The protest of local public decision-making and land-use conflicts in French rural and peri-urban areas

Philippe Jeanneaux¹, Philippe Perrier-Cornet²

This article introduces an economic framework concerning the protest of local public decisions. This protest reveals a great deal about the difficulty of the local public decision-makers to organize land-use planning without conflicts. This protest proves to be the favorite way for the residents of rural areas and commuter towns to signal and to conserve their property rights concerning their living environment.

Este artículo introduce un análisis económico relativo a las reacciones de protesta de los ciudadanos ante las decisiones públicas locales. Estas protestas revelan la gran dificultad que tienen los decisores locales a la hora de organizar los usos del suelo sin conflictos. Estas reacciones, son la forma habitual que tienen los residentes en las áreas rurales y en las ciudades dormitorio para reclamar sus derechos de propiedad y su modo de vida.

Keywords: Land-use conflicts; externality; property right; public economics; command and control regulation.
JEL: H 23, H41, K11, Q56, R52

1. Introduction
Since the 1970s in France, the development of the residential sprawl, the decline of farming, and the increase in importance of protecting nature, have noticeably modified competition for the uses of environmental resources and their supervision that lead to environmental conflict. In addition, it is rare to find situations of local development that escape public authorities within the French institutional and political system. By banning or allowing some uses, elected officials and/or their administrative body make choices that can not unanimously satisfy their citizens. In fact,

¹ VetAgro Sup Clermont - UMR Métafort
² INRA - UMR MOISA
whether it be territorial collectivities or local services of the state, public policy in urban, environmental, or farming matters is based heavily on regulatory instruments that limit actions of economic agents. Local public intervention thus inevitably creates losing parties. In many cases, through lack of compensation for damage, the citizens respond by contesting the choices of public decision-makers that they have designated as responsible for the loss of the welfare.

In this article, we propose an analytical framework for local protest of public decisions on the basis of bibliographical and empirical works that consisted in pinpointing the conflicts derived from judgments of an administrative court whose function is to judge disputes with an administrative body (the state, territorial collectivities, public bureaucracy, etc.). This work enables a theoretical discussion of public action in matters of allocation of localized common resources.

Within this framework, the originality of our approach is to consider that land-use conflicts (that we limit in this article to only cases of local contestation of a public decision), correspond to a more general problem of the distribution of welfare between individuals. The interest of this proposition, from the point of view of the law, is found in the economic analysis of the implementation of property rights (Alchian 1987; Demsetz 1967) that were based on the administrative regulations of land use. In this paper, the questions that land-use conflicts lead to can not only be formulated in terms of inter-individual and private arrangements, whose virtue is to end up in the allocation of rights that maximize the use of each person and unanimously preferred.

The analysis of local contestation of public decisions seems judicious to explain the way that the allocation of collective environmental resources is carried out and how local public choices are adjusted to the residents’ preferences. Land-use conflicts enable us to elucidate the description of the demand of non-market environmental goods that are constituents of the living environment in rural and peri-urban areas (Cornes and Sandler 1996).

Section 2 situates our approach in the economic analysis of public action. Section 3 highlights the methodological and empirical framework. Section 4 presents the results of the contestation of public decisions observed in administrative courts. Section 5 discusses these results. Section 6 concludes by showing the relevance of our analytical framework to understand the part of environmental conflicts in local public choices.
2. Public action and provision of property rights

2.1. Substantial rights for analyzing procedural rights

The aim of this article falls within the general framework for the implementation of judicial mechanisms that organizes the economic activities in peri-urban and rural areas. We suppose that development is unbalanced and it implies that there are breakdowns in the territorial dynamic. These breakdowns do not take place in an institutional void, but in judicial contexts by which substantial and procedural rights are established. The former says in essence “who has the right to do what” and “who is subjected to legal externalities”, while the latter says “how the public choice can be contested”. The activation of these rights is a source of information on the imbalances of regional development. Our approach is not normative insofar as we do not consider that the judge is required to settle disputes as if he was concerned with the definition of efficient allocation of rights. The aim is not to discuss the efficiency of the judge’s behavior or the content of the judgments in terms of interpretation of the law. In the discussion that follows, we consider that an analysis of requests in administrative courts (French institution where public decisions are contested) enable a materialization of the different levels of contestation and their supposed effects on the decision to favor or not the use of a common environmental resource. This analysis shows the role that the contestation of local public decisions plays in the allocation of common environmental resources.

The work carried out in the Law and Economics movement is indispensable for those who are interested in the economic impact of law. We have discerned that judicial rules that deal with the setting up of businesses (creation of facilities or infrastructures) have economic consequences. It is thus necessary to define criteria to evaluate these impacts. In general, resorting to the microeconomic analysis of law encounters serious difficulties that stem in particular from the vision of law that the method of Law and Economics proposes.

As far as the view of law is concerned, the economic analyses are concerned less with an approach to the implementation of rules than a definition of functions that the rules are supposed to serve. These functions are the subject of the evaluation of the economic efficiency of the law. The law is considered analyzable as a support for the maximization of welfare: the theory of the founding father of the Law and Economics movement, Richard Posner (1986), is in this respect in a world without transaction costs. The conflicts between neighbors, contracting parties, or even makers of defective products and consumers can be resolved by the market. The
market would function in a framework defined by Ronald Coase, according to procedures of private arrangements having the virtue of resulting in allocations of rights maximizing the interest of each party (Coase 1960). The definition of a hypothetical situation with zero transaction costs is used to adjust the real activity of courts called on to resolve conflicts. Thus, Posner’s theory (1986) presumes that the courts of Common Law of the United States are institutions that produce efficient allocations of laws insofar as the judges devote themselves to mimic the solutions that the market could have generated if it had been able to function. In this analytical framework, which is moreover relatively silent on public law, the questions that land-use conflicts pose are formulated by two terms: (1) inter-individual and private, and (2) critical of administrative regulations of property rights.

(1) In the first case, the conflicts between individuals who have different preferences for using the land are considered to be equal, legitimately using their property rights, and having equally admissible claims. Therefore, the functions of utility or profit in conflict are those of agents on equal footing. The externalities being reciprocal and symmetric, the solution must follow axioms of the microeconomic theory. This means that it is Pareto-superior or in accordance with the Kaldor-Hicks criterion via the potential compensation of the loser. In the “Coase” context, it shows for example that the conflict between a local resident and a polluting company can be settled by monetary compensation of the damage in two ways: bilateral negotiations or by a court imitating the market.

(2) In the second case - administrative regulation of land-use (by rules and urban planning documents for example) - the subject of work by standard law economists is to compare the efficiency of alternative institutional solutions: either the regulation of uses, or the rulings by courts. The question of ex ante or ex post regulation has led to a large number of analyses (Kaplow and Shavell 1996; Polinski 1983). This tends to support the notion that ex ante regulation has a higher cost than ex post regulation. Moreover, to be efficient, it would require that the administrative body have access to information on the costs and the benefits of land-use. The agents are better able to assess this information than the administrative body, and this leads to more efficient uses.

In addition to these two cases, we add that rural development leads to a strain on productive activities and other uses (e.g. non-productive, residential) of the countryside. These conflicts fall within the scope of
a constitutional state (France) that defines substantial rights and gives means for prosecution to contest the local public choices. These conflicts and territorial evolutions can be revealed by taking into consideration what happens in administrative courts. Because territorial resources are collective, it becomes essential to know who deals with “how desired uses of property can be carried out, and who has the authority to decide between competing uses” (Platt 1996, p. 29). Land-use conflicts are a situation where agents either demand the implementation of certain rights, or express the request for recognition of presumptive rights. Duke (2004) suggests analyzing land-use conflicts by distinguishing three levels of rights:

- presumptive rights by parties in conflict who, although lacking certain rights, have contradictory interests (for example, in terms of development, defenders of nature who oppose an urbanization plan in a wetlands area);
- appellate rights, for which allocation is submitted to the judge;
- fully formalized rights, meaning the content and allocation are certain.

The position defended by Duke is that land-use conflicts are limited by fully formalized rights: the existence of conflicts is thus intimately related to the uncertainty of the rights at stake. It ends as soon as the rights are formalized and certain. The analytical grid suggested by Duke is attractive in the way it clearly establishes the intimate relationship that exists between the conflicts, interests and losses that the agents express, and the allocation of property rights. However, it is difficult to include in this grid the conflicts that involve procedural rights, meaning prosecution rights that aim not at the substantial rights of the opposing party, but the regularity and legality of the procedure by which the projects for modifying the land-uses are carried out. However, including conflicts in this grid that involve procedural rights can be difficult. These procedural rights do not concern the substantial rights of the opposing party, but the regularity and legality of the procedure by which the projects for the reshaping of land-uses are carried out.

It is important to make a distinction between substantial rights and procedural rights (Serverin and Kirat 2000). The former substantially defines the content of law allocated to its holder, while the latter attributes the qualification to be heard by a court, even if lacking substantial rights. The demand of a subjective right is not conditioned by the existence of prejudice: the owner of an unused plot of land can claim the eviction of occupants even if their occupation of the plot does not cause any material prejudice. The right to have access to justice to challenge public decisions
(procedural rights) falls within the scope of court submission and can be used by actors who do not hold ownership rights. This is the case, for example, of environmental protection associations whose interest to act is judged regarding the definite object of their statutes, and not based on their rights to protecting the natural world.

To understand the allocation of property rights of common environmental resources, it seems relevant to pay particular attention to the analysis of procedural right that is expressed in administrative disputes where property rights instruments are contested in decisions of local public authorities.

2.2. Property rights at the core of local public choice disputes

To understand the effect of public choices that will impact the welfare of households, we formalize the behavior of the individual who is confronted with a loss of utility that is a result of the altering of the quality of collective resources that make up his environment. The function of utility of an agent is $U(X, Q)$ with $X$ corresponding to a vector of market goods (private goods) and $Q$ a vector of non-market goods (environmental goods). In a situation where there is a risk of damaging the quality of life that users want to preserve, the environmental problem is the following:

$$\max U(X, Q) \text{ under the constraint } PX = Yo$$

With $P$ the price vector and $Yo$ the income of the household (see figure 1). The household income curve $Yo$ is horizontal because the goods $Q$ do not have a price. Optimization under constraint enables to define the function of standard demand. It is written:

$$X_i = X_i(P, Q, Yo) \quad i = 1, ..., n$$

The index $i$ represents the demand for the $i$th market good. From this equation, a function of indirect utility can be presented. It puts forward that the utility of an individual will be affected by a variation of the supply of local collective non-market goods. This variation is caused by local projects and can be measured by $V(P, Q, Yo) = U[X(P, Q, Yo), Q]$

From this expression, we suppose that at least one attribute of the vector $Q$ can deteriorate if a land-use—assumed to cause damage— is carried out. The initial situation in local environmental collective goods is designated $Q_0$. The final situation after deterioration is designated $Q_d$ i.e. $Q_0 > Q_d$.

As a consequence, for an income level fixed at $Yo$ before the deterioration...
of the quality of the environmental goods, the utility of the individual is:

\[ U_0 = V(P, Q_0, Y_0). \]

The individuals initially placed in \( A_0 \) on the curve \( U_0 \) for a living environment \( Q_0 \), if they are the victim of material damage to their quality of life will not be able to remain in \( A_0 \) and will move to \( B_d \) on the curve \( U_d \) (see figure 1).

**Figure 1. Indifference curves for environmental and private goods**

This is the situation that occurs when, by modifying the material infrastructure of the living environment – in other words, household consumption of environmental goods – the local public decision-maker modifies the distribution of welfare between the residents.

This modification of the quantity of usable environmental goods by households results in a change in resource property rights that is brought about by the public decision-maker when he regulates the use of “free” common resources. With common environmental resources, it is difficult to apply a strict ownership right which gives the possibility for an injunction, or liability rules giving the right to monetary compensation of the prejudice that is evaluated by a judge (Calabresi and Melamed 1972). These rules for the protection of rights are applied with difficulty due to the existence of prohibitive transaction costs necessary for their implementation, and/or the refusal of agents to receive compensation in return for renouncing
the use of a resource. Indeed, it is generally costly to apply the “3 D rule” (Yandle 1999) to common environmental resources. The property rights for allowing market exchange must be perfectly Defined; they must be Defendable and Divestible. With collective goods, the conditions of the exchange cannot be respected. The rights at stake in common resources correspond more to liability rights and cannot be exchanged for compensation. The liability rule is generally applied in a situation where prohibitive ex ante transaction costs are inherent to the impossibility, for those in charge of damages, of contracting ex ante with the future victims. It is a matter of high uncertainty with many agents, a low and totally random frequency of prejudice. This rule for the protection of rights is adapted from the management of accidental risks that are probabilistic (for insurers), and for which the perpetrators and victims are identifiable and the damages are easily evaluated monetarily. The tort took place and the negotiation is carried out ex post with the application of the principle of compensation. In this situation, it is the victim’s responsibility to come forward to obtain compensation. The agents do not exchange rights, but renounce the use of a resource in return for compensation. In this case, the agent moves from A₀ en B₀. If he agrees to receive monetary compensation, he can regain his utility curve by reaching the point B₀ (see figure 1). The liability rule, promoted more and more as a corrective economic instrument for negative technological externalities, has the dual advantage of encouraging agents to prevent damages ex ante and repairing them ex post (Kaplow and Shavell 1996). It also allows the selection of activities that could bear their social cost. But this situation is not valid in chronic risk situations (sound, olfactory, visual), uncertainty about the frequency of events, or with diffuse pollutions, as is often the case in a situation of environmental deterioration. Indeed, implementing a protection of property rights, using the principle of liability rules which provides for ex post compensation of victims, is impossible for three main reasons:

(1) First of all, contrary to the Coasian thesis, nothing guarantees the victims will agree to bear disamenity in return for compensation; (2) secondly, if the victims agree to receive compensation, because of the difficulty assessing the environmental damages and the absence of insurance coverage for many environmental damages, victims have trouble obtaining compensation (Quirion 1999); (3) finally, the one responsible for the tort can be insolvent (Boyd and Ingberman 1996). In addition to these reasons for which potential or real victims foresee that the possibility of being compensated is very small, even non-existent, we can
add the possibility that the willingness to accept (WTA) a compensation is very high, as if it was a question of a refusal to sell the property right of environmental good, i.e. the refusal to move from $A_0$ to $B_0$ (see figure 1.) (Ahlheim and Buchholz 1999).

Therefore, whether they have an infinite WTA or they anticipate the absence of the recognition of a right and thus the possibility of renouncing it, we suppose that the victims seek most often to avoid the loss of welfare and to control the rules for the use of common resources for which the attribution is generally contained in administrative regulations. To this end, we hypothesize that public choices will be contested before French administrative courts. Indeed, the national or the local bureaucracy acts by considering the general interest. They protect the public interests in applying administrative regulation in urban, agricultural, and environmental matters against private interests. The prefectural administration is also the guarantee of the legality of the acts of territorial collectivities and public institutions. Submissions to the administrative courts are the favored ways to contest local administrative decisions found in municipal and prefectural decrees.

3. An original methodological framework: the analysis of court activity as empirical material

If we admit that land-use conflicts are an institutional matter, the issue of empirical observation of the conflict situations in different territories is to understand the behavior for the actors of conflicts and the results of court appeals. In that way, the decisions of administrative justice contain qualitative data that express the characteristics of land-use conflicts in specific territories.

The dispute enables the principals to submit and contest before administrative courts the constitutive judicial instruments of the informational infrastructure that are the levers of local public action.

We analyzed the judgments of an administrative court, which is an original and seldom used source, in order to put together empirical material to detect local disputes of public decisions. Land-use conflicts in the Puy-de-Dôme (French department) taken from the administrative court of Clermont-Ferrand (metropolis of this area) were first put into six categories of administrative jurisdiction: agriculture, environment, expropriation, roads, police, and urban planning. This first filter enabled to constitute 1,000 judgments. In addition to its location in the department, the situation presented in the judgments of the administrative court had
to fulfill three criteria to be retained in our database as a conflict:

- A real or potential material problem concerning the use of environmental goods (pollution, exclusion of a site, forbidden access, a dispute of the use of a resource...) had to be cited explicitly;
- Opposing parties;
- Identified uses for each party.

The exhaustive inventory of the judgments of the administrative court of Clermont-Ferrand led to the analysis of the verbatim record of 554 judgments corresponding to 416 local disputes of public decisions for a period of five years (January 1998 to December 2002).

The informational content in this type of legal decision is of course judicial, but it also contains non-judicial elements such as: where the conflict took place; the status of the plaintiff and the defendant (the opposing party: agent, company, prefect, mayor, association...); the object of the conflict (land-use, building permit); the recognized or possible impact of the change; the uses concerned, the wronged parties; the legislative or regulatory texts that turn out to be central to the request before the court. Using this source leads to an approach to a diversity of land-use conflicts. It also very precisely shows the disputes between citizens and local collectivities or the prefectural authority, as well as the procedures of administrative law used by each party.

However, there are differences that may appear between judgments of the courts concerning the interpretation of the law or the appreciation of the situation. So, despite its high probability, an extension of the findings highlighted the judgments of a court to the general situation, we must leave open a range of uncertainty.

4. The results of the economic analysis of administrative disputes
The Puy-de-Dôme department, like many European territories, has been affected by the development of the residential economy. The heavy tendency toward urbanization that has been carried out for forty years in this department has put pressure on different industrial, farming, residential, recreational, tourist activities and natural resources (Cavailhès and al. 1994).

4.1. A large diversity of land-use conflicts and many living environment conflicts
The 554 judgments are a record of a large variety of disputes concerning urbanism and housing construction, land consolidation, transportation
infrastructure, farming installations, waste treatment, quarries, tourist activities, natural areas, and industrial risks. In four out of ten cases, productive uses are involved (farming, extraction of natural resources, waste storage, energy production, industry), followed closely by conservation and residential uses (28% and 25% of contested uses respectively). Residential use is defended the most by receiving the highest number of claims (50%). Residents protest against:

- the rules which are protected essentially by the prefect for conservation of natural areas or for the prevention of natural or technological risks that hamper housing construction projects;
- farming or industrial activities that are the cause of olfactory pollution;
- other residential uses, notably housing construction plans approved by the mayor and that deteriorate the living environment of residents by the mere proximity of a future neighbor or by the loss of amenities (sunlight, landscape).

Next, a third of the conflicts correspond to maintaining an advantage linked to a productive activity. Farmers are the leaders in trying to preserve the characteristics of their production systems (86 cases), mainly to avoid property changes that are a result of land consolidation and expropriations due to road and highway development.

In addition, more than fifty disputes can be explained by the expressed need by the plaintiffs to conserve a natural or constructed heritage, or even a landscape. It seemed interesting to complement the defended advantages by showing the damage the applicants undergo:

- The main category of damage corresponds to the deterioration or occupation of private goods (property, buildings) and makes up half of the conflicts.
- The other damage suffered concerns the use of common resources. The appreciation of the private nature of goods is the main point of disagreement between the plaintiff and the defendant. For the former, the goods are governed by ownership rights. For the latter, the goods appear to be a possible support of easement.

On behalf of local general interest, the public decision-maker sometimes declares public utility for some projects that will lead to an expropriation of the property owner. In other situations, a town will be prompted to delist certain property plots in order to protect certain uses in the interests of conserving the areas or of preventing natural risks. This choice will result in stripping the property owner of the right to build on his land.
4.2. The specificity of the administrative court: to contest the procedural framework in order to control property rights

The administrative court is a place of expression and regulation of conflicts through which local public authorities decisions are contested (against the prefect: 170 cases and against the town mayors: 228 cases) by individual plaintiffs that are either agents or companies (72% of plaintiffs). A little less than one-fourth of petitions are made by local collective or generalist organizations for the protection of nature and the environment. Finally, in 10% of the conflicts, it is the public authority’s petition: either the prefect contests the granting of a building permit by a mayor; or a mayor asking the judge about the possibility of expropriating an occupant of the town’s public domain.

The petitions most often concern an abuse of power (394 cases out of 416). In these cases, the plaintiffs contest a decision (municipal or prefectural decree…) made by public authorities. It concerns an appeal for an abuse of power that can be defined as a lawsuit against an act. It is not a conflict that leads to a direct defense of property rights (but that leads to knowledge of what is legal). However, it is an important lever of collective action for opponents to indirectly prevent a use and assert a property right. For example, to conserve the use of a view of a landscape, some owners of individual houses contest a building permit granted by the mayor to their future neighbor.

4.3. Petitions addressed by victims to the administrative judge: preventing the emergence of damages

Our analysis of administrative disputes has shown that compensation is not monetary, but is expressed in terms of a right for an injunction by citizens towards the state or territorial collectivities. Thus, the project can be abandoned, relocated, or adjusted, as if residents did not consent to receiving monetary compensation in return for a persistent prejudice. Out of the 416 documented conflicts, 386 concern a request to abandon an activity that is formulated by agents or companies. The success of these requests is relatively low, considering that only one-third of requests against project proposals, and one-fourth of requests for ceasing existing activities end up with a successful outcome.

Indeed, in an inventory of the means that, in absolute terms, are susceptible of correcting negative externalities of development projects, four modalities appear:

- monetary compensation of externalities;
- abandoning projects ex ante;
- injunctions to stop the torts;
- environmental compensation measures.

4.3.1. Monetary compensation of externalities
We have noticed through the analysis of administrative disputes that monetary compensation is not used very much by victims even though it constitutes the fundamental principle of economic analysis. There are few of these petitions by isolated individuals or associations (12 out of 416), and only four (1%) obtained monetary compensation. It is the case, for example, when a departmental fishing federation asks the court to sentence a town to repair a prejudice on wildlife by the pollution of a stream. This behavior is undoubtedly explained by the specificity of administrative jurisdiction that is based on enabling petitioners to ask that a decision, made by an administrative body, prefect, or mayor, be voided.

4.3.2. The actions directed towards abandoning projects ex ante
This concerns a fairly important type of petition, carried out by individuals, committees for the defense of local interests, mayors, or environmental protection associations. This type of action concerns 126 land-use conflicts that appeared before the administrative court of Clermont-Ferrand, but only one-third of this type of petition had a successful outcome for the petitioners. The petitions are made up of different types of disputes:
- actions by agents aimed at public utility easements linked to electrical lines;
- actions by environmental protection associations concerning the public notice for highway construction;
- actions by protection committees for local interests against the setting up of a dangerous plant which needs to be controlled by an administrative body;
- actions by towns against the creation of a site for the storage of waste.

4.3.3. Injunctions against harmful activities
Injunctions against harmful activities represent by far the petition most frequently used (260 cases). In the Puy-de-Dôme department, we noted that injunctions formulated by the public authority that were aimed directly at the source of disputes were brought by the prefect, who sent companies measures for the clean-up or renovation of a site (a quarry
for example). The agents do not have direct access to the request for an injunction, but they have indirect legal means, based on the legality of decisions or administrative acts of which the activity in dispute is based on (expropriation, authorization to operate, etc.).

**4.3.4. The measures of environmental compensation**

If environmental protection associations are an important element of community directives relative to the environment, they do not use this means in their actions before administrative jurisdictions. This is not surprising because these associations are specialized in disputes concerning the legality of hunting regulations and rarely intervene in areas of landscape planning, development, public infrastructure, and factory controlled by an administrative body.

**5. Discussion**

Contrary to the public choice theory which considers that decisions are made by political decision-makers or by powerful social groups uniquely preoccupied by maximizing their own interests, our approach is situated in a second analytical movement that considers that decision-makers can make inefficient political choices. This is not because of malicious intent, but because of divergence between the decision-makers and citizens on what is good for society because of the difficulty agents have in seeing the full picture (*Modified Political Coase Theorem* or *Theory of Belief Differences*) (Acemoglu 2002). In a representative democracy, the political market is imperfect because those who were elected make decisions for voters without perfectly knowing their preferences. We refer to the approach that suggests that the political market is a market of imperfect competition in which public policy is exchanged between voting consumers and benevolent non-omniscient political entrepreneurs. The under-informed representative will opt for unsatisfactory choices for the whole of the community. Here, the lobby has a function of political contribution. It exercises informational pressure, facilitated by the needs for information to make decisions (Lohmann 1995; Rasmusen 1993). This informational action of organized groups must enable leaders to improve the implementation of public policies in a way that is favorable to citizens. Property rights implemented by administrative regulation only locally apply the legislated law. We situate the dispute in relation to the inadequacy of the electoral cycle to reveal specific household preferences.

Indeed, the preferred way to carry out necessary arbitration to
determine collective choices that are in accordance with the collective interest consists, in a democratic regime, in leaving the decision-making power to an elected individual or group of individuals. The local public decision-makers continually change the characteristics of environmental collective goods that make up the living environment of citizens when they implement administrative regulation factory controlled by an administrative body; zoning; building permits; expropriation procedures in public utility declarations for development projects, etc.). The local decision-making system must therefore satisfy new collective functions (residential, productive and environmental) that are often contradictory, and for which the appreciation of individual and/or collective preferences is difficult (Point, 1994). As a consequence, the local public decision-maker modifies the combination of the consumption of market and non-market goods without compensation. This leads to a loss of utility for many citizens. It is why we suppose that the citizens try to react by informing the representatives, between two elections, of the degree to which their policy is accepted (Besley and Coate 2001). The voice strategy (Hirschman 1970) is part of the electoral cycle that enables opponents to indicate their neglected preferences and to take control of tools that aim to reorient local public choices in order to conserve their level of welfare.

The actions of agents or defense committees that contest modifications to land-use (town planning, infrastructures, industrial or farming activities) before administrative courts can be understood as the expression of interests that aspire to be symmetrical and equal to those of project sponsors linked to developmental principles.

The analysis of administrative operations using the bureaucracy of the state also highlights the issue of public and private interests. In economic literature devoted to the internalization of externalities, inter-individual bargaining ends up at an equilibrium and the attribution of property rights (the right to pollute or to not be polluted) to the one who will make the best use in the sense that he is supposed to maximize the net social product (Coase 1960). This approach to inter-individual internalization becomes null and void when private interests are at odds with the public interest. Indeed, in conflict situations bringing the public authorities into play as the guardian of the definition of the collective interest, the symmetry of Coase positions is no longer acceptable.

These situations fall within the scope of the welfare theory: the maximization by the state of a function of welfare leads to a legitimacy of losses of utility if their effect contributes to social utility. To make a decision,
it is acknowledged that the public decision-maker bases his choice on the principle of compensation that stipulates that a public project “must be carried out if the winners compensate the losers in a way such that no one loses and some win” (Kolm 1995, p. 86). The effective payment of compensation thus becomes the crucial point. According to Kolm (1995), the French administration (and its corps of economic engineers), currently strives to apply the principle of compensibility and not that of compensation. The principle of compensibility, founded on the Kaldor-Hicks criterion, stipulates that a public choice “must be carried out if the winners can compensate the losers” (Kolm 1995, p. 86). The public project is considered socially desirable, if it is hypothetically possible to redistribute the income from the project to the losers in order to have only winners. For the advocates of this position, the central idea of this exercise should consist in convincing a loser in the project that he must accept the absence of compensation because other individuals win more than he is losing. For others, carrying out a public project such as highway infrastructure will generate a financial surplus, through tolls, that will be allocated to financing public transportation, for example, and will lead to a redistribution of compensation to the users of public transportation. The principle of compensibility, if it is applied by referring to individual interests, will run counter to transcendental values such as the general interest. Therefore, it seems that different conceptions of the general interest exist:

* on one hand, a conception founded on compensibility that, according to Kolm (1995), would constitute an error of economic ethics, but that seems to be the most active principle. This conception seems to indicate the origin of NIMBY\(^1\) situations through which the promoter of a project neglects the effective compensation of the losers according to his conception of general interest. But the local opponents denounce the unfair character of a public decision for which the benefits are shared by all, but some of the costs are borne by a minority of local residents (Mann and Jeanneaux 2009);

* on the other hand, a conception founded on effective compensation that considers that the general interest can not be anything other than the interest of all (Kolm 1995). In other words, the exercise of the principle of compensibility (based on the Kaldor-Hicks criterion) to the detriment of the principle of compensation (based on the Pareto criterion) confirms the modification of the distribution of welfare, and maintains the losers in their position. It is not surprising to note that the opponents of local

\(^1\) Not In My Back Yard (Richman and Boerner 2004).
public choices favor actions that aim to control their welfare rather than hypothetical solutions for compensation of sustained prejudices.

Generally in France, as in the Puy-de-Dôme, administrative activities, as regards economic calculation, remain marked by the principle of compensibility, even if in other respects substantial progress has been made by integrating environmental pollution in the socio-economic evaluation of public projects, notably those concerning transportation.

6. Conclusion

Our analysis shows that the arbitration carried out by local public decision-makers between property rights contained in administrative regulation to favor or not is at the origin of losers of public choices. Without monetary compensation and the possibility of avoiding damages at minimal cost, the losers contest local public choices. They demand that the activities at the origin of the prejudices be stopped, and try to modify the property rights allocation. This general proposal is based on an analytical framework that aims at discussing the role of public authorities in charge of the organization of the property rights for localized collective goods. In our empirical studies, we have singled out the judgments from the administrative court to pinpoint conflicts and what they mean in terms of contesting public decisions in rural and peri-urban areas.

Nevertheless, if judgments from the administrative court give lot of information concerning land-use conflicts from a French department in the center of France, the peculiarities of the case studies can limit the scope of the findings. Our analysis prohibits an abusive generalization of the findings event if our case studies are relevant for France.

We then analyzed concepts of local public action that seemed pertinent to highlight the mechanisms for revealing economic agents for the living environment. We explain with this analytical framework that election combined with the voice strategy corresponds to a substitute for the price system. The contesting mechanism fulfills the functions of information on the social consequences of a public decision concerning, in this case, the allocation of collective non-market goods and calls for local public decision-makers to make the necessary adjustments in their decisions, copying in some cases the way the market functions. The reference to voice indicates two things that can specify the limits of our work:

1. on the one hand, the “voice” appears during the whole process of public decision making. Bring the matter before the court may appear as a failure of voice;
2. on the other hand, it would be interesting to examine what happens after the trial. Specifically linked with the “voice”, are there behaviors exit brought by the plaintiffs denied?

To conclude, this work is useful to understand the dynamics of the reorganization of rural areas because it questions the mechanisms of the redistribution of activities in rural and peri-urban areas. The defense of the interests of parties affected by some of the dimensions of public decisions about territorial development is based on submissions and disputes of judicial instruments that are, as we have shown, the levers of local political action. If we associate media pressure, the bargaining process between the parties leads to non-financial solutions like abandoning or relocating the undesirable activity. As a consequence, we are led to wonder about the impacts of conflicts in terms of spatial segregation of uses. The voice strategy appears as a pertinent mechanism for describing the general interest as well as the request for collective environmental goods that are localized and that make up the living environment of populations.

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REFERENCES


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