

**Opposition Michiel A. Heldeweg: Gül Özerol, Aligning the Multiplicities in Natural Resource Governance. A Study on the Governance of Water and Land Resources in Irrigated Agriculture, University of Twente 19 September 2013**

Thank you mr. Rector.

Dear Candidate,

It has been a pleasure, but moreover a challenge to read your doctoral thesis. You managed to write a thesis rich of ideas, theories and approaches – and with that also had to find ways to paint a clear picture. (The challenge came across to me much alike the step-by-step modification of the Dutch Environmental Law Act: before we may expect it to be comprehensive and transparent, we must first struggle through something fragmented and opaque.)

I offer you my compliments for your impressive effort to be comprehensive and clear in one well-sized book. Of course this compliment comes at a price, as this procedure also provides me an opportunity to ask for some further explanation – but I expect that you will welcome this.

First of all, perhaps a minor point... you postulate conduciveness of alignment as a ‘slight normativity’ (firstly at page 7). As a legal academic, the adjective ‘slightly’ relating to ‘normativity makes one very suspicious as we tend to carefully distinguish empirical from institutional facts. What is there ‘slightly’ about normativity?

(Should I perhaps regard alignment as a necessary but insufficient condition to proper Sustainable Natural Resource Governance?)

Then, as it comes naturally to me, I would like to look at rules. From p. 33 on, you discuss the three levels of rules, zero/operational, first/collective choice and second/constitutional choice. Here you state that the design of institutions, such as rules, should align with social and ecological dynamics.

Subsequently, on p. 36 you speak of ‘institutional alignment’, as alignment between different levels of the institutional scale. Low alignment exists when higher rules inhibit the application or revision of lower rules, which in turn can cause sustainability problems.

So, I hope I am correct in assuming that you are actually working with two types of alignment here....:

- one of scale, within the institutional multiplicity, that is between rules, and
- one overall, between the rules as a whole and the social and ecological system?

You suggest that the second depends on the first, but I only see that alignment between rules is a prerequisite to a possible, but not a necessary institutional fit with social and ecological concerns.

When you speak of higher rules inhibiting the application or revision of lower rules, legally speaking I would say: and rightly so. Not only do higher rules underpin lower rules, they will also condition their application or possibility of revision – that is in the nature of hierarchy; inhibition is part of such legal alignment. Perhaps you mean to say that alignment between rules is about alignment in incentives or modes of control, such as through hierarchy, competition or collaboration. That might also provide alignment of the rules with the social and ecological system. But I see no such reference to such modes.

So, I am still puzzled about linking scale alignment to overall alignment. Please, can you unravel this complexity for me - with or without slight normativity?

### *Back-up questions*

1. How are we to understand that rules may intentionally seek to change existing patterns of behavior in social and ecological systems, accepting that alignment may be a dynamic feature. Does that still make institutional alignment a conducive notion?

2. With various types of alignment I also still struggle with the extent of alignment, such as in the conceptual design as sketched on page 14. I see alignment between dimensions of multiplicity on both actor and structural sides, but mere implications, relating these to natural resource sustainability. This raises two questions:

Firstly, on the extent of alignment, surely you recognize that there is also the matter of alignment across from actor to structural multiplicity. Take the example of the actor attribute of capacity through power of changing rules, which will correlate with relative actor positions as an attribute of structure. Similarly, actor motivations and sector objectives may not match and surely this creates a challenge. Is it not important that structural and actor multiplicities align, as a preliminary requirement to their alignment with natural resource sustainability?

Secondly, by what measure are we to assess conduciveness of alignment (as a ‘slight normativity’)? Your reference to terms as consistency against divergence, being indicative of high or low alignment, do not readily point at a general perspective. In my own work on legal design I measure normative alignment (as a key notion of good legal governance), by four maxims, legitimacy, justice, effectiveness and efficiency – with possible trade-offs between them. Am I to understand Sustainable Natural Resource Governance as the similar, more sector specific overarching conduciveness concept in your work? But is this a concept that

Can you please offer me a perhaps slightly normative perspective on this?