

**Opposition prof.dr. M.A. Heldeweg LL.M (University of Twente)
Cheryl de Boer, *Contextual Water Management. A study of
Governance and Implementation Processes in Local Stream
Restoration Projects*. University of Twente.
Public defense: Friday September 28, 2012; 14.45.**

Thank you mr. rector.

Dear candidate,

I have read your thesis with great interest and I am already impressed by your ability to present such an accessible book on such a complex matter.

The very stylish cover of the book is indeed a bonus!

As a youngster I had to cross the Regge River twice each day to get to school and back. Quite a nauseating ordeal, especially in the early morning. It brings great joy to read about the improvements made. Perhaps you can now aid to my full understanding of how this improvement can be best understood theoretically.

This help is opportune, as your study made me have to come to terms with theoretical concepts different to those that I know from the legal profession. For me to really understand a concept such as boundary spanning, and to assess its legal significance, is quite a challenge – but it is a happy one at occasions such as these.

With such an introduction you may expect me to reciprocally put you to this challenge.

On pages 18 and 19 of your book, you position CIT within social science.

It struck me that ‘rules and laws’ are framed only as a cross-between the perspective of values, with the social impact of guidelines of acceptance – labeled as ‘argument F’.

It seems as if you only address rules of conduct. Of course, in legal theory, we also distinguish rules of power: the rules that establish the ability to create change or terminate rules of conduct.

Legal rules of power, I believe, should be placed within the perspective of resources and the social impact of freedom of choice, alongside political science aspects, labeled as 'argument B'.

Furthermore, together, rules of power and rules of conduct are, similar to a sociological approach, thought to construe legal institutions, such as the regimes of property, contract and legal personality; treated in practice as if they are real. Consequently, rules should also come under label D.

I realize that these propositions suggest legal imperialism – and, I say, rightly so. Then again, I put them to you to have you share your thoughts with us on two connected points.

Legally organizations must align with the institutional environment in which they function. If and when they do not align, they will legally fail in their actions. For instance, an informal network of actors cannot introduce legally binding rules, nor enter into contracts or own property.

Can you point at traces of this normative alignment hypothesis in your model? Am I right in assuming that the structural context of the inter-regime as experienced at project level, is supposed to hold the legal incentives and constraints that actors must align with?

Furthermore, do you agree that legal power-holders own a resource providing them with a major stake in adaptive implementation? If so, how do we frame this in terms of Flexibility, especially when we look at legal boundaries to powers, such as from the principle of 'legal certainty'. Constraints following Extend and Coherence – which you mention on p. 54 - do not seem to encompass such principles. Perhaps you would rather conceptualize them as a lack of intensity?

Could you please enlighten me on these points, thank you.