

Legal Pluralism and socio-ecological resilience: the case of the Regole d'Ampezzo

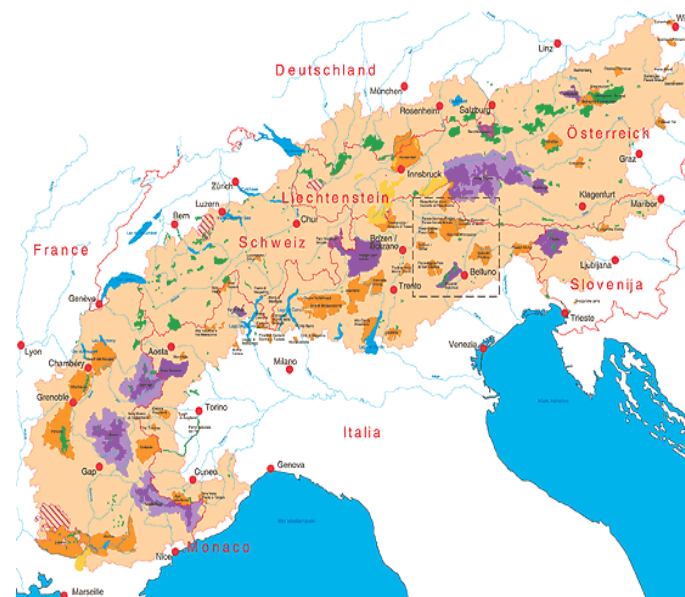
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Focus

Law for commons' resilience

- CPRs and new-institutional analysis
- Legal Pluralism
- Regole d'Ampezzo



Law, resilience and CPRs

Why are some socio-ecological systems resilient?

E. Ostrom and new-institutionalists:

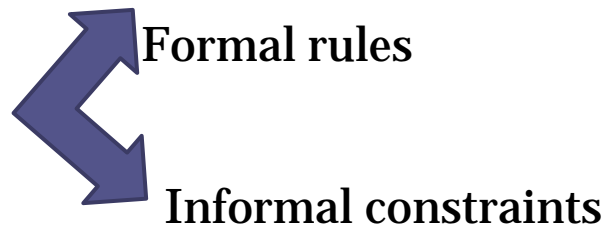
1. Institutions=rules of the game (North 1994)
2. Reflexivity
3. Multiple layers of nested enterprises

1. Institutions

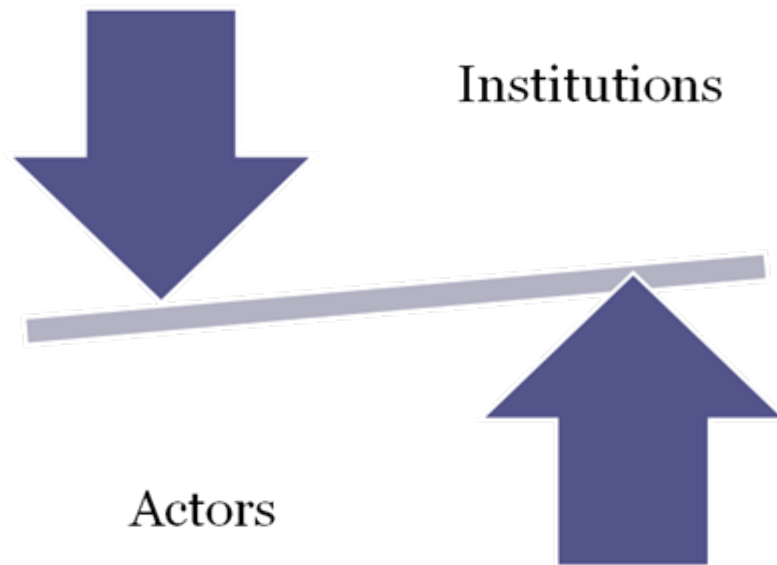
“Institutions are the rules of the game of a society or more formally are the humanly-devised constraints that structure human interaction. They are composed of formal rules (statute law, common law, regulations), informal constraints (conventions, norms of behavior, and self-imposed codes of conduct), and the enforcement characteristics of both” (North 1994)

- Centrality of Rules, esp. Property Rights
- Procedural law and organisational rules

- Rules



2. Reflexivity



- Actors and Institutions as mutually constitutive
- Key elements: Responsiveness, shared knowledge, trust, adaptability

3. Multiple layers of nested enterprises


“Appropriation, provision, monitoring, enforcement, conflict resolution, and governance activities [of long-enduring common property systems of common pool resource management] are organized in multiple layers of nested enterprises” (Ostrom 1990)

- **Embeddedness of institutions within wider framework**
- **Vs. essentialist representations of communities as bounded autonomous wholes**
- **Regulatory complexity**

Expanding the analysis with legal pluralism

- Legal Pluralism and the defence of the jus-generative capacity of non-state actors
- Different legal pluralist schools
- De Sousa Santos: 1. Porosity of legal domains +
2. Phenomenological preoccupation
- Legal Pluralism as “the conception of different legal spaces superimposed, interpenetrated and mixed in our minds as much as in our *actions*” (Santos 1995, emphasis added)
- **The different forms of Interlegality**

Law, Resilience, CPRs and Legal Pluralism

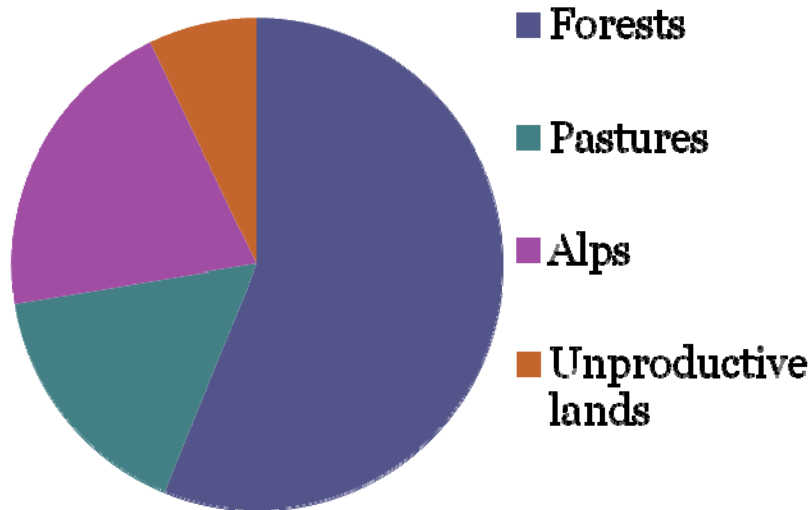
1. From Institutions to legal genealogies/rule matrixes /interpenetrations
 2. From Reflexivity to Multi-scale reflexivity and power relations
 3. From Nested Enterprises to rhizhomatic representations
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- Resilience=harmonic interlegality
 - Anti-resilience=Power hierarchies between spheres

Case Study: The Regole d'Ampezzo



Basics traits of the common property

Land-use



Laudi

Property Rights:

1. Rights of common
2. Hereditary, though praedial characteristics
3. Gender unbalance

Institutional Organisation :

1. Democratic voting procedures
2. Judicial Organs
3. Links with environment and institutions

Community
Laudo + 11
Laudi,
representing
each Regola

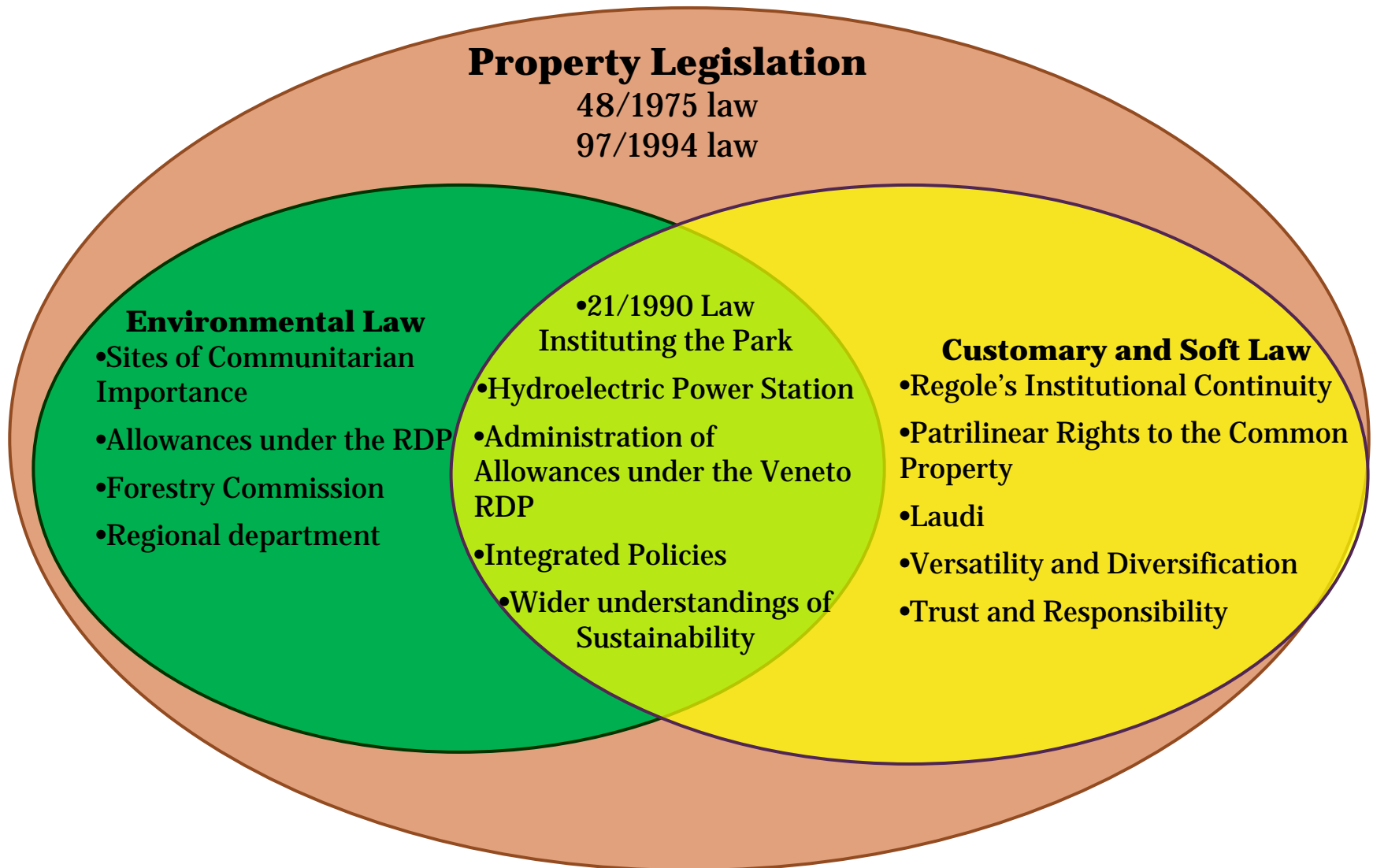
Socio-environmental Challenges

- A. Policy challenge: the 1766/ 1927 law and agricultural productivism**
- B. Market and Recreation challenge: lower price of wood and expansion of tourist industry**
- C. Environmental Challenge: nature conservation demands (Park and Natura 2000 sites) and climate change**

Practices of resilience

- A.** Legal resistance: legal disputes and “mountains laws”
- B.** Agri-tourisms/renting of pastures/
collaboration with Italian Alpine Club
- C.** Community- based natural resource
management and hydroelectric power stations

Harmonic Legal Pluralism as a sign of Resilience



Conclusions

- **Legal pluralism as an analytical framework for examining socio-ecological resilience**
- **System's resilience dependant on the form of interlegality**
- **The more harmonic and integrated the relation between legal spheres, the more resilient the system**