FORUM: REVIEWS AND COMMENTS

Josephine Gillespie: Protected areas. A Legal Geography Approach. XIII, 116 pages, Hardcover. Palgrave Pivot for Springer Nature, 2020, € 53,49, ISBN 978-3-030-40501-4 (Hardcover), € 42,79, ISBN 978-3-030-40502-1 (eBook).

After the compendium by Tayanah O'Donnell et al. (2020) on Legal Geography (cf. Thiel 2020), another publication on the 'Legal Geography Approach' is now available in remarkable quick succession. It was written by Josephine Gillespie, who was already involved in O'Donnell's publication as a co-author. This work which combines six chapters of varying length, deals with the generic term of 'protected areas'; '*Unterschutzstellung*' as it is called in German nature conservation law. Gillespie, a former lawyer, works at the School of Geoscience at the University of Sydney. Her research focuses on the environmental protection and human-environment geographies throughout Australia and Asia-Pacific. Gillespie subsumes the term "protection" very broadly. It ranges from the nexus of biodiversity and loss of diversity of flora and fauna in the context of place-people and law-connections" (see chapter 1), to the abstract protection instruments of protection through a biodiversity imperative (see chapter 2), the central third chapter – a new framework for the legal geography approach – the protection status of World Heritage properties/sites (see chapter 4), the protected areas under water law (see chapter 5) and finally a summarizing sixth chapter dealing with "a way forward…". We know from the national and even more so the global geo-park debate how important the instrument of protected areas is and to what extent environmental-human-owner conflicts are revealed in their protection. The slim booklet of 116 pages is the result of the author's scientific work at the Institute of Australian Geographers, especially the Legal Geography Study Group. From a German perspective, the Australian geography institutes are very envious of these interdisciplinary research approaches and discourse culture.

The book underlines the increasingly important role of Australian geographical and legal colleagues in the field of legal geography. What is the concept here? Dispel the myth of property: Following and inspired by development cooperation programs on decentralization, commune property gained attendance and respectability (however limited to nature protection and world heritage sites), not to social housing or building rights. Commune, customary and indigenous property may consist of a wide variety of collectives of possible groups, depending on social and religious circumstances. Indeed, little attention was (and still is) given in the academia – and also in the practice of development cooperation – to the nature and distribution of property rights, their recognition by constitutions, property laws, and to the connection between communal property rights objects and holders. Josephine Gillespie seeks to shed light to the law's complicity in shaping cultural and natural landscapes within people-place-law dynamics. This case is now about species and habitat protection. Gillespie describes her motivation for dealing with this topic clearly in the preface: "After many years in litigation I came to the belief that laws must be useful; that they must achieve what they are written for. I also believe that laws must be written for the people and places that they will impact. (...) I turn to the scholarship of legal geography to implement this perspective" (p. v). Surprising from a legal perspective – possibly welcomed through a geographical lens – is the finding that Gillespie works with very few court decisions and, as far as can be seen, not a single paragraph besides Conventions.

In this respect, the observation I already made in my cumulative habilitation thesis (see Thiel 2016), in paper and in various book reviews is confirmed: The legal geography approach, unlike in this country, has developed in the USA, Canada and now increasingly in Australia as a method- and text-heavy, abstract methodological superstructure. It works with basic philosophical assumptions, with linguistic images and with – to use this inflationary term – *narratives*, in my estimation in excess. Of course, the findings are correct: property regimes consist of the underlying land rights that support them. Uncertain and insufficiently secured land boundaries and demarcations as exemplified by the World Heritage Convention and the Ramsar Convention cause difficulties in enforcing protection (pp. 63-66). In the case of the nature conservation or conservation law and heritage law narrative, the author succeeds very well in building a bridge to legal geography by arguing: "(...)

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although it seems odd that law has not engaged more readily with the ideas ingrained in geography surrounding how human-environment interactions emerge" (p. 31). The common, legal-geographical bracket of protection only becomes clear after very close study of the publication. Gillespie notes that the protected area ideal was a product of a time and place. Australian legal geographer Nicole Graham once termed property rightly as 'place-less' (see Graham 2011).

Gillespie calls for increased governance to stop the loss of global biodiversity resources (p. 7). It seems trivial to state that law must take local needs into account in order to be enforced and gain acceptance. This applies to nature conservation regulations (chapter 2) as well as to heritage regulations (chapter 4). Using the examples of Angkor Wat complex and the Temple of Preah Vihear in Cambodia, Trang An Landscape in Vietnam and the Ramsar Convention, the author substantiates her call for a greater reconciliation between the activities of the human communities subject to regulation with biodiversity and wetland conservation targets (pp. 87 ff.). The demands and conclusions that Gillespie draws from her observations and field research seem somewhat helpless: (…) "Regardless, whatever the effectiveness of international soft-law agreements or national/state hard law legislation, the consistent picture that emerges through the legal geography lens is the importance of the adaptive, place-based and engaged policy to secure better environmental outcomes in the management of wetlands, and to avoid instances of regulatory failure that results from tension between place and law" (p. 101). This summary does not convince (me). Because: The references to norms of "hard law" are completely missing. Additionally: What conclusions can be drawn for geographers concerned with the designation and protection of geo-parks, water protection areas, cultural heritage ensembles, perhaps also urban areas under protection in the sense of the rent control, price ceiling and the ban on the conversion of rental flats into condominiums? At least, Gillespie formulates some recommendations in the concluding chapter 5: (i) to create an applied praxis that directly informs policy makers and (ii) to encourage us to approach environmental conundrum through the legal geography lens.

Of course, the 'people-place-law-dynamics' are obvious. But the conclusion that individual property ownership within protected wetlands has progressively eroded community-based conservation and weakened the effectiveness of the customary ownership approach to wetland protection (p. 110) is anything but innovative; it is a truism. The author herself rightly speaks of nebulous, often intangible objectives within and outside of academic scholarship, which should be avoided (p. 112). Indeed, in the current state of legal geography, which is very much focused on the global north, there is a need for reorientation. If more methodology is needed, then scholars should focus on case study-based hierarchies of norms, underlined by a land management and land administration concept that has been around for some time (cf. Thiel 2016). It is worth to have a closer look on how the interrelationship of land management (the dynamic part) and land administration (the static part) operates. In this understanding, land management refers to dynamic processes which affect the territory and induce changes motivated by various reasons of conflict resolution, land development or nature protection and which are subsequently reflected in the land administration system through cadastre and registries. Gillespie recognizes that. Therefore, there is virtually a constant cycle of more dynamic and static phases in accordance with local contexts, demands or pressure and with the land policy targets (see Graham 2011). Land policy aims to achieve certain objectives relating to the security and distribution of land rights, land use and land management, and access to land, including the forms of tenure under which it is held. It defines the principles and rules governing property rights over land and the natural resources it bears as well as the legal methods of access and use, and valuation and transfer of these rights. It cannot be just the price and the value (commodity nature and commodity fetishism) of the land that determines its best use in each case. I fully agree with Josephine Gillespie: We must consider the state constitution for land use as an institutional basis for establishing strategic land management at the level of higher-ranking law. We must think geography (more) jurisdictionally in terms of lawful land management and the renaissance of (social) land policies between private actors and the public weal. Land management and land policy can enhance the social constructed-ness of property. The concept is understood as conscious action to bring about a sustainable use of land (allocation) as well as of a socially just distribution of landownership and of income from land, e.g. the protected areas as touristic sites.

The full potential of the (critical) legal geography with respect to the requirements of land management and its sub-layer land administration and registration, and land policies is not yet realized. It is necessary to move beyond the concept, towards a dynamic land development process that emphasizes the social ties of property, but also identifies the underlying policy changes of land use by foreign direct investment, privatization, and property-led (urban) development. Remarkable work has to be done for the law and geography field to achieve efficiency, effectiveness, transparency, and fairness for the "world making" before the background of changing

importance of land compared to other traditional factors of production such as knowledge and intellectual property. The discussion around making landowners aware of their obligations, e.g. derived from the nature and World Heritage protection status, is resurfacing, not only in the context of the forced implementation of urban reconstruction measures. The same is true of the debate surrounding revising the equalization of planning values. My resume: Here, too, there is an original analysis of the legal geographical instruments for nature conservation and monument protection. However, it goes without saying that the relevant conventions must be adapted and interpreted to the respective local conditions. Nevertheless, the third chapter of the publication provides some fruitful hints for future – undoubtedly more important – research in the field of national and international legal geography. These consist of the author's statement that "legal geographers must learn data analysis methods from within the law and geography disciplines" (p. 29). Again, there is still a lot to explore in this highly exciting field of place-people-relationships.

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