Contesting Legal Procedures of Risk Management in Belgium: A Case Study*

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Introduction

There are well established legal procedures for dealing with siting problems in Belgium and, until recently, the role reserved for the population in this process was not greatly questioned. The emergence of the ecological movement in the eighties, together with the progressive federalization of the Belgian state,[1] may be considered one of the first signs of dissatisfaction with the status quo in environmental legislation. Recent major scandals in the Belgian justice system have awakened a renewed sense of citizenship in the population. As a consequence, more attention is paid to the ways in which environmental problems are addressed. By seeking procedures which more quickly resolve siting conflicts and encourage satisfactory stakeholder participation, the population has manifested its interest in change, indirectly declaring the downfall of the established system.

This paper presents a case study of a quarry, located in a small town near Liege in Belgium, where siting problems have traditionally been resolved between the enterprise and the mayor. The movement toward local public participation in the decision-making process has influenced

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1 The federalization of Belgium, which passed the responsibility for the environment to its constitutive regions, is a crucial moment in the transition of Belgian environmental legislation. The so-called regionalization began in 1980 and achieved its final form in the constitution of 1992. The realization of a regional conception of environmental legislation is still very slow and lacks convenient standards. Franz Hayt & Denise Galloy, **La Belgique, des tribus gauloises à l'Etat fédéral**, 105 (1994).

the existing power system. This case exemplifies a general shift in the perception of risk management in Belgium, and may be held as a symptomatic example of the evolution of the Belgian political situation. The main issues address how this kind of experience might be used to improve public policy in Belgium, and how new procedures might be institutionalized. The background in which these questions should be discussed should include the attempts at harmonizing legislation as the European Union pursues growing unification amongst its member countries.

The Belgian Status Quo

Public involvement in siting problems does not have a long tradition in Belgium. However, there is at least one legal disposition at the end of a public inquiry *commodo et incommodo*[2] which gives the population the opportunity to express its opinions at a public meeting.[3] The inquiry establishes the advantages and disadvantages of a new site or reviews an existing permission. The final decision is always made by the public administration, which bases its decision on Article 3 of the Règlement Gènèral pur la Protection du Travail (RGPT)[4] which provides the technical guidelines to be followed.

This one and only meeting is intended to clarify the situation and permit all stakeholders to exchange information. It should provide the opportunity for all parties to check doubts, and the minutes of the meeting should then give testament to the whole argument. However, the public does not have the same power in this decision process as the other stakeholders. Because they are not involved in the establishment of the project, the public can only manifest their apprehensions at a single moment in the decision process; when the decision has already been made. The feeling of fairness in this process does not exist between all stakeholders.[5]

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2 In Administrative Law, it is the traditional first step in an eminent domain expropriation procedure, to permit all interested people to present their observations. *See* http://www.perso.hol.fr/`psalvi/Termes_juridiques1.html.

3 The ensemble of rules which contains the general laws concerning the environment is called Règlement Général pour la Protection du Travail (RGPT). Article 6 of the RGPT regulates the public involvement.

4 Hayt & Galloy, *supra* note 1.

5 For discussion of the problem of fairness in conflict management, *See* Joanne Linnerooth-Bayer & Kevin B. Fitzgerald, *Conflicting Views on Fair Siting Processes:*

With respect to quarries, there is growing pressure from the public for earlier involvement and equal rights in the decision process. This new ambition is supported by some political representatives, as well as by the media. This interest has legitimized the popular demand, producing effects on higher levels of public life. In practice, the shift in attitude means that conflicts become much more complex since no new legal procedures are available to satisfy the public's request for involvement. Any participation, apart from the established meeting, must be negotiated from scratch and depend entirely on the goodwill of the powerful stakeholders.[6]

Political Structure

In order to comprehend environmental legislation in Belgium, it is necessary to understand how the Belgian state functions. Although it is very complicated in its details, a brief general description should suffice. The Belgian state is a federation of three politically organized regions: Flanders, Walloon, and the capital Brussels. These Regions establish their own legislation, including environmental legislation. However, certain subjects, such as the army and foreign policy, remain federal responsibilities. There are two other forms of political division: one which reflects the linguistic complexity of the country by determining four linguistic regions which are not politically empowered,[7] and the linguistic communities (Communautés) which are in charge of cultural subjects and public health.[8]

Duties and Rights

This case study concerns an environmental problem in the Walloon Region.[9] Although the bulk of the legislation concerning

Evidence from Austria and the U.S. 7 **Risk** 119 (1996); Benjamin Davy, *Fairness as Compassion: Towards a Less Unfair Facility Siting Policy*, 7 **Risk** 99 (1996).

6 There are, however, some good examples concerning quarries in Belgium which could serve as "prototypes" for establishing a new legal structure. For example, the nine year experience of Jean Roland, a former specialist in mediation for quarry problems, who worked for Inter-Environnement, a federation of ecological associations in Walloon.

7 There are Flemish, French and German native speakers in Belgium and Brussels is considered bilingual (Flemish and French).

8 Article 3 ter [17 July 1980 (I), art. unique] in Les Codes Belges, vol. III *Matières administratives et de droit public* 8 (1996).

9 It would also be interesting to evaluate the different legislations and perspectives on environmental legislation between the Flemish and the Walloon, but there is

environmental issues relates to the regional level of administration, there are some federal competencies which should also be mentioned. The federal state is responsible for the establishment of product standards, for taxation concerning the environment, and for conceding labels for ecologically produced goods (eco-label). However, the regional representatives must participate in the decision-making process.[10]

Some of the complexity in the field of environmental control is analogous to the nuclear industry. This broadly falls within federal competency following a special law of July 1993, which gave exclusive responsibility for protecting the population against radioactive emissions, including nuclear waste, to the federal government.[11] However, the relevant region has sole decision-making control when deciding whether construction of a nuclear installation will be approved. Furthermore, although the Walloon Region does not generally establish emission standards, it does so in the case of effluent radioactive water, because water treatment is the responsibility of the Region. A further complication concerns the "Communities", which are in charge of the prevention of radioactive leaks as a result of their responsibility for public health.[12]

More generally, it is the Walloon Region that is responsible for legislating water,[13] air pollution (in strict cooperation with the regional minister of the environment and his counterpart at the federal level), protection of the soil,[14] acoustic pollution[15] and most importantly, the classification of the degree of nuisance. The minister of the environment of each region is responsible for classifying the degree of nuisance associated with any and all industrial enterprises.

Quarries, mining, or controlled waste deposits are addressed by the Walloon Region in separate legislation. The RGPT establishes two classes concerning the potential danger of an industry: Class 1 for the most harmful and dangerous establishments and Class 2 for less

insufficient space in this article.

10 Alain Lebrun, **Mémento de l'environnement** 53 (1995-1996).

11 *Id.*

12 *Id.* at 220.

13 *Id.* at 52.

14 *Id.* at 142.

15 *Id.* at 163.

dangerous establishments. Permission for the operation of a Class 1 activity is authorized by the permanent members of the provincial parliament. The provincial parliament is a further subdivision of the Region, which is responsible for the place where the industry is located. To acquire permission to operate a Class 2 establishment, permission is authorized by the mayor and the local administration, which is the local council.

The local council has some responsibilities for the application of environmental laws and surveillance for environmental protection. However, the margin for any real influence based on by-laws, for example, is very small.[16] This type of situation is very complex in Belgium and the communication between all stakeholders is not facilitated by the current system.

The Official Procedure

Any citizen who is impacted by a nuisance in the neighborhood has the right to complain. There is a special procedure which should be followed. These steps are outlined below.

1. The citizen must first identify the basic law (such as the Highway Code, the RGPT or the code for air transport, etc.) which one considers to have been broken, since every law presupposes a specific way to define and to sanction an offense.

2. If the alleged offense relates to a permission for industrial activity and concerns the protection of nature or noise standards, the environment police are the appropriate authorities to contact.[17] For the Walloon Region this means the Division de la Police de l'Environnement (DPE). Another possible contact is an officer of the judicial police (OPJ), who is usually a superintendent or at least a chief-sergeant. Even if no one of such rank is available at the time of the complaint, the police may still be notified and the legal value of the complaint remains guaranteed.

3. In any event, a citizen can appeal directly to the law court. For urgent demands to stop a harmful activity, one can go to the regional minister of the environment who will communicate directly to the president of the law court. If a citizen complains about a nuisance, the

16 *Id.* at 122-123.

17 Law of July 18, 1973, referred to in Lebrun, *supra* note 10 at 147.

appropriate instrument is called a "judicial testimonial".[18] In the case of an administrative error concerning the procedure of an inquiry, an "administrative testimonial"[19] must be moved directly to the State Council.[20]

Becoming aware of growing dissatisfaction with the existing procedure, the Walloon government has now prepared a proposition wherein the public meeting will be eliminated. However, environmental impact studies, which form part of the official procedure, are intended to compensate for this since they give the opportunity for popular consultation at two points in the inquiry. First, before every public inquiry there is a period for consultation with the population concerning the proposed siting.[21] This procedure is an obligation for all demands by persons subject to public law.[22] Second, after the public inquiry, there is a meeting for all stakeholders (population, director of the project, director of the inquiry, representative of the public administration, etc.) and minutes are prepared in testimony.

The latter meeting is meant to provide an opportunity for all stakeholders to make their doubts and apprehensions public. It provides the only opportunity for vertical communication of some kind between stakeholders, and could, in theory, permit discussion of risks and the solution of problems. However, as mentioned above, no real power in the decision-making process is given to the population.

The new law in the Walloon Region seeks greater opportunities for popular consultation, which might mean that a consultation could even take place before the planning request is made of the authorities. This could insure that the public inquiry would take into consideration the concerns of the population and that the meeting following the inquiry would be less tense since all points of view had already been taken into

18 In French, *référé judiciaire.*

19 In French, *référé administratif.*

20 **Vos droits en matière d'environnement, d'urbanisme et de nature**, 33 (Région Wallonne, 2d ed.,1992).

21 Decree of the Walloon Region, Art. 12, Nov. 9, 1985.

22 Eventually the population has the time to effectively oppose a new siting by assembling independent expertise. But this assumes there is a pre-existing organization of the people which is not often the case because the time is very short between the consultation and the beginning of the public inquiry. Sometimes the announcement is purposely in places difficult to access. This strategy further reduces the relationship between the local council and the citizens, because it promotes the impression that the siting is deliberately kept secret.

account. The situation leading up to this change in the law is exemplified by the following case study.

Evolution of a Conflict

For many decades, the only industry in A-ville, a small town of about 6,800 inhabitants in the countryside near Liege[23], was the quarry. The tax income for the local council depends greatly on this enterprise.[24] Thus, the local council is very much interested in maintaining a good relationship with the quarry. Good relations with the enterprise means money for public work, leading to satisfied citizens, who would more than likely re-elect the governing party.

The population had never looked at the quarry as a potential problem until recently, because many locals inhabitants earned their money at the quarry and thought "you never should spit on the plate you eat from".[25] However, the economic crisis of the last ten years and the so-called rationalization of the industry put the traditional work market in A-ville at risk. The enterprise could no longer guarantee continuity of employment and many families feared that work might disappear for the next generation. Unemployment became a menace to a traditional lifestyle.[26]

The counter-effect of the change in the work stability situation was that people began to question the negative aspects of the industrial production of the quarry. Becoming aware that pollution is an additional factor which diminishes quality of life, already reduced by the problems of unemployment, the inhabitants began to develop a critical position towards the quarry. At the same time, more and more

23 Neither the real name of the town, nor of the enterprise which exploits the quarry can be given here as measure of protection for those who gave interviews during the research.

24 Locals claimed that the amount of tax income from the quarry runs at around nine million Belgian Francs ($240,000 U.S.) which represents a lot for such a small town.

25 Personal interview with a man from A-ville, explaining the attitude of his neighbors in relation to the pollution produced by the quarry.

26 The quarry has been established in A-ville since 1910. With the growing mechanization of the enterprise, the number of employees has progressively decreased. Currently there are only 250 persons employed. At the same time, pollution grew because the disposition for the environment did not keep pace with the increasing production.

people from Liege moved into the area, seeking a healthier lifestyle in the countryside. This further contributed to a growing ecological consciousness.

This socio-economic change in A-ville possibly explains why the residents were ready to complain immediately when a white corrosive dust suddenly precipitated in considerable quantity, destroying plants, houses and cars in 1997. The white dust emanated from chalk production in the quarry. In the area most affected by this pollution, one individual, Mr. L., decided to complain to the environment police in the town. They promised to investigate but Mr. L. never saw any progress following his demand, nor did the pollution stop. He decided to repeat his complaint to the environment police, again with no result. Angrily, Mr. L. went directly to the quarry in order to get an explanation and to discover the nature of the white dust. No one at the quarry would see him. His letters were politely answered, informing him that the dust was not produced at the quarry and since 1979 no one had won a case at law because the link between the dust and the quarry could not be proven.

Not being able to get any help from the local institutions, nor from the quarry itself, Mr. L. mobilized the television and the press to expose the problem. The use of the media was clearly seen as a measure of pressure on both the enterprise and the local council to force them to act quickly. In fact, the enterprise, afraid of a bad press image, did react quickly and opened a dialogue with the inhabitants; now loosely regrouped into an association. The enterprise had one condition before beginning a dialogue: no more involvement of any kind of media.[27]

Having been rejected by all official channels supposedly there to help find a solution, Mr. L. turned to the regional Green Party (Ecolo) for advice. They appeared to be the last possibility to assist in finding a solution. However, Ecolo did not want to front the movement in A-ville. They preferred to stay in the background, giving advice and supplying technical or legal information. Ecolo did suggest that the civil association ask an institution called “Inter-Environnement”, to act as a mediator. This institution is an independent federation of environmental associations recognized by the Walloon Region as

[27] The quarry belongs to a traditional family which does not like seeing its good name associated with bad causes in the media.

mediation experts. From that point on, Inter-Environnement took over the negotiation.

Unfortunately, the mediator from Inter-Environnement wanted to impose the traditional mediation method used by his institution: after having heard from the population the mediator monopolizes the negotiation and keeps the population from direct participation in the process. This was exactly what the people did not want and they turned once again to the Green Party in order to regain direct control of the process.

At the time of writing, this conflict is far from being solved. Even if there were to be some progress in the communication structure between the stakeholders, there would still be difficulties. There is no legal status for the mixed committee, comprising all stakeholders, for which the population is pressing. This means that only good will on the part of the most powerful stakeholders (the local council and the enterprise), will decide if and how local people can participate in the process. But the growing degree of organization of the population shows that new procedures must be implemented in order to satisfy the popular demand for more direct democracy.[28]

How to Analyse the Conflict?

A superficial analysis of this conflict suggests that it is a fairly straightforward situation. It could be said that there are five stakeholders: The quarry; which has been established for many years in the small town and which employs two generations of its inhabitants; The local council, which has authority to grant permission for new sitings and responsibility for environmental control of established ones; The local population, which is affected by the pollution from the quarry; The Green Party; which supports the locals in fighting for recognition of their opinion; and Inter-Environnement; an independent federation of ecological associations that specializes in ecological conflict mediation.

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[28] The predecessor of the current mediator from Inter-Environnement actually proposed a law in this sense which was rejected by the Walloon Parliament. The alleged reason was that a general interest in the population for this kind of committee cannot be assumed and in this condition institutionalization was a nonsense. Personal interview with Jean Roland.

A sixth participant in the conflict might be the scientific observer. Even though the scientific observer is not directly involved in the conflict, the simple interest of an outsider may be perceived as an interference in the situation and at least one of the stakeholders might well be tempted to use the scientific observer for his or her own purpose. [29]

The Relationship Between the Stakeholders

The quarry is a very important element in the local economy and has been established in the town for many decades. It is part of the local habitus.[30] In this sense it has implicit power over the local population and the local council. The local residents depend on the work the quarry gives, and the local council depends on the taxes paid by the quarry. The good relationship functions as a guarantee for the economic and political survival of the majority of the local council. The local council needs, on its part, to satisfy the expectations of the population concerning the control of environmental standards in the town. Only if a majority is satisfied with the local politicians will they be re-elected.

The inhabitants living near the quarry clearly do not want to suffer from the pollution produced by the quarry. Furthermore, they want to be better informed about activities inside the quarry and to know more about its general functions in order to facilitate better comprehension and reduce conflict. The local population wants to establish direct and continuous contact with the enterprise, formalized by a focus group or committee, for example. The population believes trust may be constructed through the use of such means, whereas the enterprise fears any cooperation as an interference. The enterprise is systematically opposed to everything.[31] It may be noted that the population itself

[29] The parallel with the role of the anthropologist when applying participant observation to the society under study, is evident here. *See* Clifford Geertz, **On the Nature of Anthropological Understanding**, (1983); Raymond Firth, **A Diary in the Strict Sense of the Term** (1967).

[30] Pierre Bourdieu, *L'habitus et l'espace des Styles de Vie*, **La Distinction** 189 (1979).

[31] That the quarry owners are afraid of any democratization of information can be inferred since they refused to meet with the author. Their argument had the appearance of scientific sophistication: "If we don't speak to you, your data won't be complete and this means you can't use it for any scientific purpose." They are afraid of any kind of publication which could produce a negative image. They were unable to see that a refusal already constitutes data for the analysis and could not impeach any publication. It seemed quite clear that for the director of the quarry, the

cannot be seen as one block. Not everyone from the area participates in the dispute. People who work for the quarry, for example, prefer not to be associated with the movement, fearing for their jobs. Likewise, inhabitants of less or unaffected areas do not participate at all in the dispute.

The Green Party is very active in local level politics, perhaps because it has no representatives in this particular local council. Its goals are better environmental policies and more active citizenship in the population. For these reasons it helps locals when they need advice on the conduct of disputes. The indirect effect of attracting new voters by this attitude is never examined in the discourse and is vehemently denied, if evoked by other political parties.

Inter-Environnement is a federation of associations interested in the environment and its protection. If asked for help, Inter-Environnement can intervene by supplying a mediator in a conflict situation or, more rarely, a lawyer. In order to be acceptable as an independent mediator between the stakeholders, Inter-Environnement needs to maintain a good relationship with everyone; the locals, the council and the enterprise.

As a preliminary conclusion, it may be noted that this is a typical situation where the economic and political players are preeminent in the decision-making process and supportive of each other. The quarry and the council maintain a privileged relationship in which both combine to oppose the Green Party, because the latter strengthens the hand of the public by supplying information and legal advice.

Nonetheless, the most uncomfortable position in this case is held by Inter-Environnement because it must maintain its neutrality at any cost, but it is financed by the Walloon Region. As a result, in the minds of the local population, Inter-Environnement is associated with the local council majority. This seems to be the case regardless of the fact that in A-ville, the majority is socialist, whereas the Walloon Region is governed by a social-Christian/socialist coalition. Furthermore, the current president of Inter-Environment is a former member of the environment ministry of Walloon who belongs to the social-Christian tendency. In contrast, its former president is currently a member of the

difference between a journalist and an anthropologist remained misunderstood.

opposition Ecological Party. However, the population does not make such sophisticated distinctions and sees only the link between the organization that should represent them and its dependency on public money. This relationship is fertile ground for mistrust towards Inter-Environnement. These are the main dimensions of the apparently straightforward dispute. However, a more detailed analysis is appropriate.

Field Theory

In order to provide a more insightful analysis of this conflict, the field theory of Bourdieu has been applied.[32] The multiple dimensions of the symbolic fights proceeding inside the outwardly simple conflict are revealed by this approach.

For Bourdieu, social space is based on a relational principle and the classes inside are theoretically constructed by the sociologist. Unlike Marx, Bourdieu does not attribute the origins of social distinction to the economy but, nevertheless, remains aware of the power of economic values. The social space is defined as a multidimensional field of forces where every social agent is hypothetically located by a differentiated system of socially recognized values. Every dimension of the social space is considered a specific field such as politics, the economy, or culture. The position of the social agent inside the social space defines its capacity to impose its own view on a particular field. Competition for predominance inside every field may involve symbolic fights which seem to be as important as economic differences for shaping the whole social space and establishing the hierarchy between its different fields.[33]

Differentiation of the agents inside a field is based on the possession of different kinds of power, or "capital", to use Bourdieu's terminology. This capital may be material or economic, such as property or money, or it may be construed as cultural or symbolic capital, such as prestige and good reputation. The different capitals provide the basis for establishing the social hierarchy, not only in their own field, but also in other fields or under-fields.[34]

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32 Pierre Bordieu, *Espace social et genèse des "classes"*, 52-53 **Actes de la Recherche en Sciences Sociales** 3 (June 1984).

33 *Id.* at 3.

34 *Id.*

The social analyst can then position every agent in the constructed social space considering first its total amount of capital and, secondly, the specific composition of its capital. Power relations in the social space are defined by the total distribution of the different kinds of capital. These power relations are institutionalized by sustained social status, social recognition and/or legal protection. Knowing the position of an agent in the constructed social space permits insights into its potential power and the likely form of its political and social attitude.[35]

Agents with a similar disposition in the social space are grouped into a class because they have a tendency to have the same practices and interests. These are analytical classes rather than real groups but their member agents are likely to cooperate under certain conditions.[36] In this sense, the conflict can be defined as a field where different agents from different classes join each other. Together they struggle, each with its own capital, to impose its solution on the conflict. The most important weapons in this negotiation are the powers of the different capital in the particular field and the general degree of influence of the agent's class in the social space.

Symbolic Fights in a Field: the Quarry

The traditional system for finding a solution to such a dispute in this locality would have included only two agents: the enterprise or quarry, and the local council. Any decisions would be decided between them, subject to the law governing the appropriate standards. But with the rising interest of the local population in ecological problems and a change in the perception of the risks arising from the quarry, the field of negotiation has evolved enjoining two more participants into the fight: the local population and the Inter-Environnement as mediator.

Inter-Environnement was founded in the 1970's and had gradually come to occupy the role of representative for local people in the negotiation process. However, it had developed a paternalistic attitude towards the population by monopolizing the task and by attempting to keep the concerned population out of the decision-making process. Inter-Environnement argues that its experts have a better understanding of the relevant laws and how to plead them in negotiation with

35 *Id.* at 4.

36 *Id.*

enterprises and local councils. The symbolic capital brought to bear in this argument is a scientific one to which the population has limited access. Furthermore, in order to reinforce the superior position of the agents of Inter-Environnement, it was deliberately supposed that the population was not really interested in participating but only in getting a favorable result. Inter-Environnement argued that the population ought to be happy to have somebody in charge of this difficult task. This clearly constitutes an attempt by Inter-Environnement to devalue the symbolic capital of the population.

The composition of the field, and the style of the symbolic fight, further changed when the Green Party became active in the political field. In common with Inter-Environnement, the Green Party entered in response to the new ecological interest of the population but chose the political rather than the scientific field to promote itself. Also in common with Inter-Environnement, the Green Party sees itself as a supporter of the population. However, there is a distinct difference in the execution of this idea. The Green Party seeks to inform the population, both generally and in local conflict situations, in order to empower the people to become independent and to take charge in the decision-making process. The main aim of the Green Party is to contribute to the evolution of a new citizenship, where citizens would be more responsible and active in the political process.

Aiming at empowering people in the political field, the Green Party validates the position of the population in ecological conflict management by providing the scientific and political capital necessary to achieve a better position. The appearance of the Green Party disturbed the relationship between the population and Inter-Environnement because many people preferred the empowering style of the Green Party to that of Inter-Environnement. Indirectly, the new relationship of the Green Party and the local population contributed to a disequilibrium in the social space. The established legitimacy of representing the population is now being questioned in other areas, such as the legal and the political fields.

This is understood by Inter-Environnement to be a menace to its well established and legitimized position. This legitimacy was institutionalized by the official recognition of Inter-Environnement by

the Walloon Region in its financial aid. Thus, the apparently simple quarry conflict provides the context for another symbolic fight.

The presence of the Green Party has also been a disturbing factor at the local political level. In the local council, the Socialist Party operates with a one person majority. The fear of Party members was if one of the locally active inhabitants becomes a candidate for the Green Party at the next election, then that candidate would have a strong chance of being elected. This would be a major disturbance in the political status quo and a disadvantage for the existing majority who have been in power in A-ville for more than thirty years. The problem is that, at this time, the Socialist Party is not faring well in the Walloon Region or on a national level in Belgium due to political and financial scandals. Thus, for them, using regional or national politics for reaffirming the local position becomes a useless, even dangerous, pursuit. In contrast, the Green Party is already represented at the national and regional levels and its aim to get more local council representation has put the establishment under immense pressure. Once again, a symbolic fight, fought principally on another field, re-emerges in the quarry conflict disturbing power relations and superimposing interests which do not directly concern the technical problem to be solved.

Finally, there is the tension between the employees of the quarry and those who criticize the pollution. The employees' fear is that the enterprise might be closed and then they would lose their jobs.[37] They are convinced that their neighbors should accept the pollution because the imposition of new and expensive technology for the protection of the environment might destroy the quarry. Linnerooth-Bayer and Löfstedt analyzed this type of problem in their study of the transfer of hazardous waste to poor countries which decided to accept such waste to meet economic needs.[38] People who refuse to accept industrial nuisance are fast declared NIMBY, or "Not In My Back Yard", and stigmatized as egoists. The value of their proposition, in terms of a balanced analysis of gains and losses in general welfare, is denied by their fellow agents of the same class. The rules relating to economic

[37] Tension ran so high that Mr. L's car was scratched several times. Some neighbors ignore him and the relationship with the mayor degenerates with every public meeting.

[38] Joanne Linnerooth-Bayer & Ragnar E. Löfstedt, *Fairness and Siting: Introduction to a Symposium* 7 **Risk** 95, 96 (1996).

capital are the most strongly argued in these situations. Nevertheless, the real question in this case is who actually has the NIMBY interest; those in favor of more respect for environmental standards or those defending their economic survival ?

Taking these points into consideration, the "simple" quarry conflict may now be described *in extenso*. The visible conflict between the two main groups in opposition is described in the following way: First, the quarry and the local council form a group which represents the "ancient regime" which has functioned without any real problems in the past. Second, the Green Party and the population form a group which could be considered a "revolution" because it fights for a change in the established procedures on both local and national levels. The introduction of a new value system has distorted the hierarchy in the field. The newcomers have been forced to seek ways to have their values recognized in order to change the establishment and hence, gain a more powerful position in the field and in social space.

There are also the invisible conflicts that complicate the field by introducing oppositions which are initially undetectable because they are mainly fought in other fields, such as politics. One example is the latent conflict in the local council where the political majority is menaced by the activities of the newcomer, the Green Party. Related to this is the new dynamic of the population, which is developing an unknown pressure by promoting more direct democracy based on public involvement in political and technical decisions. The people use their minimal political capital, their vote, to press for a transformation. The change in attitude amongst the population is a disturbing factor for the local politicians who usually do not consider the political capital of their fellow citizens; those who occupy a low position in the political field.

Another strong symbolic fight which occurs inside the quarry conflict is the struggle between Inter-Environnement and the Green Party in their quest for legitimacy in assisting the population in ecological conflicts. The traditional "top-down" approach of Inter-Environnement is put into question by the more democratic "bottom-up" style practiced by the Green Party. In addition, the good relationship between the population and Inter-Environnement has been

damaged. Trust in that institution vanished because the public no longer views Inter-Environnement as independent and neutral, especially since the population believes it is being financed by the regional government. This compromises the public's view of Inter-Environnement's impartiality.

Furthermore, the population no longer believes in the necessity for any kind of "expert" mediation of a conflict. People feel sufficiently able to defend themselves and to obtain the relevant information with the help of the Green Party. Their only need is to make this socially recognized. The introduction of an exterior agency is no longer acceptable because it means the loss of control of the negotiation.

Of course the above analytical scheme could be rendered even more complex by considering the internal struggles in every single group, such as discussions about the leadership or the influence of the different personal styles of mediation of individual representatives of Inter-Environnement. However, the aim was to show that every conflict comes with a more complicated "inner life" than that visible at first sight. The field analysis of Bourdieu is proposed as one useful tool in explicating such complexity.

Conclusion

Two points can be made immediately. First, the urge for a transformation signals a change in mentality leading to new values being presented for discussion in society. The struggle for social recognition of these is time consuming. The incorporation of a new habitus[39] is arduous and based on a long-term schedule. Second, there is great difficulty in establishing vertical communication between the different participants in the field. The agents in the higher positions are not interested in losing any of their social capital because this would affect the hierarchy inside the field.

More generally, however, it seems appropriate to question the necessity of fighting solely for new national procedures in Belgium. It would appear to be less time and energy consuming if Europe-wide standards existed. This would put all member countries in the same conditions and could facilitate transnational negotiations. The fight for

39 Bordieu, *supra* note 30.

symbolic domination in the environmental field would be enlarged and this could provide broader support to the Belgian population, since such issues are more developed in other European member countries. The whole field could be coordinated in a different way which would be more fair to all agents. This is not to say, however, that the procedures must necessarily be the same. Each country could take care of its particular context, following the principle of subsidiarity, and at the same time respect European standards.

Finally the question of the utility of mediation arises from the analysis of this quarry conflict. In order to be able to manage the situation properly a mediator has to discern all the conflicts implicit in a given dispute. To achieve this the mediator needs "insider knowledge" as complete as possible. However, in most cases, this is not possible because time constraints are too great to permit the undertaking of an ethnography such as that given above. The mediation would become too time consuming to be efficient. Furthermore, mediators normally come from completely different contexts to that of the dispute. These considerations suggest that it would be better to empower local people to take a direct role in the negotiation in which they are an interested party. The question of who represents whom must be reviewed urgently.