

Public land use patterns have undergone tremendous transformation across different jurisdictions in recent years. Two dominant features of this transformative process include an increase in public awareness of nature conservation, which can be seen from the prevalence of the designation of protected areas (PAs), and an increase in recreational needs that accompanies the blossoming of the nature-based tourism industry. The effective management and resolution of conflicts between conservation and recreation that arise from the designation and management of PAs have become a common task for managers and legislators of PAs. By adopting the methodologies of classic legal analysis, comparative legal study and semi-structured field study, this research aims to answer the following questions: how are conflicts between conservation and recreation in PAs managed and resolved in the legal regimes of the US and China through institutional interactions among legislatures, agencies and courts, and how should these conflicts be managed and resolved?

This research is structured in three parts in addition to the introduction (Chapter 1) and conclusion (Chapter 12), which are further broken down into 12 chapters. Part I (Chapter 2-3) provides the conceptual and theoretical frameworks. Conflicts in PA designation and management are classified into resource conflicts, development conflicts and property conflicts by applying Campbell's triangle model. The dual role of recreation and tourism in PA designation and management is identified as a direct cause that has led to the rise of conflicts and a mitigator of these conflicts. This research proposes that the 'use-conflict' framework can be used as a paradigm to postulate environmental problems and conceptualize conservation lawmaking. In this framework, PA law is supposed to identify, manage and resolve conflicts that arise from the uses of PA resources.

By establishing a principle of integrated decision-making, a rule of conflict resolution and a framework of good governance, 'sustainable development' can be used as a benchmark for assessing the legal foundations of PAs in the US and China, although the two countries have shown different attitudes regarding the inclusion of this principle in their domestic legislation. A sustainability test of tourism in PAs is both necessary and plausible. To carry out the balancing exercise required by sustainable development, two issues need to be addressed: who to balance and how to balance. The process of balancing conflicting interests is a co-effort by different legal institutions that possess distinctive capacities and limitations. Considering the prevalence of statutory ambiguities and administrative discretion in conservation law, the degree that conflicts can be resolved predominantly depends on how the statutes are to be interpreted by different institutions. In this sense, the institutional theory of legal interpretation can empower a normative approach to adjusting and constructing the interactions among different legal institutions, especially legislatures, agencies and courts.

Part II (Chapter 4-7) presents the country study of the US. In a transforming public land use pattern, the dominant forms of conflicts in PAs have shifted from the ones between commodity use and conservation to the ones among motorized recreational use, non-motorized recreational use and preservation. By examining the roles of the US Congress, the National Park Service (NPS) and the courts in resolving and adjudicating conflicts, respectively, this research shows that the current institutional interaction among the three main institutions has not produced a productive and unified interpretation of the Organic Act. The US Congress adopts a 'balancing approach' in adjudicating the conflicts between conservation and enjoyment, which is especially reflected in the purpose statement in the NPS Organic Act. However, ambiguities exist, which leaves room for statutory interpretation. The focus of national park policy has swung back and forth between conservation and enjoyment. The institutional capacities of courts are restricted by their deferential attitudes toward agencies and their deficits in eradicating conflicts. This research concludes that a congressional solution may be the best alternative to reconstruct the institutional framework of statutory interpretation in managing national parks, because Congress has both the capacity and inclination to resolve the 'value and interest-based political question'. A clearer clarification of the mission statement stipulated in the NPS Organic Act by Congress would be both theoretically and practically beneficial to the US.

Part III (Chapter 8-11) presents the country study of China. Though conservation has gained greater acknowledgement in lawmaking and policymaking, it is confined by the stage of development and the conflicts between economic development and nature conservation in China are daunting. In addition to the encroachment by economic development activities, the commercialization and industrialization of tourism has become a major threat to conservation. In contrast to the situation in the US, development conflicts are evident between local communities and the need for nature conservation. In terms of the way that these conflicts are addressed in law, this research presents that institutional interaction does not yield a stabilized conflict resolution mechanism but a crisis-based approach that features strong reactive regulations. In contrast to the 'balancing approach' in the US, by explicitly embracing the 'priority of protection' as the fundamental principle of environmental protection law, Chinese legislatures favor a 'thumb on

the scale' approach. However, the greatest challenge lies in how to translate the law in books into law in action. Non-compliance and enforcement deficits in environmental law are paramount in China. The role of the judiciary in adjudicating conservation-related disputes remains extremely limited or even dormant, which is seen from the rare number of PA-related cases that are judged by courts.

The comparative observations of the legal regimes in the US and China demonstrate both convergences and divergences between them. Both countries are facing similar problems in realizing effective management and resolution of conflicts in PA designation and management, especially between conservation and recreation. Some commonly accepted principles and underpinning values that govern the resolution of conflicts have been endorsed by both countries. However, the ways that conflicts are managed and resolved through institutional interactions differ significantly. This divergence demonstrates that the quality of a legal institution is engraved in the legal system in which it is embedded. Effective management and resolution of conflicts necessitates a productive interaction among different institutions, mainly legislatures, agencies and courts, which are sufficiently equipped with their respective capacities. The institutional theory of legal interpretation proposed by Vermeule may be context-specific and thus has its limitations when applied in a country that lacks institutional building, which is the prerequisite for a desirable interaction.

Following the investigation and comparison of the formation of conflicts and the way they are managed and resolved through institutional interactions in the US and China, several legal and policy recommendations are made for China. First, the role of law in general and in conservation issues in particular needs to be elevated; and an inter-connected legislative system for PAs needs to be formulated. Second, efficient, professional and accountable agencies need to be built. Third, the courts' role in adjudicating resource-related conflicts needs to be activated. Last, civil society needs to be cultivated and public awareness of nature conservation needs to be increased.