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Multilevel governance of Natural Resources in Russia, CSR or regulation

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Concepts

Multilevel governance

Theory of Hooghe & Marks 1990s *American Political Science Review*
2003, 58:3. 189-193;

Describing EU, where union (both political and legal), government and private levels interact

Self-organizing inter-organizational networks

Kersbergen & van Waarden (2004) governance, govern = something beyond government administration

e.g. economic governance, good governance, corporate governance, self-governance etc...

Sovereignty
accountability

Who makes decisions? Who is responsible?

3 Widening Sphere of Law – Legal Pluralism

What is law?

Nation state law

and how it is enforced = LEGAL REALISM

Nation state law and other legal systems, e.g.
customary law of colonized peoples
= LEGAL PLURALISM

Legal Positivism v. Legal Sociology

Narrow v. wide definition

Eugen Ehrlich “Das Lebendes Recht” Living Law

Pluralism nowadays:

- Customary law of indigenous peoples
- Minorities law, feminist law, queer law etc.
- New Merchant Law
- Pluralist legal theory

Multiplicity of Norms and Regulations in International Business

Public governance

- International treaties etc. GATT, GATS, TRIPS
- international organizations e.g, WTO cf. also (interpretations of specialists),
- International investment agreements (mixed with private arbitration)
- EU law and regulation
- **nation state legislation** (sometimes extraterritorial)

Private governance

- NGO regulation f.ex. FSC certification, ISO standards, other industry standards
- academic "lex mercatoria" (PECL, UNIDROIT-principles)
- Individual and standard contracts (Orgalime, NL...)
- Trade practices
- Practice of businesses

MULTILEVEL GOVERNANCE IN RUSSIA

the Minsk (Belozevsk) Treaty 1991 – dissolved the Soviet Union

Constitution of December 1993 (Eltsin's Constitution)

<http://www.ksrf.ru/en/Info/LegalBases/ConstitutionRF/Pages/default.aspx>.

International law: treaties and principles above national law

Article 15.4

Cf. Emphasis on state sovereignty in the SU
State and law

STRUCTURE OF THE FEDERATION

subjects of the federation (Article 65)

- republics/ states (*республика*)
- Territories (*край*)
- Regions (*область*)
- 2 cities of federal importance (now 3)
- Autonomous region (*автономная область*)
- Autonomous areas (*автономный округ*)

In principle all equal (Article 5)

Diminishing the number of subjects (+ recently two more)

9 Federal districts of the Russian Federation

(Pres. decree nr. 849, 13 May 2000)



FEDERAL ORGANS (organs of power)

doctrine of separation of powers (article 10 of the RF Constitution)

a. Legislative power

2-chambered federal assembly (*федеральное собрание*)

federal council (*федеральный совет*) 2 x 89 (originally); now 85

state дума (*дума*) 450

legislative process

Articles 109, 111, 117

political parties

b. Executive power (and more?)

president of the federation

- legislative initiative power
- Power to give decrees
- Promulgation of laws (veto power)

Nomination powers

Can dissolve the дума (109, 111)

Government (of the President)

nomination of prime minister (111)

practice v. constitution

division of powers between the federation and its subjects

Constitution Articles 71-73

division of legislative powers

division of executive powers

division of juridicial powers

LOCAL SELF-ADMINISTRATION = municipalities (Constitution articles 130-133)

(Law on Local Self-Administration 2006)

Lack of tax revenues

municipal services

Authoritarian informal institutions

Privatization led to **Oligarch dominated economy**

Oil & gas dependent on global markets

CIVIL SOCIETY (NGOs and their international networks)

PUTIN AND CENTRALIZATION

Centralization **with federal legislation**

e.g.

Forest Code 2006

Act on Subsoil (Geological) Resources (о недрах) 1999,
changes 2000, 2002, 2004

Water Code 2006

Centralization and the **Executive Power**:

- From elections to nomination of governors and back again?
- Governors not allowed to be members of the Federal Council (senators)
- Federal districts under presidential administration

(Municipal Self-Government also weakening the power of regional executive power)

PRIVATE GOVERNANCE (and self-regulation?)

“company law on the field” (N. Novikova)

Corporate Social Responsibility (CSR)

Companies taking care of duties of the state (soviet legacy)

Global market governance

FSC – Forest Stewardship Council (NGOs monitoring)

From boycotts to cooperation

International Standards for CSR:

UN Global Compact

Global Reporting Initiative (GRI)

ISO 14001

IFC Principles

EBRD (European Bank of Reconstruction and Development)

Equator Principles (of banks)

Equitable Origin (in energy sector)

FPIC Principle – Free Prior and Informed Consent

ILO Convention 169 on Rights of Indigenous and Tribal Peoples 1989

UN Declaration on Rights of Indigenous Peoples 2007

THANK YOU!



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