

Strengthening Property Rights for the Poor



Although many of the poor in the developing world are landless, most of the rural poor have some access to land.

The landed poor are a heterogeneous group who hold rights to their landed assets in diverse and complicated ways.

SOURCE:

Bruce, J.W. 2004. *Strengthening Property Rights for the Poor*. 2020 Vision for Food, Agriculture and the Environment. Focus Brief 11 Collective Action and Property Rights for Sustainable Development. International Food Policy Research Institute, Washington, D.C.

- They may hold the land in tenancy passed from father to son, in which landlordism is a class, caste, or ethnic phenomenon.
- They may be farmers under a system of leaseholds from the state or a collective and may be deprived of any long-term interest in their improvements on the land, even the homes they have built.
- They may be land reform beneficiaries whose landholdings, because of neglect, paternalism, or political change, have never been legally regularized.

- They may be users of forest lands that their families have occupied and cultivated for generations but who are barred from acquiring secure property rights because of its classification as a forest.
- They may hold land under customary tenure systems unrecognized by the state, with no legal basis for resisting the claim of the person with a title document granted by the national government.
- They may be women in societies where land passes from generation to generation in the male line and only have access to land as daughters and wives.

Strengthening the Property Rights of the Poor

The “landed poor” remain poor not simply because their holdings are small, but also because their land rights are weak and insecure. Strengthening the property rights of the poor is a complex project but the following guidelines can help direct efforts to strengthen these rights.

Trust land users with stronger property rights. Owners, responding to the incentives implicit in ownership, produce better land management than top-down schemes, which soon sour and often become corrupt.

Legislate for stronger property rights. The state must provide a robust legal framework of rights for land users. An adequate legal framework is a first and essential step.

Improved property rights means different things in different contexts. It may mean co-ownership of land for husbands and wives; empowerment of tenants to buy out their landlords; provision of unconditional, inheritable land rights to settlers; or state recognition that customary, community-based rights are equal with land rights created by national statute.

Adopt local definitions of tenure security when appropriate. Adequate tenure security does not necessarily mean ownership in the Western sense. Many customary or community-based tenure systems can provide adequate tenure security.

Always ask, “security of tenure for whom?” Consider which beneficiary is most likely to use the land effectively. Titles are commonly awarded to male household heads, but others may be more likely to undertake investments in the land.

Protect common property rights. The poor often depend disproportionately on common property resources. Tenure security is not only about individual property rights, but also about legitimate common property and state rights in some categories of land.

Provide for adequate proof of property rights. In urban and peri-urban contexts, and where rural land is highly valued, adequate proof may entail formal surveys, titling, and registration of holdings. Elsewhere, where land rights are of lower value and transferred largely within the com-



munity, adequate proof may involve demarcating community boundaries and empowering local communities to maintain simple but reliable records of individual and family landholdings and transactions.

- **Educate people about their rights in land.** Rights not understood will not be defended, and rights must be defended every day or they will be lost to the powerful.
- **Establish adequate dispute settlement mechanisms.** Rights that cannot be defended against challenges provide no incentives and no security.

Institutionalizing Property Rights Reforms

Be politically astute. Each group of stakeholders has its own interests and objectives. You may have to facilitate compromises among divergent interests and objectives to achieve reform.

Embody new property rights in law. Ensure that new rights have a legal basis. When the political economies of nations change, legal reform can be forgotten and reforms processed administratively, without firm legal basis.

Exploit all possibilities for legal change. All avenues, from national legislation to judicial reform through court decision to community-based reform of customs, can be effective on the ground.

Ensure capacity and finance for sustained implementation. Strengthened property rights systems are costly — they often require substantial state or community investment in systems for survey, adjudication, and titling, for registration of transactions and inheritances, and for dispute resolution. Many property rights reforms have stalled for lack of financial support.

Involve non-government organizations in the reform process. Non-state organizations of the marginalized can voice the demands of the poor and press for reforms. Such organizations have skills in areas like rights education and dispute settlement that are vital to implementing reforms.

Exercise caution in replacing inadequate property rights systems. If an existing system of property rights is culturally embedded but is judged inadequate, be careful in replacing it. Attempts at reform of customary systems that do not succeed in changing behavior can create confusion and conflict between claims based on custom and others based on national law.

Aim for equitable strengthening of property rights. The rights of all stakeholders should be considered together. Reforms to strengthen the property rights of one individual or group, especially those under customary tenure, should not inadvertently weaken the property rights of others.

Look out for unintended consequences. Even well-conceived reforms can be hijacked by the powerful. A classic case is the appropriation of common areas by the powerful through land titles, depriving the poor of a resource upon which they rely.

Recognize that new property rights alone are insufficient. Property rights reforms, particularly those seeking to strengthen the marketability of land rights, may be unable to achieve their goal when credit markets are badly distorted and the credit supply system is in its infancy.

Increasing the land rights of the poor is a complex project, and it must recognize the diversity and complexity of land ownership, especially in customary systems. Any moves to enhance security of

tenure for the poor must be sensitive to specific circumstances that characterize each case, the existing legal conditions, the strength or weakness of available financial and property registration systems, the needs of each group of stakeholders, and the possibilities of unintended consequences. Common property rights must also be protected.

Representation of Vulnerable Groups

Vulnerable groups are often unrepresented in local implementation authorities, and mechanisms must be built into the implementation process to ensure their participation in reform processes and benefits.

Suggested Readings

- Ghimire, K.B. (ed). 2003. *Whose Land? Civil Society Perspectives on Land Reform and Rural Poverty Reduction*. Rome: Popular Coalition to Reduce Hunger and Poverty, International Fund for Agricultural Development, and United Nations Research Institute for Social Development.
- Toulmin, C. and J. Quan (eds). 2000. *Evolving Land Rights, Policy, and Tenure in Africa*. London: Department for International Development, Natural Resources Institute, and International Institute for Environment and Development.
- World Bank. 2003. *Land Policies for Growth and Poverty Reduction: Policy Research Report*. Washington, D.C.: World Bank.