

BOOK REVIEW

Joep Spiertz and Melanie G. Wiber (eds.), *The Role of Law in Natural Resource Management. Recht der Werkelijkheid*. Amsterdam: E. Niemeyer (1996). 186 pp.

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Editors J. Spiertz and M. Wiber have assembled an interesting group of papers which explore the role of law in natural resource management through detailed case studies in both developed and developing countries. In their field research the authors find legal pluralism almost everywhere. Sets of formal and informal norms emanating from governments at different levels and from social groups of different sizes govern the use of almost every natural resource. Central governments routinely fail to recognize this normative complexity when they establish new sets of regulations over natural resources. Officials in the central government institutions become in the editors' eyes 'bulls in the China shop', destroying local controls when they implement legal reforms in natural resource use.

A series of case studies explore these dynamics in the social control of natural resources. H. Van Dijk describes the shifting patterns of social control and contention around water holes in a Sahelian region in southern Mali. This study provides effective illustrations of how land tenure patterns shift in response to climatic changes and directives from the central government. R. Pradham and U. Pradham examine the interaction between government irrigation initiatives and farmers' water rights in a Nepalese watershed. F. von Benda-Beckmann, K. von Benda-Beckmann, and J. Spiertz investigate a similar dynamic in an irrigation district on the island of Bali in Indonesia. Both the Nepalese and the Balinese studies illustrate the accuracy of the editors' 'bulls in the China shop' metaphor for describing the interaction between national and local social controls over natural resource use. In a study of *ejido* law in Mexico E. Bouquet and J. Colin and examine a related pattern. The social distance which makes it difficult for legal reformers and water resource specialists to appreciate the social impact of regulatory changes also makes it difficult for them to assess the degree to which

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smallholders obey the laws promulgated by federal bureaucracies. The *ejiditarios* implement the subset of laws that they know about in ways shaped by local political considerations.

The Role of Law in Natural Resource Management also includes three case studies of natural resource regulation in developed countries. A. MacNaughton explores the maze of regulations that small woodlot owners face in the province of New Brunswick in eastern Canada. P. Clay describes the recent history of fisheries regulation along the Atlantic coast of the northeastern United States. M. Wiber and J. Kearney examine the historical experience with quotas in the Canadian dairy industry in an effort to ascertain whether or not quotas could prevent the overexploitation of fisheries in the North Atlantic. Finally, C. van den Bergh offers some 'cursory' notes on the historical evolution of property law in western Europe. The case studies of woodlot regulation, dairy quotas, and fishing regulations describe the recent regulatory history of their respective resources in convincing detail.

Collectively, these studies raise important questions about the utility of the legal pluralist paradigm for understanding natural resource regulation in advanced industrial societies. In the hands of its practitioners the paradigm posits a hierarchy of social control in which federal laws and regulations overlay a mixture of local legal and extra-legal norms about resource use. Typically, changes in the federal controls wreck havoc on the local controls and produce unintended behavioral consequences. For this reason the 'bull in the China shop' metaphor seems apt.

In the three cases described by MacNaughton, Clay, and Wiber-Kearney this hierarchy of social control does not appear so clearly. In the case of fisheries regulation in the United States (Clay) the regulated appear to have captured the regulatory apparatus. Under these circumstances legal codes come to represent particular interests; different groups vie with each other for control of the state, and the political order is pluralist. The different interest groups use distinct legal tools to assert their control over the same natural resource. This tactic is especially evident in MacNaughton's study of how woodlot owners contend with regulations backed by recreational fisherman, conservationists, and wood processors. Under these circumstances a picture of different groups contending within the same legal order seems more accurate than the legal pluralist picture of cosmopolitans and locals who have devised different normative/legal orders to govern the use of the same natural resource. The case studies suggest that the rule of law in natural resource management varies across societies in intelligible ways. Surely, it is too simple to say that the crucial lines of variation occur along the developed - developing country divide. Only an accumulation of case studies like the ones presented in *The Role of Law in Natural Resource*

Management will provide us with answers to this question.

These observations do not detract from the overall merit of the contributions to this volume; rather they attest to the thought-provoking nature of the work presented here. Because it presents these ideas through an interesting set of case studies, *The Role of Law in Natural Resource Management* would be a useful supplementary text for students in courses which focus on environmental policy or the sociology of law.