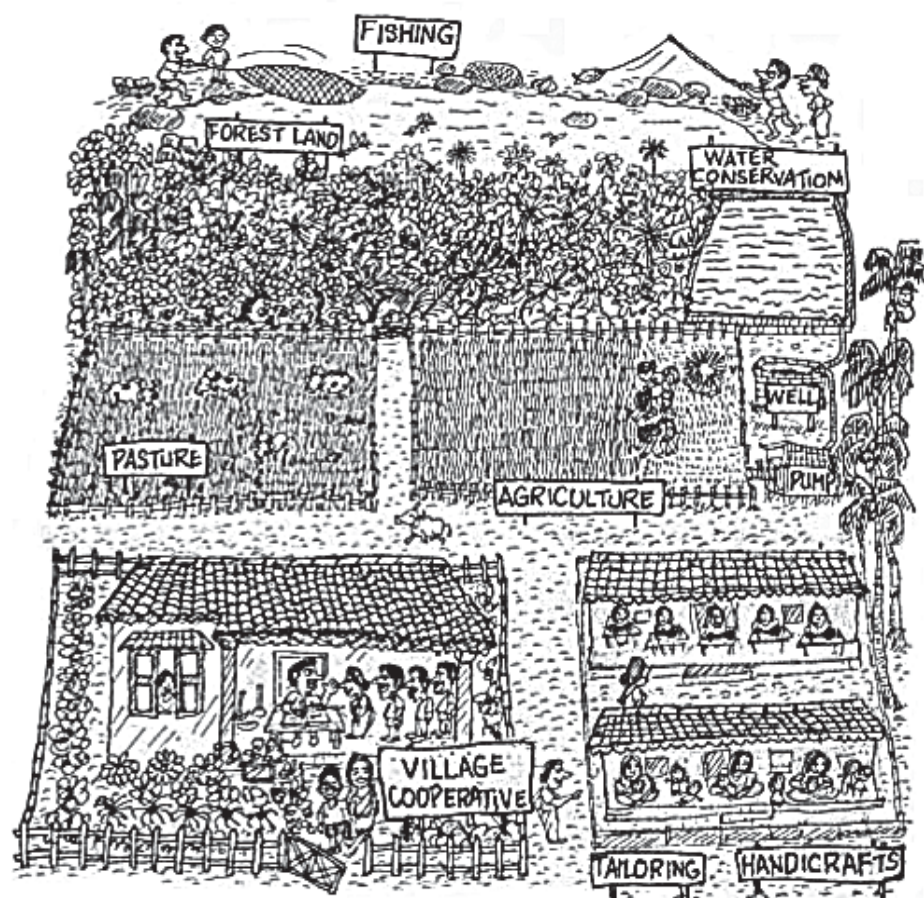


Property Rights: Issues and Challenges



Rights over land and other natural resources play a fundamental role in human society. The distribution of wealth and poverty is a reflection of underlying property rights. However, reforming property rights to give poor women and men greater access and stronger control over resources is not an easy task.

SOURCE:

Meinzen-Dick, R., P. Kameri-Mbote and H. Markelova. 2007. *Property Rights for Poverty Reduction*. 2020 Focus Briefs on the World's Poor and Hungry People. Washington, DC: IFPRI. International Food Policy Research Institute, Washington, D.C.

Property Rights Provide Assets for Livelihoods

Land is a critical asset for the rural poor. It fulfills important economic functions by providing a means of livelihood through the production and sale of crops and other products. It can also serve as collateral for credit or be sold to start up another income-generating activity. Landless people are excluded from these opportunities, which is why they are often among the poorest. Landless people depend on employment from other farmers or non-farm income sources, but the growth and stability of such employment also depend on the growth of incomes and spending in local farming.

For those with access to land, the strength of their rights over the land shapes their incentives for continued production, ensuring both their food security and a steady supply to the local market.

Thus, land rights affect food security from the individual to the national level. Research suggests that land tenure increases investment in the human capital of children. Therefore, property rights are particularly important in shaping who has entitlements to food and may serve as an instrument to prevent the inter-generational transmission of poverty.

Land provides a buffer in times of shocks. When unemployment or food prices are high, those who have access to land can turn to their farm for self-employment and food production. In cases of crop failure or other distress, landowners can sell or mortgage their land to meet basic consumption needs, which gives them more stability than the landless who lack this buffer.

Landlessness and Poverty

Data from South Asia, home to 40 percent of the world's poor, show that poverty is strongly associated with landlessness and insecure access to land.

- In India, over 30 percent of the landless and near-landless (less than 0.2 ha) live in poverty.
- In Bangladesh, those with less than 0.2 ha make up two-thirds of the poor.

Those with secure rights to land also benefit when its value increases, either selling at higher prices or putting the land to more profitable uses. For example, with urban expansion, even small farmers can make large profits by converting their land to housing, whereas those who have been using the land without secure ownership rights will be squeezed out. Nevertheless, land sales do not always benefit the poor in the long-run if they are distress sales or based on incomplete information about the value of their land. Alternative assets or livelihoods are needed so that land sales do not lead to greater impoverishment.

Property Rights Include Common Property

It is not only agricultural land that matters. Without water, crops will not grow, so irrigation supplies are vital in dry areas, and everyone needs access to water for drinking, cooking, bathing, and washing. Trees — whether in forests or other types of land — are critical for fruits, fuel, home construction, medicines, and craft supplies. Rangelands provide food for livestock. Wetlands offer a range of food, medicines, housing, or craft supplies. Water bodies are a source of fish and other aquatic plants and animals. All of these resources play a critical role as a major or supplemental source of livelihoods.

Many of these resources are commonly rather than individually owned. Access to the commons is also a key source of food, income, and productive resources (such as water, fuel, building materials). In fact, common property areas such as wetlands, forests, and pastures, cover over 30 percent of the total land area in Africa.

The Poor and their Landlessness

In India, community forests contribute up to 29 percent of the income of poorer households, adding US \$5 billion a year.

In Zimbabwe, the poorest 20 percent of the population generate up to 40 percent or more of their total income from the commons.

Social, Political, and Household Implications of Property Rights

In many rural societies, land ownership is an indication of a person's social identity. For example, the term *balabbat*, for landholder in highland Ethiopia, literally means "a man who has a father."

Landholding also shapes access to many government services, influence in local politics, participation in social networks, and intra-household relations. Extension agents focus their attention on landowners, often to the exclusion of their wives, children, or tenants. Membership in many water

Table 1. The Multiple Functions of Land Rights

Functions	Examples
Economic functions	<ul style="list-style-type: none">• Productive activities (farming, livestock rearing)• Land sales and rentals• Benefits from land appreciation• Investment incentive effects
Food security	<ul style="list-style-type: none">• Source of food and income• Buffer against sudden price increases
Reduced vulnerability/shock mitigation	<ul style="list-style-type: none">• Source for food and employment• Collateral for credit• Income from land sales and rentals
Social functions	<ul style="list-style-type: none">• Social standing/bargaining position, within household, community, and nation• Membership of groups• Cultural identity• Religious functions
Conservation	<ul style="list-style-type: none">• Authority to make decisions, investments• Incentives for sustainable management

users' associations is restricted to landowners, depriving others of a voice in the management of this critical resource.

Whole communities are too often deprived of government services because they are not recognized as landowners. Globally, control over land and territories has become a major issue for ethnic minorities and indigenous communities.

Secure land rights enable the poor to participate in the political process without fear of losing their source of livelihood. Therefore, securing property rights for the disadvantaged elements of a rural community can increase their participation in community life and forge a presence in the local political arena, which can have direct positive effects on their well-being.

Women's Property Rights

The distribution of property rights within the household matters. When women depend on fathers, husbands, sons or other men for land, their access depends on the quality of relations with that man. Wives too often lose their land when they are widowed or divorced.

Women with secure rights to land are more likely to engage in independent economic activities and have stronger bargaining power in the household and community. This, in turn, contributes to the welfare of the household and investment in the education and welfare of their children.



Property Rights and Promoting Sustainable Practices

Long-term security of land tenure provides an incentive to invest in production and conservation technologies that can improve crop yields and facilitate the more sustainable use of land and other natural resources. People will not make such long-term investments unless they have the rights to plant, harvest, and benefit from those investments, which are linked with rights to the land. Even within the household, if women or young people do not have land rights, they cannot make such investments. Thus, property rights are a tool in promoting environmentally sound management.

Challenges in Strengthening Property Rights

Efforts to create policies and programs that promote tenure security face many challenges. No universal prescription applies, because tenure regimes need to adapt to the nature of the resource and the society in which they operate. Systems that are appropriate in irrigated areas may not work for rangelands or forests; those that are suitable in a highly individualized society may not be appropriate where traditions of collective resource management are strong, and vice versa.

Property Rights have Complex Meanings and Sources

To create effective poverty reduction strategies based on enhancing tenure security, it is important to remember that, for rural people, land is a critical asset that has multiple functions and meanings. In addition to its economic function as a source of food production and income, land has social and political value, as well as important religious and cultural meanings (ancestral lands, for example). For many indigenous people, land has implications for the identities of individuals and communities. Therefore, policies that address only the economic value of the resource land may be resisted, occasionally violently.

To understand the complexity of property rights in practice, it is important to move beyond state-issued land titles to recognize the existence of multiple sources of property rights. In any given community, access to land and related resources may depend on the following types of laws and interactions among them:

- International treaties and law;
- State (or statutory) law;
- Religious law and practices;
- Customary (formal and informal) law;
- Project and donor rules (including project or program regulations); and
- Organizational rules (such as rules made by users' groups).

Policies that consider only state law may undermine the access to and use of land on which local people depend. When government legal systems are more accessible to those with education, money, or central location, the poor and marginalized may depend more on customary or religious bases for claiming rights to resources. However, it is important not to idealize, as customary practices can also disadvantage women or poorer people. In such cases, government intervention can help strengthen the claims of weaker members. This process is not automatic, however, a woman may not want to incur social sanctions by claiming stronger land rights from her husband, or a tenant may not want to risk losing other help from a landlord-patron. Legal reforms can provide a foundation for change, but if they are to have any effect, they must be carefully implemented to ensure that people know about the laws and have access to the relevant authorities.

What matters is not necessarily full "ownership" of land but tenure security. Many people have restricted, overlapping, or conditional rights to use and manage resources, such as to graze animals

or harvest certain products from land officially “owned” by the state or by other people. Simplifying land rights to give complete authority to the owner of the land in the name of apparent efficiency can cut off these other claims, which are important for the livelihoods, social standing, or security of others. When these claims are eliminated, the poor and marginalized often suffer most.

Land is Scarce

Another challenge is the fact that there is only so much land. With a growing population and related needs for food, water, and other resources, the rural poor will continue to be disadvantaged in their quest for secure livelihoods. In many developing countries where other economic activities are lacking, land continues to be the main productive resource, and both the economy and people’s livelihoods depend heavily on agricultural and other natural resources. However, the holding of land may be skewed in favor of some groups, excluding the poor.

In some cases, the poor are forcefully removed from land to make way for what are deemed to be more productive uses of land such as foreign investment, urban development, or new infrastructure like dams. Dispossession from land entails loss of the resources that people depend on for their livelihoods. When poor people have been exercising rights to land without formal legal recognition and the rights granted to new users have their basis in law, poor people risk losing their rights without compensation. In such a context, compensation must address the unjust expropriation and extinction of the rights of the poor.

When common property is expropriated, whole groups may need to be compensated. Justice also demands that the terms of compensation be mutually agreed to by all concerned parties, which may include restitution of the land when possible. Because land has many continuing values besides its “sale” price, a lumpsum payment may be inadequate, especially when the money can be siphoned away to cover immediate expenses. Instead, alternative assets that provide a flow of benefits need to be identified.

The Poor are Diverse

The third challenge is ensuring the inclusion of all the poor. Among people identified as poor and excluded from landownership and access, there are other forms of exclusion based on caste, gender, and age. Targeting the poor as monolithic communities may result in greater marginalization for some segments of the rural population.

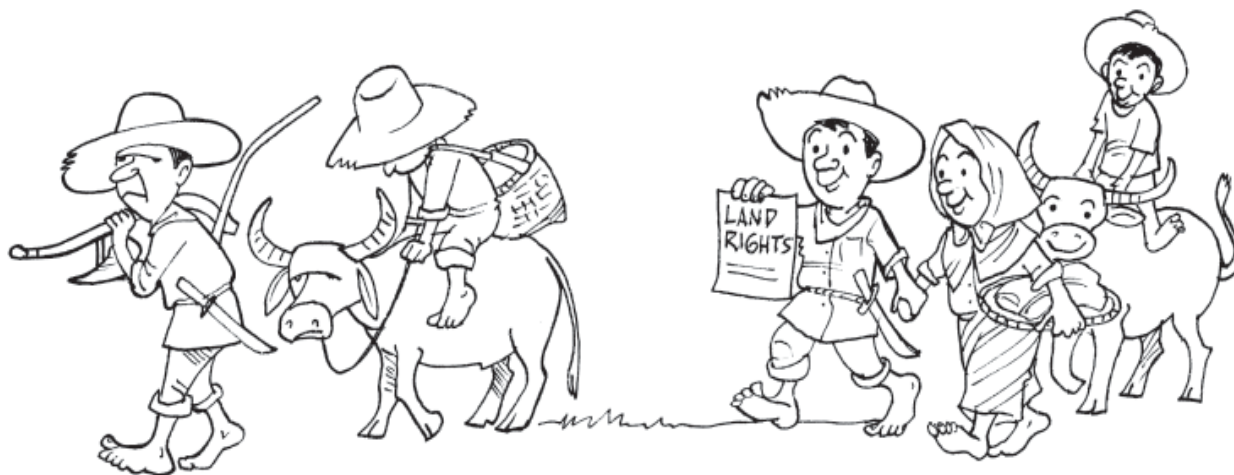
What can be Done?

Policies are needed to ensure that the poor have secure access to land and other vital resources. Law remains a useful policy instrument in allocating property rights, as it can be used creatively to change property rights holdings and to ensure that the poor have access to the land they need for survival. Nonetheless, because property rights must be tailored to the physical, social, and economic context, there are no universal prescriptions. Policies must consider not only economic productivity, but also issues of equity and less tangible considerations like the social or religious significance attached to land.

- *Ensure Access by the Poor.* Once a country establishes normative procedures on inclusion, it must ensure that the poor have access to these provisions. The impact of policies must enable a poor rural woman to have secure tenure that enables her to invest in and benefit from the land, her community must have rights over resources, her household within the community must have rights to the land, and she must have secure rights within her household. If these conditions are not in place, different policies may be needed to address problems at each level.

These policies could include stronger recognition of community rights to common property, the provision of credit or rental markets to help make land available to landless households, and changes to family and inheritance law to give women stronger rights over land.

- *Build on Customary Arrangements.* Effective land policies must take into account that in many rural areas, government land administration systems are very different from the customary arrangements. Imposing land titling policies that ignore traditional tenure regimes might take a long time to implement (given the absence of supporting infrastructure) and lead to greater impoverishment and inequality in landownership. In addition, interventions that promote individualized land rights and disregard existing or potentially beneficial common property provisions can worsen the distribution of land within the community. Therefore, statutory land titling policies must be carefully selected and harmonized with existing arrangements.
- *Acknowledge the Many Values of Land.* Property rights should be framed in a way that recognizes the multiple values of land — as an economic resource that should be managed productively, a significant resource to which members of society should have equitable access, a finite resource that should be utilized sustainably, and a cultural heritage that should be conserved for future generations. This approach ensures the inclusion of diverse interests, values, and persons in property relations and enhances the visibility of less obvious vulnerabilities.



When new users come in with statutory legal rights, poor people's rights are often obliterated without compensation.

Suggested Readings

- Kameri-Mbote, P. and J. Onyango Oduor. 2007. *Following God's Constitution: The Gender Dimension in the Ogiek Claim to Mau Forest Complex*. In: Hellum, A. and J. Stewart. 2007. *Paths Are Made by Walking: Human Rights Interfacing Gendered Realities and Plural Legalities*. Harare: Weaver Press.
- Meinzen-Dick, R.S. and R. Pradhan. 2002. *Legal Pluralism and Dynamic Property Rights*. CAPRI Working Paper 22. International Food Policy Research Institute, Washington, D.C.
- Mwangi, E. (ed). 2007. *Land Rights for African Development: From Knowledge to Action*. CAPRI Policy Brief 5. International Food Policy Research Institute: Washington, D.C.

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