

# Historical root causes for the conflicts between forest and nature protection legislation in Germany

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# Theoretical Background

Focus on historical and actual discourses

- “Discourse is here defined as a specific ensemble of ideas, concepts, and categorizations that are produced, reproduced, and transformed in a particular set of practices and through which meaning is given to physical and social realities.” (Hajer 1995)
- Own research approach: Narrative discourse analysis (Pukall and Dobler 2015)

## **Legislation as the institutionalizations of discourses**

Research question:

Are these institutionalizations of historical and actual discourses helpful to solve actual conflicts?

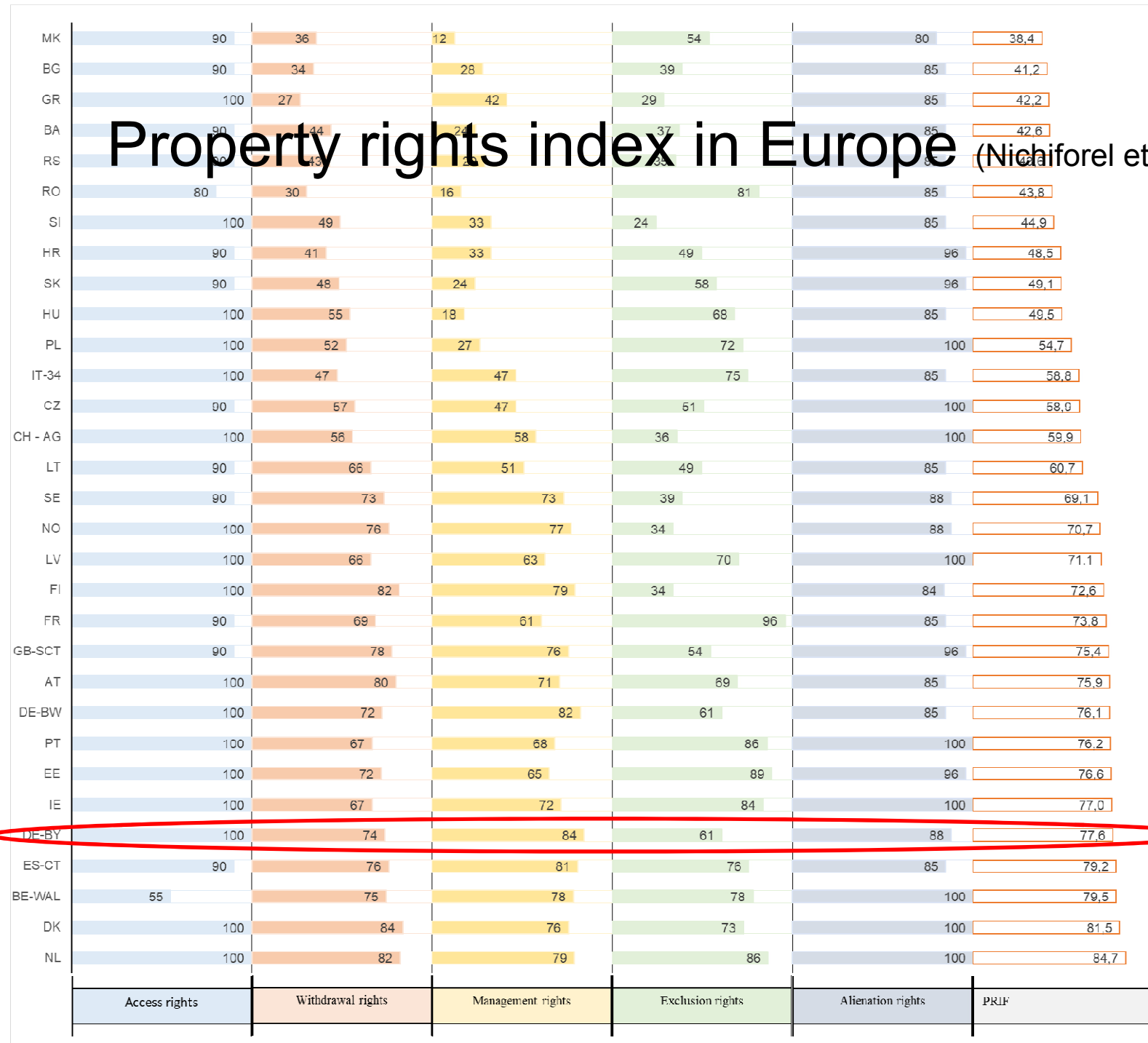
# Discourses within the forestry sector (Pukall and Dobler 2015)

- **Liberal discourse (since 19th century)**
  - Central self-seeking land owner (homo oeconomicus)
  - forest law which guarantees property rights
- **Oeconomia naturae discourse (19th – beginning 20th century)**
  - Right amount of forests especially in the mountains → good physical conditions of the countries especially climate and soil fertility
  - Basis for the welfare functions of the forest function discourse
- **Forest function discourse (since Dieterich 1953)**
  - Balance between self-interests of different stake holders and common welfare
  - Silviculture as forest policy

# Influence of historical discourses on the German forest law

- Minor regulations on forest management (liberal)

# Property rights index in Europe (Nichiforel et al. forthcoming)



# Influence of historical discourses on the German forest law

- Minor regulations on forest management (liberal)
- Special regulations for protection forests (oekonomia naturae)
- Hamper agricultural usage within forests (liberal + oekonomia naturae)
- Nearly all other regulations, e.g. increase of forest cover, forest function planning, subsidies (forest function)

# Discourses in the area of nature protection (Piechocki 2007)

Clear nexus to society  
and culture

Based on a natural science  
concept of nature



“Homeland”/Heimat (1836)

Species (ca. 1850)

Natural monument (ca. 1900)

Landscape (ca. 1900)

Oeconomia naturae (ca. 1950)

Biotope (1970)

Ecosystem (ca. 1980)

Biodiversity (ca. 1990)

Natural dynamics (1992)

# Influence of historical discourses on the German nature protection law

Discourses	Goal of the law (§1)	Conser- vation strategies	Impact mitigation (§§13-18)	Species protection (§§44-45)	Nature reserves (§§20-32)
“Homeland” Natural monument Landscape	beauty of the (cultural) landscape	Preservation Restauration	X		Nature park Landscape reserve Nature reserve Natural feature Biosphere reserve
Oeconomia naturae	„Ecosystem services“	Preservation Restauration	XX		No special type
Species Biotope Ecosystem Biodiversity	Biodiversity	Preservation Restauration Natural dynamics		XX	Protected biotopes Nature reserves National Parks Natura 2000
Natural dynamics	Not mentioned	Natural dynamics			National parks



## Increasing critical view on land-use systems

Year	§ 5 Evaluation of agriculture, forestry and fisheries
1976	Land-use systems are central for the preservation of the cultural landscape. They normally work in line with the goals of the law.
1998	Nature protection have to bear in mind the special role of the land-use systemes for the preservation of the cultural landscape
Since 2002	Additional to 1998: Definition of nature and landscape friendly land-use systems: Good land-use practice <ul style="list-style-type: none"><li>• Clearly defined for agriculture</li><li>• Forestry actors hindered the formulation of a good forestry practice (Memmler and Winkel 2007)</li></ul>

# Historical Discourses cause conflict: Forest law

## Increasing forest cover

- Natural succession → legal status as forest (§2 forest law)
- For deforestation permission necessary (§9 forest law)



conservation of  
marginal farm  
lands (biodiversity  
rich graslands!)

# Historical Discourses cause conflict: Forest law

- Suppression of agricultural land use within forests (§1 and §11 forest law)
- New Agroforestry-Systems only possible outside the forests (§1 forest law)
- Improving the soil quality (for example §14 Bavarian Forest Law)

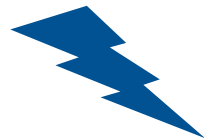


open/highly thinned forests

# Actual discourses cause conflict: Nature Protection Law

Increasingly strict implementation of the habitats and birds directive

- Unclear definition of „project“ in the Habitats directive
  - Complaint of Greenpeace against the planting of Douglas Fir in Beech forests



„normal“ forest management

# Summary

- Sectoral discursive framing of forestry and nature protection increases the conflicts
- Policy integration a possible path forward!?

## Literature:

Nichiforel L et al. (forthcoming): How private are Europe's private forests? A comparative property rights analysis. Land use policy

Hajer MA (1995): The politics of environmental discourse: Ecological modernization and the policy process. Oxford University Press, Oxford.

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Piechocki R. (2007): Genese der Schutzbegriffe. Series of 12 articles to nature protection concepts. Natur und Landschaft 82 (1-12).

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