain in the case of climate policies. The analysis of the vertical dimension of IGR (Autonomous Communities-local governments) and the horizontal dimension (between local governments) is considered, with each of the Autonomous Communities (ACs) as units of analysis. In each of them, they focus on three aspects: the structure of the network of political-administrative actors involved in the policy, the fundamental characteristics of the IGR and the instruments used by the actors to manage them. They also pose two research questions: What features characterize the IGRs that are produced? And What are the differences between ACs in terms of these interaction patterns? The article gives an overview of IGRs at the subnational level. In most of the ACs, a relatively formalized space of interaction involving regional and local actors can be identified. In any case, the situation is not uniform. There are differences between territories,

especially regarding the recognition of local governments, especially provincial councils, and island councils. Subnational IGRs are channeled through different instruments of a structural, programmatic, behavioral, and training nature. In some territories, the instruments of local participation appear to be more symbolic than substantive. In most cases, IGRs appear to be more consultative than decisional in nature. The study is mainly descriptive and focused on the more institutionalized aspects of the intergovernmental relations.

The article “Climate governance and multilevel policy practices in Thailand and Malaysia” is developed by a group of researchers composed of Warathida Chaipaya (Chiang Mai University, Thailand); Kamarulnizam Abdullah (Universiti Kebangsaan, Malaysia), Philip Gonzalez (Forum of Federations) and Hanna Nur Afifah Yogar (Chiang Mai University, Thailand). Their paper is a comparative study of two countries (Thailand and Malaysia) based on the premise that federated or decentralized governments can offer an alternative pathway for innovation and policy implementation in the face of complex climate impacts. After posing a series of questions about the relevance of federated states in addressing climate policies, and on the basis that no country is 100% centralized or decentralized, the authors chose to use the term multilevel governance instead of federalism since the former a priori better captures the actual system and mechanism in the cases they analyze: Thailand, as a unitary State with some degree of deconcentration and decentralization, and Malaysia, as a federal State where there is some degree of autonomy. In both cases they investigate the challenges and experience that the countries have had when they have had to translate national climate commitment into action at different levels. The article highlights what each country has learned and holds it up as an example for other countries to follow in addressing the global climate crisis. In their conclusions, among other issues, they point out that clear national guiding legislation helps, provided that the lower levels have, at least to some extent, the fiscal resources and policy space to design their own climate action. This does not contradict the option that, in the face of central government inaction, subnational governments may be able to develop their own initiatives, an issue that is also observed in other countries.

The case of Gülfem Cevheribucak (University of Limerick), deals with sustainable urban mobility, which is one of the issues at stake in reducing GHGs. Her article, “Effects of multilevel governance on the design and implementation of sustainable mobility plans, focuses on Umea (Sweden)”, although she also analyses national issues in the country. Her main objective is to analyse the impact of the design and implementation of sustainable urban mobility projects in a multilevel governance environment. The main question is: What are the effects of multilevel governance on the design and implementation of sustainable mobility plans? although this question is later broken down into a series of more specific questions that allude to formulation processes, blocking mechanisms and other very relevant issues. The case is interesting since Swedish local governments have broad competencies and policy formulation involves different actors from different levels of government that need to interact. The case of Umea is analysed empirically and allows to see the processes of transport policy making with special attention towards sustainable urban mobility in a multilevel governance framework. Although it is a single case, the study identifies political and administrative conditions conducive to multilevel governance frameworks. Close collaboration between the various authorities involved at different levels of government can generate positive effects. This would require a clear division of responsibilities between the various public actors involved, as well as checks and balances. Furthermore, interaction between public and private actors in vertical and horizontal networks would also facilitate the process, as is the case, among others, with transnational networks. A final question raised by the author is whether a change of national government that has resulted in a right-wing coalition will have an impact on sustainable mobility projects by prioritizing the funding allocated to roads.

Bernadette Connaughton (University of Limerick) addresses in her article “Multi-level governance and policy contestation: Ambiguity and conflict in the implementation of peatland conservation in Ireland” the development of the Habitats Directive (92/43/EEC) in the case of Ireland, especially in the case of active raised bogs that support biodiversity and are an important carbon sink. In this context she applies Matland’s (1995) ambiguity and conflict implementation model to analyse the Irish administration’s attempts to comply with the Directive. The author considers the model as a suitable framework for analysing top-down and bottom-up policy implementation in the heavily politicized environment of Irish peatland management. There is a peculiarity in the implementation of the above directive in Ireland. A large proportion of the designated sites are privately owned agricultural land where landowners enjoy strong legal protection. In addition, cultural, economic, and social factors underpin peatland management. This situation generated a conflict when the EU, in a Commission infringement proceeding in 2011, banned peatland logging in designated sites. The issue ended up in the EU Court of Justice in 2019. The article provides an analysis of the difficulties in changing entrenched attitudes and practices in nature conservation management and in trying to achieve collaborative

engagement with different parties at multiple levels of governance. The analysis suggests that policy makers need to pay attention to the clarity and compatibility of objectives between public policies and the potential for conflict needs to be considered.

This monograph also includes three reviews related to the subject of this monograph. Firstly, we find the review by Unai Ahedo Rodríguez (UPV-EHU) of the book by Molinero Gerbeau, Y. *El medioambiente en las relaciones internacionales* (2022). Ricardo García-Vegas (URJC) presents a review of Jodoin, S., Setzer, J., & Fenna, A., *Climate governance and federalism: A forum of federations comparative policy analysis* (2023). Finally, Leticia Delgado Godoy (URJC) reviews the book by Harald. L. Heubaum, *Global climate and energy governance: Towards an integrated architecture* (2022).

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