



Research paper

Comparison of the role of property rights in right wing and left wing American and European environmental policy deliberations



Bernard D. Goldstein*, Juliann M. Hudak

University of Pittsburgh, Graduate School of Public Health, University of Cologne, Department of Political Science and European Affairs, United States

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ABSTRACT

Developing effective approaches to increasingly complex global environmental challenges requires understanding and respect for underlying policy differences within and among nations. The defense of property rights against perceived intrusion by governmental authorities has been noted as an environmental policy issue related to specific laws and regulations in the United States, and as a basis for opposition to sustainability. We assessed the extent to which the defense of property rights and opposition to sustainability has become part of mainstream US policy deliberations by evaluating its inclusion within positions of candidates for the presidential nomination of the Republican and Democratic parties and by review of party platforms. We performed a similar review of the positions and platforms of right wing EU political parties and of positions taken on the Brexit issue. Increasing concern about property rights, including using it as a basis to oppose and overturn sustainability initiatives, was found among the US right wing. This concern was tied to rights granted in the US Constitution and concern about governmental intrusion. In contrast, interference for environmental reasons in the rights of landowners to manage their property does not appear to be a concern of the EU right wing, nor was this issue raised by supporters of Brexit. Although just one of many factors, differences in concern about property rights should be recognized as contributing to EU/US differences in environmental policy.

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1. Introduction

Andrews (2006) has described US environmental policy and environmental politics as having two basic foundations: distinctive principles of property rights and specific provisions of the US Constitution. While evolving, these continue to strongly influence current environmental policies and politics, and provide the basis for distinguishing the US from other countries. Concern about property rights as a motivating factor in opposition to federal and state environmental laws has been well documented (Andrews, 2012; Layzer, 2012) beginning with rules governing public land use and the impact of the Endangered Species Act on property use. A more recent focus is opposition to sustainability, expressed as concern about Agenda 21 of the 1992 Rio Earth Summit infringing on individual property rights.

We review the literature on the background reasons for EU/US differences in environmental policies. With the exception of a mention by Jasanoff (1990), we could not find any appraisal of the role of property rights in the rich literature evaluating the reasons

for EU/US differences on environmental issues. We also summarize the historical and constitutional basis for property rights being of particular importance to the US, and provide evidence of its use to oppose environmental policies, including sustainability, in federal, state and local issues.

To evaluate the relative extent to which there is concern that environmental policies may impact on property rights in the US and in the EU we have reviewed documents related to the positions of political parties and their leaders. The recent US presidential election process and the Brexit debate have provided timely opportunities to explore these issues in more depth than usual.

We find growing concern among the US right wing about the need to defend individual private property rights against rules aimed at protecting the environment, including UN Agenda 21 on sustainability. We find no such concerns in the EU or among the US left.

2. Methods

The terms right and left wing, generally equivalent to conservative and liberal, or Republican and Democrat, are used to conform to the equivalent terms in the EU. US and EU political parties and their party leaders were identified by search of relevant

* Corresponding author.

E-mail address: bdgold@pitt.edu (B.D. Goldstein).

websites. Republican and Democratic Party platforms, until 2012, were obtained from the University of California Santa Barbara American Presidency Project (Woolley and Peters, 2016), and those adopted in the 2016 party conventions by review of the respective websites. The list of fall, 2015 Republican and Democrat candidates for presidential nomination was obtained from Wikipedia (2016). We used a review by the Southern Poverty Law Center (SPLC) to identify US right-wing organizations that oppose Agenda 21, a foundation document on sustainability derived from the 1992 UN Conference on Environment and Development (Beirich et al., 2014). Six additional organizations that oppose Agenda 21 were found by search of the web.

To address whether right wing political organizations in the EU had similar concerns about property rights, we reviewed statements of the parties, and party leadership, from the two most right wing EU parliament party groups. Europe of Nations and Freedom, the furthest to the right, has parties from eight of the 28 EU countries and 38 of the 751 parliamentary seats. Closer toward the political center is Europe of Freedom and Direct Democracy, consisting of parties from seven EU countries with 45 parliamentary seats (European Parliament, 2016).

For all document reviews, a search was made for compendia of positions of political parties or their leaders, and the word “property” was used as a search term. Intellectual property rights and property issues related to national boundary disputes were excluded, as were issues related to property ownership, such as related to Brexit. For translation we used the translation features of the newest versions of the Google Chrome browser and Google search engine.

The role of property rights in the Brexit issue was explored by reviewing the first 200 listings on Google after inserting the term “Brexit property rights –intellectual”. We also analyzed statements supporting Brexit by Boris Johnson and Michael Gove, leaders of the Brexit movement within the Conservative Party; Nigel Farage, leader of the UK Independence Party; and George Galloway, a left wing British politician.

3. Results

3.1. Evidence of concern about property rights among right wing but not left wing US political groups

From 1980 to 2016 the issue of property rights was present in all of the Republican but none of the Democratic Party platforms. The language is often directly related to the environment, and previously was expressed positively, as in the 2000 Republican platform: “We link the security of private property to our environmental agenda for the best of reasons: Environmental stewardship has best advanced where property is privately held”. More recently, as in the 2012 party platform, the wording is more defensive: “. . . we pledge to . . . ensure just compensation whenever private property is needed to achieve a compelling public use. This includes the taking of property . . . by environmental regulations that destroy its value”. A similar formulation is present in the 2016 Republican Platform.

During the presidential nomination process, six of the fifteen Republican candidates were found to have expressed concern about the defense of property rights (Bush, Cruz, Fiorina, Huckabee, Paul and Rubio). Donald Trump, the eventual nominee, has been attacked by other Republicans for his failure to take such a position (Verbruggen, 2011). Although not a stated position during the nominating process, Republican candidate Governor Christie of New Jersey was criticized for responding to Superstorm Sandy by supporting the full restoration of damaged private properties as compared to the Democratic Governor of New York who considered retreating from some private properties for

environmental protection (Flint, 2013). Concern about Agenda 21 was stated by Carson and Cruz. None of the five original Democratic candidates were found to express concern about property rights or Agenda 21.

3.2. Evidence of linkage of property rights to concern about Agenda 21 among the US right

Ten of the eleven organizations identified by the Southern Poverty Law Center as taking positions against Agenda 21 stated concerns about property rights on their web sites. All six of the additional anti-Agenda 21 organizations we identified stated concerns about property rights. Review of the literature of these and similar organizations reveals statements such as: “There is a definite push to have people become more dependent by relocating them from suburbs into cities, out of private homes into condos, and out of private cars onto their bikes or electric cars” (Thorner and O’Neil, 2014).

Further evidence of the recent increase in concern about Agenda 21 is seen in the positions of Newt Gingrich, Republican Speaker of the US House of Representatives from 1994 to 1998, and currently a major advisor to President-elect Donald Trump. Gingrich (2010) advocates a Green Conservative Platform including opposition to regulations that violate citizens’ property rights. He first became aware of Agenda 21 and attacked it while campaigning for the 2012 Republican presidential nomination (Murphy, 2011). Similarly, the more defensive stance about property rights in the 2012 Republican Party platform is accompanied by its first mention of Agenda 21: “We strongly reject the U.N. Agenda 21 as erosive of American sovereignty”. The recent 2016 Republican Platform further underlines this language by changing the word “strongly” to “emphatically” (Republican Platform, 2016). Agenda 21 is not mentioned in Democratic Party platforms.

3.3. Lack of evidence of similar concerns within the EU right wing

Review of the writings and platforms of the two farthest right EU parliamentary groupings did not reveal any concern about individual property rights being at risk to environmental regulations.

The June 23, 2016 Brexit referendum provided an additional opportunity to test our hypothesis that protection of individual property rights against a central government was primarily a US issue. In an intensely fought referendum on whether to leave the EU, the Brexit camp publicized examples of what they asserted were meddling by the EU in the lives of British citizens. We did not find concern expressed about Brussels infringing on the ability of a UK citizen to do as they wished with their private property. In fact, the word property does not appear in an extensive review of the potential environmental implications of Brexit by the Institute for European Environmental Policy (Baldock et al., 2016); a multi-chapter background document on Brexit issues prepared by the Bath University Institute for Policy Research (Pearce, 2016), or in a discussion of Brexit and human rights from the British far left (McRobie, 2016).

4. Discussion

4.1. Property rights and the definition of the waters of the United States

The growing importance of property rights in US environmental issues is exemplified by President Obama’s January 2016 veto of a bill passed in Congress that would have overturned EPA’s 2015 expansion of the waters under federal oversight to include partial wetlands (Department of Defense and EPA, 2015). President Obama’s veto, only his ninth, stated: “We must protect the waters

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