MARIPOLDATA Reading Group

Ocean Privatizations

25.11.2020

Guest Speaker: Prof. Dr. Achim Schlüter, Department Head (Social Sciences) and Working Group Leader (Institutional and Behavioural Economics) at the Leibniz Centre for Tropical Marine Research and Professor for Social Systems and Ecological Economics at Jacobs University to present his article Broadening the perspective on ocean privatizations: an interdisciplinary social science enquiry (Schlüter et al., 2020).

Context:

Increasingly, the marine environment is subject to privatizations, including ocean space, marine resources, governance and knowledge (Schlüter et al.2020). Ocean privatization has often been coupled with judgement whether this is "good or bad" for a particular group of people, for biodiversity, for different stakeholders alike. It is often considered a form of maximizing benefits, of "ocean grabbing", trying to own more of what used to be a public good. But it can also guard potential for the conservation and sustainable use of resources and nature, in cases where the regulation by public institutions has failed and private and other non-governmental actors get involved to safeguard such areas and resources.

We have provided this article by Prof. Achim Schlüter which goes beyond this judgement but rather provides an overview of different ocean domains, as well as criteria that allows us to study and understand ocean privatizations.

Readings for this session:

1. Blasiak, Jouffray, Wabnitz, Sundstrom, & Osterblom. (2018). Corporate control and global governance of 914 marine genetic resources. Science Advances, 4(6). doi:10.1126/sciadv.aar5237

2. Schlüter, A, Bavinck, M, Hadjimichael, M, Partelow, S, Said, A, and Ertör, I. "Broadening the Perspective on Ocean Privatizations: An Interdisciplinary Social Science Enquiry." Ecology and Society 25.3 (2020): Ecology and Society, 2020, Vol.25 (3). Web.

The MARIPOLDATA Reading Group is part of the MARIPOLDATA project which has received funding from the European Research Council under the Horizon 2020 research and innovation programme (No 804599).

Ina Tessnow- von Wysocki, December 2020

1. Who owns Marine Biodiversity?: Privatization of Marine Genetic Resources

Reading 1. Corporate control and global governance of marine genetic resources (Blasiak et al. 2018)

Overview:

The article by Blasiak et al. (2018) Corporate control and global governance of marine genetic resources describes the situation we are currently faced with, namely that almost half of all registered marine genetic resources (MGRs) (47%) are owned by one single company alone.

Access and benefit sharing of MGRs that are found within areas of national jurisdiction are regulated under the Nagoya Protocol, but MGRs from areas beyond national jurisdiction (ABNJ) are not subject to any regulation as such.

The authors mention the ability of transnational corporations to monopolize markets – mentioning the example of the seafood industry, where some "keystone actors" have disproportionate influence of production volumes and revenues, on governance and institutions.

The marine biotechnology sector is expanding and expected to develop similarly: with a dominance by a small number of transnational corporations.

Blasiak and co-authors investigated the **number and types of marine species** included in patent claims (of which they identified the majority to be associated with microbial species - with over 73%), as well as **which actors** and **the time** of such claims.

Who?

- 221 companies had registered 84% of all patents
- Public and private universities accounted for another 12%,
- governmental bodies, individuals, hospitals, and nonprofit research institutes registered the remaining 4%

A **single transnational corporation had registered 47% of all patent sequences**: BASF, the world's largest chemical manufacturer, headquartered in Germany.

Where?

When we look at the geographical distribution of the claimed patents:

Entities located or headquartered in three countries registered more than 74% of all patents associated with MGR sequences: Germany (49%), United States (13%), and Japan (12%).

Actors located or headquartered in 10 countries registered 98% of all patent sequences, and 165 countries were unrepresented.

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Ina Tessnow- von Wysocki, December 2020

When?

- Increase in claims for patents for marine biodiversity over time

The negotiations of the Nagoya Protocol could potentially have contributed to this increase with the fear of companies to share benefits after adoption of the agreement.

The authors emphasize the fact that "the potential for commercialization of the genetic diversity in the ocean currently rests in the hands of a few corporations and universities, primarily located or headquartered in the world's most highly industrialized countries".

For more equitable ocean stewardship, they argue that these keystone actors need to be identified.

2. Broadening the Perspective on Ocean Privatizations

Text 2: *Broadening the perspective on ocean privatizations: an interdisciplinary social science enquiry (Schlüter et al., 2020).*

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Ina Tessnow- von Wysocki, December 2020

OceanGov
EUROPEAN COST ACTION

Broadening the perspective on ocean privatisation

A framework to look at an emerging field

Achim Schlüter, Maarten Bavinck, Maria Hadjimichael, Stefan Partelow, Alicia Said, Irmak Ertör

ZMT JACOBS UNIVERSITY UNIVERSITEIT VAN AMSTERDAM University of Cyprus

Why Studying Privatisation of the Ocean?

- 71% of the globe is ocean

⇒ Access is in the public domain

⇒ Much of it has not yet been privatized

Hauke Reuter, ZMT

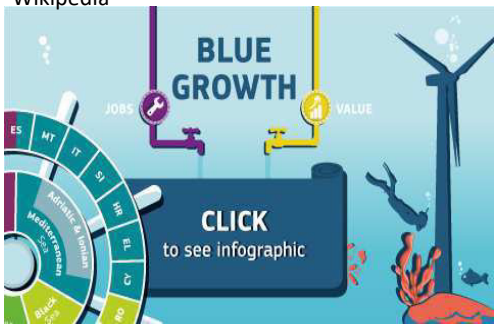
- There is a huge call/desire for expanding economic boundaries
- There is much need to solve sustainability challenges

Wikipedia

Attributes of Things	Open Access	State Property	Common Property	Private Property
•Access •Use •Collective Choice Rules •Manage •Withdraw •….				

Strong move towards privatisation

Important to understand, how it could be shaped towards a holistically sustainable outcome



european-commission-maritime-affairs

Motivation of the paper

- Sparse literature on marine privatisation is dichotomous:
  - Privatisation is the glorious solution to the sustainability problem
    - Individual Tradable Quotas
  - Privatisation is unequal and excludes those who needs it most
    - Ocean grabbing
    - Next wave of enclosure)

⇒ Both could be right

⇒ Might depend very much on the details

⇒ How can we judge on the various empirically observable privatisation processes?

⇒ Developing a list of criteria

Structure

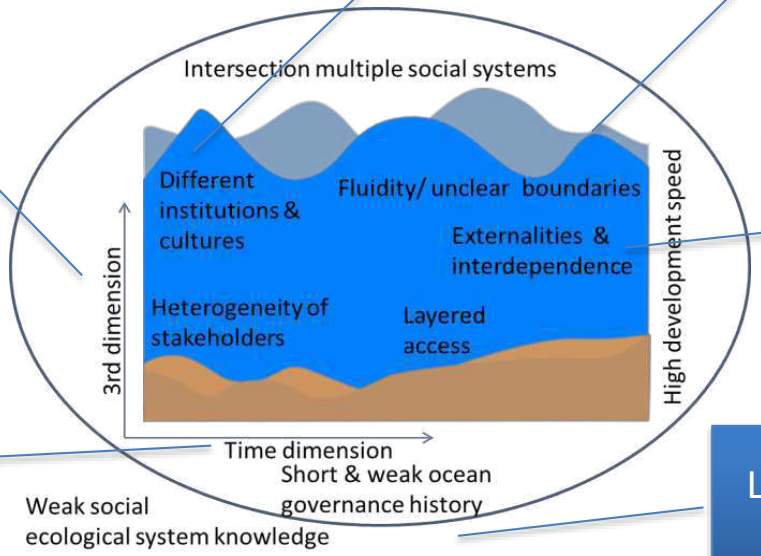
- What is special about the ocean?
- What kinds of privatisation can we distinguish?
- What criteria to judge processes of privatisation?

What is Special About Privatizing the Ocean?

Heterogeneity, multiple social systems, cultures

Ecological boundaries are floating social boundaries difficult to define (new tech)

3 D Rights to sea floor, surface & water (more complex rights)



Interdependencies between spaces, activities & ecosystem services

4 D: long feedback loops => challenge sustainable governance

Low level of SES knowledge in comparison to land

Privatisations currently occurring

(resulting from empirical observation)

Resources

Febrina Desrianti, ZMT

Space

Febrina Desrianti, ZMT

Governance

Knowledge

pixabay.com

Assessment Criteria for Privatisation

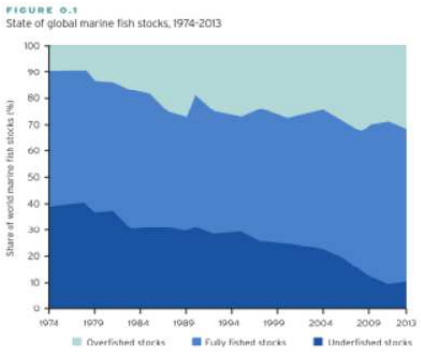
(resulting from literature study: Acheson 2006, Bromley 1989, 2016, Constanza 1999, Mansfield 2014, Ostrom 2000, Schlüter 2013, van Assche 2015, Vatn 2005, von Benda Beckmann 2006, …)

List of criteria assessing privatisation

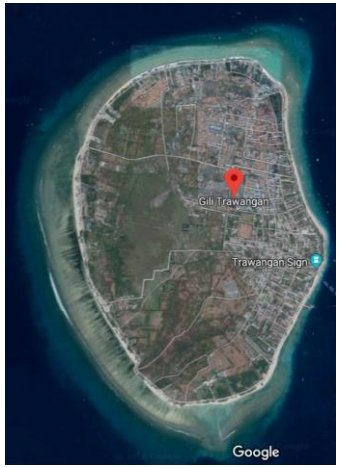
- Motivations & drivers
- Main pushing actors & their powers
- Materiality, physical & ecological characteristics
- Institutional starting point
- Attributes of property rights privatized
- Institutional repertoire
- Path dependencies & lock in
- Distributive effects
- Effects on decision making & democracy

Motivations and Drivers of Privatisation

Resource	Space	Governance	Knowledge
Motivations and drivers			
Overexploiting, excludability & rivalry problem, appropriation problem resource	Securing investments, exclusive access, Blue Growth	Inability of State, efficiency/ privatisation from state activity, mobility of resources beyond borders, governance void	Creating new products, incentivizing innovation, creating market advantage/ niche

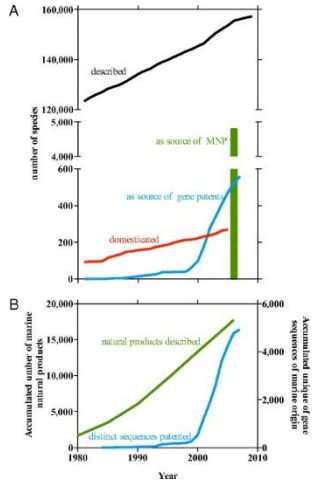


FAO 2006



Source: google maps

Source: Topics 2 /WWF



Arrieta et al 2010

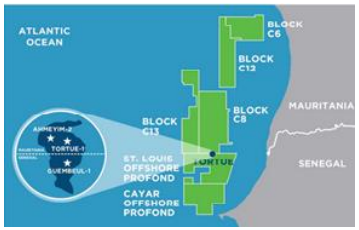
Main Pushing Actors & Their Powers

Actors characterised by different:

- Interests
- Power asymmetries
- Needs

Resource	Space	Governance	Knowledge
Main pushing actors and their power			
State initiated	Investors & State	Private /state	Private

ICES CIEM



CERTIFIED SUSTAINABLE SEAFOOD MSC www.msc.org

BASF owns 47% of global marine gene patents

bp

Ministry of Fisheries
Te Tautiaki i nga tini a Tangaroa

WWF

BASF
The Chemical Company

Materiality: Physical & Ecological Characteristics

- Excludability/Rivalry
- Migratory vs. non-migratory
- Size (number of ecological & social systems involved)

Resource	**Space**	**Governance**	**Knowledge**
Materiality, the physical and ecological characteristics and function			
Mobility, individual resource units easily identified	Three dimensions, fluidity leads to external effects	Solutions due to multi-national and/or multiple ecosystems	Investment needed/ difficult to access or do

Stefan Partelow, ZMT

www.worldwildlife.org

Febrina Desrianti, ZMT

Febrina Desrianti, ZMT

Brot für die Welt

Slow Food Deutschland e.V.

NAUTILUS Minerals

Attributes of Property Rights Privatised

Resource	Space	Governance	Knowledge
Attributes of property rights to be privatised			
Access withdrawal	Access, management, Exclusion	Agenda setting, operational & collective choice rules	Use right of unknown, potential future uses & values

For Resources & Space no private property as on land
⇒ Use right
⇒ Only temporarily
For Governance & Knoweldge
=> Little difference to other processes on land

Roger Spranz, ZMT

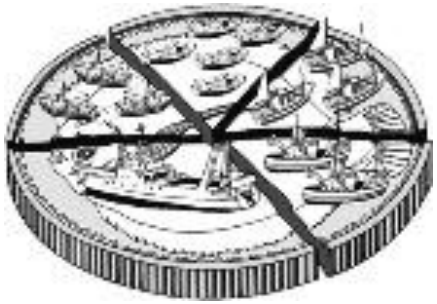
Roger Spranz, ZMT

ruimtevoordewaal.nl

Institutional Repertoire

- Do there exist similar forms of property already?
- What institutional adaptations need to be made?

Resource	**Space**	**Governance**	**Knowledge**
Institutional repertoire			
40 years of experience in ITQs	Hardly done before in the marine realm, but very developed on land	Recent solution; copy of other certification scheme.	General intellectual property rights, well elaborated but new in marine realm



FAO 2001

Roar Lindefjeld/Woldcam/Statoil; sience mag

Christina Hassenrück, ZMT

Institutional Starting Point

Attributes of Things	Open Access	State Property	Common Property	Private Property
•Access •Use •Collective Choice Rules •Manage •Withdraw •….				

Open Access to Private Property

Fishing Quotas Ocean, Patents

- Might or might not have yet competition
- Might inflict with other customary rights

Common to Private Property

Coastal Fishing Grounds, Dive Areas

- Well established rights existed
- Conflicts of legal pluralism to be expected

State to Private Property

Ports, Marine Protected Areas

- Might enhance efficiency
- Change bargaining power
- Changes who decides on operational rules

Distributive Effects

- What are the effects on distribution and livelihoods of people affected?

- Who are the winners and looser?
- What are their alternatives?

Resource	Space	Governance	Knowledge
Often excludes the most needed from resource use	Exclusion of other users of the space, risks affect more vulnerable	Pay-to-play incentive schemes, purchasing power as 'voting'	Key knowledge which allows for high profits

Effects on Decision Making & Democracy

- Who is deciding on resource use and setting the rules after privatisation?

$\Rightarrow$ Move away from state or collective decision making

- Which actors are excluded from decision making

Resource	Space	Governance	Knowledge
Rights taken away from customary level, state and lobbyists decide	Powerful investors exclude other actors from decision making	Non-democratic, often run by markets or interest groups. However, potentially more inclusive	Concentration of rights in very few hands

Conclusion: Assessment Criteria for privatisation

- Big Push towards privatisation
- Institutionalisation is necessary due to sustainability challenges
- No blue print, but case to case necessary to decide which property regime is most “reasonable”
- Holistic assessment necessary

List of criteria assessing privatisation

- Motivations & drivers
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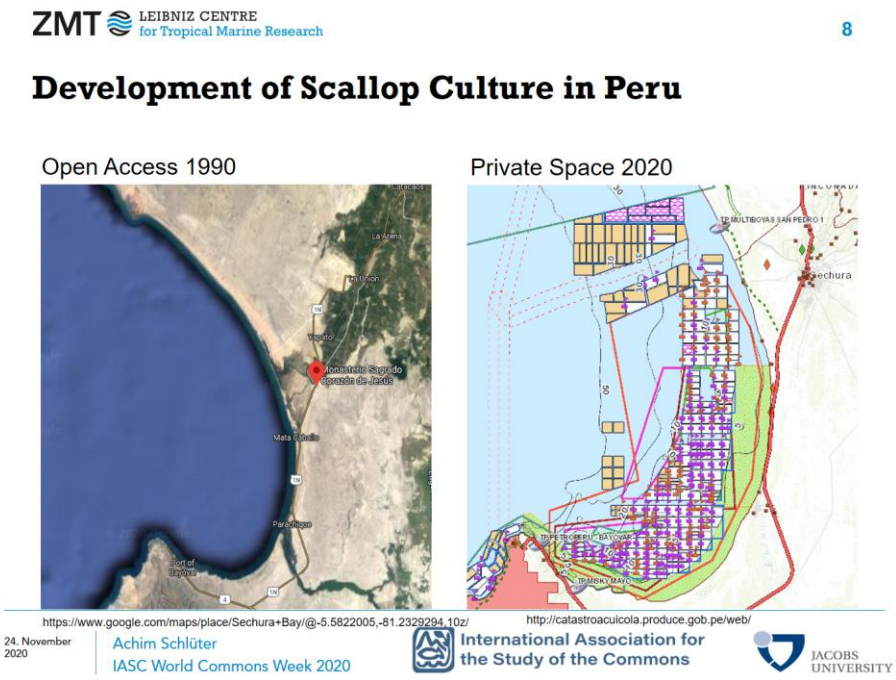
Road Ahead

- Transferring the set of criteria into a framework
  - Combining it with the IAD framework
- Using case studies to from an analystical & particioners perspective



[IASC world commons week 2020 talk]

Discussion questions

- Privatisation or institutionalisation?
  - Commodification
  - Other property types?
- Privatisation, enclosure, grabbing?
- Does the marine realm deserve a special attention?
- Is privatisation of the seas a new phenomenon?
- Are the categories created meaningful?

Literature and Sources

- Bavinck, M., Berkes, F., Charles, A., Dias, A.C.E., Doubleday, N., Nayak, P., Sowman, M., 2017. The impact of coastal grabbing on community conservation–a global reconnaissance. Maritime Studies 16, 8.
- Hadjimichael, Maria 2018. A call for a blue degrowth: Unravelling the European Union's fisheries and maritime policies. Marin Policy 94, 158-164.
- Schlüter, A., Bavinck, M., Hadjimichael, M., et al., (submitted) Broadening the perspective on ocean privatization, Global Environmental Change
- Schlüter, A., Partelow, S., Torres Guevara, L. E., & Jennerjahn, T. C. (2019). Coastal Commons as social-ecological systems. In B. Hudson, J. Rosenbloom, & D. Cole (Eds.), Handbook of the Commons: Routledge.

3. Discussion

Ocean Privatization: It is "Ocean Grabbing"?

Ocean privatizations of marine space and resources have often been described as "ocean grabbing". Ocean grabbing has been in the debate as a mechanism of exclusion of other actors from certain spaces or resources in academic literature and throughout non-governmental organizations.[1] As mentioned earlier, as much there is opposition, there is as well support for ocean privatizations and every case differs in what is exploited or protected, who benefits, who is excluded and what implications such privatizations have on the circumstances of communities, marine species or future generations. Ocean grabbing as a term has certainly a negative connotation and is used when criticizing a certain privatization.

Governance by Private Actors

In the past, where public governance has been weak or has failed completely to tackle a specific problem, private actors have stepped in to provide governance and regulations. The Marine Stewardship Council (MSC)[2] was named as a successful example of governance by a private actor to certify sustainable seafood entering the market.

In the light of the ongoing BBNJ negotiations, there are numerous further questions that we can ask. What would be implications of the privatization of MGRs in areas beyond national jurisdiction? Who would benefit and who would be excluded from such benefits?

Regarding Area-Based Management Tools (ABMTs), including Marine Protected Areas (MPAs), we can observe the finance through private actors on the terrestrial level. How do we think about this issue in the case of ABMTs, including MPAs in areas beyond national jurisdiction? What are challenges and opportunities? And how can most effective conservation and sustainable use of the ocean be guaranteed?

Diversity of Privatizations

Overall, it can be named that a multitude of ways exist to govern the marine environment, including the allocation of private rights, collective and more exclusive rights over resources, space, governance and knowledge. Every case of ocean privatization deserves a closer look into what criteria of privatization are in place and which implications such privatization has and will bring in the future, concerning different stakeholders, the environment and future generations to come.

Ideas for Further Research

To build on this article, further research could also go into the direction of including geopolitical aspects that might be another motivation of stakeholders when it comes to governance and privatization.

The discussion included ideas about future research potential in continuation of the article by Schlüter et al. 2020. The framework, developed by the authors could be systematically applied to a large number of cases of ocean privatizations to identify the specific criteria in each case.

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[1] As mentioned by one Reading Group member: Barbesgaard, Mads. "Blue Growth: Savior or Ocean Grabbing?" *The Journal of Peasant Studies* 45.1 (2017): 130-49. Web.

[2] https://www.msc.org/de

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