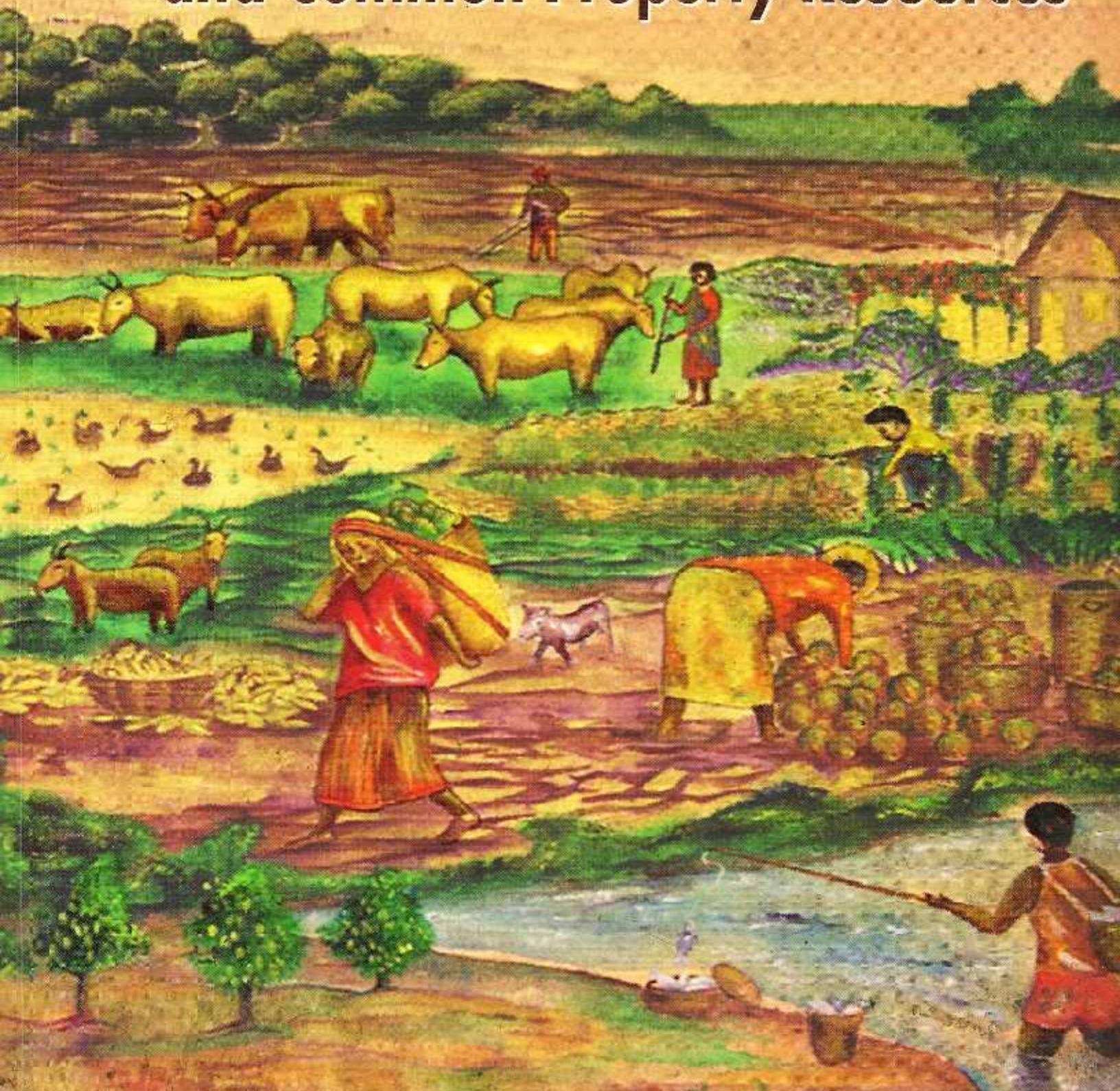


A Resource Book on  
**Enhancing Access of the Poor to Land  
and Common Property Resources**



**ANGOC**  
Asian NGO Coalition  
for Agrarian Reform  
and Rural Development



**INTERNATIONAL  
LAND  
COALITION**



ANGOC

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ANGOC is a regional association of 21 national and regional networks of non-government organizations (NGOs) from 11 Asian countries actively engaged in food security, agrarian reform, sustainable agriculture and rural development activities. Its member-networks have an effective reach of some 3,000 NGOs throughout the region. ANGOC was founded in Bangkok in February 1979, following a two-year series of village and national-level consultations in 10 Asian countries leading to the World Conference on Agrarian Reform and Rural Development (WCARRD, Rome, 1979).

The complexity of Asian realities and the diversity of NGOs highlight the need for a development leadership to service the poor of Asia - providing a forum for articulation of their needs and aspirations as well as expression of Asian values and perspectives. ANGOC seeks to address the key issues related to agrarian reform, sustainable agriculture and rural development in the region.

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The International Land Coalition is a global alliance of intergovernmental, governmental and civil society organizations. The Land Coalition works together with the rural poor to increase their secure access to natural resources, especially land, and enable them to participate directly in policy and decision-making processes that affect their livelihoods at local, national, regional and international levels.

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# Preface

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The Asian NGO Coalition for Agrarian and Rural Development (ANGOC) traces its roots to the World Conference on Agrarian Reform and Rural Development (WCARRD) in 1979. It subscribes to WCARRD principles and program of action, also known as the Peasant Charter, suggesting that sustained improvement of the rural areas requires fuller and more equitable access to land, water and other natural resources, and widespread sharing of economic and political power. Agrarian reform is the foundation of rural development and social and political stability. Twenty seven years later, ANGOC maintains the position that agrarian reform is the best route to assuring justice, equity and peace in much of the developing world.

New challenges have surfaced during the last two decades. Global summits have drawn attention to environmental degradation, indigenous peoples and women's rights, food security and sovereignty and poverty. Across Asia, small farmers and producers have been hard hit by the damaging impact of trade liberalization policies, spiraling commodity prices, growing encroachment by commercial interests into productive lands and increasing privatization of the commons. Hence actual conditions may not have changed for a large section of the rural poor and may in fact have worsened.

For the rural poor, secure access to productive resources is fundamental to addressing poverty and hunger. Today planners and practitioners alike understand the links between poverty, resource rights and sustainable natural resources management. How land and common property resources are regulated, how the rights of the poor are upheld and how asset ownership is distributed critically influence the long-term prospects of poverty alleviation efforts.

Across the world examples can be found where innovative approaches have been tested and found to be very relevant. In parts of the world traditional systems recognize and protect the rights and responsibilities of the poor better than modern approaches. The principles, methods and lessons behind such exemplary approaches need to be extracted, synthesized and shared across geographic boundaries. We now know better about which approaches work and which do not, for even unsuccessful efforts offer valuable insights and lessons.

This resource book is based on secondary written materials. Articles have been simplified after editing down their length in order to draw attention to the main points. Illustrations have been added. The source book is a compilation of articles, each of which can be read indepen-

dently of each other. The articles are intentionally diverse and varied. The resource book does not advocate or prescribe a particular approach. The intent is to influence debate and offer a wider repertoire of approaches for planners and practitioners to consider in programs aimed at improving the access of the poor to land and common property resources.

This is the product of the painstaking work of almost a hundred authors drawn mostly from Asian experiences. It is by no means complete or comprehensive, nor does it do justice to the geographic representation that might have been warranted. The publishers would like to encourage similar initiatives for other regions of the world. This resource book has no copyright and readers are encouraged to translate, adapt, and update the articles. The publishers only request that due acknowledgement is given to the contributing authors and publishers.

We profusely thank the authors and/or publishers who gave their permission for repackaging their articles to be included in this noteworthy compilation. We likewise extend our heartfelt gratitude to Antonio B. Quizon, Julian Gonsalves, Fr. Francis B. Lucas, Ma. Teresa Lingan-Debuque, Maricel Almojuela-Tolentino, Bruce Moore and the International Advisory Committee for their steadfast support and resolve in the completion of this resource book.

Finally, we would highly appreciate receiving your feedback and comments on this resource book. Please write to us at [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph).

***Nathaniel Don E. Marquez***  
**Executive Director**  
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# Foreword

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**K**nowledge keeps the poor informed and gives them choices. It contributes to their empowerment. It also strengthens the capacity of those effecting and those affected by land policies, land administration and land practices. Institutions are able to make more informed decisions when exposed to the experiences of others, whether they are institutions of the poor, policy-makers or development practitioners.

This resource book responds to growing demands by civil society, governments and international organisations. These development actors want to know more so they can bring about greater security of access and tenure to property resources by poor households. The recognition that secure access to these resources is fundamental to sustainable human development is growing. The cross-cutting importance of access to land and common property resources is frequently linked to food security, conflict resolution, sustainable natural resource management, and, reduced migration to urban centres.

The International Land Coalition places the exchange of knowledge in the forefront of its strategic framework. Its unique membership blend of civil society, governmental and international organisations provides the Land Coalition with a learning environment that crosses the boundaries that sometimes separate communities, public organisations and global bodies from working together.

The value of this resource book is in the willing interest and commitment of its contributors to share their experiences. The knowledge being shared is rooted in the “real-life” experiences of these organisations. It is experience that has worked. The aim is to help others to replicate or adapt the material to their unique circumstances. This book is the “intellectual property” of the contributors who are freely placing it before all interested parties in the common interest of empowering poor households to gain more secure access to productive resources.

This project was originally conceived as a resource for use in Asia, but was expanded to achieve global application. I wish to thank ANGO not only for its leadership but for its willingness to take up the challenge to give the resource book these features and globally sourced content. The book has also inspired other members of the International Land Coalition to use the “writeshop” process to create Africa and Latin America versions to add regionally specific examples that can also be shared worldwide.

I have been asked why the title of this book speaks about both access to land and common property resources. This will become evident as you work your way through its many sections and you discover the many ways in which land can be accessed and rights of access can be ensured. As you use this resource book, I hope that you will also appreciate that common property resources are vital to the livelihoods of poor communities. There is a current policy debate that could bias decision-makers toward individual property regimes. These debates could further marginalise the poor. Common property is not a romantic idea from the past, but a crucial way to manage resources and empower poor men and women in the resource scarce context of today.

*Bruce H. Moore*  
Director  
International Land Coalition

# Introduction to the Resource Book

---

**T**his resource book is a collection of best practice, lessons learned and experience gained by those who have been involved in facilitating the access of poor communities to land and common property resources. The papers included in this compilation generally focus on the principles and lessons that underpin the initiatives being documented, or on policy options to improve resource access. Where papers tackle strategies gleaned from program/project implementation, they do not go so far as provide step-by-step instructions. In other words, this resource book is not meant to be an extension manual or instructional guide. Rather, it should serve as a source of ideas and options for advocates and practitioners planning and designing programs and seeking to mainstream or upscale efforts in resource reform.

## *How was this resource book developed?*

The Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and the International Land Coalition (ILC), co-publishers of this resource book, have long been involved in documenting the lessons and experience of their partners who are field practitioners in the area of resource reform.

This resource book is an attempt by ANGOC and ILC to compile significant writings in this area thus far, and to subsequently translate it to a more popular form. However, both organizations are aware that there are still plenty of experiences and methods which have yet to be abstracted and disseminated.

The process of developing the resource book involved careful planning, rigorous preparatory activities and meticulous production work that took two full years to complete.

## **Planning and preparation**

On October 2003, an International Advisory Committee (IAC) was formed, initially to help the ANGOC Regional Secretariat to identify specific topics that would comprise the broad

theme of *“Enhancing Access of the Poor to Land and Common Property Resources”*, and to select specific articles within these topics. The IAC was composed of Manuel Chiriboga, Fernando Eguren, Julian Gonsalves, Cristina Liamzon, Francis Lucas, Nathaniel Don Marquez, Bruce Moore and Antonio Quizon.

At the same time, a Philippine-based Steering Committee was established to guide specific aspects of the process of developing the resource book. The main task of the Steering Committee was to recommend topics as well as specific papers for consideration. The IAC, as well as ILC and ANGO network partners, also submitted ideas. At the same time, a researcher reporting to the Steering Committee conducted a review of related literature, and an extensive search on the Internet. More than 140 articles were initially selected. These covered the themes of agrarian reform (policies, experience, and approaches); property and access rights; women’s access to land and related resources; land and resource conflicts; social capital formation; access to common property resources; and community-based natural resource management among others.

This selection was carefully reviewed by the Steering Committee, which subsequently trimmed it down to 80 papers. This batch would be subjected to a “repackaging” process that would shorten and make the papers more readable, as well as enhance their message through illustrations and graphics.

The repackaging process started with an initial editing of the papers by five editors. At the end of this stage, the papers had been cut down to a few pages (maximum of 5-6) in length. Suggestions for alternative and more reader-friendly ways of presenting information in the papers were also noted by the editors. Five illustrators and five graphic/layout artists worked in tandem with the five editors. The latter provided the illustrators with their first drafts to help them visualize appropriate artwork and to conduct their own research where necessary.

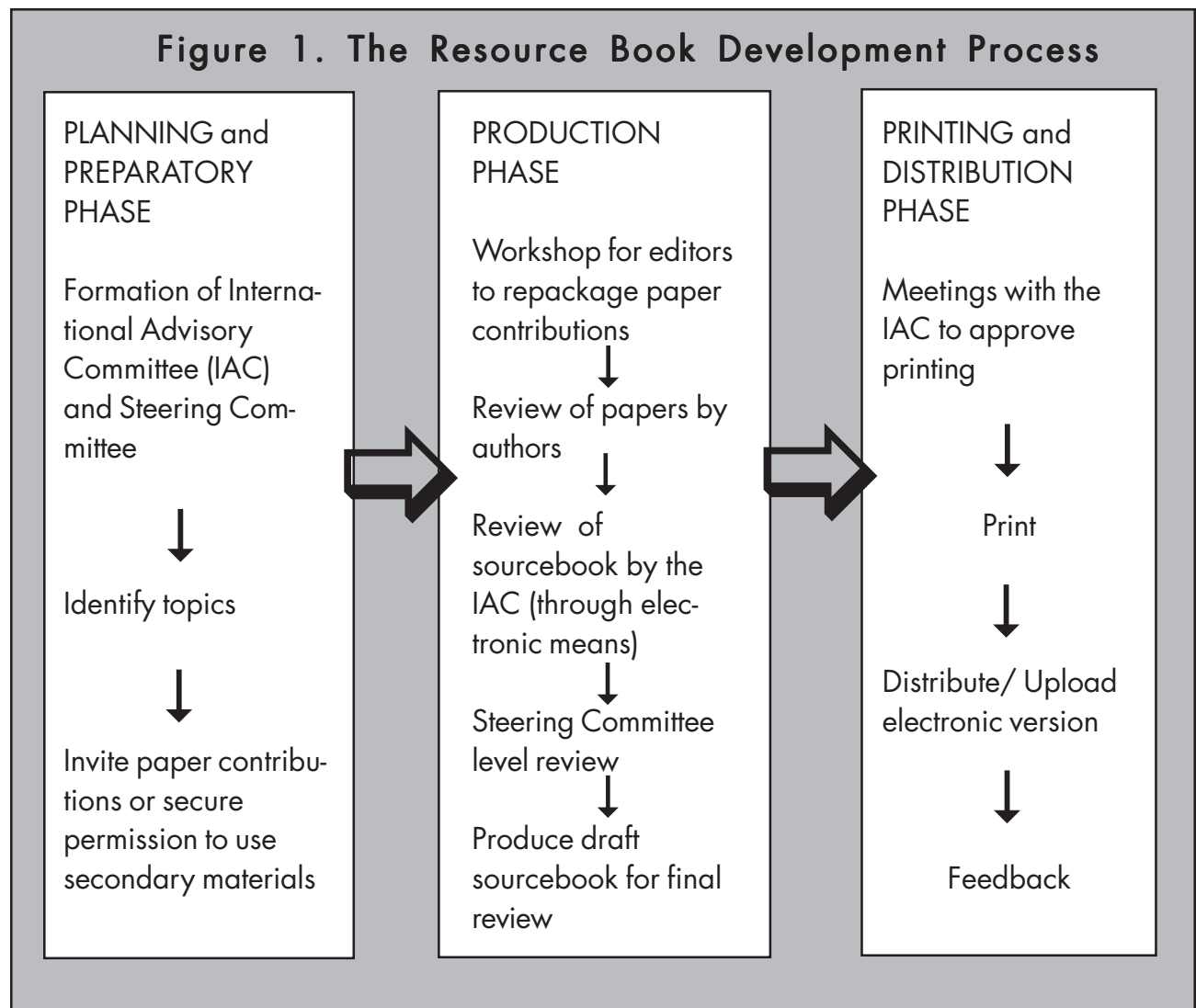
## **Production Work**

The resource book began to take shape during the “Production Workshop” conducted in Tagaytay City, Philippines in September 2004—where the major editing work was done, alongside the actual art rendition and page layout.

A team of external resource persons was invited to critically review the papers assigned to them. Questions were asked of the editor and his/her companion illustrator and lay-out artist covering everything from content to layout. At the end of the Production Workshop, the number of papers was further cut down to 68. Some papers were dropped, merged with another paper, or reduced to a sidebar or box article. In any case, the papers that remained had been converted to “almost-camera-ready” form.

However, the papers would undergo another stage of editing by a “Head Editor”. Thereafter, the papers were subjected to several rounds of review by members of the Steering Committee over a period of seven months. During such sessions, proposals to rework, merge articles, or drop them altogether were discussed and vetted.

Meanwhile, the repackaged papers were each sent, by e-mail, to their respective authors to get their feedback on how the articles had been edited as well as on the appropriateness of the accompanying artwork and graphics. This process took almost half a year, with many of the papers going back and forth between the authors and the Head Editor and an artist until a satisfactory version of the papers was produced.



The final 64 papers were then grouped into eight categories corresponding to chapters, as follows:

1. Land and access rights for the poor
2. Assessing agrarian reform programs
3. Land and resource conflicts
4. Women's access to land and resources
5. Managing common property resources
6. Institutional dimensions in common property resources (CPRs)
7. Approaches used to facilitate access to land and common property resources
8. Internet resources on land and common property resources

Thus structured, the resource book was sent to IAC members for final review.

### *Use of the resource book*

This compendium of articles is most significant in expounding the discussion on access to land and common property resources since it brings together approaches and analyses based on actual field experiences from various perspectives and situations.

Civil society organizations that have been involved or demonstrate an active interest in the issues tackled in this resource book, as well as policymakers in government and intergovernmental agencies, will definitely find this collection valuable to enhance the discussion and advocacy for the poor to gain better access to land and common property resources.

This resource book is being reproduced in both printed and electronic forms with a CD and web-downloadable versions soon to be available at the ANGOC and ILC websites.

ANGOC and ILC are interested to learn how the resource book is used and would be grateful for any comments and feedback which could help them improve subsequent editions. A feedback form is supplied at the end of this resource book to facilitate this.



# What Critics Say Against Agrarian Reform



## Access to Land is a Human Rights obligation

**A**grarian reform is central to the fulfillment by States of their obligation to ensure the right to adequate food for land-seeking marginalized groups. Indeed, States that fail to implement reform policies violate the right of these vulnerable groups to adequate food as they often have no alternative sources of adequate income. Agrarian reform is thus a human rights obligation that requires expeditious steps from governments to strengthen these people's access and utilization of productive resources and means to ensure their livelihood.

### Source

Michael Windfuhr, "Agrarian Reform: A Human Rights Obligation," *Paper presented to the International Conference on Agrarian Reform and Rural Development (ICARRD), Tagaytay City, Philippines, December 5-8, 2000.*

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## Arguments against Agrarian Reform

A number of arguments have been used to weaken agrarian reform policies or to contest the whole idea of agrarian reform. It is worthwhile to discuss these arguments and to see how they relate to agrarian reform as a human rights obligation:

# 1 ***“Investing in larger agricultural units would promote long-term development and have trickle-down benefits for the poor.”***

This argument is neither true, like many examples show (countries and regions that undertook agrarian reform, like South Korea and Taiwan, developed much faster), nor valid generally (national conditions vary tremendously). It is also apparent that even in countries that have a booming economy, poverty is growing fast and the situation of poor people or groups is deteriorating (as illustrated by many UNCTAD reports from the last few years). The human rights approach requires the orientation of policies towards guaranteeing and implementing the rights of most vulnerable groups immediately, an approach which is all too often forgotten in development logic.



# 2 ***“Other land tenure arrangements would do just as well.”***

The neoliberal paradigm being promoted by International Financial Institutions (IFIs) has given rise to a number of trends in land tenure transformation. In many countries, the privatization of collective reformed sectors (e.g., Mexico) or of old communal lands is being pushed (e.g., Bolivia, Peru, many African countries). In several cases, a dismantling of State farm collectives can be observed (e.g., Eastern Europe, Vietnam). These new policies are challenging the ability of States to implement their human rights obligations in two ways:

---

*“Everyone has the right to a standard of living adequate for health and well-being of himself and of his family, including food, clothing, housing and medical care...”*

(Art. 25,  
Universal Declaration of  
Human Rights)

---

- Firstly, they undermine the existing access of small farmers and other marginalized groups to productive resources, often with alarming results. In Mexico, thousands and thousands of small farmers have had to leave the land because of the policy of privatizing old “ejido land” and because of a liberal trading regime, which is putting small farmers in direct competition with highly subsidized corn producers in the USA.
- Secondly the new proposed model of a “market-based agrarian reform,” with elements like reliance on land markets, the closure of old agrarian reform institutions, etc., which is now being offered as an alternative to traditional agrarian reform policies, is not cheaper as

promised, but only functions when the State is heavily involved. There is also an increasing risk that poor farmers will be left with a high debt burden after buying a small plot of land. When this policy is introduced as a replacement for all other forms of agrarian reform policies, the few cases of modest advance in land reform (e.g., the Philippines, South Africa) will come to an end, too.

### **3** *“Modern agriculture, based on large-scale farms, is indispensable to ensuring food security.”*

Firstly, the argument does not reflect adequately the causes of hunger and malnutrition. People are not hungry or chronically malnourished because of too little food being produced. Although this can happen in situations of acute famine, linked to droughts or civil wars, the huge majority of people are hungry because they either do not produce food for themselves or they do not have enough income to buy it. Increasing the yields of big farms and plantations may increase the surplus, but it will not decrease the number of hungry people.

Secondly, it is a myth that small farmers are less productive than large producers using the latest agricultural technology. If small farmers have access to good framework conditions, such as affordable credit, good seeds and other agricultural inputs, and access to marketing facilities, and if they are not overtaxed by the government, as happens in many countries, their yields per hectare are often much higher than the yields in mechanized, modern agriculture. Moreover, there is no natural law which provides that only large farms can produce enough food. In fact, increasing concentration in the land tenure structures in rural areas would create more landless poor people, and therefore greater hunger.

Thirdly, all those who favor an agricultural model based on large-scale and productive modern agriculture also fail to give an answer to what will happen to those people who lose their access to land and become marginalized. Clearly, the old economic hope prevails that in the long run, enough growth can be created by modern agriculture to lead to faster general economic growth, which presumably would eventually benefit the poor. However, the implementation of a fundamental human right, like the right to adequate food, cannot be postponed to the long-term future. The fundamental right to be free from hunger requires States to act immediately.

### **4** *“Trade can foster food security.”*

For years, the World Bank has been promoting its strategy of trade-based food security. Its main argument is that if countries specialize in the production of the export products they can get the most returns for, countries in general become richer and can buy cheap imports. This

Agrarian reform can be implemented by different means, different policy options or measures. The human rights obligation requires States to pursue policies which guarantee access to productive resources. Governments must implement these policies by using the maximum of available resources and must move as expeditiously as possible towards their full implementation. It is the result that counts, not the prescription of certain specific policy measures.

argument may be correct in theory, but does not reflect many countries' social realities. If people do not have economic access to productive resources, they would not earn enough to buy imported food.

It is true that the implementation of agrarian reform measures often requires a lot of resources — most especially, political will. This argument, however, cannot be used to challenge agrarian reform as a human rights obligation. States are obliged to use the maximum of available resources and should move as expeditiously as possible to achieve the full realization of the right to adequate food. Most countries have more than enough resources to implement agrarian reform. Moreover, the Covenant on Economic, Social and Cultural Rights mentions the need to seek international cooperation, if national resources are scarce. What the States should do is prove that they have conducted the policies necessary to implement the right to adequate food, and that they are achieving positive results over time. Human Rights are not asking for the impossible, but require the use of available resources in a way that helps vulnerable groups see their rights implemented.

## 5 ***“Agrarian reform unduly limits States’ policy options.”***

Agrarian reform can be implemented by different means, different policy options or measures. The human rights obligation requires States to pursue policies which guarantee access to productive resources. Governments must implement these policies by using the maximum of available resources and must move as expeditiously as possible towards the full implementation. It is the result that counts, not the prescription of certain specific policy measures.

### **Agrarian Reform must be Sustainable**

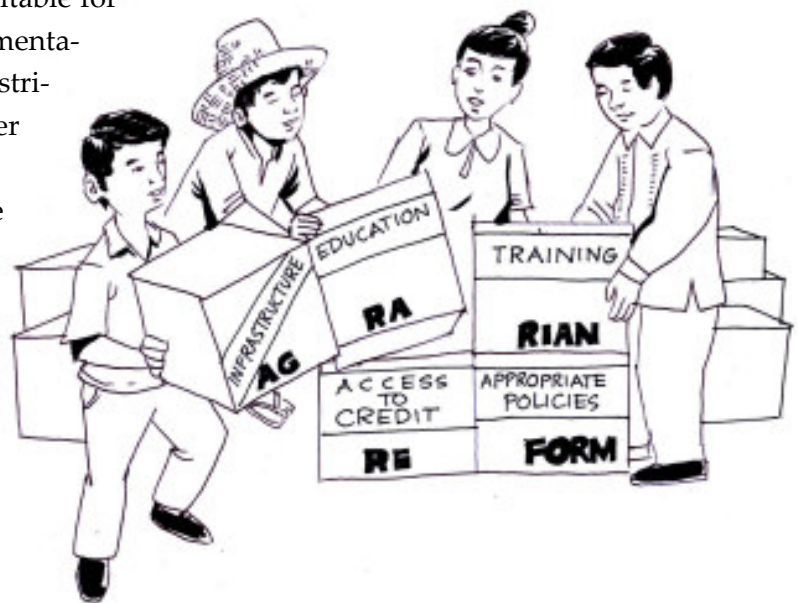
Agrarian reform, from a human rights perspective, requires more than just the distribution of land. Beneficiaries need a set of conditions which determine whether they can make use of the land given and become self-reliant or whether they would just build up debts and run into



severe economic problems later on. It has often been argued that small-farmer recipients of agrarian reform are bound to fail economically because their units are too small. Here, the answer is: If the framework conditions offer a favorable environment, small farmers can become very productive and successful. Demanding these conditions does not mean asking for a huge amount of agricultural subsidies. These conditions are framework conditions, which all forms of economic activities need as normal support from the State. Without infrastructure, investment in education (training) and research, and access to credit, no business would survive.

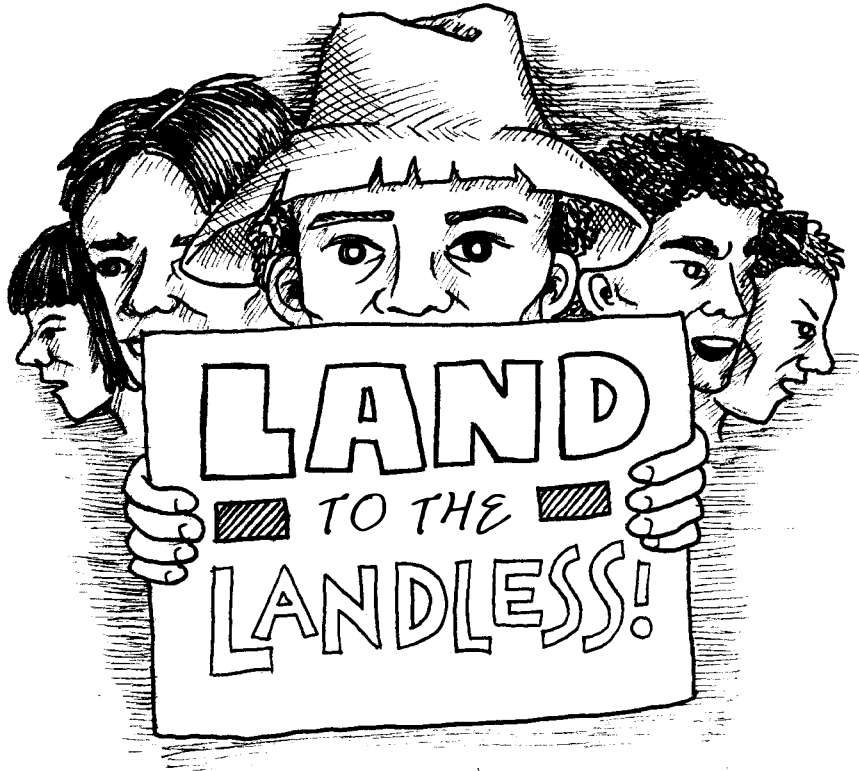
Non-implementation of agrarian reform is in many cases also a reason for an environmentally unsustainable land tenure pattern. Small farmers could be forced to crop on marginal lands like on hills or in dry areas because the ownership of good and fertile lands is highly concentrated. Production in these marginal areas can lead to soil erosion or desertification. In other countries, implementation of agrarian reform is avoided by resettling landless peasants in areas not viable for long-term agricultural production. Furthermore, small farmers are often blamed for environmental degradation processes. This is unreasonable since the reason for their use of the lands, which are hardly suitable for agricultural production, is the non-implementation of agrarian reform measures. Land distribution must therefore be done in a manner which avoids environmental damage. If implemented well, agrarian reform can be supportive of an environmentally sound development.

Agrarian reform is a central element of every strategy to combat poverty. It provides people with access to productive resources, allowing them to have adequate access to food in dignity.



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# Land Rights and Rights-Based Principles



While many past land reforms were instituted based on a variety of principles (including “welfare” and “charity”), there is now increasing awareness, recognition and acceptance of the different evolving principles and concepts of “land and property rights”. Unlike other assets, land (including natural resources) is a finite resource. Hence, entitlements to land must embrace social functions and social rights that go beyond individual rights to “private property”. Rights-based approaches pursued under agrarian reform, include:

- ➔ *“Land to the tiller” or “tiller rights.”* Entitlement to land is based on labor and productivity, to reform past tenurial arrangements that have alienated workers from their produce and productive resources.

## Source

Antonio B. Quizon, Asian NGO Perspectives on Agrarian Reform and Access to Land. *ANGOC Policy Discussion Paper*. August 2005.

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➤ **Historical rights; prior rights.** This approach recognizes and seeks to correct the historical injustices committed against particular communities, especially indigenous peoples, that may date back to past colonial periods when indigenous communities were disenfranchised of their lands. (See box)

➤ **“First farmer” rights.** This concept of “first farmer” rights (as opposed to “farmers first”, which is consistent with a charity or welfare approach) emerged among civil society organizations (CSOs) in the 1990s in the context of global debates on biodiversity. It recognizes the role of indigenous peoples and traditional farmers as plant genetic resource conservators and first breeders through their indigenous knowledge and farming systems. If the new global regime allows intellectual property rights (IPRs) to be given to corporations, then more so, “first farmers” must be allowed to exercise rights over their intellectual property, which includes their habitats and immediate working and living environments.

➤ **Cultural rights.** This refers to the rights of communities to pursue their own customs, beliefs and practices of choice. Certain cultures and belief systems are closely linked/integrated with particular habitats, territories or homelands.

In the Philippines, private land ownership was first introduced under the *Regalian doctrine* during the Spanish colonial occupation. Subsequently, this later became the main basis for all of the country’s land laws as expressed in the 1935, 1973 and the 1987 Philippine Constitutions. The Regalian doctrine stipulated that “all lands of the public domain and other natural resources belonged to the King of Spain,” and thus, when the Republican State was later introduced in 1935, the State claimed to be the rightful heir. Traditional systems of communal land ownership were broken up and not accorded legal recognition; thus, all natives (and indigenous peoples) were disenfranchised.

From **Quizon, A., Mendoza, M., Quitangon, G.** *A Review of Land Partnerships in the Philippines. Final draft. 14 July 2004.*

➤ **“Land to the landless.”** This was a public slogan and policy that became popular in the 1950s to 1980s, and called for greater equity especially in the allocation and redistribution of lands under the public domain.

➤ **User rights.** This is recognition of the fact that many rural households depend on the commons for their food, livelihood and survival. It has also been recognized that many user



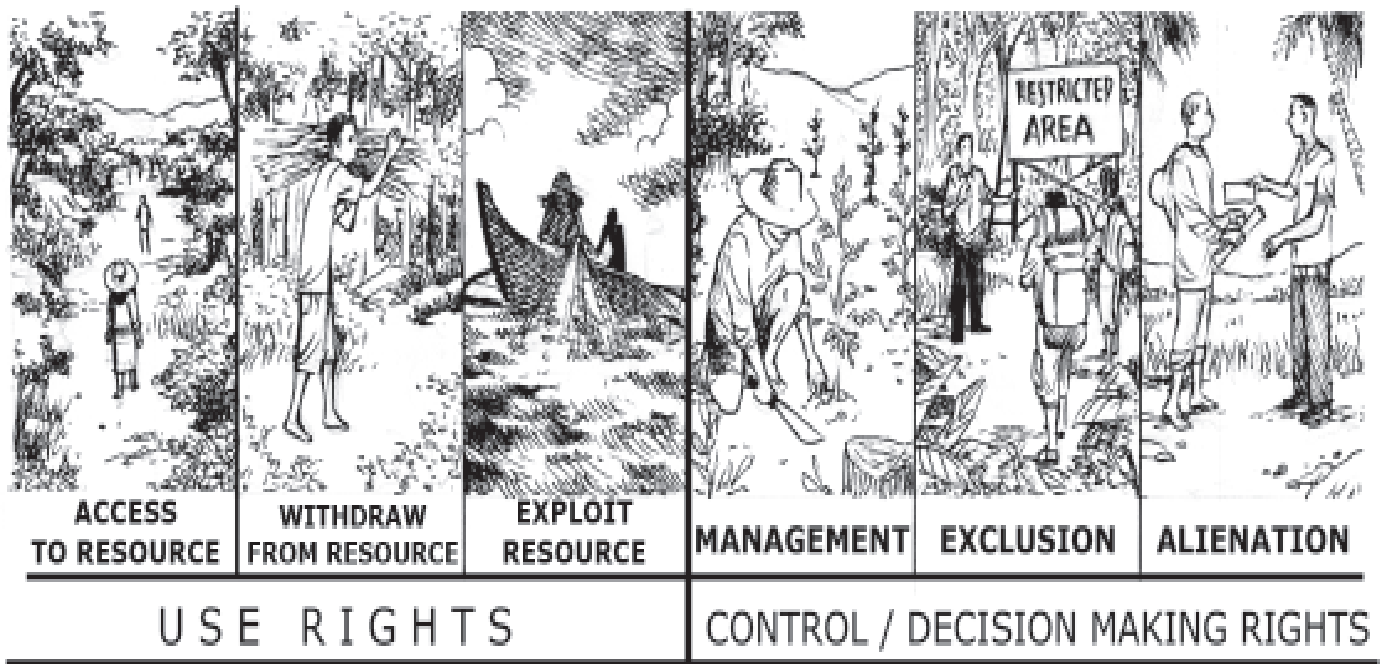
practices are sustainable, and that some may even contribute to the regeneration of the resource itself (e.g., gathering, pasturing at controlled levels).

- ***Equal rights.*** Equality before the law is a basic principle enshrined in all national Constitutions. Hence, this equality principle must be highlighted especially in two cases: ensuring the equal rights of *women* to land and assets, and ensuring equal access to *common property resources*.
- ***Secondary access rights.*** It is increasingly recognized that particular populations have “secondary access rights” to particular lands and resources. Examples include the rights of pastoralists to grazing lands and rights-of-way, as well as the right of fisherfolk to have free and unrestricted access to the coastlines to ensure their source of livelihood.
- ***The “right to food”; the right to decent livelihoods; the right to habitat and shelter.*** As necessary extensions of basic human rights, these have been raised in the various UN Summits convened in the 1990s.

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# Understanding Property Rights



## P R O P E R T Y   R I G H T S

People often think of property rights in a narrow sense as ownership — the right to completely and exclusively control a resource. But property rights are better understood as overlapping “bundles” of rights. There are many combinations of such rights, but they can often be grouped as:

- ➔ **Use rights** — such as the right to access the resource (for example, to walk across a field), withdraw from a resource (pick wild plants), or exploit a resource for economic benefit; and
- ➔ **Control or decision-making rights** — such as the rights to management (plant a crop), exclusion (prevent others from accessing the field), and alienation (rent out, sell or give away the rights).

### Source

Ruth S. Meinzen-Dick, Rajendra Pradhan and Monica di Gregorio, “Understanding Property Rights,” in *Collective Action and Property Rights for Sustainable Development*, Brief 3 of 16, edited by Ruth S. Meinzen-Dick and Monica Di Gregorio, 2020 Vision Focus 11, International Food Policy Research Institute: Washington, D.C., 2004. Reproduced with permission from the International Food Policy Research Institute. [http://www.ifpri.org/2020/focus/focus11/focus11\\_16.pdf](http://www.ifpri.org/2020/focus/focus11/focus11_16.pdf)

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These rights may also be conditioned by the amount, timing, and other aspects of resource use and management. Several individuals or groups may have different kinds of rights over the same resource. For example, all members of a community may be allowed to bathe in a river or collect drinking water, but only certain farmers may be permitted to draw water to irrigate a field or to decide how to distribute that water in the dry season. At the same time, the State may claim ultimate “ownership” of the water, including the right to reassign it to others. Even on land declared as State forest land, individuals from a community may have the right to collect medicinal plants or fallen branches for firewood (use), local groups may have the right to plant trees (management) and guard them (exclusion), but the State may retain the right to approve any felling of trees and to collect revenue from users.

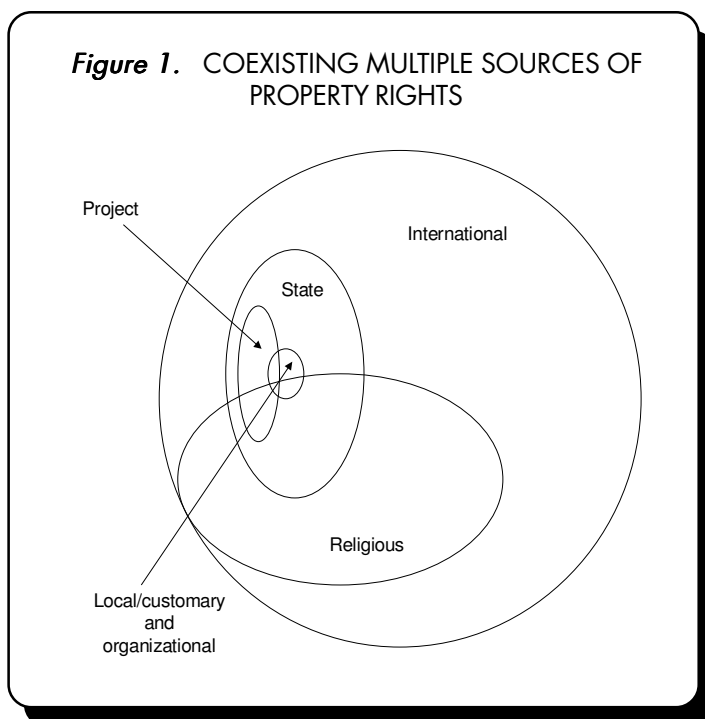
## Legal Pluralism: Many Sources of Rights

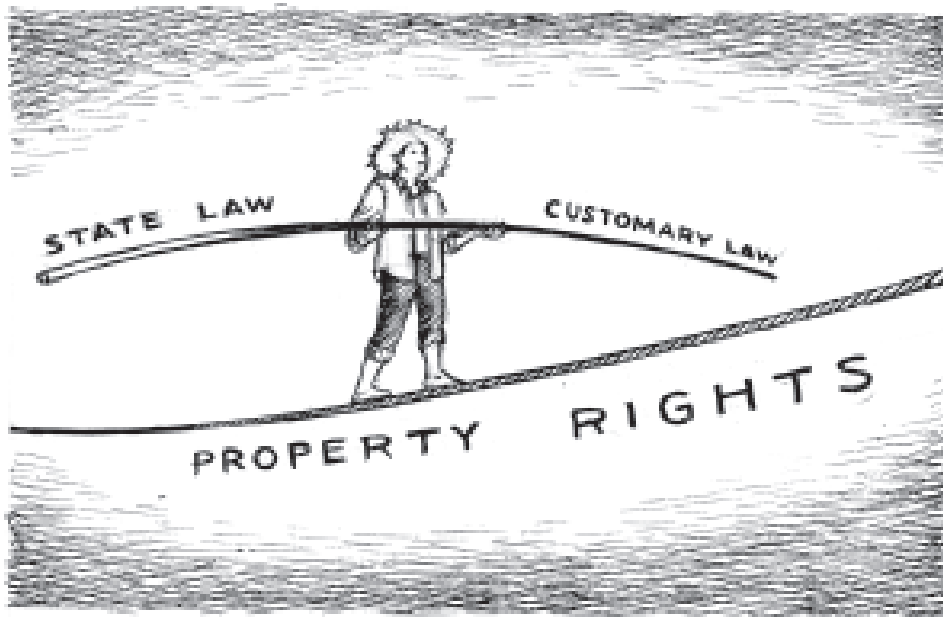
To recognize property rights in practice, we need to look beyond State-issued titles to the resource. As illustrated in *Figure 1*, there are multiple sources of property rights, including:

- International treaties and law;
- State (or statutory) law;
- Religious law and accepted religious practices;
- Customary law, which may be formal written custom or living interpretations of custom;
- Project (or donor) law, including project or program regulations; and
- Organizational law, such as rules made by user groups.

The coexistence of these laws does not mean that all laws are equal, or equally powerful. Each is only as strong as the institution that stands behind it.

Often, State law is more powerful and used by government officials, for example, to declare and enforce forests as State property. Statutory law is also used by powerful outsiders, such as logging companies with concessions in customary lands, to claim resources in ways that are not locally recognized as legitimate. On the other hand, actions of local communities, such as petitioning, demonstrations, and road-blocks, are ways of claiming locally recognized rights as well as seeking recognition of their rights by the State.





In some cases, State law, although important, is not as relevant as the village, ethnic community, or user group in determining property rights on the ground. For example, State laws on inheritance are often ignored in favor of religious

laws or local custom. Research has shown that State titling programs do not always provide stronger security than customary rights and may even be a source of insecurity for women and households with less information or fewer connections to obtain government land registration.

While legal pluralism can create uncertainty because rival claimants can use a large legal repertoire to claim a resource, multiple legal frameworks also provide flexibility for people to maneuver in their use of natural resources.

## **Property Rights as Flexible and Dynamic Systems**

Often, the more variable the resource, the more flexible are the property rights that develop over it. Water rights are particularly fluid, changing by season and year, depending on the availability of the resource and demands for water. Similarly, many customary rangeland management systems negotiate access rights depending on factors like weather and the social relations between the groups. This flexibility provides a measure of security in times of drought or other disasters, by creating reciprocal expectations of resource sharing between groups.

Another source of change in property rights comes from the interaction between types of law. The different legal frameworks do not exist in isolation, but influence each other. Changes in State law can influence local custom, but changes in customary practices can also lead to changes in State law.

For State law to be effective on the ground effective implementation is required. Legal literacy programs may be needed to inform the public — and even government officials — about changes in the laws.

How exactly these different legal orders influence each other depends on power relationships between the “bearers” of different laws. Power relationships also determine the distribution of rights and whether people can effectively claim their rights. Actual rights on natural resources are therefore a product of locality, history, changes in resource condition and use, ecology, and social relationships and are subject to negotiation. Thus, in practice, property rights are not cast in stone or in title deeds, but negotiated.

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## **Property Rights, Responsibilities and Devolution Programs**

Effective resource management entails balancing benefit entitlements and responsibilities that come with property rights. After failing to effectively manage natural resource systems centrally, many governments are now undertaking decentralization and devolution programs to transfer responsibility for resource management to local governments and user groups. Unfortunately, many such programs emphasize the transfer of responsibilities without transferring the corresponding rights. As a result, user groups may lack the incentive, and even the authority, to manage the resource.

When devolution programs do transfer rights over resources to a user group or local government, that institution becomes the gatekeeper determining individuals’ rights over the resource. Effective voice in those organizations becomes essential to exercising any decision-making rights over the resource. This situation can be especially problematic for women when formal rules limit membership to the “head of household”, or where social norms make it unacceptable for women to speak up in public. Because strengthening the control rights of some means restricting the use rights of others, those who are not members of the group in question may have less access to the resource.

Thus, while effective transfers of rights and responsibilities from centralized government agencies to local organizations can lead to more sustainable resource management, authorities must give due attention to the equity outcomes, especially noting who loses access to resources.

## **Implications**

Although property rights have a powerful influence on human welfare and natural resource management, this key institution is complex. Property rights do change over time, but legisla-

tive reform alone is unlikely to change the manifestation of property rights on the ground. Rather, change occurs through the social and power relations and negotiations between different groups, which may appeal to a variety of legal bases for claiming property rights. Instead of looking for simple “solutions” to property rights issues, it is more useful to try to understand the complexity. This approach involves looking at the claims and the bases of the claims made by individuals, groups, or government entities to different bundles of rights over the resource; and at the different types of laws that pertain to the use or management of the resource. Security of tenure is important, but so is flexibility to respond to changing conditions that affect resource use and property rights.

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# Strengthening Property Rights for the Poor



**M**any of the poor in the developing world are landless, but most of them have some access to land. These “landed poor” remain poor not simply because their holdings are small, but also because their land rights are weak and insecure. The uncertainty they experience undermines their incentives to make long-term investments in their land or use it sustainably. Their land has limited economic value because it cannot be legally transferred. The land users’ weak tenure also limits their political empowerment. To the extent that land users must rely on the goodwill of authorities or landlords for continued access to the land that supports them, their political participation is inhibited by the threats of those who hold power over them.

## Source

John W. Bruce, “Collective Action and Property Rights for Sustainable Development: Strengthening Property Rights for the Poor,” Brief 16 of 16, February 2004, CGIAR System-wide Program on Collective Action and Property Rights, 2020 Vision Focus 11, International Food Policy Research Institute: Washington, D.C., 2004. Reproduced with permission from the International Food Policy Research Institute. [http://www.ifpri.org/2020/focus/focus11/focus11\\_16.pdf](http://www.ifpri.org/2020/focus/focus11/focus11_16.pdf)

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## Guidelines to Strengthening Property Rights

The landed poor labor under different conditions, but some general guidelines can help direct efforts to strengthen property rights.

➔ ***Trust land users with stronger property rights.*** It may be argued that if land users are not ready, they will abuse the land, and hence need supervision. But experience has shown that owners, responding to the incentives implicit in ownership, produce better land husbandry than paternalistic schemes, which soon sour and often become corrupt.

### WHO ARE THE LANDED POOR?

The landed poor may be:

- tenants by caste or ethnicity, without bargaining power;
- farmers under a system of leasehold from the State or a collective;
- land reform beneficiaries whose landholdings have never been legally regularized;
- users of forestlands that have occupied and cultivated the forest for generations;
- landholders under customary tenure systems unrecognized by the State; and
- women in societies where land passes from generation to generation in the male line and who only have access to land as daughters and wives.



➔ ***Legislate for stronger property rights.*** The State must provide a robust legal framework of rights for land users. Although in weak States the law often has little impact on the ground, an adequate legal framework is a first and essential step.

➔ ***Recognize that improved property rights has different meanings in different contexts.*** Improved property rights 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 stand on a par 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. The question should always be: *What do rural people need?* Modest increases in tenure security can be transformative. Though some systems need greater transparency and accountability, 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. Some resources used in common, such as wetlands, forests, and pastures, may be secured only by strengthening community property rights. 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 community, 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 to land.*** Government agencies, non-governmental organizations (NGOs), and the private sector, through campaigns and media initiatives, can all help educate people about their land rights. 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. Adequate mechanisms to settle disputes include adjudication or alternative dispute resolution, in courts or alternative fora, and must be accessible and affordable.



## **Institutionalizing Property Rights Reforms**

The measures identified here will not be achieved overnight. For most countries it takes 10 years to put successful tenure reform programs in place and another 20 to implement them satisfactorily. There are numerous pitfalls to be avoided in the process.

- ***Be politically astute.*** Whatever “experts” may see as the advantages of strengthening property rights, politicians often respond to other signals: new revenues from property taxes on rapidly appreciating land values, new political constituencies developed by empowering the previously neglected with property rights, or accommodation of the market-dominant classes by making land a commodity for raising capital. Painful compromises among divergent interests and objectives are needed to achieve reform.
- ***Embody new property rights in law.*** Changes in the political economies of nations can cause legal reform to be forgotten and reforms processed administratively, without firm legal basis. This approach only invites challenges to new rights later, once the reform is achieved and the political impetus behind it wanes.



- **Exploit 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.
- **Constraints in capacity and finance can undermine implementation.** Strengthened property rights systems are costly and 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 a property rights reform has stalled for lack of financial support.
- **Mobilize NGOs in the reform process.** Organizations of the marginalized poor can voice their sectoral demands and press for reforms. Such organizations have skills in areas like rights education and dispute settlement that are vital to implementing reforms.



- **Be careful in replacing inadequate property rights systems.** Where an existing system of property rights is judged inadequate, one must be careful in replacing it, particularly where it is culturally embedded. 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 in customary tenure contexts, should not inadvertently weaken the property rights of others.
- **Be alert 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 as land titling approaches, depriving the poor of a resource upon which they rely. Vulnerable groups are often unrepresented in local implementation authorities; hence mechanisms

must be built into the implementation process to ensure their participation in reform processes and reform benefits. Enactment of reforms of tenancy systems can, if enforcement is weak, lead to the expulsion of tenants from their holdings by angry landlords.

- ➔ **Acknowledge 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.

Strengthening the property rights of the poor is a complex effort. The landed poor are a heterogeneous group who hold rights to their landed assets in diverse and complicated ways. Efforts to increase the security of their tenure need to be sensitive to the 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.



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# Collective Action and Property Rights Issues



**I**nstitutions of collective action and systems of property rights shape how people use natural resources, and these patterns of use in turn affect the outcomes of people's agricultural production systems. Together, mechanisms of collective action and property rights define the incentives people face for undertaking sustainable and productive management strategies, and they affect the level and distribution of benefits from natural resources. The linkages between property rights, collective action, and natural resource management have important implications for technology adoption, economic growth, food security, poverty reduction, and environmental sustainability. Yet despite their importance in people's lives, property rights and collective action are often undervalued, and when they are recognized, often misunderstood.

## Source

Ruth S. Meinzen-Dick and Monica Di Gregorio, "Overview," in *Collective Action and Property Rights for Sustainable Development*, Brief 1 of 16, edited by Ruth S. Meinzen-Dick and Monica Di Gregorio, 2020 Vision Focus 11, International Food Policy Research Institute: Washington, D.C., 2004. Reproduced with permission from the International Food Policy Research Institute. [http://www.ifpri.org/2020/focus/focus11/focus11\\_16.pdf](http://www.ifpri.org/2020/focus/focus11/focus11_16.pdf)

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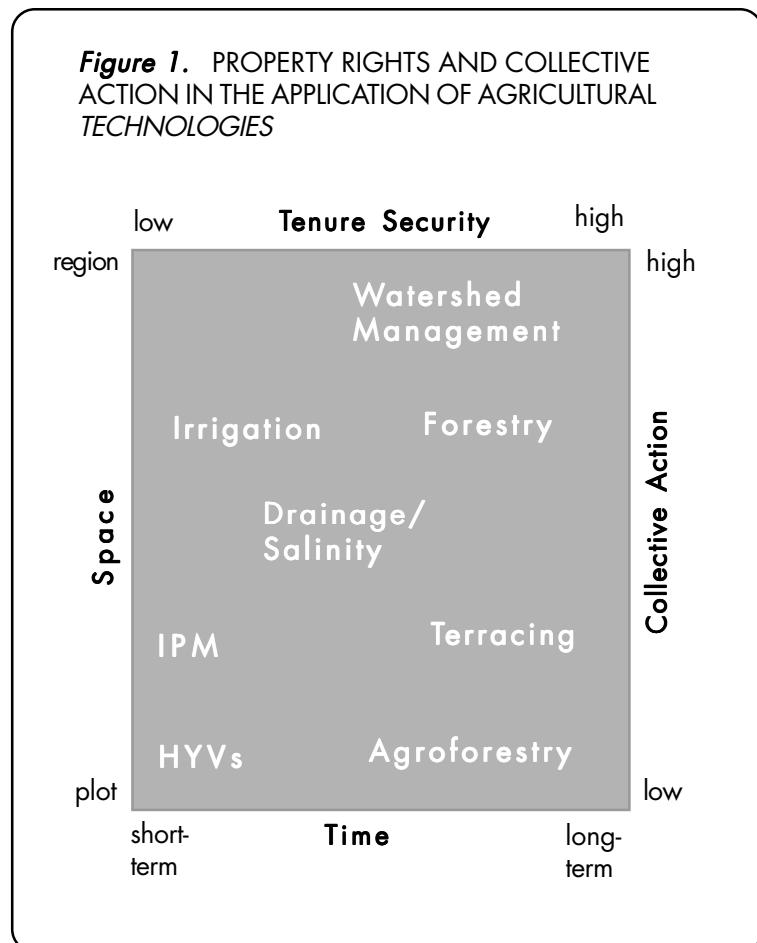
## What are Property Rights and Collective Action?

Collective action is often considered narrowly in terms of formal organizations, and property rights only in terms of formal titles issued by the government. Instead, collective action can be defined as voluntary action taken by a group to achieve common interests. Members can act directly on their own or through an organization. In the context of natural resource management, even deciding on and observing rules for use or nonuse of a resource can be considered collective action, and it can be instituted through common property regimes or through coordinated activities across individual farms.

Property rights can be defined as “the capacity to call upon the collective to stand behind one’s claim to a benefit stream” (Bromley 1991). Rights do not necessarily imply full ownership and the sole authority to use and dispose of a resource; different individuals, families, groups, or even the State often hold overlapping use and decision-making rights. To be secure, rights should be of sufficient duration to allow one to reap the rewards of investment and should be backed by an effective, socially sanctioned enforcement institution. This institution is not always the government; communities or other institutions may provide the backing.

### Links to Sustainability of Natural Resource Management and Agricultural Systems

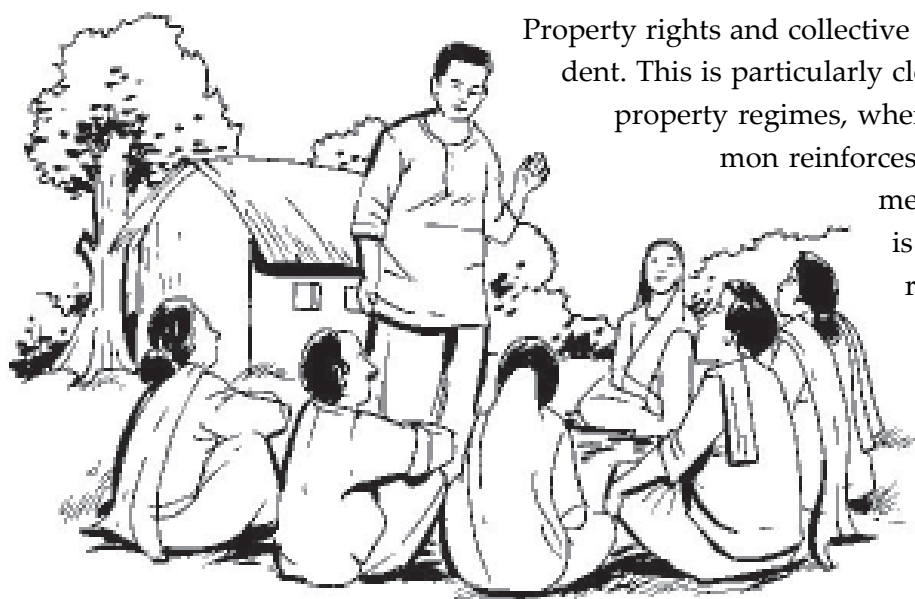
Figure 1 illustrates how property rights and collective action affect the application of agricultural technologies and natural resource management practices. Conventional on-farm technologies like improved, high-yielding crop varieties (HYVs) have a short, usually seasonal, time horizon and a small spatial scale, often a single plot. They can be adopted by a single farmer — even by a tenant. Other technologies may require longer time horizons between their adoption and their payoff. In those situations, farmers need secure tenure (property rights) to



have the incentive and authority to adopt. For example, tenants are often not allowed to plant trees or lack incentives to do terracing. Moving from on-farm technologies to those that operate at larger spatial scales implies a greater need for collective action to make the technology work. Integrated pest management (IPM), for example, must be coordinated across farms.

Most natural resource management practices have both long term and large spatial scales. Both property rights and collective action are therefore crucial for the management of forests, rangelands, fisheries, watersheds or irrigation systems that serve more than a single farm. In some cases, the scale of the resource to be managed may go beyond what can be done by voluntary collective action by a community. Federations of user groups may sometimes be able to manage larger resources, but often the State or even international bodies become critically important partners. In these cases, co-management between the community and government, rather than government management alone, often leads to better outcomes.

Property rights and collective action also affect natural resource management and agricultural production systems in interaction with other factors such as information, wealth, risk, labor, and marketing. Collective action and networks among community members can facilitate access to information and even allow farmers to participate in technology development. Ownership of assets can serve as collateral for obtaining credit. Microfinance programs have shown that action through groups can also provide access to credit, with social bonds providing collateral. Rights over common property resources frequently function as a buffer against risk, especially environmental events and loss of other livelihoods. Similarly, collective action enables risk sharing and inspires mechanisms for collective self-help. Collective action and reciprocity arrangements offer ways to overcome labor shortages, especially for practices that require intense labor effort in concentrated periods.



Property rights and collective action are also interdependent. This is particularly clear in the case of common property regimes, where holding rights in common reinforces collective action among members, and collective action is needed to manage the resource. Maintaining property rights can require collective action, especially in the case of landscape-level resources and where outsiders challenge local claims.

## **Links to Poverty Reduction**

Property rights and collective action affect people's livelihoods. The most vulnerable and marginalized rural groups often lack access to resources (that is, they have no or insecure property rights) and find participation in collective action too costly because of lack of time and resources. Enhancing rights to even relatively small homestead plots can increase food security by allowing women to grow gardens, and rights to common property often provide insurance for the poor. Tenure security provides key assets for poverty reduction, allowing the poor to help themselves by growing food, investing in more productive activities, or using property as collateral for credit. Collective action can increase food security through mutual insurance.

Both property rights and collective action are empowerment tools. Poor people often have difficulty making their voices heard. Interventions to strengthen their property rights or to help them participate in collective activities improve their bargaining positions. Security of rights and the capacity to manage local common resources allow people to make decisions while taking the future into consideration. This longer-term approach generally translates into more environmentally sustainable management practices and a healthier resource base for future generations.

## **Implications for Policy and Practice**

Many countries are now adopting policies to devolve the management of forests, fisheries, irrigation, watersheds, or rangelands to local communities or to develop some form of co-management between the State and communities. In addition, community-driven development initiatives are helping local organizations to set priorities for local public service spending and to provide services such as schools and health centers. For these programs to succeed, effective collective action within communities is essential.

Successful collective action does not always emerge, especially where traditional management institutions (like tribes on rangelands) have been weakened by migration or excessive State intervention. Government agencies need to change how they work with communities, becoming more conscious in their efforts to strengthen local management institutions and allowing more local decision-making without imposing external rules.

Devolution programs that transfer management responsibility for natural resources from government agencies to farmers often fail to transfer corresponding rights. Yet rights over the resource are needed to provide groups with the incentives to conserve and even invest in the resources. Without recognized decision-making rights, the groups lack the authority to manage the resource or to stop members or outsiders from breaking the rules. Recognized property rights not only reinforce collective action that is needed for collective management, but also provide security for individuals and households.

Many other government and nongovernmental organizations involved in community development are addressing collective action issues, whether through revolving credit or livestock schemes, agricultural extension groups, or domestic water supply. There is a wealth of practical experience on ways to organize or strengthen collective action. Researchers have documented factors that affect collective action, but their findings are often based on a few successful case studies. Much more needs to be learned about what approaches do and do not foster collective action that continues beyond the project intervention, as well as about how externally induced organizations interact with indigenous institutions for collective action. As collective action grows, local groups are forming federations up to the national level to address their problems at appropriate levels and to gain a voice in policy decisions, including critical issues of rights to resources.

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## **REFERENCE**

D. Bromley, *Environment and Economy: Property Rights and Public Policy* (Cambridge, MA: Basil Blackwell, 1991)

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# International Covenants on Minority Rights



**Editor's Note:** *In pursuit of a rights-based approach to agrarian reform, the following are four basic international covenants that support ethnic minority people in their quest for acceptance of their unique way of life. Pastoralists, for example, are oftentimes forced to change their way of life to adopt to what is politically acceptable to the majority.*

**I**t is widely recognized that it is not enough merely to ensure that there is no discrimination against minorities. Measures must be put in place to promote and protect their rights, particularly those necessary for minorities to preserve their identity and culture.

One of the conventions that has the most progressive articles relating specifically to land and land use by minority peoples is the ILO Convention No. 169 of 1989 Concerning Indigenous and Tribal Peoples in Independent Countries. (The Convention has been ratified by Norway, Mexico, Colombia, Bolivia, Costa Rica, Paraguay, Peru, Honduras, Denmark, Guatemala, the Netherlands, Ecuador and Fiji. Meanwhile, a number of other governments have submitted the Convention to their respective legislatures or have expressed interest in ratifying it.)

## Source

Harriet Busingye and Juliet Nakato, "Advocacy Manual on Rights of Minority Pastoral Groups and Land Rights: East Africa and the Horn", *Uganda Land Alliance for Minority Rights Group International: June 2003.*

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## SALIENT PROVISIONS OF ILO CONVENTION NO. 169 OF 1989:

**Article 13** requires governments to “respect the special importance for

the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular, the collective aspects of this relationship”.

**Article 14** obliges governments to recognize the rights of possession and ownership over the lands, which the peoples traditionally occupy. This article specifically demands that governments pay particular attention to nomadic peoples and shifting cultivators by safeguarding their rights to use land “not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities.”

It is imperative that governments establish adequate legal procedures to resolve land claims by the people concerned in the events that their rights of ownership and possession are violated.

The convention applies to *tribal peoples* in independent countries whose social, cultural and economic conditions distinguish them from other sectors in the community and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations. It also applies to *indigenous peoples* in independent countries, that is, peoples descended from the inhabitants of the country at the time of colonization or during the establishment of the present boundaries.

Article 2 of the Convention “places upon governments the responsibility for developing coordinated and systematic action to protect the rights and guarantee respect for the integrity of the peoples concerned. This must be done with the participation of these peoples.”

The Convention empowers indigenous people to give free and informed consent before they can be relocated.

In cases where this consent cannot be obtained, any such relocation shall only take place following appropriate procedures established by national law or regulations (*Article 16*). The bottom line is that the people must be effectively represented and their opinions heard publicly before a relocation is implemented.

The people shall have the right to return to their traditional lands whenever the grounds for relocation cease to exist. In the event that this return is not possible, these people shall be provided in all possible cases with “lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide their present needs and future development.”

If the people concerned express a preference for compensation in money or in kind, it shall be done under appropriate guarantees.

## Other Covenants

### ***International Covenant on Economic, Social and Cultural Rights (ICESCR)***

The ICESCR is one of the two binding documents that form the international bill of rights. Several countries have signed and ratified the covenant.

Specifically, Article 2 obliges States to put in place policies and techniques to achieve steady economic, social and cultural development and to ensure that the rights in the convention are exercised without discrimination. Some rights that accrue to individual members of pastoral communities include the right to just and favorable conditions of work and the right to take part in the cultural life of their community.

### ***International Covenant on Civil and Political Rights (ICCPR)***

Article 27 of ICCPR guarantees members of ethnic, religious or linguistic minorities “the right in community with other members of their group to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

States that have ratified the ICCPR are expected to ensure that all individuals within their jurisdiction enjoy their rights. In relation to minorities, this mandate may require specific corrective action. (General Comment 18 of the Human Rights Committee, HRI/GEN/1 of 4th September 1992).

States are required to submit periodic reports indicating measures taken for ensuring the enjoyment of rights guaranteed, including those of their minority populations.

### ***The UN Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities (1992)***

This is inspired by Article 27 of the International Covenant on Civil and Political Rights. It is the only UN document that specifically addresses the special

## HUMAN RIGHTS AND FREEDOM

The most basic international human rights laws include the Charter of the United Nations and the Universal Declaration of Human Rights. These documents are premised on the principle of nondiscrimination which underlies most human rights regime.

The UN Declaration of 1948 is a common standard for all people and all nations to ensure that every individual and every organ of society shall strive to promote and respect human rights and freedom.

The most direct provision that deals with resource ownership is Article 17 of the Declaration which entitles everyone to own property or in association with others and that no one shall be arbitrarily deprived of his or her property.

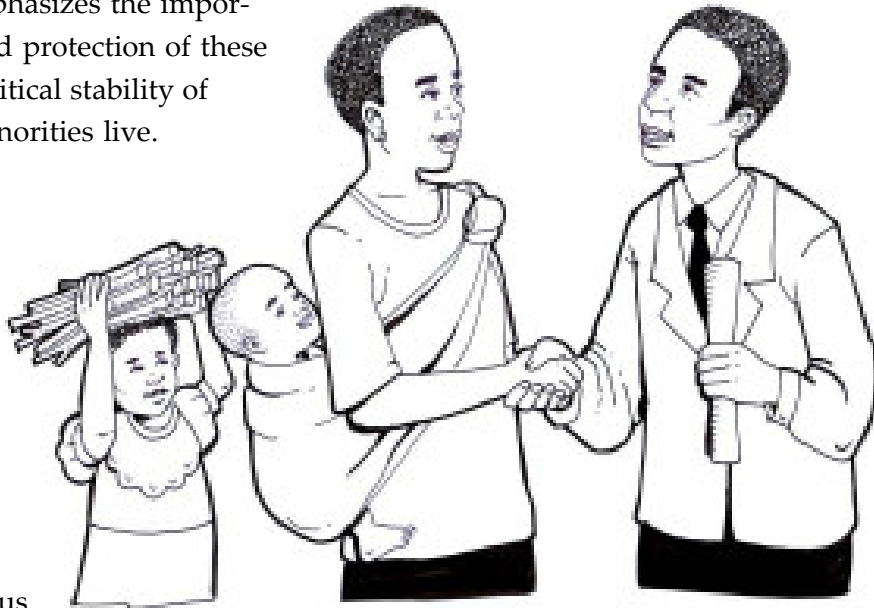
Among the rights that are guaranteed to minorities on the basis of nondiscrimination are:

- Freedom of movement within and across borders;
- Right to nationality;
- Right to own property;
- Right to participate in governance of one’s country;
- Right to social security;
- Right to work, freedom to choose employment, just and favorable conditions of work and protection against unemployment;
- Right to standard of living adequate for health and well-being of any individual and his or her family; and
- Right to participate in cultural life of his or her community.

rights of minorities. It emphasizes the importance of the promotion and protection of these rights to the social and political stability of the States in which the minorities live.

The rights granted under this Declaration include the following:

- Article 1 offers protection by States of the existence of minorities, their national or ethnic, cultural and religious and cultural identity;
- Article 2.1 provides for the right of minorities to enjoy their own culture without interference from anyone or any form of discrimination. This is more explicit than Article 27 of ICCPR in requiring positive actions from States;
- Article 2.2 provides for the right to participate in cultural, religious, social and economic and public life;
- Article 2.3 provides for the right of minorities to participate in decisions which affect them at regional and international levels;
- Article 3 provides for the freedom of minorities to exercise their rights individually and in community with other members of the group without discrimination;
- Article 5.1 obliges governments to deliberately plan for the interests of the minority and to allocate resources to meet the specific interest areas of the minorities. It also holds States accountable for promoting the interests of the minorities.



With this Declaration, the UN Working Group on minorities was established to examine ways and means to protect the rights of the minorities. The working group provides a framework where NGOs, members of minority groups or associations, academics, governments and international agencies may meet to discuss issues and attempt to seek solutions to the problems. NGOs and minority rights activists are expected to promote these rights at local and national forums.

Minority rights activists can write shadow reports to be submitted to the different UN committees. NGOs should intensify their information-gathering and research efforts on minority people. Armed with well-researched information and data, NGOs can effectively represent the minority groups in regional and international fora.

## MINORITY AND PASTORALIST LEGISLATIONS IN ETHIOPIA AND TANZANIA

**Ethiopia** has by far the most progressive legal provisions with regard to the rights of pastoralists than any other African country. Its government has initiated a Sustainable Development and Poverty Reduction Program to ensure proper land use. The policy stipulates that a farmer who wishes to make a livelihood from farming is entitled to a plot of land free of charge. The farmer not only has a user's rights, but he/she can rent it out to a third party.

Article 40 (3) of Ethiopia's 1994 Constitution stipulates that land is a common property of the nation, nationalities and the people of Ethiopia and shall not be subject to sale or to other means of exchange. Article 40 (5) provides for land ownership for pastoralists. They have the right to free land for cultivation and grazing as well as the right not to be displaced from their land. The implementation of this provision shall be determined by law.

**Tanzania** passed a National Land Policy in 1995 giving limited rights to minorities. Under Chapter 7 on Land Management and Use, it said: "Security of tenure for pastoral land areas will be guaranteed by appropriate measures including gazetting to protect grazing land from encroachment." The chapter goes further to provide guidelines for issuance of certificates to protect common property regime and restoration of pastoral lands.

Tanzania's Wildlife Policy recognizes the need to empower local communities by giving them wildlife user rights and management opportunities and responsibilities. But the current policy does not adequately recognize the nomadic nature of many communities living within or near wildlife areas and Tanzania's protected estate.

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# Access to Land: *The Bonn Statement*

**T**he Bonn Statement on Access to Land was prepared by representatives of civil society organizations, as well as government and other non-governmental sectors at the International Conference on “Access to Land: Innovative Agrarian Reforms for Sustainability” held on 19-23 March 2001 in Bonn, Germany. The conference was organized by the German Federal Ministry for Economic Cooperation and Development (BMZ), the German Agency for Technical Cooperation (GTZ), Deutsche Welthungerhilfe e.V. (DWHH), and Arbeitskreis Armutsbekämpfung (AKA).

The Bonn Statement on Access to Land embodies its drafters’ conviction that land and agrarian reforms have been neglected despite being a vital step to finding peaceful solutions to the problems of global

hunger, rural poverty and resource conflicts. It then sets out certain fundamental principles that should guide all sectors, particularly governments and intergovernmental

institutions, in undertaking resource reform efforts. Among these principles are the central role that States should play in promoting agrarian reform; agrarian reform as an integral process to promoting land access, tenurial rights and sustainable development; equal rights for women in terms of access, control and legal entitlements to land; the shared responsibility of industrialized countries for the sustainability of agricultural development in developing countries; and the insufficiency of market assisted land reform policies especially in highly unequal societies, and thus cannot replace redistributive agrarian reforms.



## Who We Are

We, 125 representatives of civil society, popular movements, women organizations, governments and international agencies from 20 countries concerned with issues of rural poverty, land and resource rights, have come together in Bonn, Germany, from March 19 to 23 of 2001 to collectively discuss and express our concerns on issues regarding Access to Land.

## Expressing Our Basic Concerns

We have examined the different experiences and perspectives on agrarian reform and land struggles in nine countries from Asia, Africa, Latin America and Eastern Europe in order to

### Source

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promote public awareness on the need for land and agrarian reforms as a vital step in seeking peaceful solutions to persistent global hunger, rural poverty and resource conflicts.

We are particularly concerned that rhetoric has not been matched by action. This is despite international commitments made at the World Food Summit, the UN Millennium Summit and other intergovernmental conferences to halve the number of poor and hungry people in the world by 2015. Trends show that the ranks of the poor and dispossessed remain persistently high, and that in a globalizing world the gap between rich and poor continues to widen. Today, over 800 million women, children and men still suffer from chronic hunger, extreme poverty, increasing risk and vulnerability. The majority of these poor are in rural areas where they are denied access to land and resources. This denial aggravates social exclusion, increases imbalances of power and leads to a destruction of self-esteem and identity. This situation is compounded by the continuing dispossession of communities of their natural environments, homes and livelihoods.

The situation *can* however be changed because we have the means. We need to recognize that the well-being of people and the realization of their rights are central to our concerns.

## **In light of the above:**

**1**

There is a need to recognize that States have a central role in promoting Agrarian Reform programmes, and that such public policies must be formulated and implemented in a clear and transparent manner, actively promoting the rights of popular organizations, indigenous communities, peasants and women to fully participate in the agrarian reform process;

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**2**

Agrarian reforms must be made an integral part of broader rural development strategies, recognizing that these are part of wider processes of national development and not solely safety-net or social welfare or compensatory policies that isolate and marginalize. Such integrated strategies must be supported by maximum available resources;

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**3**

Once there is a national decision to implement land and agrarian reform, the process of decentralizing should guarantee the involvement and participation of popular organizations, social movements and local governments in a way that does not reinforce the power of local landed elites;

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**4**

Agrarian reforms must ensure that sustainable land use and the viability of production systems is taken into account;

**5**

It is critical to conceive of agrarian reform not only as a means of redistributing land, but as an integral process for providing access, tenurial rights and sustainable use of natural resources such as forests, water, seeds, genetic resources, land, and biodiversity;

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**6**

Where agrarian reforms involve the relocation of people, resettlement must be voluntary and undertaken in a socially non-disruptive manner and with compensation where necessary;

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**7**

Governments must respect, protect and fulfil their human rights obligations in relation to civil, cultural, political and socioeconomic rights. Access to productive resources, including land, through agrarian reform is an important part of such obligations;

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**8**

Governments and intergovernmental organizations must guarantee access to legal instruments for recourse in land disputes and strengthen extra-judicial mediation for the resolution of land conflicts;

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**9**

There is a need to support the formation and strengthening of institutions that undertake land reform and land management;

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**10**

There is a need to recognize that programs like cadastrals, land registration and land administration are not designed to replace agrarian reform. These, however, may be important tools in strengthening legal security for all; and if used, must be able to reflect both primary land rights as well as the overlapping and secondary rights of others, such as pastoralists;

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**11**

Governments must directly involve local populations and institutions, social organizations, and popular movements in the debate and application of policies, and that such groupings must be central to the active management of natural resources;

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**12**

Ensure and promote the equal rights of women in terms of access, control and legal entitlement to land;

**13**

To recognize and respect the customary rights of indigenous people and peasant communities, as well as national and cultural minorities;

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**14**

Involve all stakeholders, including women, peasants and indigenous people, in the process of formulating sustainable rural development policy and agrarian reform legislation and programs;

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**15**

Taking into account the political changes globally over the past two decades, governments must review, renew and undertake the commitments made 22 years ago at the World Conference on Agrarian Reform and Rural Development (WCARRD) and other more recent international events such as the World Food Summit, the ILO 169 agreement, and conventions relating to biodiversity and desertification;

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**16**

Rural development, and especially agrarian reform, must be a priority of bilateral and multilateral development cooperation, and such development cooperation must be negotiated within a democratic and participatory framework;

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**17**

Agricultural policies that promote dumping, penalize production and trade of developing countries, strangle rural development and impoverish rural people, must be discouraged. Industrialized countries need to take greater responsibility for the sustainability of agricultural development in developing countries;

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**18**

The international community and national governments must recognize that Market-Assisted Land Reform policies (including mechanisms such as land banks and land funds) are insufficient instruments in the context of highly unequal societies and thus cannot replace redistributive agrarian reforms which expropriate, within the framework of the law, land from large landowners and redistributes such land to the poor and landless;

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**19**

There is a need to promote special programs of agrarian reform in countries which have suffered or are suffering from violent conflicts or war resulting in displacement of communities. In many of these cases, agrarian reforms are the path to peace;



**20**

There is a need to increase the transparency of project implementation through involving local populations and ensuring that such local populations have control over these processes;

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**21**

There is a need to promote the organization of marginalized groups to ensure their participation in rural development and agrarian reform;

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**22**

Civil society organizations must facilitate and provide avenues for expressions of popular will through advocacy, mediation, building the capacity of peoples organizations, developing effective and efficient models of agrarian reform and rural development, and fulfilling their watchdog role; and

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**23**

There is a need to support greater exchanges of information and knowledge on land access issues. Such exchanges should go beyond the current sharing of technical information so as to build public awareness and solidarity, share experiences and lessons, and allow choices.

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# Common Property Rights in Bhutan: *Towards Gross National Happiness*



**B**hutan, located in South Asia, has been a rural subsistence economy since the 1950s. Without much road network, and with large parts of the country still found in remote, inhospitable areas, Bhutan has retained as much as 72 per cent of its forest cover. Its rich natural resource base therefore sustained its population, which has traditionally been dependent on community property resources (CPRs) for their livelihood.

Since the 1960s, however, Bhutan has rapidly developed and started participating in the global economy. This has subjected the land to various arrangements. Accessible areas were developed into cash crop economies, with potatoes, apples, oranges, cardamom and chili becoming the major sources of income for the people. In remote areas deemed unsuitable for mainstream development, Bhutan has begun to explore the possibility of tapping markets for niche products, such as non-wood forest resources, plants with medicinal value, essential oils, and others. These development efforts are based largely on a central development concept known as the *Middle Path*.

## Source

F. Turkelboom, T.R. Gurung, and D. Dukpa. Role and Use of Common Property Resources (CPRs) in Bhutan Himalayas: Between Tradition and Globalisation, A Paper Presented at the Inaugural Pacific Regional Meeting for Common Property Resources at Brisbane, Sept. 2-4, 2001.

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## The 'Middle Path' as a Central Development Concept

*“An individual’s quest for happiness is the most precious endeavor. It follows then that society’s ideal of governance and polity should promote this endeavor. The founders of Bhutan dedicated the particular system of government in Bhutan to promoting certain visions of enlightenment and happiness of the citizens. The country itself was perceived as a kind of mandala, a place where man could transform their infrastructure, polity and social organizations to create gross national happiness.”*

— H. E. Lyonpo Jigmi Y.

**Thinley**, Chair of the Council of Ministers, Royal Government of Bhutan

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The *Middle Path* aims to maximize what the Bhutanese people refer to as “*Gross National Happiness*.” It is a concept of development that puts the individual at the center of all development efforts and regards economic growth merely as a means to achieving a higher end. It recognizes the need to develop the economy and to progress technically, medically and scientifically, but seeks to maintain the country’s rich cultural heritage, its traditional values and the natural resource base. This concept, along with the principle that the preservation of the Bhutanese ecosystem is essential to achieving sustainable development, largely influenced the National Assembly’s decision in 1973 to maintain at least 60 per cent forest cover for Bhutan for all time.

## Factors Affecting Sustainable Use of CPRs

Under changing economic circumstances, the concern for the sustainable use and management of CPRs has prompted the development of a mix of local and government-initiated systems. Factors such as the intrusion of non-villagers to

partake of the CPRs, user rights, new trading systems and a possible government role in sustainable management are considered.

### ***Traditional Systems or Locally Agreed Arrangements***

Centuries of tradition, as well as religious and local beliefs, have done much to preserve Bhutan’s natural resource base. In most communities, locally agreed community rules (*e.g.*, harvest periods), community monitoring systems, and leadership or management committees help control and maintain the use and outflow of resources within tolerable limits. However, in areas where traditional systems have already fallen into disuse, problems of resource abuse appear imminent.

### ***Communal vs. Private User Rights***

Communal user rights coexist with private user rights in some areas in Bhutan (*See Table 1*). In most cases, however, it has been observed that CPRs are better managed at the private rather than communal level. This can partly be explained by the fact that the overexploitation



**Table 1.** OVERVIEW OF CPR ARRANGEMENTS IN BHUTAN

| Rules   | Local Management  | Government-Initiated  |
|---|---|---|
| Rotation system   | Bamboo (Sephu), irrigation water (Lingmetey chu), between private and common <i>tsamdrog</i> (Gedu, Laya)             | —   |
| Distribution system   | Irrigation water  | —   |
| Communal use of portion of income/fine                          | Religious ceremony (or <i>rimdo</i> ) for the well being of the community (e.g. <i>chirata</i> , <i>matsutake</i> )   | —   |
| Share private resources   | Communal using private <i>tsamdrog</i> (Laya)   | —   |
| Communal renting from absentee landlord                         | Communal pasture (Radi)   | —   |
| Flexibility if conditions change (e.g. scarcity, higher demand) | Water rights changing in function of labor condition (although most traditional water sharing rules are not changing) | —   |
| Fixed opening and closing date for harvesting                   | Decided by committee or local forest regulator (or <i>lepja</i> ) (e.g. <i>chirata</i> )                              | Decided by agencies + endorsement by village leaders ( <i>tsokpa's</i> ) (e.g. <i>matsutake</i> )   |
| Boundary  | Cane and bamboo before 1969 (Wangdi and Punakha)  | <i>Matsutake</i> , community forestry   |
| Monitoring  | Local forest regulator (or <i>lepja</i> )   | Forest guards   |
| Fines system  | Payment is made to the village elders or committee  | Payment to government agency  |
| Accountability of users   | Accountable to fellow villagers   | Accountable to agencies   |
| Equal rights for every member                                   | <i>Chirata</i> harvesting   | Tang farm   |
| Strong leadership/committee                                     | Local leaders   | Manager and community board of directors e.g. community farm at Wobtang; collector committees ( <i>tshokpa</i> ) (e.g. <i>matsutake</i> ) |
| Control of outsider free-riders                                 | <i>Matsutake</i> (Geynekha)   | Possible, if official accepted management plan (e.g. community forestry)  |
| Expert advice   | —   | <i>Matsutake</i> , community forestry   |
| Identity card and registration for trained harvesters           | —   | <i>Matsutake</i>  |

Table 1, *continued...*

| Rules                       | Local Management | Government-Initiated  |
|-----------------------------|------------------|---|
| Minimum size of product     | —                | <i>Matsutake</i>  |
| Training                    | —                | Sustainable harvesting techniques, ecological rules and quality control, postharvest (e.g. <i>matsutake</i> ) |
| Legal rules and regulations | —                | Social forestry rules   |
| Permit system               | —                | Social forestry rules   |
| Subsidy from agencies       | —                | Wobtang farm, irrigation, community forestry  |
| Free labor contributions    | —                | Wobtang farm  |
| Compulsory membership       | —                | Wobtang farm  |

of resources in communal user rights places can more readily be justified by the greater number of people partaking of CPRs there than in private ones. Hence, the wisdom of putting most CPRs under private management in the future is still being seriously considered.

### **Commercialization**

The commercialization of CPRs has brought about the following types of management interventions:

**Taxation.** The growing demand for forest goods induces outsiders to harvest from CPRs within the jurisdiction of communities/villages. One of the ways that have been tried to turn this predicament to the communities' advantage is to require outsiders to pay taxes or to secure licenses or permits for using the CPRs. Unfortunately, however, the villagers have often been unable to regulate the indiscriminate harvesting by outsiders of their resources.

**Purchase by Traders.** This system gives the villagers incentive to harvest the CPRs which are then sold to traders, who in turn bring the goods to market. This system motivates the villagers to participate more actively in CPR management because it provides additional livelihood possibilities. Quality standards set by the middlemen become a deterrent to overharvesting or underharvesting. However, this setup requires strong local leadership enforcement and efficient government facilitation.

**Government Facilitation of CPR Use.** The Bhutan government has made a breakthrough in the management of certain CPRs, such as the *matsutake* mushrooms. By training and licensing

*matsutake* mushroom collectors, Bhutan has been able to ensure the sustainable management of the resource through technological and technical intervention. A local forest officer has also been appointed to implement the local management system.

Similar approaches are being tried out in national parks under Bhutan's Integrated Conservation Development Programs. An example of this is the community of Tama where a plan and boundaries for sustainable management and harvesting of cane and bamboo are agreed upon, in exchange for exclusivity rights for the community.



The National Assembly of the Government of Bhutan decided in 1973 to maintain at least 60 per cent forest cover for all time. They believe that the preservation of the fragile Bhutanese ecosystem is essential in achieving sustainable development.

### **Legal Status of CPRs**

Since 1969 all non-privately owned land has been nationalized and declared as forest reserve. This measure enabled Bhutan to avoid massive deforestation and gave birth to a policy of sustainable timber harvesting by means of Forest Management Units. This policy has maintained a 72 per cent forest cover for Bhutan. However, by encouraging open-access to resources, it has also made previous locally defined and managed harvesting areas irrelevant. Local forest watchers have also been replaced by government forest guards. Hence, with the construction of the road network, along with the open permit system, outsiders have been able to tap more resources.

### **Ecological Factors**

Ecological factors, such as the level of scarcity of certain CPRs, influence the behavior of users. Scarcity can be a good incentive for cooperation among the community. However, there seems to be an optimum level of scarcity which stimulates users to come up with common rules for managing the resources. Where ecological relationships are complex, however, government agencies can play an important role in increasing the awareness of the people regarding the issues.

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# Agrarian Reform as a Poverty Reduction Strategy



**A**grarian reform is primarily about changing relationships. First, it aims to change land tenure relationships. Second, it aims to change the current culture of exclusion so that the poor gain access to credit, technology, markets, and other productive services. Third, it aims for the poor to become active participants in the development of government policies and programs affecting their communities and livelihood.

While social relationships are complex and therefore do not lend themselves to formulas, the use of a mathematical analogy can illustrate the components of the process that need to be incorporated into agrarian reform planning, as follows:

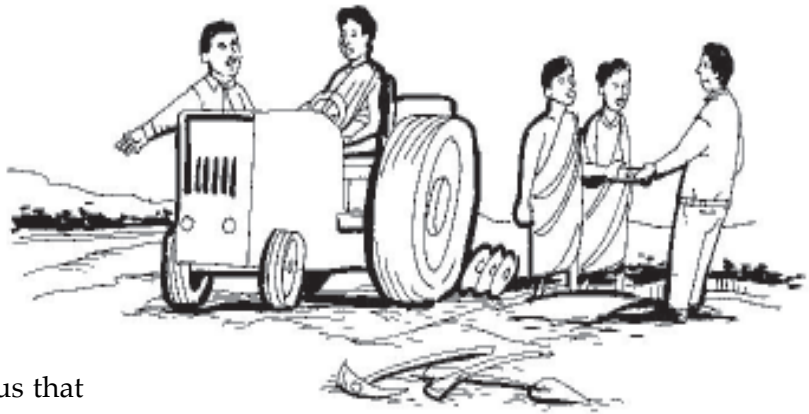
$$\text{Agrarian Reform} = \frac{(\text{Land Tenure} + \text{Support Services}) \times \text{People's Participation}}{\text{Landed Interests} + \text{Bureaucratic Inertia}}$$

## Source

Bruce Moore, "The Revival of Land Tenure Reform and Resource Rights", *A Presentation of The Popular Coalition to Eradicate Hunger and Poverty at WCARRD 20/20: Emerging Trends and Perspectives of Agrarian Reform in Asia, Tagaytay City, Philippines, 6-7 October 1999.*  
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The history of agrarian reform has shown that civil society movements that lack institutional and public support are no more effective than government-led reforms that do not have the backing of civil society.



The lessons from the past teach us that social change must precede technological and economic transformation. And the record of official development assistance emphasizes that sustainability requires that people be empowered to be the agents of their own development.

Accordingly, people cannot be empowered if they do not participate in the decisions that affect them. At the same time, participation is meaningless if it does not result in improved access to productive resources.

For some time, it has been widely recognized that new forms of partnership between civil society, governments and international organizations are necessary. Information must be shared to promote dialogue among affected groups and to contribute to consensus building. Joint pilot projects that can point to new ways of working and better targeting of existing resources to the poor are also needed.

## **New Partnership**

At the 1995 Conference on Hunger and Poverty, sponsored by the International Fund for Agriculture Development, a diverse group of stakeholders, including intergovernmental organizations, civil society organizations, non-government organizations, government officials, bilateral agencies and international financial institutions called for urgent action to revive agrarian reform on national and international agendas.

They committed themselves to form a Coalition of equals that would unite their common concerns into one agenda to help improve access of the poor to productive assets. The composition reflects the Coalition's goal of bringing civil society experience to a central point for policy formulation and demonstration programs.

In 2003, the group formerly known as the Popular Coalition to Eradicate Hunger and Poverty, transformed itself into the **International Land Coalition**.

The Land Coalition aims to build strategic and innovative alliances between diverse development organizations, giving particular emphasis on the role of civil society in securing access to



land and water and by increasing their direct participation in decision-making from the local to international level.

Agrarian reform is about people. For the Land Coalition, it is about fostering the social relationships by which the rural poor are empowered with the resources to develop sustainable livelihoods.

## GLOBAL NETWORKING OF CIVIL SOCIETY ORGANIZATIONS

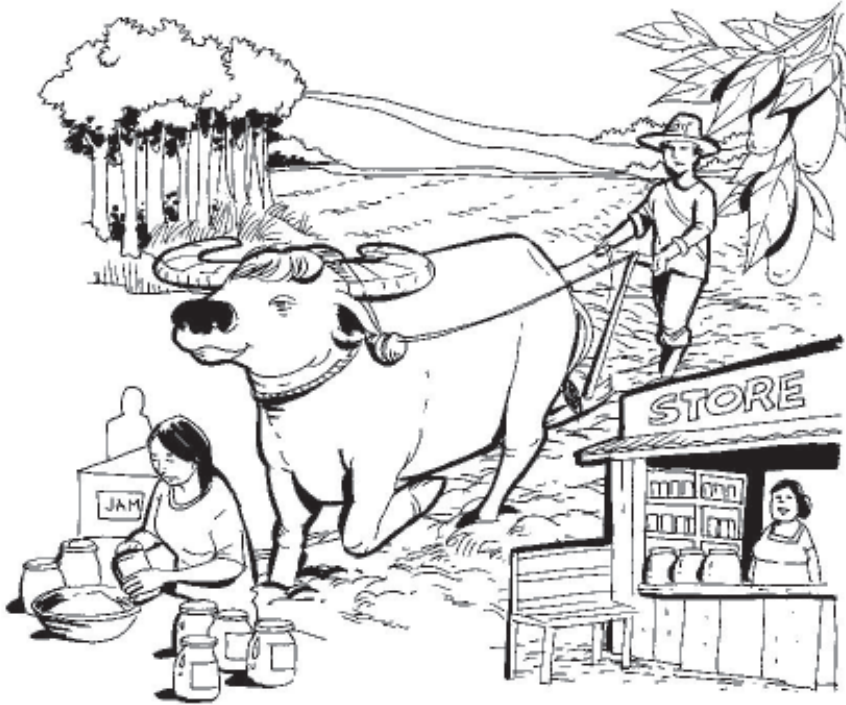
With the advent of free trade and globalization, boundaries of nation States are collapsing and a new world order has emerged. It is not only multinational corporations that are undertaking mergers and integration, civil society organizations, social movements and victim groups are also consolidating. It is now easier for victims to ask for international solidarity to pressure States that are not observing international human rights laws.

Under this reality, a rights-based approach to land movements is needed to help strengthen land reform programs in various countries as networks of organizations working on land issues can pressure governments to craft required legislations as well as fully implement existing laws.

International pressure can also work for speedy redistribution of land as well as better land management. Civil society organizations can share information with each other, support their causes, sit in protest against injustices and appeal to their respective governments for immediate resolution of issues. *(Source: Vidya Bhushan Rawat)*

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# Progressing from Land Tenure to Broad-based Development



The realization that secure land rights can break the cycle of poverty and natural resource degradation is not new. As early as 1979, when world leaders signed on to commitments at the World Conference on Agrarian Reform and Rural Development (WCARRD), it was assumed that governments everywhere understood this important connection. In subsequent international gatherings, such as the Earth Summit in Rio in 1992 and the World Food Summit in Rome in 1996, the conviction that secure property/resource rights is inextricably linked to food security, sustainable resource management, poverty eradication, and peace and security, was publicly reaffirmed. Governments, international agencies and civil society have made it part of their agenda — with varying degrees of sincerity and therefore success — to improve access by the rural poor to land as well as to productive resources like technology, credit, inputs and markets.

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"A Common Platform on Access to Land: The Catalyst to Reduce Rural Poverty and the Incentive for Sustainable Natural Resource Management", International Land Coalition.

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Antonio B. Quizon, Jerry Pacturan, and Ma. Victoria Z. Maglana, "Rapid Appraisal of PPSE Sites and Prospects until December 2002 and Beyond", A Report to the PDAP-Philippines Board, Volume 1, July 2002.

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Secure access rights give the poor both opportunity and incentive to invest on the long-term productivity of land, particularly by adopting sustainable land management practices. They also



become more inclined to preserve the land and related assets during periods of agricultural stress.

### **Long-Term Benefits versus the Lure of the Quick Buck**

When their tenure is insecure or inadequate, farmers have no incentive to make investments for the longer

term since someone else is more likely to reap the benefits of their hard work. Hence, instead of giving back to the soil what they take from it, farmers are inclined to milk it for all its worth. The resulting degradation of the land, soils, and water resources not only threatens the livelihood of millions of farmers but, just as alarmingly, puts future food security at risk. This holds true not just among the landless or near-landless, but also for tenants who for one reason or another feel that their tenure is uncertain, and for those holding short-term use rights.

Doubters would argue that secure resource rights do not necessarily lead to sustainable land management. Nonetheless, the evidence shows that where tenure is secure, there is a lower incidence of human-induced desertification; farmers are less likely to take over lands that are unsuitable for cultivation, or overgraze rangelands; groundwater is used more circumspectly and fallow periods are observed; and deforestation is minimized as people are less likely to move upland.

Undoubtedly, secure access to land and control over its management provide a powerful incentive for the sustainable management of natural resources.

### **The Progression from Secure Land Tenure to Enterprise Development: An Illustrative Case**

Also, there is widespread acknowledgment that secure land or property rights among the rural poor can promote broad-based growth and help expand the rural economy. Certainly, where the poor are able to access and use their lands to secure credit and other financial services, more livelihood options could open up for them.

However, beyond collateral-based financing, secure property rights offers a wide scope of opportunities for poverty reduction. An illustrative case from the Philippines has shown that,

given the right support at the right time, farmers with secure access to land naturally move on towards developing local enterprises.

In 1998 the Philippine Development Assistance Programme (PDAP) started a four-year program called Promoting Participation in Sustainable Enterprise, or PPSE. PPSE's objective was to alleviate poverty in the Philippines through increased participation of the rural poor in sustainable enterprises. Its target groups were recent beneficiaries of the government's agrarian reform program, and former tenant farmers or farm workers in plantations or haciendas. With the right mix of interventions, primarily the provision of credit and training in enterprise development, PDAP had assumed that the beneficiary communities would be able to start and sustain income-enhancing microenterprises. The hope was that eventually these microenterprises would develop to the point where farmers can participate meaningfully in industry-level trades, and thereby contribute to alleviating rural poverty.

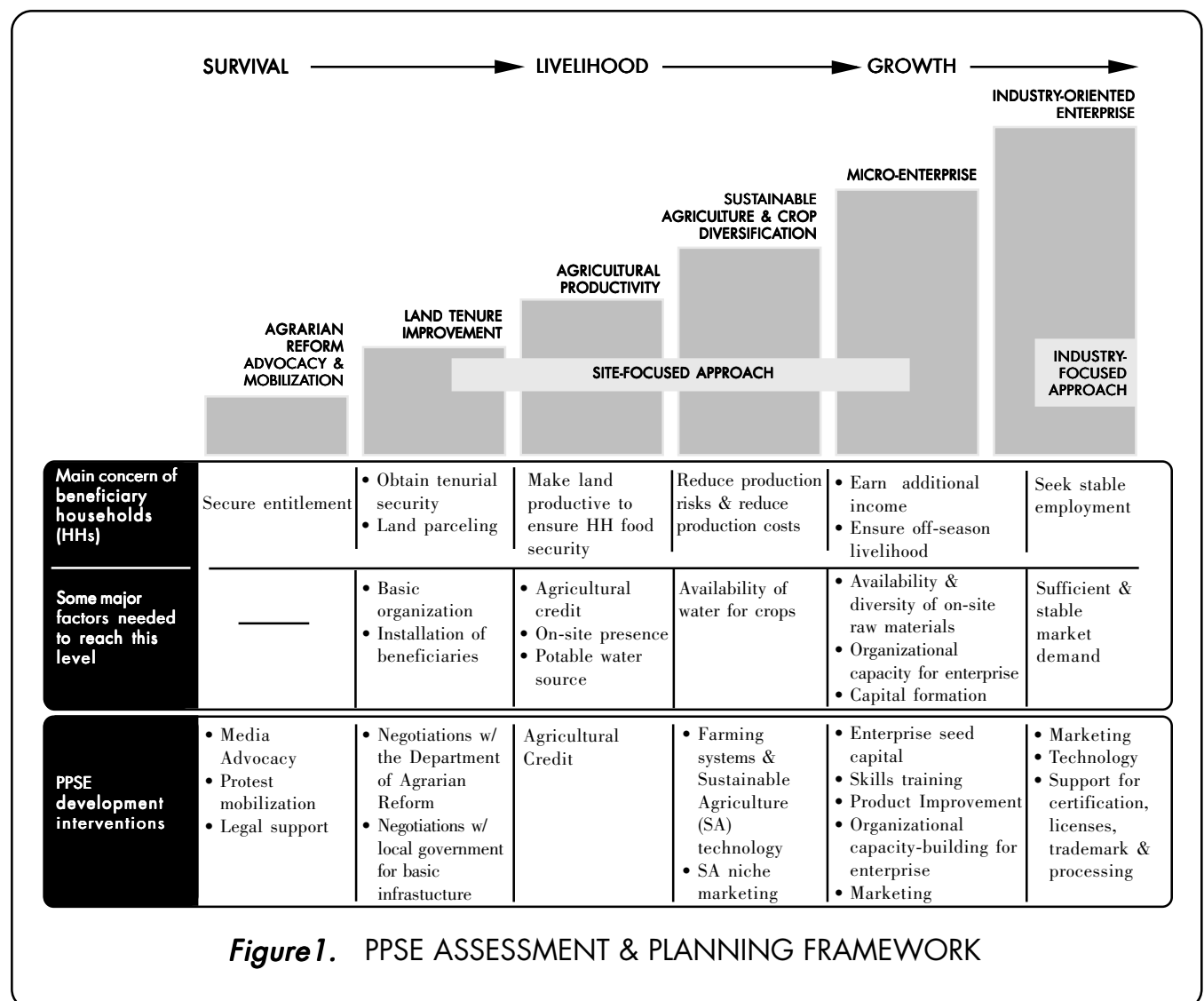


Figure 1. PPSE ASSESSMENT & PLANNING FRAMEWORK

Five years later, the Program can take credit for a number of microenterprises in almost all of the sites. However, the development of these enterprises was at best uneven. Some had begun to turn a profit, while others were just starting to get off the ground. In a few sites, no enterprise had thrived.

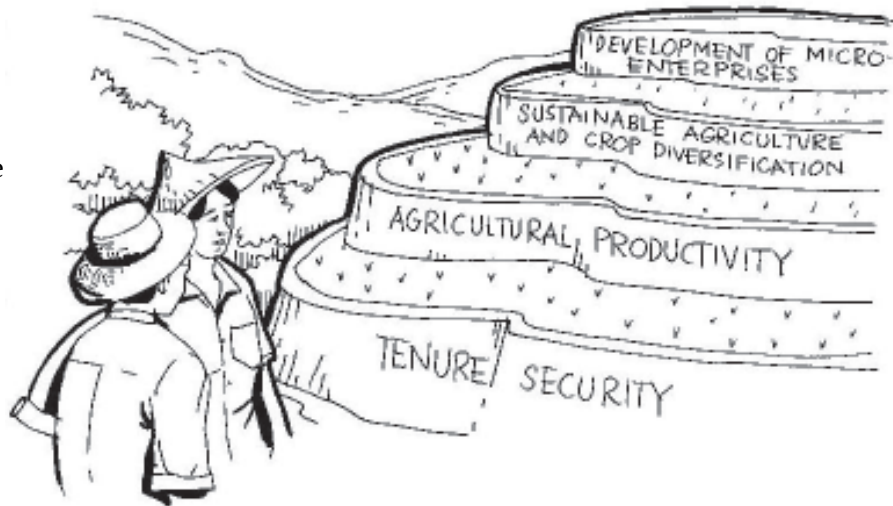
PDAP realized belatedly that the process of developing enterprises among poor communities follows a progression with a logic and momentum all its own.

*“Securing Land Tenure”* of the participating communities was the necessary first step. Once land was awarded to them, either by virtue of a Certificate of Land Ownership Award, the transition to *“Agricultural Productivity”* marks the point where the farmer beneficiaries, who have started to reap the benefits of owning their land and are reasonably secure that their family eats three meals a day, and there’s enough money left over to send the children to school, could be persuaded to grow other crops or try new farming systems.

Given enough training in alternative farming systems, and some kind of guarantee that there would be a market for their products, beneficiary households adopted *“Sustainable Agriculture and Crop Diversification”*.

The *“Development of Microenterprises”* proved in most cases to be a short step away, given enough capital, organizational capacity to run an enterprise, and the availability and diversity of on-site raw materials.

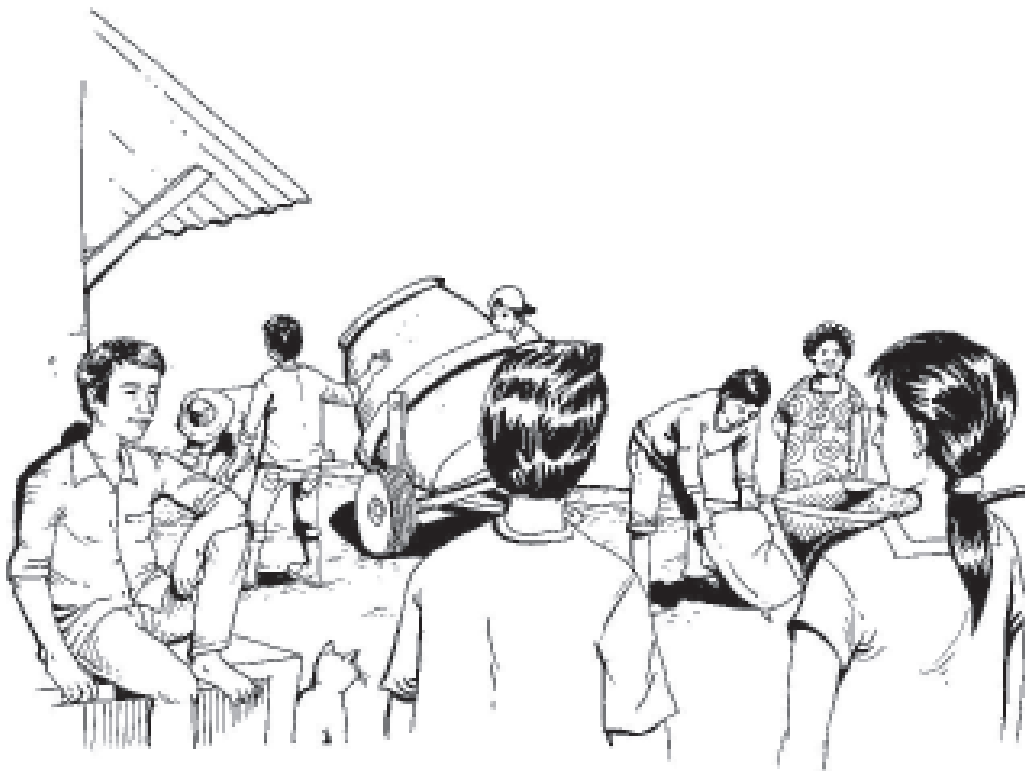
The PPSE experience showed that enterprise growth in the countryside is a multistage process. Communities start by addressing their concerns for survival. Once this hurdle is overcome, they could be persuaded to take on risks, like experimenting with new farming systems or growing other crops. If they perceive the benefits to outweigh the risks, they would subsequently be inclined to take on more of the risks involved in enterprise development. However, it all starts with the indispensable step of securing the poor’s access to land.



This case should provide compelling evidence that agrarian reform is necessary to broad-based growth and development in rural areas.

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# Mobilizing Collective Action towards the Provision of Public Goods



**I**n communities throughout the world, people work together to provide goods and services that their governments do not provide. They build and maintain local parks, feeder roads, religious buildings and community halls; they operate volunteer fire control groups and establish rules for local natural resource management. Sometimes local groups share responsibilities for maintaining public services, such as schools and health clinics, with their local or central governments.

Not all communities, however, provide the optimal level of local public goods. Evidence shows that not only are some public goods provided more often than others, but also that some communities mobilize themselves more easily to provide them.

## Source

Nancy McCarthy, "Local-Level Public Goods and Collective Action," in *Collective Action and Property Rights for Sustainable Development*, Brief 11 of 16, edited by Ruth S. Meinzen-Dick and Monica Di Gregorio, 2020 Vision Focus 11, International Food Policy Research Institute: Washington, D.C., 2004. Reproduced with permission from the International Food Policy Research Institute. [http://www.ifpri.org/2020/focus/focus11/focus11\\_16.pdf](http://www.ifpri.org/2020/focus/focus11/focus11_16.pdf)

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## Why are some public goods “easier” to provide than others?

Even within the same community, people cooperate to provide certain public goods but not others. It is possible to explore this variability by asking, “How can an individual’s benefits change depending on the number of people who actually contributed to a specific activity?” Five potential incentive structures may help explain the variability, although the number of actual possibilities is much greater.



### Five Incentive Structures

In the first case, *every individual is better off contributing to the public good even if no others contribute*. In this case, the role of the group might only be to share information and coordinate activities. Such an incentive structure might occur when there are large increasing returns to contributions in the provision of a public good. Certain pest control measures might have this structure; if each individual controls pests on his or her own farm, overall pest prevalence may drop to zero, so everyone realizes large benefits. Unfortunately, such a fortuitous incentive structure does not occur often.

In the second case, *the individual may be better off contributing to the public good if no one else does, but when others contribute the individual would prefer to “free ride,” or contribute nothing*. As in the first case, the primary role of the group is to coordinate actions among members. Coordination is particularly important if the good must be repeatedly provided and members can take turns in providing the good. Herd mobility is such an example: each herder would prefer to stay at home and avoid the costs of mobility but would move if others remained at home. Coordinating herd movements can lead to a socially optimal pattern of herd mobility.

In a third incentive structure, *the individual might prefer to contribute to the public good if all others do but would not if no one else does*. In this case, the role of the group is to assure each member that others will not free ride. Given the incentive structure, this case is likely to be more costly to manage than simply coordinating movements. Investments in community infrastructure sometimes have this structure, particularly when investments are discrete decisions, such as construction of a building or bridge.

In the fourth example, *the individual may prefer not to contribute if no one else does and also prefer to free ride if everyone else contributes — even though all members would be better off if each one contributed his or her own share.* This situation is likely to occur when returns to contributions increase but at a decreasing rate: for example, certain soil erosion control measures. Such an incentive structure may also result when returns are highly variable, as they are, for example, for investments in agroforestry techniques in regions with high climatic variability. Managing this type of incentive structure is likely to be the most costly.

Finally, *it may be the case that it would be best, under existing conditions, not to provide the public good at all.* In other words, social returns to a certain public good may simply be too low for it to be in the interest of the community members to provide that good.

The provision of certain public goods may also affect the returns to other public goods. For instance, returns to investments in soil erosion control measures undertaken on common pastures may depend on collective action in managing use rates of those pastures. Returns to improving roads and bridges may be higher where successful pest control leads to higher marketable crop surpluses.

Finally, actions in one community may affect returns to activities elsewhere, such that groups operating across communities may be far more successful than more localized ones. Pests, fires, and water easily cross community lines and therefore require many communities to cooperate. Of course, externalities that affect large segments of the population are precisely those that give rise to government involvement. Real and effective partnerships between government agencies and community groups can manage these externalities more successfully.

### **Why are some communities more successful than others in providing public goods?**

Although the incentive structure determines in part how difficult it will be to undertake any particular collective activity, there are also characteristics of the group that determine the cost of doing so. Any factor that enhances a group's ability to identify common goals,





work together, and negotiate in good faith will enhance cooperative capacity and thus reduce the costs of undertaking collective action.

- Trust among members was one of the first factors to be identified. A history of successful collective action also improves chances of continuing success in an expanded set of activities, creating a virtuous circle.
- Social, economic, and cultural heterogeneity have long been thought to reduce cooperative capacity because such diversity makes it difficult to find mutually beneficial arrangements. Sociocultural diversity may also improve cooperative capacity, however, by widening the possible set of cooperative arrangements and avoiding institutional inertia.
- Recognition and support from external agencies, such as the government, enhances the authority of the group to engage in collective action.
- More participatory forums for setting the collective action agenda and implementing activities, transparency and accountability mechanisms, and credible and fair conflict resolution mechanisms all contribute to successes in collective action.

Improving a community's capacity to cooperate will have spillover benefits for all public goods provision and so might form part of a national strategy to improve collective action. In highly heterogeneous communities, however, a focus on conflict management and resolution mechanisms may be the most useful intervention.

Elsewhere, it may be more relevant to disseminate information on organizational tools.



- Other factors may affect both cooperative capacity and individual incentives. For instance, increases in group size may increase individual incentives to free ride. On the other hand, having more members can initially defray the costs per member. As membership continues to increase, cooperation becomes more costly owing to higher negotiation, monitoring and enforcement costs. Unequal distribution of wealth and opportunities to work outside of the community also affect cooperative capacity and incentives.

## Implications for Policymakers

Where externalities are relatively localized, community members may be better able to provide public goods because they are more knowledgeable about local conditions than are outsiders. As policymakers determine how

best to aid communities in their quest to provide public goods, it is important that they carefully consider both individual incentives to provide particular public goods and the factors affecting communities' capacity to cooperate.

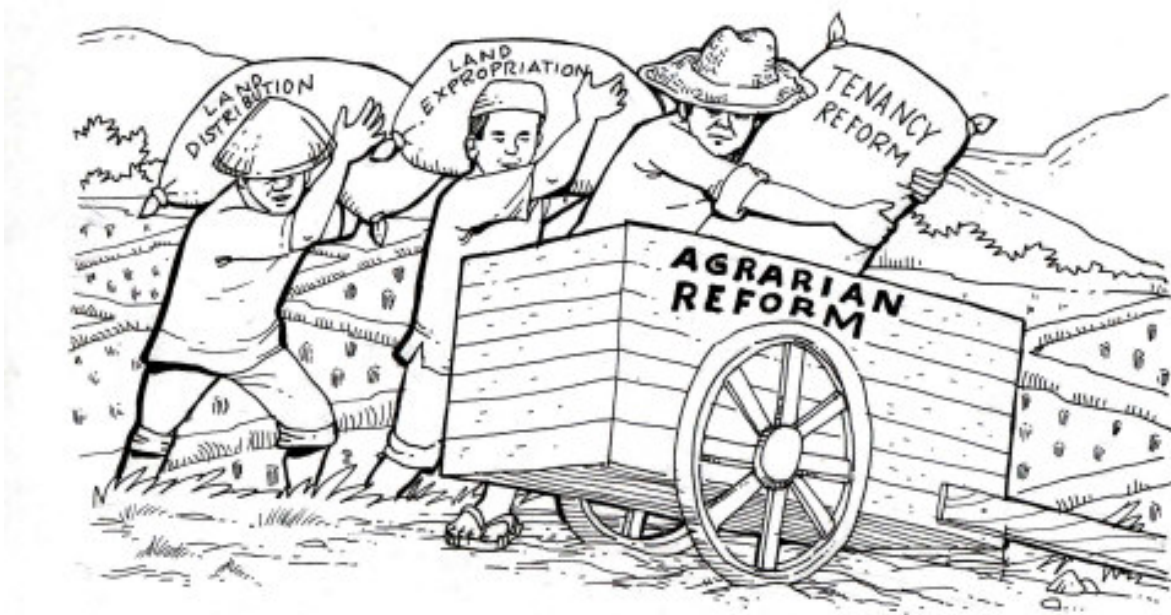
Where policymakers are making decisions on devolving responsibility for specific public goods to the community, they must undertake a realistic assessment of individual incentives

to engage in collective action. This means assessing the underlying technological characteristics, gauging the uncertainty, or the variability, of the benefits to be realized, and determining the extent to which other public (or even private) goods and services affect the potential returns from the particular activity. The appropriate organizational structure, procedural rules for making and enforcing agreements, and determination of fines or rewards will also differ depending on the incentive structure, and projects and policies must take this into account.

Finally, there are certain situations where institutions above the local level need to operate. Under these conditions, local groups and local and national government agencies need to coordinate and cooperate through “co-management,” or nested arrangements. The burden should not fall on communities alone.

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# Redistributive Land Reforms in Asia



Various types of redistributive land reforms have been legislated and/or implemented across the Asian region – with the intention of creating access to land for the poor, providing security of tenure, and promoting greater equity in landholdings. Past *State-led* interventions in Asia have included one or a combination of the following common features:

## Source

Antonio B. Quizon, Asian NGO Perspectives on Agrarian Reform and Access to Land. *ANGOC Policy Discussion Paper*. August 2005.

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## Land ceilings

The State imposes a maximum limit, or “ceiling” on the size of agricultural landholding that an individual or family can own or possess. Lands above this ceiling are either confiscated or compulsorily purchased by the State for free redistribution or resale. Land ceilings were a common feature in many past agrarian reform programs, especially in South Asia.

## Land expropriation and redistribution of private lands

Private lands are either confiscated or compulsorily purchased by the State for free redistribution or resale. Lands may be distributed either to individual families, or collectively — to communities, cooperatives or production collectives.

|  |  |
|--|--|
| <p>Reform of tenancy and land-lease arrangements</p> <hr/>     | <p>This is also often called “<i>tenancy reform</i>” whereby the State fixes, or imposes ceilings on the leasehold rents or sharing arrangements between landowner and tenant. In some countries (Philippines), sharecropping arrangements are transformed into leasehold, or “fixed rental” arrangements. It also includes granting tenants security of tenure on the land.</p> <hr/>   |
| <p>Agrarian reform settlements &amp; resettlement</p> <hr/>    | <p>The State opens up new lands, usually by clearing classified forest lands for agricultural expansion. In some cases, the State creates new settlements in degraded or marginal lands, or in new agricultural frontier areas. Examples of this approach were the transmigration program in Indonesia (1950s-’90s), the homestead program in the Philippines (1950s-’60s), and the expansion of rubber and palm oil plantations in Peninsular Malaysia (1970s-’80s) under schemes implemented by the Federal Land Development Authority (FELDA) and the Federal Land Consolidation and Rehabilitation Authority (FELCRA).</p> <hr/> |
| <p>Recognition of customary land and resource rights</p> <hr/> | <p>To varying degrees, the State grants formal recognition to the customary land rights especially of indigenous peoples communities and tribes. These rights may range from “harvesting and user rights,” to ancestral domain land titles. There are also varying degrees to which customary law is applied on the use and management of the land and resources. Land rights are usually held “in common” (as collective rights or property).</p> <hr/>   |
| <p>Long-term user-rights</p> <hr/>                             | <p>The State gives legal recognition to long-term <i>in situ</i> tenurial security and user rights either to individual families or to communities over forestlands or common resources. This recognition is often premised on the expectation that user groups will practice resource conservation and sustainable management, if they hold tenure over such resources. There has been a marked increase in community-based natural resource management (CBNRM) schemes since the 1990s.</p> <hr/>  |
| <p>Formalization of ownership and/or tenure</p> <hr/>          | <p>The State formalizes the <i>de facto</i> land ownership or tenurial rights of longtime settlers or users. This is necessary in a large number of cases where both land and occupants remain undocumented.</p> <hr/>   |
| <p>Redistribution of public lands</p>                          | <p>The State redistributes existing government lands, or else reclassifies and alienates State lands for redistribution to the landless.</p>   |

**Meanwhile, other State-led land tenure schemes are more evolutionary, rather than redistributive.** Under *evolutionary* schemes, the State plays a less active role, and institutes policy interventions to induce changes or to improve efficiency in land ownership and access that are expected to occur over long periods of time. These types of interventions include:

Reform of civil laws,  
such as on  
inheritance rights

The reform of civil laws includes ensuring equal rights for women, on issues such as inheritance and control of conjugal properties. The Civil Laws of a country also define the extent to which State laws recognize the effectivity and validity of existing customary or religious laws related to property (entitlement, control and disposition).

Progressive  
taxation schemes

Taxation schemes are enacted either as an incentive or disincentive to particular types of land ownership or land use. An “idle land tax”, for instance, may act as a disincentive to land speculation, or a “land conversion tax” may deter the conversion of agricultural lands to other purposes.

“Market-assisted  
land reform”

This approach was conceptualized, and is actively being promoted by the World Bank. It promotes land sales under the principle of “willing buyer, willing seller”. The role of the State is to promote land markets, through efficient land administration and creation of “land banks”.

## CSO-led Agrarian Reform Initiatives

Asia has been home to numerous political and social movements, as well as of community-based initiatives on agrarian reform. Varied social movements as well as anti-colonial and anti-dictatorship struggles have mobilized public pressure to catalyze State-led land reforms and programs since the 1940s. Over recent years, other CSO movements have likewise brought attention to issues of land rights and access for disadvantaged sectors – by addressing the “bundle of rights” associated with land issues. In particular, these have been CSO movements working on issues of women’s equal rights, indigenous people’s rights, and community-based natural resources management (CBNRM).

In cases where reform legislations already exist, CSOs have been at the forefront of agrarian reform implementation as a countervailing force to the status quo. At policy level, CSOs have served as “public watchdogs” for monitoring program implementation and consistency in public policy. At field level, CSOs have initiated work focused on: community and sectoral organizing, land rights education, legal assistance, case documentation, and provision of support services to enable poor communities to make productive use of their newly-acquired lands.

One unique CSO-led approach in the past has been the “land donation” movement in India, known as the *Bhoodan* and *Gramdhan* movements. Acharya Vinoba Bhave, a Gandhian follower, initiated this reform by walking across the country and asking landowners to donate a piece of land. Eventually, the movement collected about two million acres, consisting mainly of marginal lands, for redistribution to the landless poor, especially among the *Dalits* (scheduled castes).

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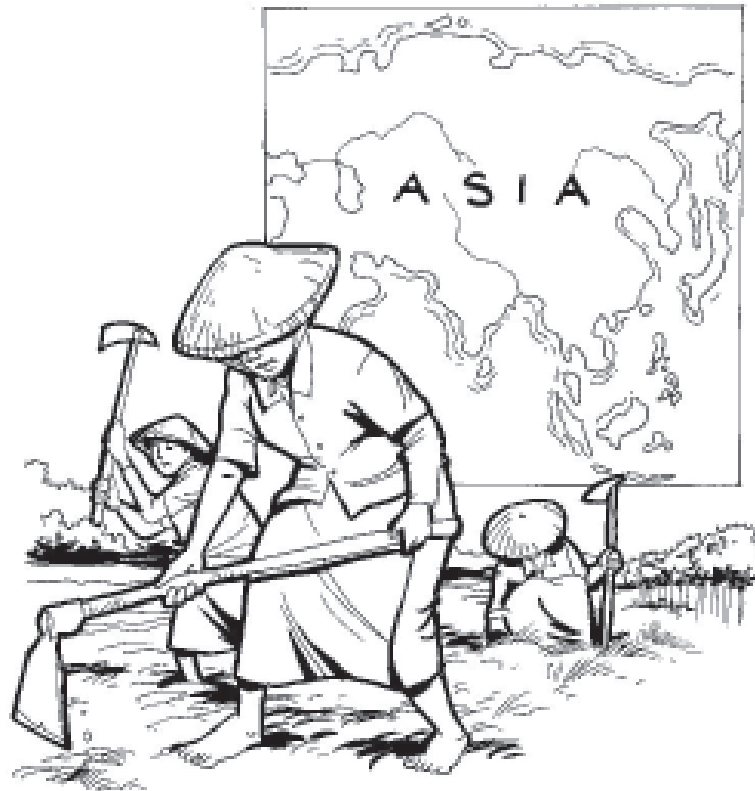
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# Agrarian Reform Programs in Selected Asian Countries: *An Overview*



**A**grarian reform legislations, policies and programs in Asia were the direct result of *occupation forces* (Japan, Taiwan in the 1950s); *revolutionary governments* (China, 1950s), *military dictatorships seeking popular support* (Philippines, 1972), *popular movements and public pressure* (Philippines, 1988) or *responses to breakdowns in centralized planning systems* (Cambodia after 1995). However, the mere presence of policies does not always lead to effective implementation.

## Source

Antonio B. Quizon, Asian NGO Perspectives on Agrarian Reform and Access to Land, *ANGOC Policy Discussion Paper*. August 2005.

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The following is a brief summary of past land/agrarian reforms in the different Asian countries and regions based on *three broad categories of agrarian systems*:

| Dominant Agrarian Structures  | Countries & Regions  |
|---|--|
| <p><b>Type 1: Industrialized economies:</b></p> <p>Most of these countries and regions have implemented land reforms in the post-World War II period, mainly under totalitarian regimes or by occupation forces. These areas have since undergone agricultural modernization and rural industrialization, with a lesser segment of the population currently involved in agriculture.</p>  | <p>Japan, Taiwan, South Korea, and until recently, China</p>   |
| <p><b>Type 2: Emerging market economies:</b></p> <p>These are countries where collectivization of agriculture was earlier introduced under “communist” revolutionary governments. Collective farms were later broken up into family farms or else usufruct rights given to farming families. There is a fairly equitable distribution of resources and a large segment of the population is involved in production. These countries are gradually being opened to market forces.</p>  | <p>China, Vietnam, Cambodia, North Korea, and Central Asian Republics</p>  |
| <p><b>Type 3: Feudal and traditional agricultural economies:</b></p> <p>These are countries where traditional patterns exist with a feudal or semi-feudal character, with lands held by absentee owners or corporations. Past land reforms have been left largely unimplemented, except for a few (Philippines, Kerala, and West Bengal in India). A large portion of the population is involved in production, mostly subsistence agriculture, on small, family-size farms. These countries are increasingly exposed to market forces and modernization.</p> | <p>All countries of South Asia (India, Bangladesh, Pakistan, Nepal and Sri Lanka) and most countries of Southeast Asia (Indonesia, Philippines, Myanmar)</p> |

## Type 1: Land Reforms in Japan, South Korea and Taiwan

### *Japan*

The land reform program of Japan imposed a ceiling on land holdings of one hectare. The landowners were compensated in cash and development bonds. In the course of the reform the actual tillers were given full ownership rights for the holdings they had previously cultivated and received a subsidized mortgage. Labor productivity increased annually by five per cent and land productivity by four per cent between 1954 and 1968. Key factors for the success of the reform were an existing well-developed extension service, land records and an efficient bureaucracy.





## **South Korea**



A critical factor for the success of the land reform in South Korea has been the equally thorough development and support to local village government to assume the land administration function. Thus, the country has been able to maintain a local dynamic for continuous agricultural and rural development. In the course of the reform 65 per cent of the agricultural land was redistributed. A ceiling on all individual holdings was set at three hectares of good cropland and land in excess of this ceiling was distributed in units of one hectare to former tenants. This low ceiling enabled nearly 76 per cent of the total agricultural households to own land for the first time.

Under the impact of the reform, agriculture achieved an annual growth rate of almost four per cent.

## **Taiwan**

In Taiwan, the land reform was imposed by the Nationalist Government, which had just been exiled from the mainland. The new government thus had no ties, nor any obligation toward the local indigenous landowners. Also important were accurate land tenure data and a non-indigenous bureaucracy. Land ownership ceilings were fixed at one hectare. The former landowners were compensated in industrial bonds, which they invested in the urban-industrial zone. Between 1953 and 1960, the annual production and consumption of inputs was of 23 per cent and 11 per cent, respectively.



## **Type 2: Agrarian Reforms and Tenurial Changes in China, Vietnam and Cambodia**

### **China**

The “people’s commune” system was introduced in the 1950s by the revolutionary government, and this led to overall equity in land distribution. However, in 1978 the Central Committee of the Communist Party of China approved the “*Decision on some issues for speeding up agricultural development*” which laid the foundation for another comprehensive agrarian reform program. The reform was carried out gradually. First, the introduction of the household contract responsibility system which gave the farming family usufruct rights over the land it cultivated; second, the abolition of the organizational system of the People’s Commune which had proved to be of low efficiency; and third, the development of new rural

economic organizations. The results of the reform have been impressive. Between 1978 and 1989 the value of gross agricultural output increased by 88.3 per cent with an average annual growth of 13.5 per cent. At the same time, the per capita net income of farmers rose from 134 to 601 *yuan*, representing an annual increase of 13.5 per cent. This increase in income was partly due to price factors, but 74 per cent resulted from the strong incentives the reform gave to individual farmers. Furthermore, the increased income led to investments in nonagricultural activities, the establishment of small rural enterprises and the creation of nonfarm employment. As a result of the overall economic growth in rural areas, the number of rural poor fell from 260 million or 33 per cent of the rural population in 1978 to 89 million or 11 per cent in 1984. A report released by the Operation for Economic Cooperation and Development (OECD) in September 2002, makes the point that while poverty in rural China has been reduced over the past 20 years and incomes have grown — with an estimated upswing in 2002 of 4.2 per cent, the gap between rural and urban incomes has widened. In 1985, rural incomes were 54 per cent of the level of their urban counterparts; in 2003, they were less than one-third.



## **Vietnam**

Vietnam experienced similar productivity gains from breaking up large collective farms into tiny family units. Laws were enacted in 1981 and 1987 aimed at improving agricultural productivity through increased incentives of individual farmers and recognized land use rights of individual households. These reforms have resulted in an impressive growth of agricultural output, transforming Vietnam from a food-deficit country into a food-surplus country. Rice production increased from 12 million tons in 1981 to 22 million tons in 1992. In addition, there has been a significant increase in the areas under industrial/commercial crops including rubber, coffee, tea, coconut, fruits and vegetables, while the area under crops such as cassava and sweet potatoes has declined.



## **Cambodia**

Unstable and rapid land tenure changes in Cambodia are related with historical antecedents. Previously, land belonged to the State in theory, but actually belonged to the tiller in practice. Much of the land remained unsurveyed, and formal registration coexisted with traditional forms of ownership. In 1975, the Khmer Rouge regime abolished all private property, and all land belonged to the State. After the Khmer Rouge regime collapsed in 1979, the Vietnamese-backed People's Republic of Kampuchea upheld collective property rights and created collective work groups called *krom samaki* — consisting of 12 to 15 families with an allocation of 15 to 25 hectares. In 1989, the Constitution was amended, providing for owner-

ship rights for residential land and possession rights for agricultural land. In 1992, The Basic Land Law was promulgated, reflecting a further shift in government policy from a centrally planned, to a free market economy. However, many officials took advantage of the confusion in ownership to amass large tracts of land. Powerful groups confiscated common property resources; land-grabbing and land concentration increased.

An inventory of land disputes in Cambodia, arising just between 1987 and 2000 shows that there have been 687 recorded cases, involving 37,500 families and affecting 78,990 hectares. Most disputes are reported from the richest agricultural areas, reasonably reflecting population densities. Most frequently, the land was taken by assertion of superior title, abuse of power, fraud and use of violence. Over 80 per cent of those accused of taking other peoples' land are in positions of power — government officials, military officials, and businessmen. In March 1999, the Cambodian government set up a National Land Dispute Settlement Commission. Subsequently, Land Dispute Settlement Commissions were established in every Province and Municipality. (A typical case involved about 50 families in dispute over approximately 75 hectares of rain-fed rice land that they had farmed for 10 years or more against someone in a powerful position with some kind of official sanction to evict the current occupants.) However, central government and its agents significantly contribute to the level of land disputes, making it difficult, if not impossible, for provincial authorities to be able to resolve these cases. Landlessness among farmers is on the rise because of the combined effects of the market economy and the wholesale privatization of previously common resources such as forests and wetlands. Recent studies also show that distress sales among farmers are increasing.



### **Type 3: Agrarian Reforms in South and Southeast Asia**

#### ***South Asia***

Governments in Bangladesh, India and Nepal have formulated various land legislations since the 1950s to the 1990s. Although their political contexts vary, land-related reform policies in South Asia had many common patterns. They included: (1) attempts at providing greater tenurial rights to sharecroppers, (2) regulating sharecropping and tenancy arrangements; (3) establishing minimum wage for agricultural labor and *benami* (proxy) transactions; (4) abolition of the *Zamindari* system, which operated through multiple layers of rent-seeking intermediaries between the *Zamindars* (landlords) and the actual cultivators; (5) redistributing *khas* (State-controlled) lands; and (6) imposing ceilings on land ownership and then distributing the surplus lands among the landless and poor households. In general, many of these reforms failed because of several factors, including: land ceilings were set too high (among the highest was 17 hectares per household in Nepal, when the average farm size was less than one hectare); and heavy influence of the landowning elite in State administrations, and their ability to

maintain a strong patron-client relationship at local level. Overall, land reforms have had limited impact in South Asia. In India, barely 1.2 per cent of cultivated land was redistributed in the past 50 years (from 1950 to 2000), according to a 2002 Assessment of Rural Poverty in Asia and the Pacific by the International Fund for Agricultural Development (IFAD).



## **India**

**Land Reform in West Bengal.** The Indian situation differs from State to State. Among the more notable land reform programs were those of West Bengal, India. It has had a positive impact on agricultural production, poverty alleviation and economic growth. It covered under its three components more than four million households representing 59 per cent of all agricultural households. A total of 1.04 million acres, constituting eight per cent of arable land was redistributed to 2.54 million households, representing 34 per cent of all agricultural households, while 1.1 million acres were covered by the tenancy reform benefiting 1.5 million households or about 20 per cent of agricultural households.



During the period 1980-81 until 1998-99, the average annual growth of food grain production was 4.2 per cent compared to 2.5 per cent for all other major states. Vegetable production has more than doubled from 5.2 million tons in 1995-96 to 11 million tons in 1999-2000. Per capita calorie intake has increased from 1983-84 to 1993-94 by 9.6 per cent in rural West Bengal while at the same time it has decreased in rural India as a whole by 3.1 per cent. More important than agricultural growth itself, land reform has also contributed to the well-being of West Bengal's rural population including the poorest sections of the society. The proportion of the population below the poverty line declined from 60.5 per cent in 1977 to 25.1 per cent in 1997, a drop of more than 35 percentage points. In addition, important changes of a social and political nature have taken place.

## **Philippines**

Various coalitions of farmer groups, social movements and NGOs have kept the pressure for land reform in both advocacy and program implementation. Generally recognized as the first historic agrarian legislation was the 1963 Agricultural Land Reform Code which abolished and replaced the share tenancy system with the leasehold system. The second major legislation came with the imposition of martial law in 1972, when all rice and corn lands in the country were placed under land reform; all tenants and lessee in lands above the seven-hectare ceiling became amortizing owners, who would own their farms after a 15-year amortization payment

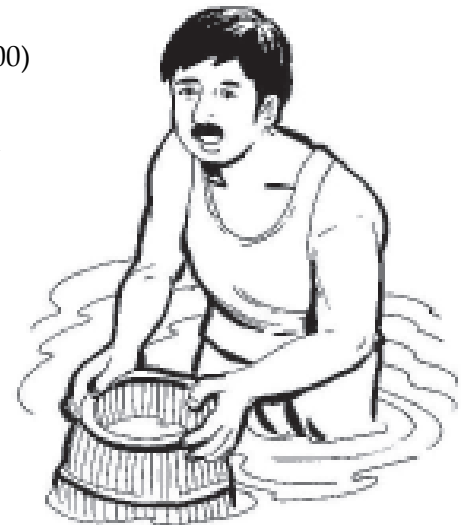


scheme. The third landmark agrarian reform legislation followed the ouster of the Marcos dictatorship and the restoration of democratic processes in 1986. As a result of a strong peasant lobby, the 1988 Comprehensive Agrarian Reform Law (CARL) was enacted, based on the “land-to-the-tiller” principle. The program has a total target scope of 8.1 million hectares. About half of this consists of agricultural lands for distribution to landless farmers and farm workers, while the other half consists mainly of forestlands which will be covered by tenurial (user) rights to upland dwellers. As of 2005, according to government data, 83 per cent of the total target has been achieved. However, the remaining lands to be covered consist mainly of private lands, *haciendas* and large plantations where there is strong landlord resistance.

## **Indonesia**

The country’s earlier agrarian reforms were stopped, and in fact, there has been “reverse land reform” or massive land consolidation over the past 30 years. There are two “old” agrarian reform policies: the 1960 Basic Agrarian Law and the 1962 Land Reform Programme. These involved the imposition of land ceilings and the redistribution of private and State lands. However, with the political turmoil in 1965 and the rise of the Soeharto dictatorship, agrarian reform was stopped in 1966-67. As a result, redistributed lands were recovered by original landlords or fell into the hands of third parties. Instead, the ensuing Soeharto period (1967-1998) emphasized large-scale exploitation of natural resources, privatization and deregulation to stimulate private sector participation and growth. In summary, various legislations created and protected access to land, mining and timber by big corporations at the expense of peasants, small producers and indigenous peoples. Data compiled by the Consortium for Agrarian Reform (KPA) shows that while 30.2 million peasant households held only 17.1 million hectares of agricultural land, large-scale concessions have been given to private companies, to wit:

- 2,178 large plantation companies control around 3.52 million hectares land, for an average of 1,600 hectares per company (2000)
- 555 companies hold 264.7 million hectares of mining concession areas, or an average of 477,000 hectares per company (1999)
- 620 production units of forestry concessions control over 48 million hectares of forestry land, including Perhutani (2.6 million hectares of land which is classified as State forest areas in Java); this yields an average of 77,500 hectares/concession unit (1999).



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# Assessing Filipino Peasants based on Access to Land



**F**ilipino peasants have traditionally been defined by their land holdings and labor arrangements vis-a-vis the land. In turn, these landholdings and labor arrangements are determined by four development variables, namely *farm size*, *agricultural technology*, *land tenure* and *level of support services*. Interactions among these development variables point towards realizable models for agrarian reform and rural development.

## Source

Ledesma, Antonio J. SJ. "Peasant Types and Development Thrusts for the Church in Mindanao".

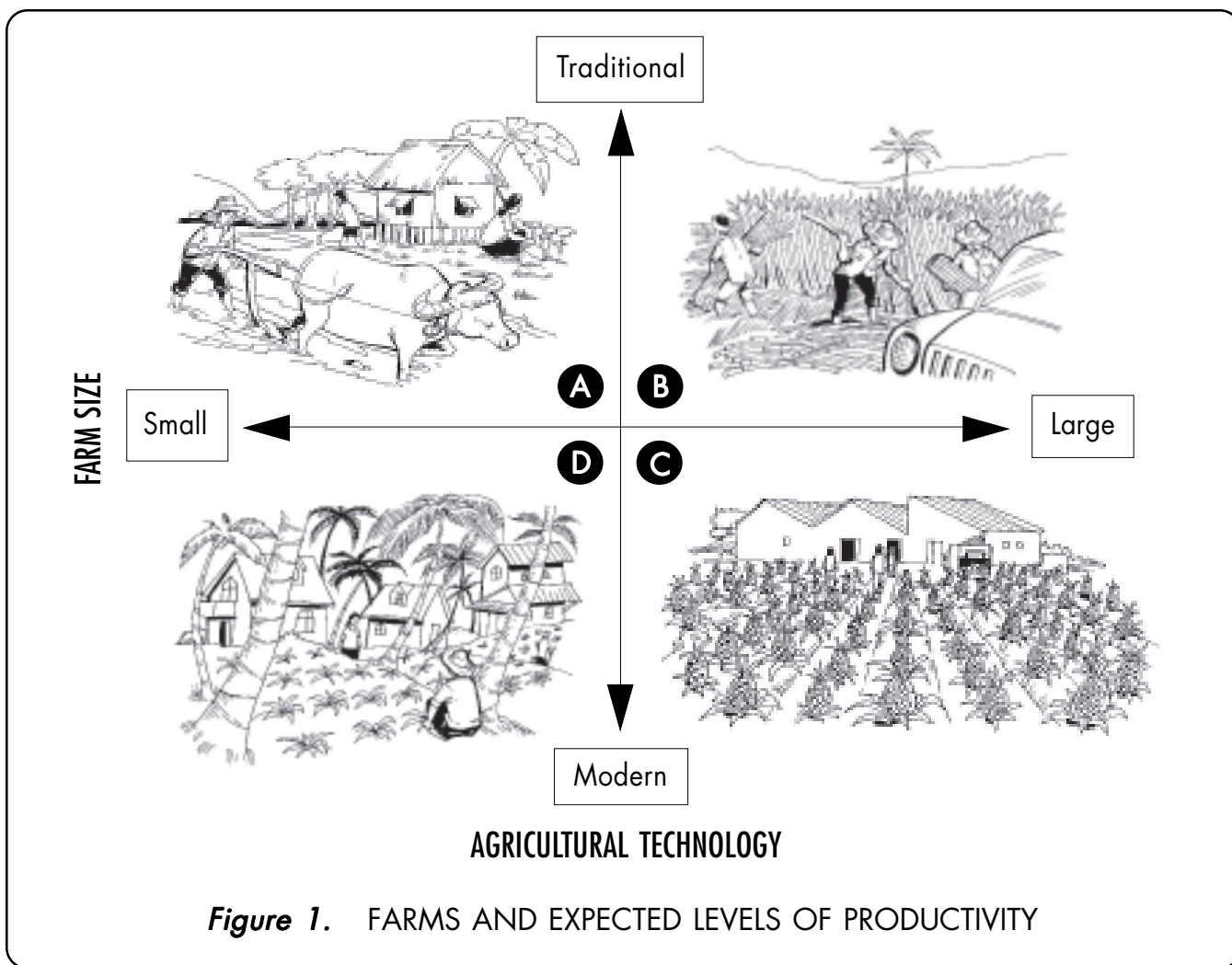
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The typology thus generated can be used as a tool for profiling, analysis, and/or planning for agrarian reform and rural development in various contexts. The same framework can aid civil society organizations (CSOs) in their efforts to promote people empowerment, asset reform, sustainable agriculture, and rural development in general.

## Farm Types by Size and Technology

The first pair of variables relates farm size to agricultural technology. Its unit of analysis is the farm as a productive entity. The peasant is seen in terms of his/her technological relationship to the land (*i.e.*, person-land relations), and the focus is on productivity.

Stretching across a spectrum, farm size may be small or large, while agricultural technology may be traditional or modern.



**Figure 1.** FARMS AND EXPECTED LEVELS OF PRODUCTIVITY

In *Figure 1*, the kinds of farms and their expected levels of productivity generate four farm types, *i.e.*,

- A – subsistence smallholding (with low productivity);
- B – feudal type *hacienda* (with medium productivity);
- C – plantation in an export crop economy (with high productivity per unit of labor);
- D – family-size farm, combining labor-intensive practices of the farming household with modern technology (with high productivity per unit area).

Changes in agricultural parameters may lead in two directions: with appropriate technology, from farm A to B to C; and with technological innovation, from farm A to D.

## **Farm Tillers by Tenure and Access to Support Services**

The second pair of variables relates land tenure and access to support services. Its unit of analysis is the peasant as the tiller of the soil vis-à-vis landlords, government and other intermediaries. The peasant is viewed in terms of his/her social relationships (*i.e.*, person-person relations), and the focus is on equity.

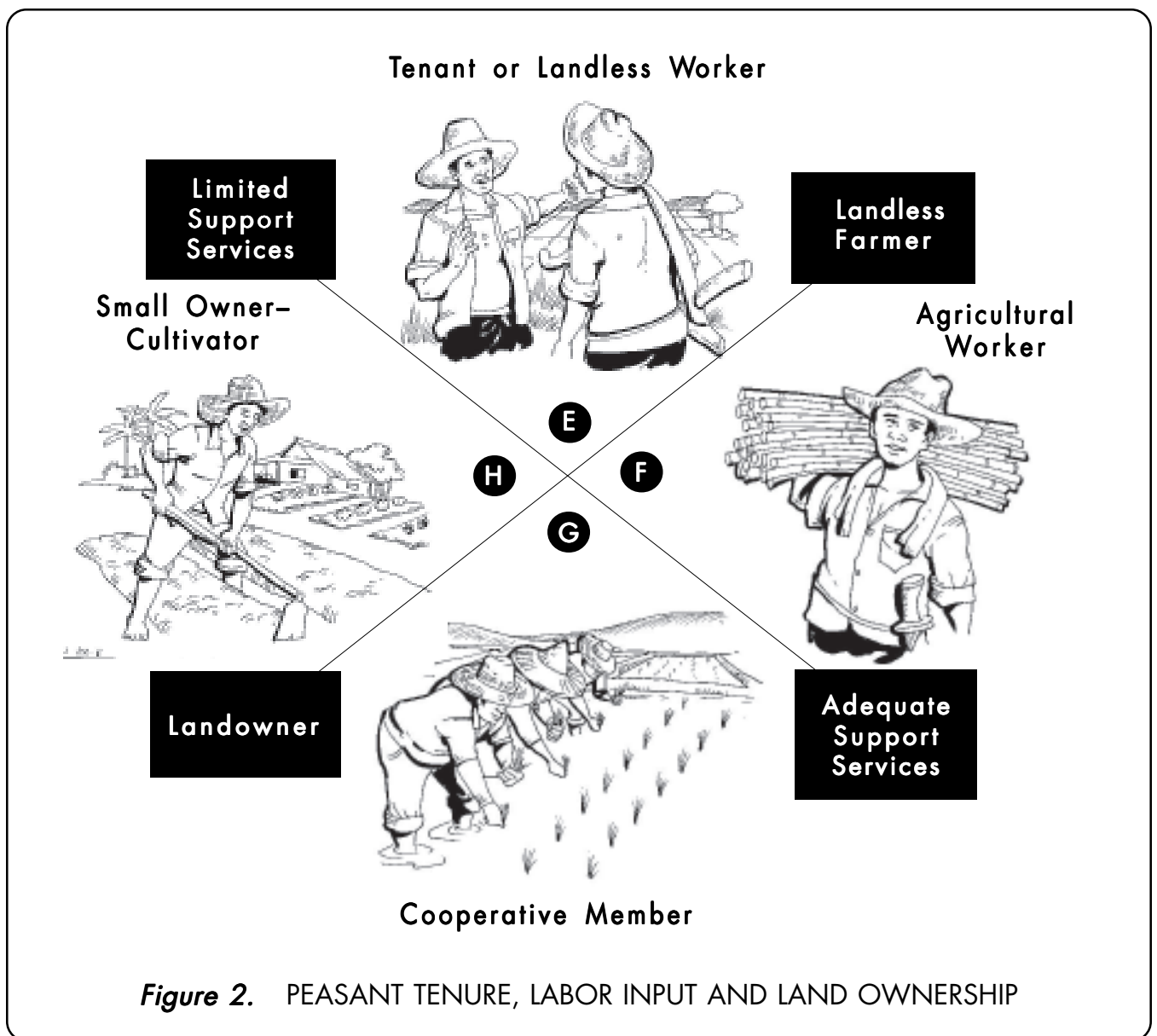


Again, stretching along a spectrum, the peasant's tenure on the land may be determined by his/her labor input or his/her ownership title to the land. Access to support services, on the other hand, is either limited or adequate.

In *Figure 2*, the various social relations of the peasant are defined within the four quadrants:

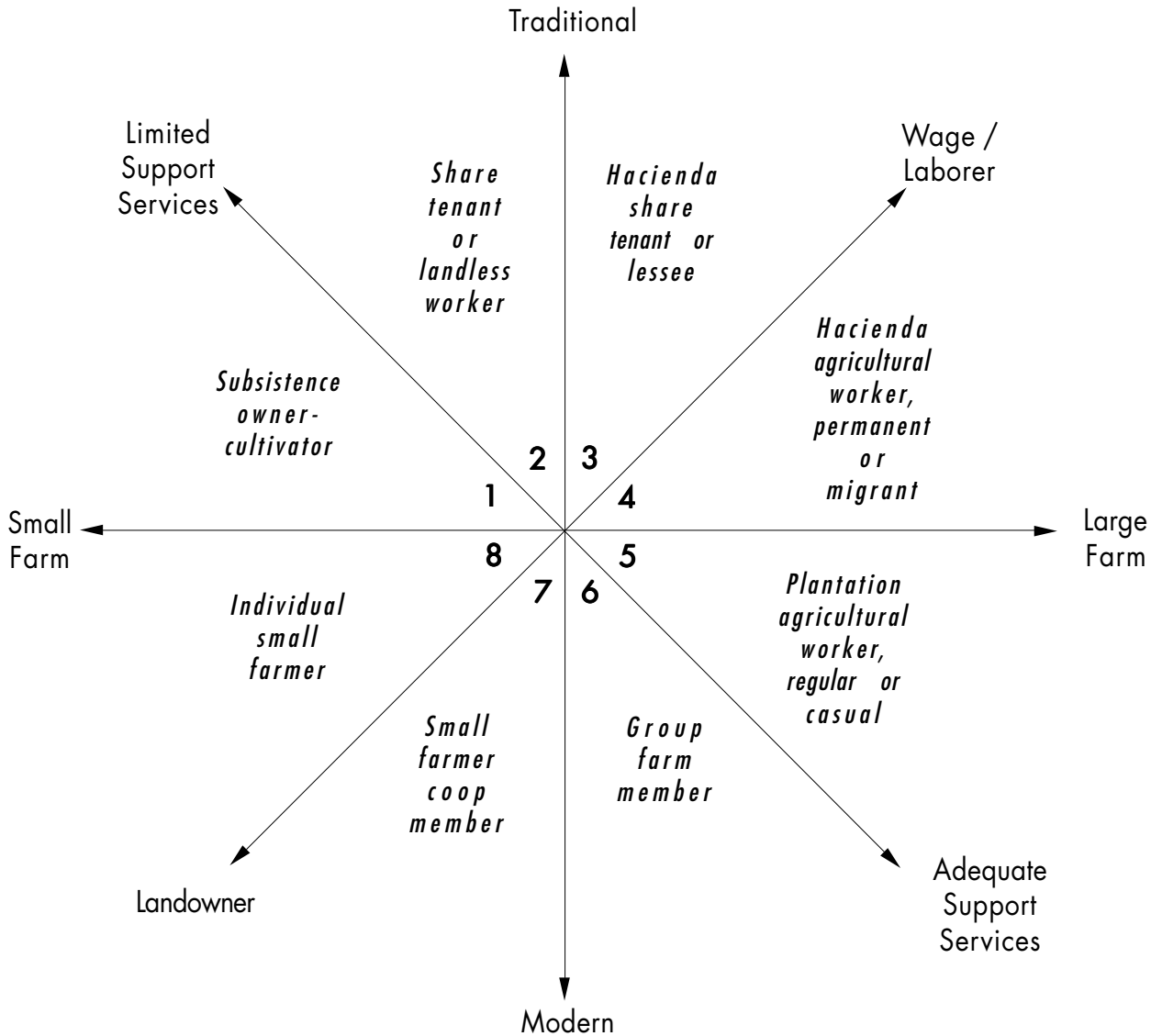
- E — tenant, whether sharecropper or lessee; or a landless worker;
- F — agricultural worker within a hacienda or plantation economy;
- G — member of a cooperative or group farm;
- H — small owner-cultivator.

Downward social mobility may take the path from tiller H to E to F; while upward mobility, with redistributive land reform, may bring tiller E to H; and with collective land reform, tiller F to G.




## A Typology of Filipino Peasants

All these factors and relationships constitute the crucial dimensions in characterizing the types of Filipino peasants today. They also help to define their rights and level of access to productive resources. By joining the two pairs of variables, the following peasant types can be discerned:



**Figure 3.** TYPOLOGY OF FILIPINO PEASANTS

Despite some overlaps, each of these types can be described briefly with the following examples:

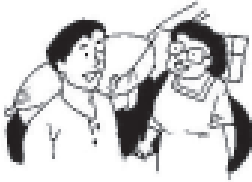


**TYPE 1**  
 The subsistence owner-cultivator, commonly found in upland or rain-fed areas; a small settler in a pioneer area; the peasant in the classical sense, *i.e.*, with his own family farm, independent, and bound to traditional agriculture.



### TYPE 2

The *kasama* sharecropper under a small landlord; or nowadays, a landless worker hiring out his labor to other small farmers in seasonal periods, through sub-tenancy arrangements or labor arrangements that are disguised forms of share tenancy.



### TYPE 3

The share tenant or lessee within a *hacienda* setting where patron-client relations are more pronounced and with expectations of landlord reciprocity.



### TYPE 4

The *hacienda* agricultural worker, whether permanent or migrant, like the *dumaans* and *sacadas* of the Negros and Panay sugar areas; usually under an administrative hierarchy composed of *encargado*, *cabo* and *contratista*. Although capital intensive in some of the production phases and integrated in an agro-industrial system (like the sugar and coconut industries), *haciendas* of this type continue to adopt traditional methods of agriculture resulting in inefficient production and high costs of “cheap” labor.



### TYPE 5

The agricultural worker, regular or casual, within a plantation economy that is capital-intensive, export-oriented, and oftentimes linked to transnational corporations for capital and marketing requirements. Cash crops may be pineapple, banana, coffee, palm oil, or even rice.



### TYPE 6

A member of a group farm or a land consolidation project where group activities in production, credit, and marketing are stressed. Communal ownership of the land is invoked. Cultural minorities with a tradition of communal landownership may fit in this category once easier access to credit and markets is afforded.



### TYPE 7

A small farmer linked to a cooperative network or a corporation. Compact farm clusters, *moshav*-type cooperatives, and linkage schemes are experiments along this line.



### TYPE 8

The individual small farmer receiving some government support in the form of a crop loan, irrigation service, farm-to-market roads (e.g., Agrarian Reform Beneficiaries). Without a farmers organization or cooperative, however, these services are limited or may even be curtailed.

## Development Issues

After surveying these eight peasant types, three issues can be raised in the form of questions.

### ***Existence of a Dual Agricultural Economy***

Peasant Types 1 to 3 characterize a “backward” subsistence economy, while Types 4 and 5 describe a more “progressive” one, needed by the country for foreign exchange earnings. Land conflicts have arisen between representatives of the two economies, more often to the detriment of the smallholder. Can and should a dual economy in Philippine agriculture persist?

*The growing significance of landless agricultural workers or the “proletarianization of the peasantry”* as typified by Types 4 to 5. These are landless workers who neither own nor have tenant’s rights to the land. Their situation highlights the problems of landlessness and rural unemployment. What alternatives are there to resolve these problems?

*The question of realizable models for agrarian reform.* In the light of population pressure and advances in farm technology, what are the realizable models for agrarian reform? Can the individual family-size farm remain as the long-range paradigm for agrarian reform? Or can agrarian reform models move more flexibly among the collective arrangements and adequate support services defined by Types 8, 7 and 6?

### ***Towards a Dual Thrust in Agrarian Reform***

The “redistributive model” calls for a shift from being a subsistence owner-cultivator or a landless farmworker under a small landlord to a cooperative member or an individual farmer receiving government support services.

Meanwhile, the “collective model” shows sharecroppers or tenants from large landholdings or plantations becoming part of a group farm and invoking communal ownership of the land.

In many respects, small farmers linked to cooperatives, as well as collective or communal ownership of the land (such as in Types 7 and 6), embody the twin goals of rural development for higher productivity and greater equity — *i.e.*, by combining elements of a modernized agricultural technology, security of land tenure, greater access to public services, and, depending on local conditions, small- or large-scale farming units.

The likely route for a dual thrust in agrarian reform would be: counterclockwise, following a *redistributive model*, from Types 2 and 1 to Types 8 and 7; and clockwise, following a *collective model*, from Types 3, 4 and 5 to Type 6.

If public policy and economic rationale are heeded, the subsistence owner-cultivator (Type 1), the share tenant or

landless worker (Type 2), and the *hacienda* share-tenant or lessee (Type 3), would all become a thing of the past. On the other hand, the *hacienda* agricultural worker (Type 4), and the plantation agricultural worker (Type 5) would continue to dominate the export crop economy, but with serious implications for the well-being and participation of peasant households in their own development.

The group farm member (Type 6), the small farmer coop member (Type 7), and the individual small farmer (Type 8), could reflect current thrusts in the development of the Filipino peasant, according to his/her own scale, tenure, technology and support structure.

## Implications on the Role of Civil Society

There are four major areas where CSOs can continue to collaborate towards improving the lives of Filipino farmers :

**People empowerment.** A prerequisite for improving and ensuring rights and access to resources is the farmers' level of organization or participation. This can take the form of community and cooperative organizing, setting up of micro-credit programs or entering into contract growing schemes. In the context of globalization, the competition for credit and markets will have to take into account linkages with urban and export markets, as well as cheaper-priced agricultural products from other countries.



**Asset reform.** For farmers, this means secure access to the land they till. For indigenous communities, this entails recognition for their ancestral domain claims. In the Philippines, two laws with social justice provisions need to be implemented more fully: the Comprehensive Agrarian Reform Program (CARP) and the Indigenous People's Rights Act (IPRA).

**Sustainable agriculture.** This entails the adoption of sustainable agricultural practices and appropriate technology. The planting of traditional rice varieties or the MASIPAG rice line, is one promising endeavor. The recent introduction of genetically modified organisms (GMOs) by several multinational companies poses a threat to the movement towards sustainable agriculture. The choice of seeds carries with it far-reaching implications for the food security of the country, as well as for the long-range welfare of farmers.

*The family farm, owned and tilled by a single household.* This is the paradigm envisioned in the implementation of agrarian reform. However, the CARP law also allows for other models of agrarian reform, including cooperatively run large-size farms which provide an alternative to multinational corporations. An advantage of the family farm is the greater labor absorption it offers, thus preventing further rural to urban outmigration, as well as emigration to other countries.

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# Assessing the Impact of Agrarian Reform Programs: *The Philippine Case*



**R**esistance to the implementation of agrarian reform programs generally comes from the ruling classes that have vested interests in maintaining the status quo of land ownership and distribution. But apart from such narrowly based opposition to reform, there is a significant number of scholars who regard change of this kind with ambivalence at best. Their attitude may be attributed to problems in trying to assess actual benefits from such reform efforts. These problems result from:

- Multiplicity of reform objectives;
- Multiplicity of reform components;
- Comprehensiveness of the reform;
- Multiplicity of implementing agencies; and
- the Time horizon.

## Source

Hans C. Meliczek, "Issues and Problems Related to Impact Assessment of Agrarian Reform Programmes: The Philippines Case," <http://www.fao.org/sd/ltidirect/landrf.htm> 1999

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## **Multiplicity of Reform Objectives**

Most agrarian reforms pursue simultaneously a mixture of political, social and economic objectives. The classification of these components is somewhat arbitrary since there is no clear delineation among them. In fact, some objectives may even contrast with one another. For instance, the Philippines' agrarian reform law, Republic Act 6657, promotes social justice as well as industrialization — objectives that are considered in certain quarters or by certain groups to be irreconcilably opposed to each other.

## **Multiplicity of Reform Components**

The experience of many countries that have undertaken agrarian reforms shows that the mere distribution of lands is not enough to guarantee an improvement in the living standards of beneficiaries. Land transfer has to be accompanied by the provision of support services such as input supply, extension, marketing support, and credit.

The Philippine agrarian reform program encompasses much more than land redistribution and support services and covers the following additional components: land transfer activities, land settlement, leasehold operations, stock distribution options, production and profit sharing, development of beneficiaries, and land use conversion.

This multiplicity of reform components suggests a lack of clearly defined priorities. Hence, one section of the reform facilitates the establishment of a class of independent small landowners, while another aims to raise the income of tenants and agricultural laborers without changing their social status. As these various components have different consequences on different actors besides having different repercussions on production, productivity and the social situation of the rural population, it would be impossible to make a general assessment of their impact. Impact assessment would therefore have to be done by specific component.



## Comprehensiveness of the Reform

The impact of an agrarian reform depends primarily on the intensity of the reform measures, *i.e.*, on how much land and how many landowners would be covered by the reform, and how many rural people would benefit from its various components.

## Multiplicity of Implementing Agencies

Assessment of the impact of agrarian reforms is facilitated by access to statistical data from a central office, which can be used as benchmarks for impact assessments. If, on the other hand, as in the Philippines, several institutions are charged with executing specific components of the reform, the multiple sources of information would tend to impede the evaluation process.

## Time Horizon

An important consideration in impact assessment is the establishment of an appropriate time frame. Data may be collected at various times, depending on the type of data and the purpose for which they are required. There are three main possibilities:

- 1. The one-off approach.** In this case, data are collected and presented for one particular point in time only. Such data provide a snapshot of the present situation and allow comparisons with other areas and situations at a given time.
- 2. The time series approach.** This approach involves collecting data at regular intervals over a predetermined period of time. Time series data provide information about historical trends and variation over time and are, therefore, more convenient for impact assessment purposes than are data gathered according to the one-off approach.
- 3. The before and after approach.** This procedure involves two major data collection exercises; one before an anticipated change or event and one afterwards. This approach is the most suitable for the impact evaluation of a particular policy, program or project. Frequently, however, benchmarks of the situation before are not available since, at the beginning of a reform, the authorities concentrate their efforts on program implementation rather than on data collection.

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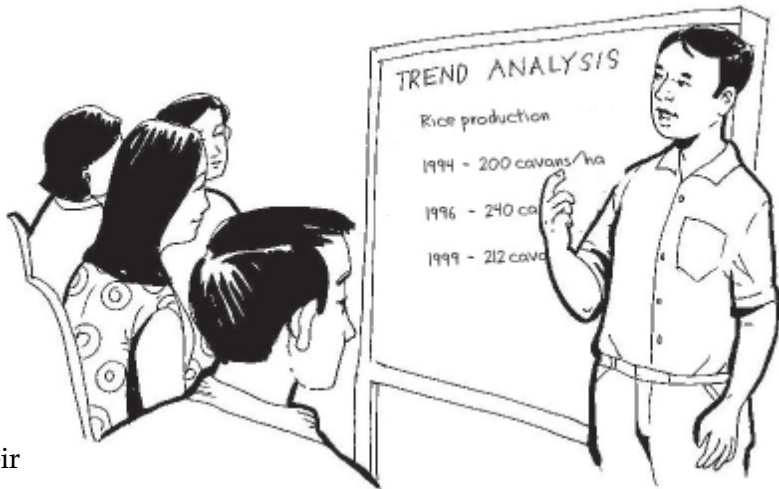
*“Land reform in its initial and crucial stage is emphatically not a question of experts; it cannot be advised into existence. If there is no real drive for reform, experts can produce expensive demonstration projects, but they will not be able to achieve any general and genuine improvement in the position of the cultivators.”*

— Doreen Warner, author of *Land Reform and Development in the Middle East*, 1957.

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## Short- and Long-term Effects

Different time frames also need to be considered. It has been frequently observed that, immediately after the implementation of a reform, the marketable surplus of agricultural products declines, mainly because the former landowning class ceases to provide the support services they used to furnish to their former tenants in the form of seeds, fertilizer, irrigation water and other inputs,



while the new institutions responsible for providing these services are not yet in place. However, as macrodata on agrarian reform accomplishments in Latin America have shown, this is a temporary condition. In the Latin American case, marketable surplus was generated and exceeded pre-reform levels as soon as the beneficiaries increased production and productivity.

## Inception of the Assessment

Impact evaluations are usually conducted five to 10 years after the completion of the respective projects. In the case of CARP (Comprehensive Agrarian Reform Program), in particular, impact evaluations would have to wait until the program winds down in a few years.

## Impact Assessment

Despite the above-mentioned difficulties, it is still possible to conduct meaningful impact assessments, provided that the evaluation concentrates on specific aspects of the reform. Impact evaluations build up an overall assessment of the situation from investigations of the following aspects:

- A workable method of assessing the impact of agrarian reforms is to describe the state of affairs, at least at the lower levels of investigation, in terms of a “with and without” situations, which means comparing the economic and social situations of those who benefited from the reform with those who did not.
- Data can be obtained from many different sources, and can be classified into two main categories: primary and secondary.

| Impact of Agrarian Reform | Indicators of Impact   |
|---------------------------|--|
| Technical Impact          | Changes in technology; effects on output; changes in the use of inputs; changes in cropping patterns; resource flows; resource productivity  |
| Institutional Impact      | Development of markets; establishment and operation of financial systems; changes in trading relations and effect on local government or regulations   |
| Economic Impact           | Changes in consumption, savings, asset levels, and other indicators of changes in families' net worth, such as increased agricultural production or larger number of animals   |
| Social / Cultural Impact  | Changes in income distribution, migration, household structure, gender roles, demographic patterns, labor force participation, patterns of community interaction, health and education, working conditions and the burden of different household members |
| Environmental Impact      | Changes in the natural resource base, water and air quality and other indicators related to specific locations, such as biodiversity and survival of wildlife  |

**Collecting primary information.** Most impact evaluations use relatively formal study methods, in particular field surveys that use key questions to gather the opinions of stakeholders, including the ultimate beneficiaries. Such surveys are carried out using standardized questionnaires directed at a selected sample of persons.

Using aggregated statistical data based on sample surveys ensures wide coverage and the representativeness of the data collected. However, this approach is expensive and is often too slow to keep pace with the demands of decision-making. Likewise, its results are not always reliable. Even data collected from the same institution, albeit at different levels (*i.e.*, provincial, regional, etc.), tend to diverge when computed at the national level.

Impact evaluation can also be done through other, low-cost methods such as participatory observation and rapid rural appraisal which rely on open question interviews and direct observation. Case studies are another option for collecting information. “Cases” may be households, villages, watershed areas, or other units.

**Use of secondary information.** As the collection of primary information is costly and time-consuming, recourse is often made to other, indirect ways of obtaining data that could also be used for impact assessment although they were not collected for this purpose.

Secondary data are available in published materials, reports and records from private and government institutions, such as statistical offices, tax offices, banks, police records and trade statistics. The most comprehensive official source of information on land tenure and land use in the Philippines is the Census of Agriculture which is conducted every 10 years and issued by the National Statistical Coordination Board. With regard to landownership distribution, the only available source is the Department of Agrarian Reform's Land Registration Program.

Impact assessments provide arguments for experts and decision-makers on the benefits and deficiencies of agrarian reforms. However, in the final analysis, it is doubtful that any of the arguments presented in favor of reform will overcome their resistance, or at least their indifference to it. The answer may well lie in the efforts of pressure groups such as members of advocacy NGOs and POs and sympathetic officials. These two groups are in urgent need of arguments and facts which prove that agrarian reform will at least in the long run alleviate rural poverty and benefit rural communities and therefore the country as a whole.

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# Struggles in Implementing Agrarian Reform in the Philippines



Land-related struggles have been a recurring feature of Philippine history, thus demonstrating the importance accorded by farmers to their lands. Over the years, there have been many State-sponsored efforts to reform the agrarian structure in the country, but few have had much success. Nevertheless, the struggle to implement genuine agrarian reform in the country continues. In fact, nongovernment and people's organizations (NGOs and POs) have long been involved in this effort.

## Source

Nathaniel Don E. Marquez, Maricel A. Tolentino and Ma. Teresa Debuque. Linking Local to Global Initiatives. *ANGOC paper. 2001, revised 2006.*

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## Agrarian Reform: A Protracted Struggle in the Philippines

The Philippines has seen over 400 uprisings — many of them land-related and peasant-led — in its long history. The intensity of agrarian conflict in the country is rooted in a highly skewed land ownership pattern — a legacy of colonial rule — and not coincidentally, widespread rural poverty.

Poverty in the Philippines is largely rural. According to the National Statistical Coordinating Board (NSCB) in 2006, farmers and fishermen are estimated to have the highest poverty incidence among the country's basic sectors (*"Development of Poverty Statistics for the Basic Sectors"*, NSCB, Feb. 2006). The fact that more than half of all rural households is absolutely landless is no mere happenstance.

The Philippine government's response to the problem is the Comprehensive Agrarian Reform Program (CARP), which it has been implementing since 1988. The CARP was conceived around the "land-to-the-tiller" principle and at its inception aimed to redistribute 8.1 million hectares to landless farmers and farmworkers.

As of 2004, the Department of Agrarian Reform (DAR) has distributed a total of 3.45 million hectares to 1.975 million farmer-beneficiaries. However, the pace at which the DAR has undertaken its land acquisition and distribution (LAD) operations has slowed worryingly in the past 10 years. Since 1994, when the DAR distributed some 434,000 hectares — DAR's highest LAD record thus far — its accomplishments in land distribution have progressively declined. From 2000 to 2003, DAR has been able to move an average of just 110,000 hectares each year.

The Philippine Congress had previously given the CARP a 10-year extension on its original 1998 deadline after the government failed to complete the transfer, particularly of privately owned agricultural lands. Then, in June 2004, the DAR announced that it would ask for another two-year extension of its 2008 deadline, to 2010, citing budgetary constraints.

Landowner resistance usually takes the form of physical harassment of CARP beneficiaries, as the case study (*CARRUF: Chronicle of a Local Struggle*) shows, but landlords have just as effectively exploited their media contacts and their influence with local authorities to discredit farmer beneficiaries. They have also resorted to dilatory tactics, like filing innumerable court cases to decide questions like coverage and landowner compensation, knowing fully well how long it would take the courts to settle the matter.

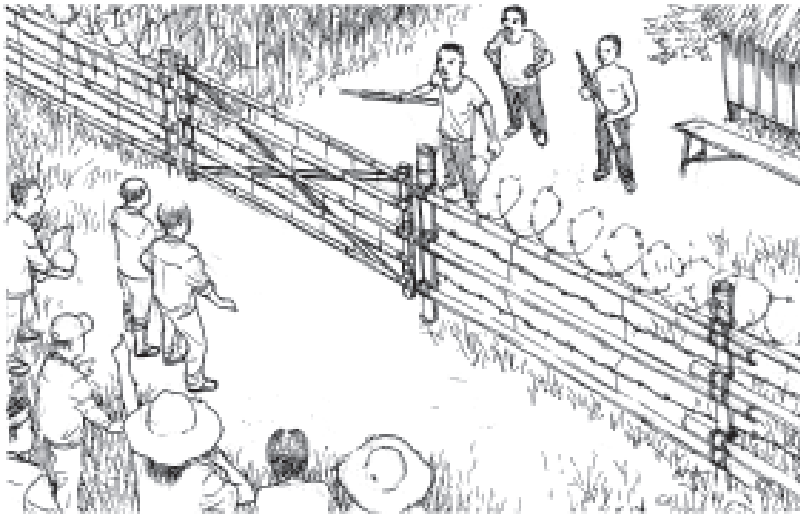
## Insufficient Budgetary Support

Besides the resistance from landowners, CARP is burdened by a dwindling budget for land acquisition. The DAR's recent budget allocations have allowed it to cover a mere 50,000 hectares per year despite the 100,000-hectare-per year commitment made by President Gloria Arroyo.



## CARRUF: CHRONICLE OF A LOCAL STRUGGLE

The CARRUF estate is a 147-hectare sugarland located in Valencia, Bukidnon, a province in Southern Philippines. The tenants and farmworkers who had been cultivating the estate since 1974 had been told that the land was State-owned and was commissioned to a rich landowning family under a Pasture



Lease Agreement. However, in 1995, the farmers learned that the land really belonged to a private corporation, the Carpio-Rufino Agricultural Corporation (CARRUF), and that the owners were cronies of former Philippine President Ferdinand Marcos. Following the 1986 “People Power” Revolution, the CARRUF estate was sequestered by the Presidential Commission on Good Government, an agency set up by the administration of Corazon Aquino to ferret illegally acquired assets, or Marcos’s so-called “hidden wealth”. By virtue of the Comprehensive Agrarian Reform Law (CARL) that came into effect in June 1988, the CARRUF estate was compulsorily acquired by the government and tabled for redistribution to the farmer-beneficiaries.

In September 1989 the Municipal Agrarian Reform Officer (MARO) of Valencia, Bukidnon notified CARRUF Corporation that the estate was covered by the Comprehensive Agrarian Reform Program (CARP). The corporation rejected this notice, including the PhP8.3 million offered for the land. Nevertheless, the Land Bank of the Philippines (LBP) issued a Certificate of Trust Deposit of PhP8.3 million for the CARRUF estate. Subsequently, the Department of Agrarian Reform (DAR) began to screen three petitioning farmer groups as beneficiaries, and by February 28, 1996 the final list of qualified beneficiaries for the CARRUF estate was posted.

CARRUF Corporation tried to block the issuance of a Certificate of Land Ownership Award (CLOA) to the beneficiaries by filing a restraining order before the DAR Adjudication Board (DARAB) in Bukidnon. It also hired a security agency to barricade the property. The security guards put up a barbed wire fence to prevent the farmers from entering the estate to harvest their crops.

In February 1997, CLOAs were distributed to 111 identified farmer beneficiaries but the farmers still couldn’t get into the estate. With the help of an NGO, 11 of the farmer-beneficiaries went to Manila to seek the intervention of DAR Central as well as the Department of Interior and Local Government (DILG). Officials of the two agencies promised their support, and the farmers went home. The night

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## CHRONICLE OF A LOCAL STRUGGLE / *from previous page*

before the farmer's scheduled entry into the estate (called "installation"), the security guards set fire to the standing crop of sugarcane, causing damage to 30 hectares amounting to some PhP7 million.

There were tense moments on the day of installation, but the farmers were eventually allowed to enter the estate. The presence of the Philippine National Police (PNP), and members of the local and national media helped to defuse the tension. However, the situation in the estate remained volatile for some time after the farmers' installation.

Moreover, in March 2004 the government came under fire when it became known that it had not made any budget allocations for agrarian reform implementation. Apparently, it intended to take the entire budget for CARP out of the Agrarian Reform Fund (ARF), which includes the recovered P38 billion ill-gotten wealth of the Marcoses and is intended to fast-track the LAD process. By law, the ARF should be spent on LAD and delivery of support services to farmer-beneficiaries, and not for any other purpose. Hence, unless the government stops raiding the ARF and restores the mandatory fund allocations for CARP, it will virtually ensure the failure of its land redistribution efforts.

## Land Conversion and other Ways to Circumvent CARP

In CARP's over 15 years of implementation, land conversion has been a source of intense conflict. There are enough legal and executive provisions prohibiting the conversion of CARP-covered agricultural lands, but more recent laws have tended to overturn these. One major law that has been pitted against CARP is a section in the 1991 Local Government Code, which allows the local government to reclassify the use of land under their jurisdiction. Many potential and actual beneficiaries of the CARP have been displaced as the result of such policy conflicts.

## Beneficiary-Related Issues

In some areas, particularly the large sugar-growing *haciendas* (plantations) in Negros Province, beneficiaries have actually refused lands awarded to them. Many sugarworkers fear reprisals from their former landlords, but most of them are simply too dependent on the landowner to cut their ties.

On the other hand, some beneficiaries who had taken hold of awarded land have committed a number of violations that put their tenure at risk. The most prominent of these violations are nonpayment of the amortization on the land, mortgaging the land or rights to it, selling the land, subleasing it, or surrendering it to its former





owner. Erring beneficiaries claim that they had been forced to resort to such money-making schemes to cope with poverty and family emergencies.

## Some Lessons from Past Struggles

- ***Strong people's organizations are key.*** As the case of CARRUF has shown (*See box article*), strong people's organizations are indispensable to the success of agrarian reform efforts.
- ***Alliance-building is the next step.*** Even strong people's organizations need extensive linkages with groups at the community, national and international levels to buttress their case.

The broader the support from outside, the better. Hence, farmers organizations must collaborate with NGOs, the DAR, the church, and the media. These groups can use their influence with the public to mobilize support for the farmers' cause.

NGOs themselves should link up to push their agenda and forge a national consensus.

- ***Real alternatives to land conversion – more persuasive than words.*** Proponents of land conversion use well-packaged development plans to entice local officials to do their bidding. Hence, it is a major challenge for agrarian reform advocates to counter with equally persuasive alternatives that emphasize equity, food security and environmental integrity. They must be able to sell the idea of building small food-sufficient, family-size, diversified and integrated farms that are linked to an agro-industrial component in place of putting up shopping malls, golf courses or luxury housing.
- ***NGOs must acquire new skills and tools.*** A retooling of NGO skills to promote agribusiness is necessary so that they may facilitate the growth of the new owner-cultivators into agricultural entrepreneurs. NGOs must also learn the language of business and local government in order to negotiate more effectively on behalf of and for the benefit of farmers.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Reviving Land Reform in Indonesia



## Critique of Land-related Laws and Programs

### *The Basic Agrarian Law*

**U**nder Dutch colonial rule, two parallel systems of law operated in Indonesia: *adat*, or customary law, which applied to indigenous communities, and European law which applied to the Dutch and other foreigners. The Basic Agrarian Law (BAL, 1960) set about to unify this system with respect to land and agrarian issues, by promulgating one basic law from which other national laws and regulations would stem. While the BAL sought to harmonize these two legal systems, it decreed that in cases of conflict between customary and formal law, the latter would take precedence over the former (Fauzi, 2001). This is considered unfortunate because *adat* law offers more protection for indigenous peoples' rights to land.

#### Source

Erpan Faryadi, "Overview on Land Policy Issues in Indonesia" Paper presented at the National Workshop on the Land Partnership Study organized by the Department of Agrarian Reform, ANGOC and the International Land Coalition, in Quezon City, Philippines, 16 July 2004.

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## THE *NEW ORDER*'s POLICIES ON LAND AFFAIRS

The “New Order” under former President Suharto considered land as an economic asset that is indispensable to efforts to integrate the Indonesian economy into a capitalist economic system. A concrete manifestation of this policy has been the deregulation of the country’s land market in favor of private, particularly foreign, investors.

Laws, ministerial decrees, and local regulations related to land affairs and exploitation of other natural resources have been formulated to create a more conducive environment for free investment and market creation activities.

At the same time, the “New Order” retained central government control of agrarian affairs. But whereas before, State power was used to regulate the allocation, control, and use of all available land and natural resources for the public interest, under the “New Order”, this power was used to facilitate the entry of capital.

In both cases, however, central government control reinforced a deeply rooted structure of collusion, corruption, and nepotism from the central to the lowest levels of government.

But even without the BAL, State supremacy in matters relating to the disposition and use of land is already guaranteed in the Constitution, and is evident in widespread compulsory land acquisitions, both for State and private development projects. (Fauzi, 2001)

### ***Traditional Rights***

*Hak ulayat* generally refers to a bundle of land-related rights under customary systems and which have to do with:

- ➔ Use and conservation of land;
- ➔ Access to water and other resources in a given area; and
- ➔ Land transfer and exchange.

However, these rights, when it came to it, are almost unenforceable legally as they are not backed by formal titles; there are also no maps showing boundaries to lands covered by these rights.

While communities vary in their understanding of these traditional rights, all believe that lands are jointly owned by their individual owners and by the communities. Thus, when a piece of *hak ulayat* land is “vacated” by its individual owner, it cannot be alienated but instead reverts to community ownership and control.

This overlap of community and individual control of land presents some unique constraints to land titling. In fact, where land titling initiatives ignore this dual ownership, they may facilitate the transfer of land away from communities that should have access, use or possession rights.

This situation suggests for many agrarian activists in Indonesia that *a single unified system of land administration will not adequately meet the country’s needs*, particularly in resolving current land conflicts and preventing future ones.

### ***Land Administration: Registration and Titling***

Land administration functions in agricultural areas, including land registration and titling, are handled by the National Land Agency (*Badan Pertanahan Nasional*, or BPN). Article 19 of the

BAL calls for land registration to take place in the entire country, with particular emphasis on the registration of *hak milik*, or possession rights. Despite this, however, only 20 per cent of all land parcels (or 14 million out of 70 million parcels) have been registered in over 40 years since the law came into effect. (Colchester, et al 2003)

### ***Land Administration Project (LAP)***

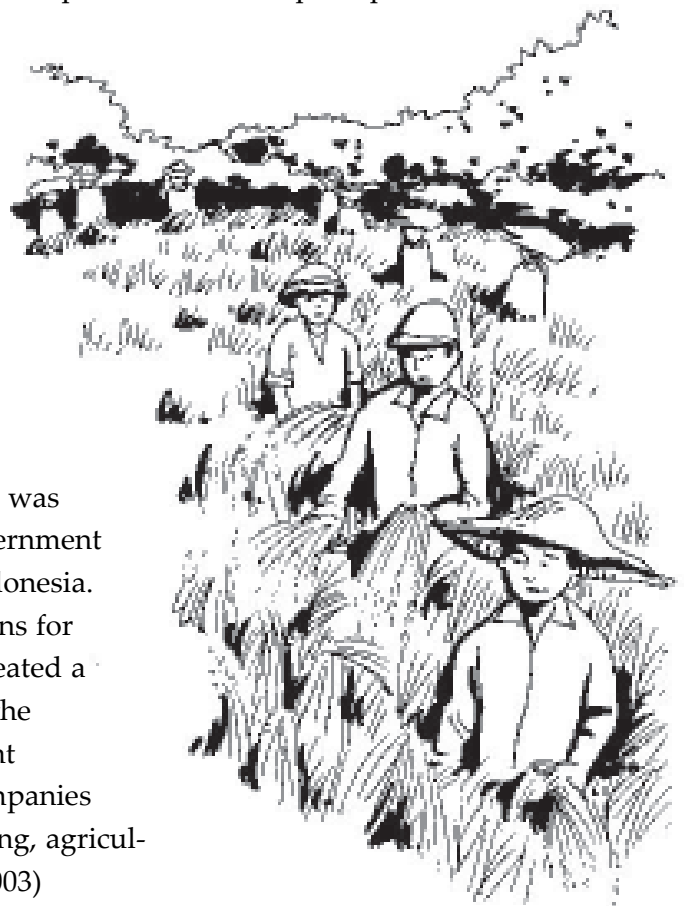
The World Bank (WB)-supported Land Administration Project (LAP) has been widely criticized for the following reasons:

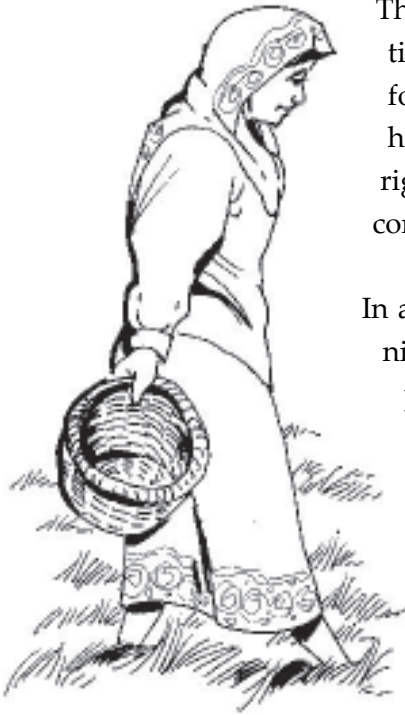
- The Bank's program attempts to institute land markets to solve administrative problems in the whole country, leaving no room for heterogeneity in its approach.
- The program does not attempt to address land conflicts, which should be an essential element of any new effort at land management.
- The Bank's process does not adequately incorporate outside voices into the Bank's problem analysis or program.

Controversy over the term "land reform" may also be a stumbling block to communication between the Bank and civil society. This phrase — which encompasses the central principle of the agrarian movement's campaign — is neglected in the Bank's program, which is another reason it has been opposed by many civil society groups. For their part, WB officials noted that they have extended many invitations to civil society groups to get involved in their processes, but that these invitations have never been taken up.

### ***Basic Forestry Laws (1967 and 1999)***

The first *Basic Forestry Law (BFL)*, passed in 1967, was one of a set of laws designed by the Suharto government to facilitate the entry of foreign investment in Indonesia. Unlike the BAL, the BFL did not include provisions for the recognition of traditional rights. Instead, it created a system in which all forest areas would be under the management of the government. The government promptly entered into contracts with private companies whereby land concessions were granted for logging, agricultural, mining and other uses. (Colchester, et al 2003)





The new BFL, passed in 1999, appears to recognize traditional communities that live within State forest lands, and acknowledges that *adat* forests are the home of traditional communities. At the same time, however, it decrees that all lands that are not covered by proprietary rights are considered as State forests. Thus, it denies “ownership” to communities even as it allows them to use, access, and manage the land.

In addition, the process of delineating public versus private and community forest land has been slow-going. This process might go faster if participatory elements were introduced, allowing local communities to identify for themselves their traditional forest land areas. Currently, communities mark their territories by cutting down the surrounding trees and farming them.

### **Initiatives to Revive Land Reform Implementation**

The *Konsorsium Pembaruan Agraria* (KPA, or the Consortium for Agrarian Reform) — a coalition of NGOs, individuals, and community-based groups — asserts that without agrarian reform — of which land reform is only one aspect — a number of basic problems in rural communities will remain unsolved. Only with agrarian reform can these basic problems faced by rural communities, such as poverty and environmental degradation, be overcome. Since 1996, KPA has been actively pushing for the return of agrarian reform as part of the national agenda through the following initiatives:

- **Lobbying the country’s highest State institution** — the People’s Consultative Assembly (*Majelis Permusyawaratan Rakyat*, or MPR), to provide a clear mandate to government and legislative institutions to implement agrarian reform in Indonesia. After three years of KPA’s advocacy campaign, the MPR passed a decree on Agrarian Reform and Natural Resources Management (MPR Decree No. IX/2001). Many stakeholders, particularly farmers’ groups that had long awaited State initiatives in this regard, welcomed the MPR decree.

The Decree correctly identifies the problems faced by rural communities (i.e., inequality of land ownership; land and natural resource conflicts; and destruction of the natural environment) and puts the blame on government policies in the last 30 years.

The MPR Decree is also credited for its proposed strategy, as reflected in the following interventions: (1) a review of relevant laws related to Land and Natural Resource Management, (2) provision of resources from the national budget for agrarian reform, and (3) the resolution of agrarian conflicts. Its weakness, however, is a provision in the section on natural resource management for “optimalization” of benefits from natural resources. Environmental activists and the agrarian reform movement are concerned that this provision opens the door to the return of an exploitative approach to natural resource management.

To date, the Decree has yet to be implemented. Nevertheless, it is considered as a valuable advocacy tool by the agrarian reform movement.

- **Conducting a series of training activities for regional legislators** in several districts to address local agrarian problems. KPA is working towards decentralized governance, or to secure local autonomy for the regions, as part of the democratization process of *reformasi*. As a result, several districts have formed local committees to resolve agrarian issues. While the formation of these multi-stakeholder committees falls short of expectations, it is an initial step towards moving agrarian reform forward.

Another result is that the National Land Agency (*Badan Pertanahan Nasional* or BPN) is now revising several regulations related to the implementation of land reform. This comes in the wake of Presidential Decree No. 34 in 2003, which shifts the responsibility for implementing land reform to the district government level. However, the challenge lies in ensuring that the rules and regulations concerning the implementation of land reform itself — whether through national policy or through provincial laws that are accompanied by district-level implementing regulations — adequately answer the needs of poor farmers to access and control land in their villages.

- **Consolidating several initiatives that are emerging within the central government, regional governments, NGOs and community-based groups, and initiating activities to consolidate agendas and ideas for implementing land reform.** This could be accomplished through the formation of an intensive discussion group that includes KPA, the National Land Agency and the Pasundan Peasant Union.
- **Organizing comparative study missions on land reform implementation** in several countries (*e.g.*, South Africa and India) to give Indonesian policymakers a wider perspective of how land reform can be moved forward.

#### INITIATIVES TO REVIVE LAND REFORM IMPLEMENTATION

- Lobbying the country's highest State institution
- Conducting a series of training activities for regional legislators
- Consolidating several initiatives that are emerging within the central government, regional governments, NGOs and community-based groups, and initiating activities to consolidate agendas and ideas for implementing land reform
- Organizing comparative study missions on land reform implementation

## **Reformasi and Restorative Justice**

The 1998 *reformasi* movement that ultimately led to the fall of President Suharto was seen by human rights activists and many civil society groups as an important opportunity to address past State abuses. Among these was the forced relocation of rural communities from their land, either for private interests or State-sponsored development projects. The government was urged to develop a

land reform policy that would address the need for restorative justice for individuals and communities that had lost land under the New Order (Fauzi 2002). A movement was also initiated among some CSOs to urge the government to cancel existing contracts with private companies, particularly in the extractive industries, in part because of their impact on land access by local communities.

## **Revision of the Basic Agrarian Law**

In May 2003 the government issued Presidential Decree No. 34, which, among other things, instructs the BPN to prepare a draft law that would update and possibly replace the existing Basic Agrarian Law.

This ongoing evolution of agrarian and land laws and regulations in Indonesia offers potential for valuable inroads into the area of land reform. However, the constant policy shifts could also lead to an unstable situation that could ultimately defeat the very purpose for which the reforms were intended. Thus, continuing close monitoring by responsible civil society groups is vital.

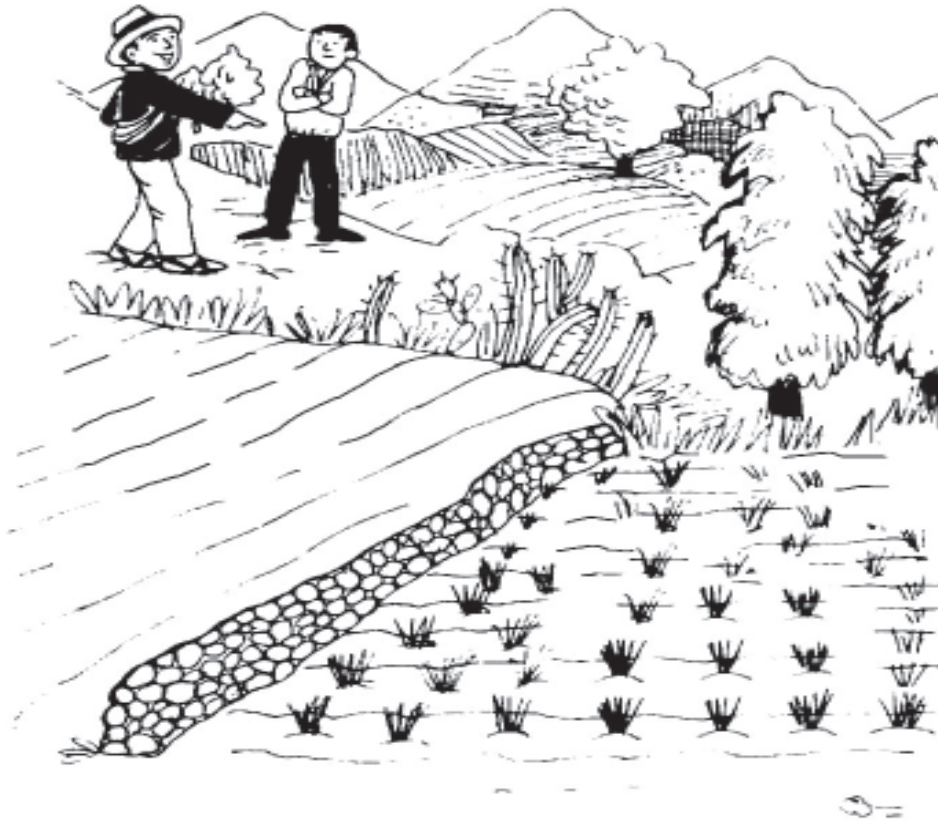
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# Land Reforms in Latin America



In Latin American countries—except Argentina, Paraguay and Uruguay—land reform was introduced only in the 20<sup>th</sup> century, largely in response to social unrest: for Mexico, land reform started in the 1920s; Bolivia, in the 1950s; Cuba, towards the end of the 1950s; Nicaragua, in the 1980s.

## Source

Eguren, Fernando, "Land Reforms in Latin America," *A Discussion Paper*, 2005.

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In the 1960s and 1970s, land reform ceased to be regarded as an "extremist" vindication, and began to be promoted in an attempt to forestall revolutionary outbreaks, such as the one which erupted in Cuba in 1959. Aside from pre-empting being potential revolutions, the land reforms of the 1960s—according to Jacques Chonchol, who led the movement for agrarian reform in Chile during President Salvador Allende's administration (1970-1973)—sought to improve the peasants' living conditions, specifically by raising their incomes, expand markets, control social unrest, and increase agricultural and food production.

At the same time, land reform in the region has continually sought to reduce the concentration of land ownership through various measures to redistribute the estates and plantations





among peasants and/or salaried workers. Land reform has also aimed to restructure the feudal relations that characterize rural societies, which has long undermined efforts to promote democracy, to accord peasants their proper status as citizens, to modernize agriculture and the economy, and to build the nation-State.

The land reform experience of Bolivia, Chile, Ecuador and Peru is worth examining because of the important social, economic and

political impact these experiences have had.

**Bolivia.** The Bolivian land reform was borne of the revolution led by the Nationalist Revolutionary Movement (MNR) in the 1950s. In 1952, peasants, which comprised three-fourth's of the country's population, seized the highland haciendas they had been working on and made the land part of their communities. Given the political fallout that was bound to follow any reprisal, the government did nothing except to legalize the land seizure. This event marked the end of the traditional "semi-feudal" haciendas in that region.

Unfortunately, the peasants had neither the capacity nor the numbers to profitably manage the land which they now controlled. Thus, notwithstanding the partitioning of the haciendas through land reform, production subsequently fell, with disastrous financial results for the new owners.

Meanwhile, as agrarian reform was being implemented in the highland haciendas, a gradual occupation of the land in the eastern part of the country—or the so-called lowlands—began to take place. Vast forested areas were cleared and converted into agricultural land, portions of which were acquired legally, others, illegally. As a result, this region, which used to be sparsely populated, began to be inundated by waves of settlers migrating from the saturated highland areas. These peasant migrants thereafter became assimilated into the community of salaried workers at the new haciendas or settlements. This increasing demographic pressure on the land in the eastern part of the country is making land reform an urgent concern.

**Chile.** The first agrarian reform law was enacted in 1962, was radicalized in 1967 by Eduardo Frei's democratic government (1965-1970), and was expanded under Salvador Allende's socialist democratic government (1970-1973). Approximately half of all agricultural land was covered, a large percentage of which had previously been owned by large traditional landown-



ers. Just as importantly, the semi-feudal relations which had predominated in many areas were definitively abolished.

The 1973 coup d'état, headed by General Augusto Pinochet, reversed the country's socialist policies. One-third of the 5,800 expropriated estates, which covered 10 million hectares, was totally or partially returned to the former owners; another third ended up in the hands of private capitalists by various means. The rest remained in the hands of the peasants in the form of individual plots. Existing cooperatives were encouraged to divide communal land

into family plots, and were given no support whatsoever. However, the large landed estates were never reconstituted.<sup>1</sup> A new agrarian bourgeoisie developed, which devoted an important part of the production to exports, particularly fruit, wood and wine, using state-of-the-art procedures and technologies.

**Ecuador.** The Land Reform and Colonization Law was enacted in 1964 in order to "correct the flaws of the agrarian structure, as well as to improve the land distribution and utilization".<sup>2</sup> It was applied, moderately, in the highlands of the country, where the most backward estates were located. The reform was not more radical mainly "due to the lack of a national indigenous movement which could uniformly put pressure for a more expanded demand."<sup>3</sup> In 1973, a Military Government enacted another agrarian reform law, designed to introduce modern agriculture, and this time directed at the coastal region. The tenants of the estate land received these lands as cooperative owners. In practice, however, the majority of these cooperatives did not work out. The Ecuadorian experience affirmed the lesson learned by other Latin American countries - El Salvador, Peru, Honduras, Nicaragua, Chile ---- production cooperatives that are externally imposed are bound to fail.

Despite this, Ecuador's land reform succeeded in terms of forcing landowners to improve the efficiency of their operations in order to avoid expropriation by the government. This development brought about significant, although not radical, changes in the Ecuadorian agrarian structure: large properties went out of fashion in favor of medium sized farms employing modern commercial agriculture; at the same time, the small farmsteads were retained for the purpose of mixed farming (which is also the case in Bolivia and Peru). As was the case in other Andean countries, agrarian reform in Ecuador abolished "*precarismo*" (land rental) and working relations were modernized.<sup>4</sup>

After 1977, however, the importance given to Agrarian Reform as 'a social justice issue' began to wane. The demand for land was replaced by "demand for fair prices, credit and, basically, exoneration of taxes..."<sup>5</sup> As was the case in Peru, agrarian reform contributed to the enlarge-

ment of the political community: citizenship—basically defined as the right to vote—was extended to thousands of newly literate peasants. In 1979, Decree 2189 “Agricultural Promotion and Development Law” was enacted by the Military Government to put an end to agrarian reform in Ecuador.” Since then, the mediating role of the State has been gradually transferred to the market”. (P. 298) By the 1990s, however a resurgent indigenous movement has arisen and re-focused national attention on problems related to current patterns of land ownership.

**Peru.** Rapid urbanization, peasant movements demanding greater access to land and better working conditions, and the waning influence of landowners all led to the Peruvian land reform.

After a frustrated attempt by a civilian government (1963-1968) – due to inadequate support from the political establishment ---- agrarian reform was finally carried out by a military government (1968-1980).

Agrarian reform had a big impact on the prevailing land ownership structure; the large estates which concentrated land ownership were abolished; semi-feudal relations in rural society were eliminated; and new ways of managing agrarian production were adopted. All estates that were larger than 150 hectares (whether or not they were traditional or modern) were expropriated, along with smaller ones whose owners were absentee, which were being used inefficiently, or whose managers violated labor laws.

Agrarian reform was completed in as little as five years. The political will of the military was pivotal in this, as was the limited opposition put up by the former landowners. The estates were transformed into production cooperatives, their new owners being the workers of the former haciendas. However, after a few years, the majority of these cooperatives failed due to a combination of problems: unprofessional management, lack of adequate policies to support agrarian activity, among others. In the end, the estates were divided by the cooperative members into family plots.

Three decades after agrarian reform was implemented in Peru, the country’s agrarian scenario is dominated by small farmers and peasants, on whom the country depends for its food needs but whose productivity remains low for lack of government support. In contrast, an incipi-



ent entrepreneurial agriculture sector operating from the coastal strip is thriving, mainly oriented towards international markets.

The problem is no longer redistributing the land but guaranteeing the peasants' rights to their resources by formalizing their land claims, and by protecting them from extractive industries and companies --- mining, oil or lumber. Peasants also need to be educated in the value of preserving resources, and against continually sub-dividing their plots.

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## **ENDNOTES**

<sup>1</sup> [http://www.cerai.es/fmra/archivo/Jaques\\_Chonchol.PDF](http://www.cerai.es/fmra/archivo/Jaques_Chonchol.PDF)

<sup>2</sup> Jordán, *Proceso agrario...*, Op.Cit. P. 285.

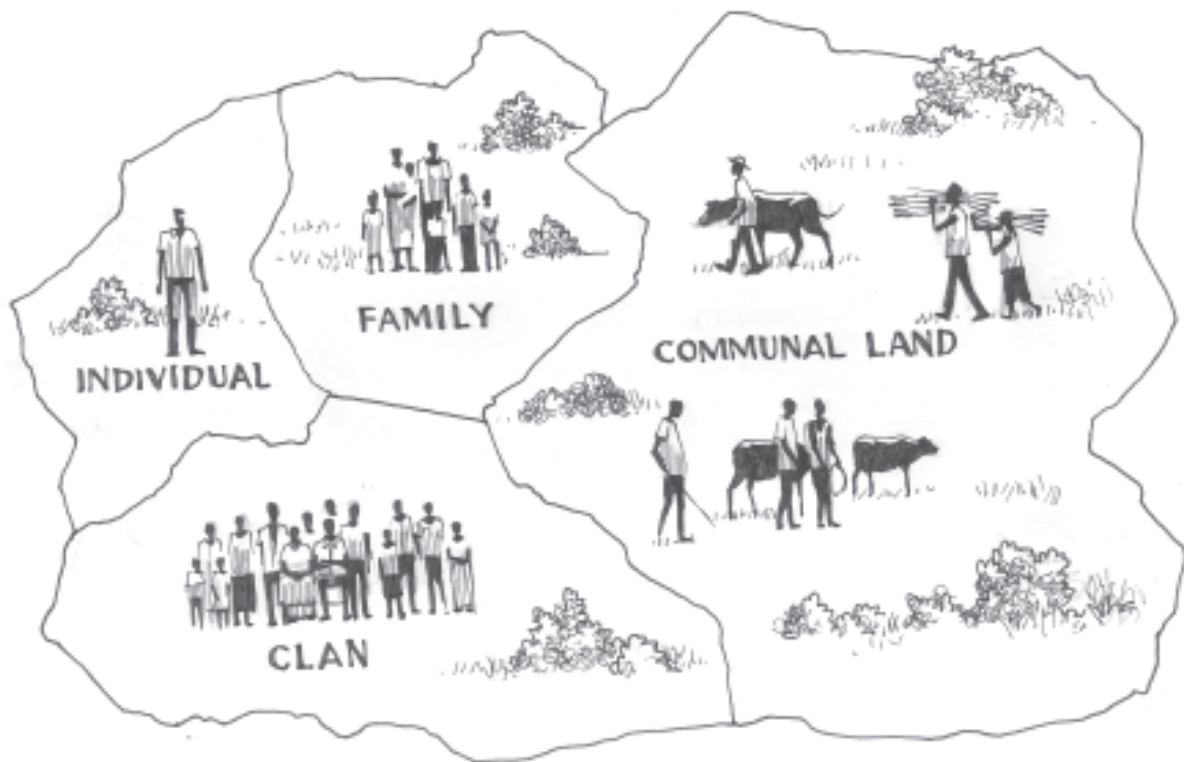
<sup>3</sup> Jordán, *Ibid.* P. 289.

<sup>4</sup> José Vicente Zevallos, "Agrarian Reform and Structural Change: Ecuador Since 1964", in William C. Thiesenhusen.

*Searching for Agrarian Reform in Latin America.* Unwin Hyman, Winchester, USA. In most cases, the agrarian reforms accelerated some important socio-economic processes which were being launched. In Ecuador, Peru

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# Land Reforms in East Africa



**E**ast Africa is composed of Uganda, Kenya and Tanzania—the three countries that were originally part of this African sub-continent. More recently, the two adjacent countries of Rwanda and Burundi also became part of East Africa.

The majority of the population is engaged in agriculture-related livelihood. The rest are employed in mining, manufacturing, and service industries. Agriculture supports more than half of the region's Gross Domestic Product (GDP). (MINAGRI 1998)

## Source

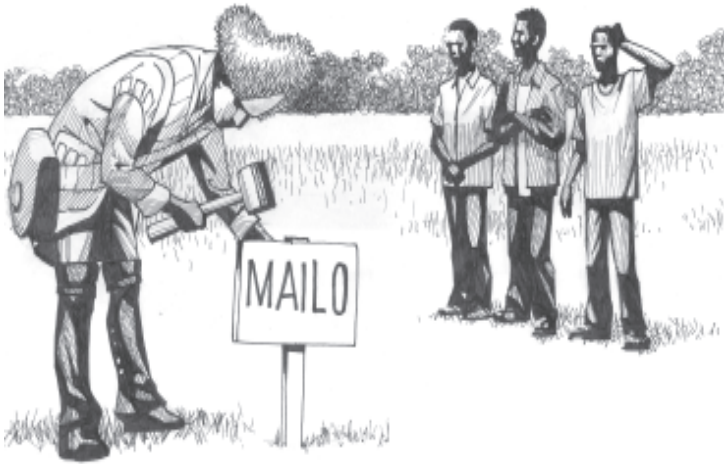
Oscar Okech Kanyamgareng, "Land Reforms in East Africa," Landnet East Africa, October 20, 2005.

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## Pre-reform Conditions

Before East Africa was colonized, land allocation was governed by customary law. All land was controlled by the tribal/clan leaders, who had the power to assign land as they saw fit and to resolve land related disputes. In Tanzania, and Uganda, these traditional leaders had powers of control but not ownership. Land owned by individuals, families, and clans was kept separate

from communal land, which was used for grazing and hunting and which was subject to regulatory control by the tribal/clan leaders. In Rwanda, some part of the communally owned land was set aside for future allocation and for settling immigrants.



The colonial rulers introduced laws aimed at formalizing land tenure and ownership. The colonial government became the “owner” of all land. At the same time, it introduced various land tenure systems, such as freehold and leasehold. *Freehold* was a system of owning land ‘in perpetuity’ and was set up by agreement between the kingdoms and the British government. The grantee of land in freehold was given a certificate of title. *Leasehold* is a system of owning land on contract. In Africa, at the time, a

grant of land would be made by an owner of freehold or *Mailo* or by the colonial government to another person for a specific period of time and on certain conditions, which included but was not limited to payment of rent. The *Mailo* land tenure was peculiar to Uganda—then Buganda. It was created by the 1900 Buganda Agreement between the British Crown and the Kingdom of Buganda. By this agreement, chunks of land were given to some individuals to own in perpetuity. The royal family of Buganda received 958 square miles as private *mailo*, while chiefs and other notables received eight square miles each. Local peasants previously occupying the land were not recognized and became tenants on the land and had to pay rent to the landlord, commonly known as “*Busulu*” (Busingye, 2002).

All other land that had not been allocated under these tenure systems was declared as State property. In Tanzania, powers over land were vested in the governor (by virtue of the 1923 Land Ordinance). In Uganda, they were vested in the Queen of Britain (by virtue of the 1900 agreement).

Meanwhile, customary tenure continued to exist in the form of communal customary tenure and individual/family/clan customary tenure. Customary tenants “occupied” *Mailo* land, freehold, leasehold, or public land either by growing various crops, exercising customary rights to look after animals on the land, or by carrying out any activity as occupiers of such land. In fact, the term “*Kibanja*” came to refer to occupants of land under customary tenure (Busingye, 2002). But while customary land tenure systems remained, the traditional institutions managing them were destroyed.

After independence, governments in East Africa tried to introduce land reforms. The 1975 land decree of Uganda abolished all *Mailo* land. It also declared all occupants of State land that did not have lease contracts as customary tenants on State land. In Tanzania, powers of

control over land changed hands from the Governor to the President. Meanwhile, Rwanda, where 90 per cent of the land was still under customary management at the time of its independence, passed a law giving the communes the authority to protect rights granted under customary law. However, this provision of the law was undermined by the decree of 1976, which gives the Minister of Lands significant regulatory powers over land transactions. By this decree, the State would recognize only those land rights that were based on registration with distinct owners.

In general, despite efforts at land reform, the State increased its control, promoted individual titling, suppressed traditional land management systems, and weakened customary tenure systems.

At this time, farm-based problems began to emerge such as soil erosion and reduced fertility of the soil, mass eviction of occupants on land, and land fragmentation. Land-based conflicts have also erupted at the family, community, and State levels. Land was the trigger factor for the 1994 genocide in Rwanda. In Northern Uganda, a protracted war has consigned 1.6 million people to camps for 12 years now (Adoko 2003). Unscrupulous individuals have taken advantage of the situation by grabbing unsurveyed customary lands that have been left unattended due to the conflict. Inter-ethnic conflicts over land in the central region of Kenya have left thousands dead. The Masai, whose ancestral lands were leased to the British settlers, are now demanding their return upon the expiration of the lease. This has led to clashes with the government. In Tanzania, cases of land acquisition and disposition without compensation have piled up in the court registries.

As a result, a move to implement serious land reforms started in the 1990s in all East African countries.

## **Land Reform Initiatives (1990–2005)**

These reforms were either constitutional, Acts of Parliament, or institutional. The constitutional reforms have taken place in Kenya, Uganda and Rwanda.

### ***Constitutional Reforms***

When the government of President Yoweri Museveni came to power in 1986 after a guerilla war, it embarked on writing a new constitution. The 1995 constitution vested land ownership rights on citizens, rather than the State. It recognized land under freehold, *Mailo*, leasehold and customary land tenure systems. Customary tenure was given legal recognition for the first time. Furthermore, persons who had been occupying government or private land for 12 years prior to the effectivity of the new Charter and whose occupancy had been undisputed by the owner or by his/her agents, are declared as bonafide or genuine occupants by the Constitution, and thereby protected against arbitrary eviction.

Kenya's constitution-making process started in 2001. The Government of Mwai Kibaki which came to power in 2002, appointed a commission to look into land matters. The findings of this commission have been incorporated in the draft constitution.

When Rwandan President Paul Kagame's guerilla forces captured power in 1994, one of the thorny issues it dealt with was land. It set to work writing a new constitution in 2003 which provides for a land law and policy.

Most countries then passed Acts of Parliament to cover gaps in the Constitution. Uganda passed the 1998 Land Act which reinforced land-related Constitutional provisions, secured women's rights to land, promoted security of tenure for occupants of private land, as well as made provisions for a land fund. A law passed by the Rwandan Parliament in 2004—and

which awaits approval by its Senate—

maintains two systems of tenure: customary (on 90 per cent of the land) and statutory. At the same time, however, the new law requires that titles be issued to all land owners, thus undermining customary land tenure systems in the long run. On the other hand, the new law seeks to protect the ownership rights of all occupants of land, including customary tenants.

It also gives equal rights to women and men over land.



Tanzania's Land Act was passed in 1999, and amended in 2004. The Act is unprecedented in terms of assigning commercial value to land, and authorizing the sale of bare, undeveloped land, which was formerly prohibited to protect majority customary and small land users' rights. It also seeks to establish a Land Fund.

## ***Policies***

All four countries either embarked on totally new land policies or reformed old ones in recent years. Uganda and Kenya are currently formulating their land policies whose focus is on providing security of tenure for the poor, promoting land markets, encouraging investment on agricultural production, and increasing incomes.

Tanzania's national land policy, 1995, aims to facilitate land sales and mortgages. It allows the sale of bare, undeveloped land and loosens restrictions on land acquisition by foreign investors. It also promotes individual land ownership, titling and registration. Rwanda's land policy 2005 is targeted towards establishing "Umudugudu" (grouped settlement) for returning



refugees, with each family allocated one and a half hectares of land for cultivation. It makes provisions for sharing of land between the current owners and returning refugees, who are the original owners. It also promotes land consolidation for cash crop production, e.g. tea, rice, etc., as well as encourages systematic, rather than case-by-case adjudication of land disputes.

### ***Institutional Reforms***

In Uganda, the government revamped the national land commission and district land boards. It created a national land court and district land tribunals to handle land disputes. It also empowered executives of local councils at parish and sub county level to handle the less complicated land cases. It also gave traditional institutions a role, though inadequate, in mediating disputes involving customary land. Uganda recognizes freehold titles, certificates of customary ownership, and certificates of occupancy for tenants which are given at district level.



In Rwanda, land commissions were set up at the national, provisional and district levels. Further down, land issues are handled by Community Development Committees together with *Abaguuzi* (mediation committees) and *Gacaca* (community justice) courts.

In Kenya, the government in 2002 disbanded and reconstituted the Land Control Boards and Land Dispute Tribunals.

### **Impact of Reforms**

- The reforms have failed to balance concerns for the tenurial security of small landholders and users against commercial interests.
- Compulsory land acquisition by governments has increased. Uganda's earlier decision to vest landownership on its citizens now constrains the country's efforts to promote foreign investment. Hence, Uganda has taken to selling portions of its game and forest reserves to companies like Coca-Cola-Namanve and Bidco ( palm Oil)-Kalanaga and Kakiira sugar factory-Butamira. Uganda also recently tried to introduce changes to its Constitution that would allow its government to compulsorily acquire land on behalf of investors and to

defer payment to some later date. Fortunately, this amendment was shot down in parliament following intense lobbying by CSOs. In Tanzania, many people have been evicted without adequate compensation to make way for investors. Rwanda has also sanctioned such evictions for the benefit of government programs.

➤ The reforms have enhanced women's rights. Women are now able to demand their land rights to some extent, but this is still hampered by cultural and social factors.

➤ The reforms have failed to take off effectively due to bureaucracy, lack of awareness, inadequate funding and weak institutional capacity.



➤ The reforms have put too much emphasis on individual property rights to the detriment of communal access to land and land based natural resources like

forests, water sources and pastures. Yet, more than 80 per cent of land in Tanzania , 60 per cent in Uganda and 90 per cent in Rwanda is held under customary tenure regime by rural communities which live in village settings.

➤ Commercial banks have recently shown a keen interest in extending credit to small landowners and users, and the latter have been only too happy to apply for loans. Unfortunately, this apparent boon to credit-hungry farmers has turned out to be a bane as thousands of them lost their lands to the banks when they failed to repay their debts.

➤ Authorizing the sale of bare, undeveloped land has hastened the “commoditization” of land and created a class of land speculators and hoarders. Land hoarding reduces the supply of available land and leads to conflict among land users.

➤ Landlessness is on the rise as a result of failure to implement land laws/policies, population pressure, and conflicts over rights (Potter 2002). In Uganda, owners of mailo land, who find it hard to get rid of tenants, sell the land to a third party who then does the evicting. The land fund in Uganda, which was supposed to help tenants buy the land from their landlords, is too small and the process, too slow. To date, seven years after the enabling law was passed, no title has been allocated to any tenant. In the meantime, forced evictions of tenants by their landlords continue (Uganda Land Alliance 2005).

## **The Link between Access to Land and Power Sharing**

Governments in East Africa are trying to put pro-poor land reforms to work, but they are failing both in terms of shortcomings in the law or policy and in implementation. The reform initiatives look good on paper, but in reality they are increasingly alienating small landowners and users from their land and source of livelihood.

For current land reforms to succeed in bringing about a more equitable and decentralized system of allocating land, they must prioritize the rights of the majority rural poor, especially women, orphans, widows, PLWHA and marginalized groups/minorities. A more equitable access to land is intimately linked to a more equitable sharing of power, as the example of Rwanda has clearly shown. Reform efforts must aim for inclusiveness, especially of grassroots stakeholders. Land management institutions must be brought closer to grassroot groups and if possible be “owned” by them.

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# The Land Policy Process in Burkina: *Building a National Consensus on Access to Land*



The process of developing land policy documents is new to West Africa. Ghana adopted a land policy document in 1999 but several West African countries like Burkina Faso, Mali, and Senegal are still in the preparatory stages of the process. Prior to their recent involvement in land policies, these countries had tried to formulate land codes, with little success. At the time (i.e., before the 1990s), much of West Africa was under the heel of undemocratic regimes which had a monopoly of land ownership and did not allow genuine consultation. The land laws which thus emerged were very technically oriented and complex, and poorly adapted to local realities. As a result, these were ineffective. Land tenure insecurity has become prevalent among rural stakeholders and land conflicts are increasing.

The recent wave of democratization and decentralization in the region has led to the development of civil society organizations (CSOs) calling for broader people's participation in making decisions on how to deal with land issues. The need to build consensus on land issues has been endorsed not only by CSOs but also by West African intergovernmental institutions,

## Source

Hubert M.G. Ouedraogo, "The Land Policy Process in Burkina: Experience in building a National Consensus on Access to Land," LandNet West Africa, 2005.

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such as CILSS (an intergovernmental institution tasked to combat drought in the Sahel area), and by governments.



The process of preparing land policy documents requires the State to engage in dialogue with stakeholders, not only with regard to technical and legal matters, but more crucially on matters of policy. In a policy dialogue process, policy options to promote land tenure security or access to land are made clear to and discussed by all stakeholders. If the policy dialogue leads to a consensus, the laws drafted on this basis have a greater chance of being accepted by the populations and are therefore more likely to be effective.

Nevertheless, the question remains: how can policy dialogue processes lead to a national consensus on land? From the experience of Burkina Faso, these processes must be guided by a number of principles, foremost among which is that the policy dialogue must be based on a clear—and shared—analysis of the main issues concerning land.

## **Land Issues in Burkina Faso**

### ***Diversity of Local level Land Issues***

Most regions in Burkina Faso deal with very specific priority issues concerning land. The northern pastoral part of the country, for instance, has nothing at all in common with its forested south. This wide variation among land issues rules out a one-size-fits-all option or solution. Rather, a range of diverse answers, adapted to local issues and priorities, is more appropriate.

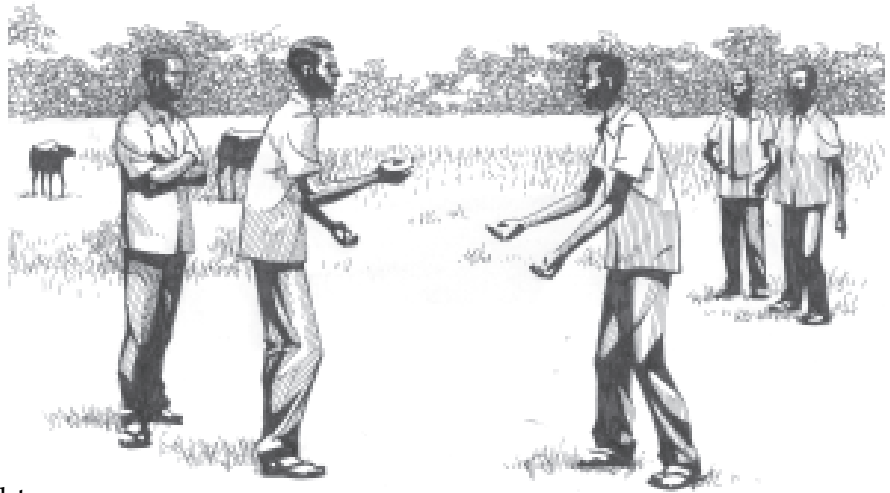
### ***Non-recognition of Customary Land Rights***

The prevailing land law in Burkina Faso does not recognize customary land rights. All land is considered as State property, and anyone seeking access to land must apply for use rights from the State. On the other hand, local communities do not recognize this monopoly ownership by the State but rather regard themselves as the true owners of their land by virtue of their ancestral rights.

As such, the State's monopoly of landownership is theoretical in Burkina. Nonetheless, it has resulted in great insecurity with regard to land tenure for 90 per cent of the population whose rights to land are customary. It is also at the root of the enduring-conflict between the legality (represented by State rights) of State monopoly of land and the legitimacy (represented by local communities' rights) of communities' land claims.

### ***Prevalence of Land Conflicts***

Land conflicts are developing everywhere at the local level: between herders and farmers over the use of natural resources, like grazing areas and water; between villages over boundary disputes; between the State and certain stakeholder groups, such as migrant farmer populations, over incursions into reserved forests. The State judiciary system is not prepared to address properly these land disputes at local level. Hence, many of these conflicts are settled directly at local level through alternative dispute resolution mechanisms, involving traditional chiefs and other local institutions.



### ***Concentration of Land Ownership and Development of an Informal Land Market in Rural Areas***

There is a trend towards land concentration among the urban elite and agro-businessmen. These groups take advantage of people's poverty and lack of information to buy up communal rural lands at grossly underestimated prices. The State encourages this trend because it believes that smallholder farming cannot meet the country's food production requirements. It thus provides incentives to agro-businesses by giving them access to credit facilities as well as political support.

### ***Demographic Changes***

Rural land issues in Burkina Faso are also strongly affected by rapid changes, such as population growth. The population of Burkina Faso is expected to increase dramatically in the next few decades: from 13 million in 2004 to over 42 million in 2050 (UN). Such growth will create land scarcity for agriculture, increase competition for land, and create more land conflicts. It also will put more pressure on natural resources and degradation of environment.

Another major change trend to be considered in relation with land issues is rapid urbanization. By 2025, the majority of the population of West Africa will be urban rather than rural. Most of the population will move from rural areas to major cities, in order to find new economic opportunities. Such a change will greatly affect land issues in rural areas as well as in peri-urban areas.

## **The Process of Developing Land Policies**

### ***Key Stakeholders***

In Burkina, it was agreed early on that the process of developing the land policy should be inclusive: all stakeholders should participate equally in the consultative land debate. While the State is ultimately responsible for preparing the land policy, it must share this role with the other stakeholders, such as farmers and local communities, and the private sector, who all have rights to land. The challenge lies in mediating among these rights to achieve consensus that takes into account the interests of all stakeholders.



Among farmers and communities, both traditional chiefs and leaders of farmers organizations should have equal footing in the debate. Women in particular should be included in negotiations of land rights. Furthermore, the rights of women should be discussed among the representatives of local communities as many local customs do not recognize women's land rights. State and local government support for women's access rights is crucial, as they have authority over a part of rural lands.

Private sector representatives should also be present in the process as they too have access rights to land. However, it is important to ensure that their land claims are clear and transparent, and that these do not infringe on the rights of local communities.

### ***Institutional Arrangements for the Promotion of the Land Policy Dialogue***

The land policy dialogue is being organized by a consultative group (the National Committee for Rural Land Tenure Security) whose members are representatives of key Ministries, farmers

organizations and CSOs. The Committee gives policy guidance to the process and uses independent experts to conduct the policy dialogue on the ground.

Each stakeholder group organizes specific dialogue sessions, i.e., for peasants, women, traditional chiefs, government bodies, the private sector, etc. The objective of those specific sessions is to allow each stakeholder group to formulate its own vision of land tenure and land access according to its specific interests. Common sessions would then be organized at the local and regional levels where each stakeholder could challenge the views and interests of other stakeholders. A national forum would follow these local and regional sessions at which the final agreements on the land policy options would be drafted. The proposed land policy would then be submitted by the National Committee to the government for consideration and adoption. Once it adopts the policy, the government would prepare a framework land law guided by the consensus points in the land policy document.

## **Main Options in the Current Debate**

Some of the burning issues being debated are the following:

- Which customary land rights should be recognized? In particular, how should rights claimed by traditional chiefs be considered? How is it possible to secure collective customary land rights and on behalf of whom?
- How to secure access to land and natural resources for vulnerable groups: How can women's land rights be protected in the context of dominant customary local practices? How can access of pastoralists to natural resources be improved and protected?
- How to control the land concentration process and protect land rights of the poor people?
- How to establish and development land management at local level and build needed capacities?
- How to promote governance in land management at local and national levels?
- How to implement the future rural land policy and law?

## **Guiding Principles of Consensus building**

The experience of Burkina Faso has shown that a number of principles must be observed in holding a policy dialogue in order to help build a national consensus on land:

- The policy dialogue must be an informed process; in particular, it must be based on a clear analysis of the primary land issues. Such an analysis should not be monopolized by land



experts; rather, it must be a shared analysis, based on consultations with populations at local level.

- The policy dialogue should be based on lessons learned from past experience on what is working on the field of land tenure security and access to land for the poor. Experiences by the State and NGOs should be documented and lessons drawn from them.
- The land policy dialogue should be linked with the ongoing debate on major development policies, mainly in the field of agriculture, decentralization, poverty alleviation strategies, etc.
- The land policy dialogue must be inclusive and involve all key stakeholders.

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# Land Dynamics and Violent Conflicts



**L**and is a central element in the varied and complex social relations of production within which conflicts between individuals and groups arise.

One way to study the linkage between land dynamics and the outbreak or persistence of violence is to look at societies going through the various stages of the transition to a market-driven agriculture, a process that underpins structural change and development. In this context, an agricultural system where most farms operate on a commercial basis, regardless of their size, may be said to have undergone an *agrarian transformation* (de Janvry, 1981). Most developing countries are at some stage or another of this transformation, with rural societies increasingly depending on market mediation to ensure their livelihood. But the persistence of non-market agricultural relations (*e.g.*, those based on customary or feudal tenure) alongside market relations makes it difficult for a number of weaker stakeholders to make a living because it limits their ability to buy needed commodities.

## Source

Nicolas Pons-Vignon and Henri-Bernard Solignac Lecomte (2004), "Land, Violent Conflict & Development", OECD Development Centre Working paper No. 233, Paris: OECD.

(This paper can be downloaded from [www.oecd.org/dev/land](http://www.oecd.org/dev/land), along with details on the informal workshop from which it originated.)

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Changes in the power structures governing resource management and in the rules of asset distribution, failure to accelerate agricultural growth and create new opportunities, and political grievances are just some sources of conflicts that have to be carefully studied and understood.

## **Tensions Associated with Agrarian Structures and their Transformation**

Where transformation is insufficient to accelerate agricultural growth and create new opportunities, tensions tend to sharpen. Also, changes in the rules of asset distribution will be resisted by groups who hold power — *e.g.*, landlords or “customary” chiefs, which may create violence. In some cases, political grievances insufficiently addressed by land policies may also be a source of conflict.

### ***1. Recurrent Violence in Inefficient Agricultural Settings***

Resistance to the reallocation of land to the most efficient farmers, which is the backbone of agricultural development, is typically embodied in two types of behavior: large farm owners refusing to sell or rent out their underutilized land because their profit is derived mainly from nonagricultural activities, and peasant farmers resisting land sales because farming plays a “last resort” security role in their income generation strategy (which typically involves a portfolio of activities including migrating for work) (de Janvry, 1981).

Both types of behavior are observed in Bangladesh today. Poor families will resist the sale of their very small farms at any cost, despite their being unable to develop these into

profitable units (World Bank, 2000). Meanwhile, many large farmers are pursuing a strategy of political accumulation, underutilizing land amidst dramatic levels of rural poverty (Khan, 2000). Such agricultural dynamics make the task of the would-be “capitalist” farmer impossible, since (s)he cannot buy land or other inputs easily. Such an economically inefficient equilibrium is deeply rooted in agrarian power structures. As Khan (2000) points out, local and State politics in Bangladesh are dominated by “pyramidal” organizations, made up of socially heterogeneous groups. These groups compete for the available stock of resources to enrich their members, largely by seeking and exploiting political and administrative prerogatives. The very intense competition between groups makes it difficult for a particular one to secure a privileged position for a long time. Such uncertainty incites the participants in the currently dominating organization to hold their assets “in liquid form”, instead of investing them locally in productive activities. This political pattern precludes agricultural growth, and accounts for the failure of any attempt to reform institutions — such as the securing of property rights — that may cut the possibility for competing political organizations to extort resources from other groups. The lasting rural poverty and exploitation resulting from the success of such inefficient political coalitions tends to result in low-level forms of violence (for example illegal expropriation), which lay a fertile ground for political instrumentalization.

## **2. Violent Backlash against Change**

Violence may occur as a by-product of the struggle for transformation, and usually takes the form of retaliation by the challenged ruling elite against progressive movements that have yet to form sufficiently powerful coalitions to achieve their goals. The often violent reaction to the invasions of empty plots of land by the Movement of Landless Rural Workers (MST) in Brazil provides a telling illustration. In Latin America, more generally, much of the rural violence from the 1950s onwards was the result of violent retaliation against those who had demanded the dismantling of large feudal estates, where land was mostly underutilized (Kay, 2000). The most striking illustration of this type of backlash was the (partial) “counter land reform” which was implemented soon after Pinochet seized power in Chile.



## **3. Grievances related to Land Distribution**

Land-related violence can often be traced back to historical grievances related to land distribution in a context characterized by incomplete transformation. Where groups perceiving themselves as despoiled manage to articulate their demands, either through

## THE CONFLICT IN SIERRA LEONE

The conflict in Sierra Leone in 2003 is a tragic case of self-perpetuating agrarian conflict borne of the desire to escape enduring forms of domestic slavery. In some areas, young men have to provide the father of their wife with up to 80 per cent of their labor for a long period of time. This practice put unbearable stress on young rural men and women, inciting them to join the Revolutionary United Front (RUF). However, the RUF struggle eventually led to the return of highly exploitative agrarian relations. The wearing out of the RUF's war effort and the absence of alternative opportunities forced thousands of demobilized young fighters to offer their labor in rural areas they were in.



political organization (as in South Africa), or under the leadership of a political entrepreneur (such as Robert Mugabe in Zimbabwe), violent conflicts tend to crystallize long-standing historical grievances. Where land reforms have been initiated, the expectations they have created may also have adverse consequences, both for peace and development, either when they have not been far-reaching enough, or when they have failed to spur agricultural growth.

Productivity-oriented reforms are crucial to forestall disappointments linked to poor agricultural growth, which are bound to arise if land distribution follows only political criteria. However, it is very difficult to find the balance between the short-term satisfaction of political grievances and the long-term prevention (through growth) of their recurrence.

### **4. Intergenerational Conflict over Land**

Intergenerational conflict over economic and social opportunities may be a major driving force of agrarian change, as observed in West Africa. For instance, the conflict that sparked violence in Côte d'Ivoire at the end of the 1990s was not so much between migrants and indigenous populations, but rather between and even within families. Indeed,

inter-generational tensions over land issues would typically involve youth seeking opportunities (e.g. migrating "back" from urban areas where such opportunities have dried up) and complaining about parcels of land having been rented out to migrants.

## **The Impact of Exogenous Conflict on Agrarian Transformation**

While exogenous (*i.e.*, nonland related) conflicts may deeply affect agrarian structures as they modify the balance of political forces that underpin them, they may also accelerate the pace of agrarian transformation. Violent conflicts thus have a close relationship with the transformation process. As a result, they often put land at the heart of future violent strife. Colonization and displacement of populations typically turn land into an object of violent conflict between groups with competing claims over its use and occupation.

## 1. Colonization and Land Seizure

A major source of conflict over access to land opposes indigenous populations and colonial or central States providing settlers with agricultural opportunities at the expense of the former. The consequences and implications vary greatly of course, but the likelihood of such conflicts is nonetheless clear.

In Latin America, the situation of “natives” varies greatly across countries. However, although a couple of the continent’s leaders are of indigenous origin, these communities typically experience difficulties in accessing political power as a group because of their lower position in society. The conflict over land is a long-lasting one, since Latin American “indigenous” people have been deprived of most of what they had (not only land) since the 16<sup>th</sup> century. However, access and security of tenure over their now small land has been an ongoing subject of political, sometimes violent struggle. Their political and economic weakness means that they have usually been unable to retain their land when it was seized for the constitution of large agricultural estates (or of mines), and they have been the victims of violent retaliation when they tried to resist (Kay, 2000). Chiapas is an interesting exception, where a minority has formed a structured political movement with the support of an organized left-wing group, and managed to resist land seizure for nonagricultural exploitation.

### LAND REFORM IN TAIWAN AND SOUTH KOREA

At the end of World War II, the traditional agrarian structures in Taiwan and South Korea had been destroyed by Japanese colonization. Land was then redistributed and support was provided to farming households who intended to maximize their productivity. These exceptional cases of economic and social success following land reform, as well as the degree of violence involved, are still regarded as models by agricultural economists, although they result from highly specific historical circumstances.



#### PLOT OVER PROFIT

The post-Taliban Afghanistan provides an illustration of customary systems gone awry in the aftermath of a major conflict. In that country, the manipulation of customary regulation of access to increasingly scarcer assets (in particular land) has become an object of dispute between rival factions with dubious traditional legitimacy. In the midst of extreme scarcity and uncertainty, peasants have turned to growing poppy seeds not simply because they would earn more than from growing other crops but because the village chiefs — who trade the harvest and reap the benefits — favor those so engaged. The growing of poppy seeds has thus become the safest and easiest way to get hold of an additional plot on which to cultivate essential subsistence staples. This in turn breeds high levels of resentment and insecurity, which constitute a threat to peace in the short- and long-run.

In Indonesia, the policy of Javanese colonization involved large scale population resettlement from the main crowded island to smaller parts of the archipelago, and numerous land seizures for the benefit of the settlers. The associated violence has driven several States, including Indonesian Papua, on the verge of civil war (Faure, 2002).

## 2. Displaced Populations: Today’s Grievances, Tomorrow’s Conflicts

Countless wars can be traced to a previous forced migration or separation of people (or borders) from the rest of a

degree of political organization, and the eventual manipulation of frustrated groups (ethnic, religious, regional, etc.) by political entrepreneurs seeking access to power and resources. Conversely, if mediation efforts are undertaken and, most crucially, displaced populations are provided with sufficient opportunities to access livelihoods, grievances may dry up and political exploitation may be forestalled.

### **3. Criminalization rather than Transformation in the Aftermath of Violent Conflict**

Major conflicts that wipe out customary systems will not pave the way to a positive transformation of agriculture unless adequate leadership, institutions and resources are in place. Where those conditions are present, the remnants of traditional agrarian systems may actually form the basis of a more modern one from the point of view of sustainable economic growth. But this is no easy task.

## **Other Exogenous Factors Affecting Agrarian Tensions**

Agrarian dynamics, and the tensions they generate, are also deeply affected by a variety of external factors other than violent conflict itself, such as climate, natural disasters, the fluctuations in international commodity prices, changes in international investment flows, etc. Importantly, those factors include the consequences of third country policies (trade, etc.). Although this subject is not well-documented, several of the conflict (or peace) dynamics referred to in this paper may be related to international economic issues. For instance, where a group of small commercial farmers is lobbying to modernize agrarian structures, its capacity to access consumer markets abroad will be a key feature of its success,

not only as a business group, but also as a political one.

Conversely, obstacles to accessing international markets may delay agricultural development, or even cause it to fail, threatening livelihood security and spurring conflict. This suggests that looking at the land and conflict issue through the lens of “policy coherence for development”, i.e., by focusing on the link between agrarian conflicts and international commodity markets and rules, may be essential to any endeavor to reduce the incidence of violent conflicts worldwide.



## **Securing Land Tenure to Secure Peace?**

Secure property rights facilitate investment and efficient resource utilization. They are the cornerstone of a well-functioning market economy (Binswanger *et al.*, 1995). This applies to the development of agriculture, as exemplified in the case of Taiwan and South Korea

(Bernstein, *op. cit.*). If their tenure rights are protected, new smallholders will more readily invest in productive assets and engage in land markets. Similarly, large companies will feel more confident that their return on investment is protected.

Moreover, a system that secures tenure for land users — whether they own land, rent it or drive cattle over it — not only fosters economic efficiency and environmental sustainability, it also has positive implications for peace in the long run. Among other things, it is essential for the success of land reform, and for keeping land relations peaceful. It can also reduce the scope for acute situations of hardship to lead to conflict.

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# Uncertain Tenure for the Char Dwellers of Bangladesh



**B**angladesh receives silt deposits year-round as a result of erosion brought on by the annual monsoon as well as by melting snow. In the process, the rivers expand and land bars or islands are created. These emerging riverine lands are known in Bangladesh as “chars”. Due to the constant threat of erosion and flooding, living and working conditions on these chars are harsh. Nevertheless, a significant number of people live there, as they create opportunities for human settlement and agricultural activities.

## Natural Resources on Chars

### *Land*

In general, the downstream parts of rivers receive deposits of finer sediment (silt), which make the land in chars quite fertile. This has historically attracted many to exploit the agricul-

### Source

Maminul Haque Sarker, Iffat Huque, Mustafa Alam, Rob Koudstaal, 2003, “Rivers, Chars, and Char Dwellers of Bangladesh.” This paper is a revised and shortened version of this paper which was published in the International Journal of River Basin Management, Vol. 1, Issue 1 ([www.irbm.net](http://www.irbm.net)).

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The population density of the *chars* is nearly half that of Bangladesh. In 1993, the total population in the chars was estimated at 630,000, representing a 47 per cent increase over the figure in 1984 (caused by increases in both char area and density of population in chars). In comparison, the national population growth in the same period was estimated to be 26 per cent. Thus, one can see the growing importance of chars in providing land for human habitation in Bangladesh.

tural potential of chars. Sand from chars is also collected and used for construction purposes in urban centers. Additionally, in chars that are less vulnerable to frequent flooding, the availability of wide expanses of grazing land has encouraged cattle raising.

### ***Vegetation***

Newly accreted land, if it does not erode quickly, is initially colonized by grass, particularly catkin grass. The dense growth of catkin grass can accelerate the deposition of silt on chars, while its decomposition adds humus to the soil. In some instances, inhabitants plant catkin grass on newly emerging land to hasten its conversion to agricultural land.

Catkin grass has other uses as well, among them:

- Thatching material for houses;
- A source of cash when sold in mainland markets as thatching material, or to betel leaf gardeners who use it for roofing enclosures where betel leaf is grown;
- Fencing material (utilizing the stem of the plant);
- Fuel;
- Cattle fodder;
- Mounds for cattle to stand on during flooding;
- Reinforcement around the wooden plinths of houses before the monsoon season to protect against damage from excessive rain, inundation, or waves.

Older chars also often have fruit-bearing and timber trees. Banana plants in particular provide privacy for char homesteads and protect against strong winds. The banana fruit is an important source of food and cash, and the trunk is sometimes used for making rafts during floods.

### ***Open-water fish resources***

The fishing activities of char dwellers depend on whether the area is close to major fish habitats, spawning grounds, or migration paths of fish. They are also influenced by the availability of fish and the ease of fish catch at different seasons of the year. Besides, in certain parts of the rivers, leasing arrangements determine to a large extent the nature and intensity of open water fishing.

### **Settlement Process**

Once chars are formed, the human residents set about using the land in different degrees and to varying extents, depending on a number of factors, such as silt cover, natural vegetation (usually grasses), crop cultivation, and human settlement. Given the vagaries of river morphology, these

activities can be aborted at any point. Settlements are set up on a temporary basis as people wait to see whether their islands would survive the year's erosion.

Where soil and water conditions are favorable, char development through settlement and cultivation is constrained by the instability of chars and flood hazards — with erosion and outright disappearance of chars being much more disastrous to dwellers than flooding.

## Coping with Floods

People build homesteads on the highest available land. If they stay for any length of time in a particular place, they further elevate their dwellings on built-up plinths to avoid the annual inundation. Even so, many char people expect to have their homes flooded every year, and most homesteads are provided with platforms to store grains and other valuables.

One widespread practice in preparing for floods that has serious negative economic consequences is the sacrifice sale of cattle and other animals before the monsoon season. This is seen as one way to salvage some part of the investment in animals, and is considered as preferable to losing them to disease and starvation when settlements and grazing lands go under water.



Other problems associated with flooding are difficulties in cooking and in obtaining food and supplies. Access to medical care is especially problematic. Health hazards related to the drinking of contaminated water are prevalent during the monsoon season and are almost universal during severe floods when most tube wells in the chars are submerged.

## Coping with Erosion

Erosion-induced displacement is a major phenomenon among char dwellers — many of whom have moved their settlements from three to as many as nine times in their lives. Studies point to three common effects of such displacement which influence the well-being of char family members:

- A severe decline in their standard of living;
- The occurrence of mental illness in the family; and
- The loss of valuable assets.

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*“We have to keep rolling like silt.”*

— a saying in Kazipur



Most, though not all, char families have lived on chars for several generations. If they had moved at all, it was within groups of local chars. Available data indicates that only a small percentage have migrated to distances of more than two miles. This data, however, does not take into account the large numbers who have left chars to live in urban slums, on embankments, or in other distant places.

Char dwellers apparently consider the monsoon season and its aftermath as a transition point in char life, when they wait to see how their land survives. Many wait until after the monsoon season — to see if their island remained — before investing effort or money on building their homes.

## Social Conflict over Land Ownership



Settlement and ownership rights over the accreted land in chars have always been complicated by the difficulty in ascertaining ownership of new land — that is, whether it should belong to the State or to some riparian proprietor upstream, or even to somebody on the other side of the river. Although a State ordinance provides that “all newly emergent lands previously lost by dilution should be restored not to the original owner but only to the government”, the people of the chars find it

very hard to accept that their land would not be returned to them if and when it resurfaces.

While the intention of the law might have been to “recover” land from the *jotedars* (very rich farmers) and redistribute it among the landless and marginal farmers, in reality it has not worked that way. Instead, the locally powerful *jotedars* have wrested control, often violently, over accreted land (Haque, 1997). This way of taking over control of the land has led to violent clashes.

Zaman (1987) has reported 40 cases related to land conflict and organized violence in char villages, and these have appeared in a daily newspaper over a period of five years (1978-1982). A total of 733 persons have reportedly died from 1978 to 1982 in clashes for newly accreted land. According to Zaman, “the extent of brutality and terror cannot possibly be described unless someone has lived and experienced it in char life. It is a different and difficult life out there.”

## Livelihood

### **Farming**

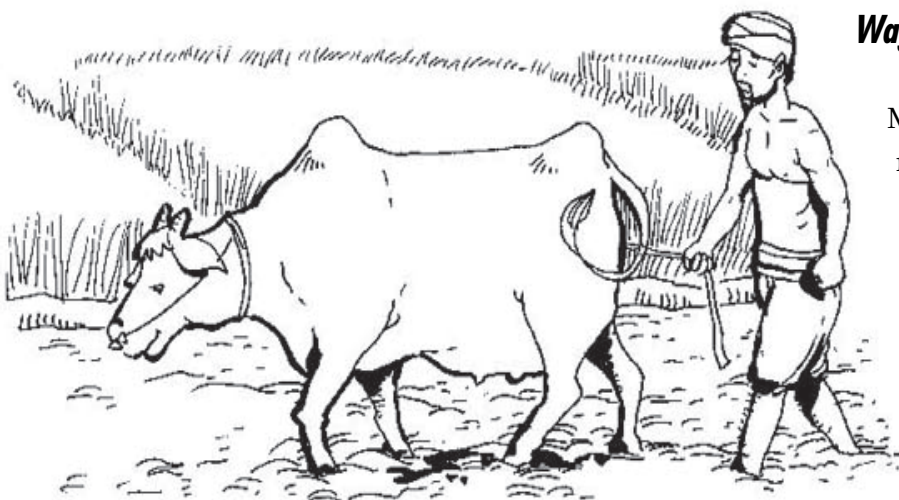
As in other parts of rural Bangladesh, farming is the main occupation of most people in the chars. As in mainland Bangladesh, rice is the main crop, with some pulse, wheat, and groundnut also being grown. Both surface and groundwater irrigation are practiced depending on the availability of surface water on the char. Although catkin grass grows naturally, char dwellers often plant it as a source of cash as well as for household use. Moreover, it encourages siltation on the chars.

Land tenure arrangements include owner cultivation as well as sharecropping. Wage labor is also used in various agricultural operations. Absentee ownership of land is common in some chars. In certain areas, the absentee landlords have control over cultivable *khas* (public) land as well. Under such circumstances, there is relatively higher dependence on tenant farming. Those who are involved in agriculture may cultivate their own land part of the time and supplement their income with day labor or other activities.

### **Fishing, Cattle-Rearing, Trading**

In some chars, fishing is the primary occupation for many households, while in other areas, people fish as a “last resort” (e.g., when they lose their land to erosion). Some char dwellers combine agricultural work during the daytime with fishing at night.

On chars that are endowed with wide expanses of grazing lands and are relatively accessible to cattle markets, the people engage in cattle raising and the selling of cow’s milk. Trading of miscellaneous commodities and domestic consumables is also common among households living on chars that are close to towns.



### **Wage Labor**

Many people from chars migrate seasonally to other areas in search of agricultural work. They also take on jobs as unskilled laborers in mainland earthwork projects, while some have traditionally been involved in specialized mainland occupations.

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*“The extent of brutality and terror cannot possibly be described unless someone has lived and experienced it in char life. It is a different and difficult life out there.”*

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While char families prefer to own land on more than one char in the hope of having a place of their own to move in case one homestead be lost to erosion, many cannot afford this. Therefore, erosion can quickly turn a landowning farmer into a landless day laborer, forcing him to move to some other char or to the mainland in search of employment as a wage laborer.

## Considerations for Management and Future Development

The study by the Environment and GIS Support Project (EGIS) 2000 contributes to the awareness of both the need for and possibilities of improving the livelihood conditions of char dwellers through management interventions that enable them to better cope with the hazardous environment. It was recommended that a special Char Program Development Committee (CPDC) be established that focuses on the unique characteristics of the chars and has the mandate to develop special program interventions. Such interventions should address such issues as:

- ➔ Settling confusion and conflicts over administrative boundaries;
- ➔ Development of proper land laws and their enforcement;
- ➔ Use of public land;
- ➔ Flood and erosion prediction and warning mechanisms;
- ➔ Planning for and supporting the provision of better basic services (agricultural extension, health and sanitation, education, public transport, institutional credit); and
- ➔ Assistance to flood- and erosion-affected people.

Char dwellers are extremely vulnerable to the perennial hazards of flooding and erosion which could cause the very land they live on to disappear at any time. In addition, they live with the constant risk of violence as a result of conflicts with powerful local leaders seeking control of fertile chars as well as with their fellow-char dwellers competing for fragile char resources. This unique situation calls for an equally unique approach to land rights that would recognize and safeguard the dwellers' needs for a secure, safe, healthy, and livelihood-accessible environment.

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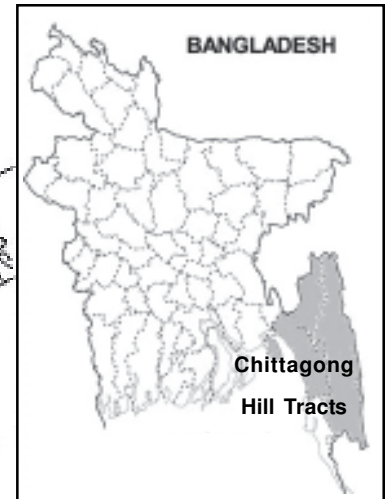
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# Land Disputes in the Chittagong Hill Tracts



**T**he Chittagong Hill Tracts (CHT), an area covering 13,295 square kilometers, is the south eastern part of Bangladesh, bordering the Arakan and Chin States of Burma, and the Tripura and Mizoram States of India. Although just 96 persons per square kilometer live in the CHTs — compared to the national average of 827 persons per square kilometer — it is a myth that there is vast unused land in the CHT. In fact, only 3.2 per cent of CHT land is suitable for wet-rice cultivation. The bulk of the land (77 per cent) is good for forestry, while the rest of the CHT can support horticulture, *jum* (shifting) cultivation, and some terrace farming.

## Source

Philip Gain, "Life and Nature at Risk", [printed in] *The Chittagong Hill Tracts: Life and Nature at Risk* edited by Philip Gain and published by the Society for Environment and Human Development (SEHD), July 2000.

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## Traditional Land Use on the CHT

The sloping land used for *jum* cultivation traditionally belonged to different indigenous communities. Exclusive individual rights to *jum* plots had never been established, and community members could claim ownership only over the crops grown on the plots.

## BENGALI MIGRATION INTO THE CHT

The CHT have traditionally been home to 11 indigenous ethnic groups, which collectively call themselves as the Jumma people, the first peoples of the CHT. They are Chakma, Marma, Tripura, Tanchangya, Mru, Lushai, Khumi, Chak, Khyang, Bawm, and Pankhua.

In the late 1970s, President Ziaur Rahman sponsored a migration of Bangladeshi settlers into the CHT, providing land grants, cash and rations. This program was not made public at the time, and its existence was denied by the government representative. Now, the government has acknowledged that there was indeed such a program of sponsored migration. As a result, Bangladeshi settlers, with the connivance of the almost totally Bengali-dominated administration, have been able to take over land and even entire villages from the Jummas. By 1991, the Bengalis made up nearly half of the total population of the CHT.

The Bangladeshi peasants who moved up to the Chittagong Hill Tracts come principally from the plains districts of Chittagong, Noakhali, Sylhet and Comilla, and have no experience of hill slope cultivation. When they find they cannot make a living from the land they have been given, they encroach on Jumma land. There are various ways in which the Jumma people have been, and still are being dispossessed of their lands. In many cases, Bangladeshi settlers move into an area and gradually encroach on the lands of their Jumma neighbors. A Chakma refugee from Panchari describes the initial process as follows:

*“In 1980-81 the Bengalis moved in. The government gave them rations of rice, etc. and sponsored them. The settlers moved into the hills, then they moved the Jummas by force with the help of the Bangladesh Army. The Deputy Commissioner would come over and say that this place was suitable for settlers so Jumma people must move and would receive money in compensation. But in reality they did not get money or resettlement. In 1980 the Jumma people had to move by order of the government”.*

intensified. Huge Bengali settlements, in the 1980s in particular, have not only put pressure on the land used by the indigenous people but have also caused massive deforestation and ecological problems. At the same time, the army has occupied large areas while huge tracts of land have been leased out to non-locals for rubber plantations, with unfortunate results. The shortage of suitable land, misallocation of land for plantations, and wrong investment strategies have caused massive political, economic and social unrest and overexploitation of existing resources.

The British colonizers exploited the communal land use arrangement on the CHT to establish “supreme and unlimited authority” over the land. Thus did CHT land come under direct State control. Henceforth, the hill slopes became the property of the State. The hill people, or *Jummas*, continued to engage in shifting cultivation but they were levied a *jum* tax to encourage them to shift to sedentary agriculture.

By the early 1800s, *jum* cultivation had become virtually nonexistent on the regulated district of Chittagong. In the 1870s, *jum* cultivation was officially prohibited from some 800,000 acres (or approximately one-quarter of all forest land) in the Chittagong district. Henceforth, the indigenous hill people became increasingly marginalized and were forced to move further into the Hill Tracts.

## Land-related Conflicts in the CHT

Changes in land distribution and settlement since the 1960s have further worsened and complicated the land related problems on the CHTs. Competition for every piece of cultivable and available land has



## Expansion of Reserved Forests

Approximately one-quarter of the CHT is reserved forest in which the collection of fuel wood and other forest products is prohibited. In addition to the forests that had been declared as reserved from colonial times, there has been a further expansion of reserved forests by virtue of the Forest Act of 1927. Between 1990 and 1998, 217,790 acres of land from 83 *mouzas*\* in three hill districts — have been earmarked as reserved forest. Of these, 140,341 acres have been formally declared as reserved forest.

The hill people complain that the expansion has been arbitrary. Chakma Chief Raja Devasish Roy reported that the land affected by the reservation includes “private lands registered in the office of the deputy commissioner (DC); private homesteads of hill people under rule 50 of the CHT Regulation; forest commons over which the hill people have rights to forest produce in accordance with the Forest Act, the Forest Transit Rules, the CHT Regulation, Long User and prescriptive rights, etc.; grazing lands over which the hill people have rights of pasture in accordance with the CHT regulation and local rules, customs and practices; and lands in the process of registration in the office of the deputy commissioner.”

“Tens of thousands of people in all of the three districts — hill people and ethnic Bengali residents who were displaced by the Kaptai Dam in 1960; almost the entire population of the indigenous Khyang people; and hill people who were rehabilitated under government-run afforestation and agriculture projects of the Forest Department, the BADC and the CHT Development Board — have been affected,” the Chakma Chief added.

The Committee for the Protection of Forests and Land Rights in the Chittagong Hill Tracts estimates that if the government’s plan to expand reserved forests is implemented, around 200,000 people will be affected. Different sources also confirm that the expansion of reserved forest has already dispossessed people of their centuries-



**Mouza** is the lowest revenue collection unit. During the Mughal period, the term was extensively used in the sense of a revenue collection unit in a *pargana* or revenue district. In the 20<sup>th</sup> century, *mouza* became popularly synonymous with the *gram* or village, which is indeed a social unit. However, in the 19<sup>th</sup> century and earlier, the *mouza* was identified both as a social and revenue unit.

## FOREST RESERVES DEPRIVE THE KHYANG OF THEIR HOMELANDS

Sangthuima (24) and Thuisangma (20), two Khyang sisters in a remote village in the CHT, have had almost all of their three-acre croplands, along with their homesteads, declared as reserved forest. In effect, they have become illegal occupants of land where they and their forefathers have lived for centuries. The two sisters have inherited the land from their father, Teng Hla Pru, and the land is still registered in his name.

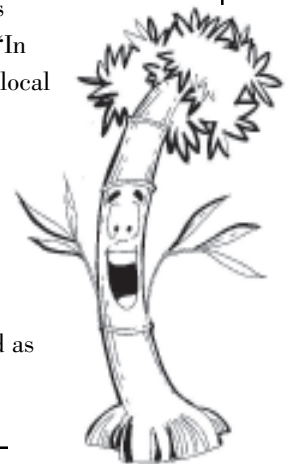
In another village, Arachhari Headman Para (in 335 Dhanuchhari Mouza of No.1 Gilachhari Union in Rajasthali Thana, Rangmati district), the headman of the Mouza, Hlathwai Khyang, reported that Khyang families have disappeared as a result of harassment that followed the expansion of the reserved forests.

According to Headman Hlathwai Khyang and others villages which used to be populated by hundreds of Khyang families, such as Dhanuchhari Para, Korbanchhari Para, New Zealand Para, Madan Karbari Para, Moniong Karbari Para and Bara Kukkachhari Para of Dhanuchhari Mouza, are today inhabited by only 180 families and most of them are Khyang. Headman Hlathwai Khyang said that in his Mouza the local people had applied for registration of around 700 acres of land in the DC's Office. The settlement of those lands, classified by the Forest Department as Unclassed State Forest (USF), has been stopped since 1989.

In Dhanuchhari Mouza the Khyang can no longer practice *jum*. Without *jum*, the subsistence economy of the Khyang people would be totally ruined. Aung Saw Khyang of Arachhari Headman Para said, "We used to produce all our food on *jum* fields. Since 1976 *jum* cultivation has been stopped because of the expansion of pulpwood plantation and reserved forests. We can now produce little food. We have to buy food, which is expensive, and we have to walk longer distances to buy it."

An example of how the expansion of reserved forests has affected the registered land is the case of Gyan Bikash Tangchangya of Rajasthali Thana Sadar. He complained that the Pulpwood Plantation Division of Kaptai forcibly planted pulpwood trees on five acres of his land (in Rajasthali Thana), which was registered in his name as early as the 1980s. Advocate Dinonath Tangchangya complained that, "In 1995, officials from the division began harvesting trees they had planted without consulting the local people who have claims on the land."

Probhat Kumar Tanchangya registered five acres of land in 335 Dhanuchhari Mouza in Rajasthali Thana in the 1980s and thereafter planted timber trees — teak and gamar. Now, after many years of hard labor, Probhat's trees have begun to mature and are ready to be harvested for timber. Probhat had almost completed the process of procuring a "jote permit" to harvest 948 cubic feet (cft) of teak and 500 cft of fuel wood when he was told that his land had been declared as reserved forest.



old *jum* fields, horticultural land, tree gardens, land settled from the DC's office and land under process for settlement.

Conversion of land, which the hill indigenous peoples had always considered as commons, into reserved forests, has serious consequences. Once land is declared as reserved forest, the forest-dwelling people lose access to it.

## Commercial/Industrial Plantations

The introduction of commercial or industrial plantations such as rubber and pulpwood to the Chittagong-Teknaf belt and the CHT is of particular concern. Although industrial plantations have yet to be established on a large scale in the CHT, foreign investments are expected to fuel their rapid expansion. Foreign-funded commercial/industrial plantations of acacia, eucalyptus and pine have replaced much of the native forests in Chittagong and the CHT region. In many places, one would be hard put to imagine that natural forests had once covered the stretch of land along the CHT hills.

Moreover, given that huge tracts in the CHT lie denuded and that legal mechanisms have been established (with incentives from donors like the Asian Development Bank, World Bank, Food and Agriculture Organization, etc.) for the promotion of commercial plantations, it is likely that what used to be natural forests will now become sites for pulpwood plantation. The plantations that are being developed in Chittagong, Cox's Bazar and the CHT will feed the Karnaphuli Paper Mill and the new pulp and paper mills that are set to rise on the Dhaka Chittagong Highway and elsewhere.

## Development Projects/Activities

State-sponsored and aid-dependent “development” initiatives started during the Pakistani administration of the CHT proved to be devastating for the CHT and its indigenous inhabitants. The first large-scale industrial development project that hit the CHT was the Karnaphuli Paper Mill. Financed by external resources (US\$13 million) including a World Bank loan of US\$4.2 million (Arens 1997:49 in Bhaumik et al., eds) the Karnaphuli Paper Mill started operating in 1953. The mill had been granted rights for 99 years to extract its raw materials from the forest areas. However, the mill that became an important icon of economic development for Pakistan set forth the conditions for environmental catastrophe in the CHT and misery for the hill people.

The construction of the Karnaphuli Paper Mill created 10,000 jobs, but the hill people got only around five per cent of these and mainly low-ranked jobs (Arens 1997:49 in Bhaumik et al., eds). The same story was repeated in the construction in 1966 of the Karnaphuli Rayon Mill.

A few years after the construction of the Karnaphuli





Paper Mill, the Pakistani symbol of development, the Kaptai hydroelectric project, was put into operation. Started in 1959, the US\$100-million project was completed in 1963 (van Schendel et al. 2000:203). The hydroelectricity produced in Kaptai thereafter supplied the energy needs of the provincial capital of Dhaka and of nearby Narayanganj City. The electricity also became crucial to run the wheels of industry.

But what became a great triumph for the Pakistani rulers had catastrophic effects on the hill indigenous peoples. The project created a 650-square kilometer upstream reservoir, submerging 40 per cent of the most productive valley land of the CHT, along with many villages and forests. It also displaced around 100,000 people, or a quarter of the region's population. Unsurprisingly, the project generated discontent and anger among the indigenous peoples in the CHT. Raja Tridiv Roy critiqued the project thus: "It was called a multipurpose dam, for it was supposed to provide not only electricity, but also flood control in the plains of Chittagong [as well as] irrigation facilities. As it turned out, every year since the dam was built, there have been floods in the very region it was supposed to save, with unfailing regularity. As for irrigation, by its very coming into existence it submerged most of the cultivable lands and there was hardly anything left to irrigate... [Moreover], not a single tribal village has been electrified — though electricity found its way into towns, as well as villages in the plains districts" (van Schendel et al. 2000:204).

After independence, no significant development plan was initiated until the time of General Zia who declared in 1976 that the problems of the CHT originated from underdevelopment. He therefore founded the Chittagong Hill Tracts Development Board (CHTDB) in 1976 by an ordinance to solve the CHT problems through large-scale development programs. The major development interventions in the CHT since then were designed, managed or overseen by the CHTDB. Although 60 per cent of the CHTDB was composed of hill people, the chiefs (Rajas) and other prominent ethnic members of the board refused to attend board meetings for many years prior to the signing of the peace accord in December 1997 in protest against its undemocratic structure.

The CHTDB has implemented projects and programs for road construction, telecommunication, electrification, and relocating the hill people into "model" or "cluster" villages. Yet, most villages in the hills still do not have telephones or electricity. The roads have been beneficial for transporting produce to markets, but they were first used to facilitate troop movement. Roads helped the military to combat the Shanti Bahini as well as the business-

men most of whom were Bengalis. The cluster villages were intended to isolate the Shanti Bahini and cut their supplies.

## Resolution of Land Issues

Land is the crux of the CHT problem. The 1997 peace accord provides for a Land Commission with a minimum tenure of three years to resolve the land disputes in accordance with the law, custom and practice in the CHT. Resolving land disputes is crucial to the implementation of the peace accord. A cadastral survey (CS), which would secure settlement and individual land entitlements, should follow the resolution of the land disputes.

*Internally displaced people.* Addressing the issue of internally displaced persons (IDPs) is an important task of the Task Force on Refugees in the CHT currently (in 2005) chaired by Samiran Dewan, former chair of Khagrachhari District Council. The IDPs are those who were displaced between August 1975 and August 1992. According to the task force account, there have been 128,364 internally displaced families throughout the CHT, of which 90,208 were “tribal” and 38,156 were “non-tribal”.

The hill people and human rights bodies want to see human rights at the center for reconstruction and rehabilitation of the Chittagong Hill Tracts. According to Amnesty International, this calls for the reestablishment of the rule of law, an active role for civil society institutions, including a fully independent judiciary and a free press.

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# Gender and Resource Rights: *Policy in Social Context*



**W**omen generally have less control of private property, and have had to depend more on common property or open access resources to support themselves and fulfill their obligations to their families. However, a more careful assessment of the extent of women's rights to common property resources is needed before embracing "the commons" as a means to reduce the gender gap in property rights.

Establishing the extent of the gender gap in property rights is complex. It depends on whether one looks only at formal "ownership" of resources or at who holds particular bundles of rights. For instance, control rights — including management, exclusion and alienation (ability to transfer rights to others) — are stronger than use rights of access and withdrawal.

## **Women's Access To Water**

Women's access to and control of water is a case in point.

### **Source**

Margreet Zwartveen and Ruth Meinzen-Dick. "Gender and Property Rights in the Commons: Examples of Water Rights in South Asia". *Agriculture and Human Values* 18: 11-25, 2001. Kluwer Academic Publishers, Netherlands.

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While women are free to use water in common property systems, it is not because of defined rights but because of the general lack of strict management rules and regulations. Strengthening rules for the use of common resources may be necessary for the effective management of common property but it could reduce women's access unless women are explicitly included as right-holders and decision-makers.

On the other hand, a woman's lack of access to water cannot simply be ascribed to the fact that she is a woman but should be analyzed in the broader framework of class and social relations of power — and even the physical structure of access to the irrigation infrastructure system.

## Putting Gender Policy in Context

The linkages between women's access to water and their rights to it requires a careful analysis of laws governing water allocation and distribution and the institutions enforcing these laws, as well as the relations of dominance and the division of labor in households.

Cases from Nepal show that women have access to water and are actively involved in irrigated agriculture but not often in the management of irrigation. Formal "ownership" — management and alienation — are vested in men as farmers or household heads, and women access water through their relationships with males. At the same time, women are not bound by the rules of irrigation associations. They can "steal" water with impunity as non-members. As female members, they can plead exemption from heavy canal maintenance work.



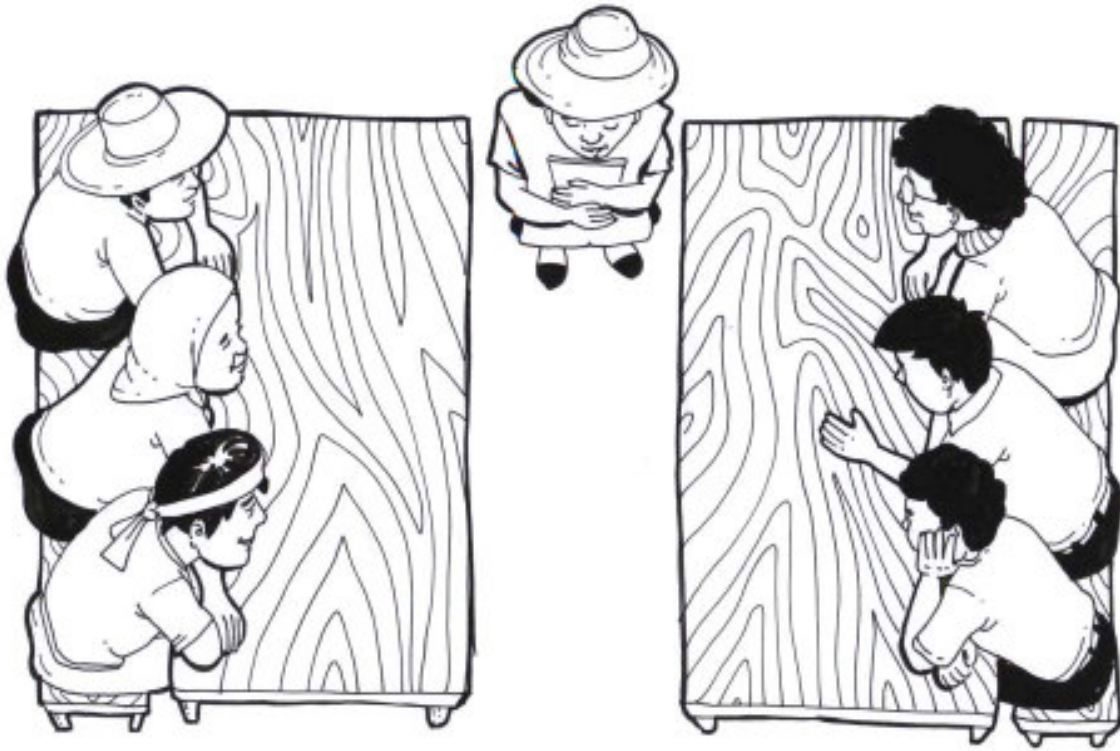
The linkage between assuring water rights for women and gender equality can not be simply assumed. Water reform is not a substitute for land reform and the effects of changes in water rights must be seen in relation to land tenure systems. Women may not consider water to be a primary strategic issue. At the same time, gender is not necessarily the primary determinant of access to water.

Creative thinking to devise options for achieving greater gender equality in rights to water is important to the formulation of effective policy. Merely

designing a legal framework will not by itself improve women's water use or control rights unless there are institutional enforcement mechanisms to support it. After all, laws are always assimilated by individuals operating within specific social relations of power, standards of conduct, value and interests. If women do not perceive a need, and if they are not willing to actively demand that conditions change, no amount of policy making and practice will make much difference.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Training for Land Dispute Resolution in Cambodia



**R**ecent research done by the Oxfam GB-Cambodia Land Study Project suggests that many Cambodian farmers are losing access to land due to the combined effects of an unfeasible land law, the haphazard introduction of a poorly regulated market-based economy, and wholesale privatization. Land-related disputes arising from the abuse of power and the absence of a map-based land titling system are clogging up the courts and causing widespread civil unrest.

The Oxfam GB Project recorded 687 land dispute cases between 1987 and 2000, involving 37,500 families on 78,990 hectares. Most of the disputes were reported from the richest and most populated agricultural areas, and involved landgrabbing by officials, military men and business interests. As a result, a growing number of protesters have come to Phnom Penh to vent their anger at the rising incidence of landgrabbing by the rich and powerful.

## Source

Song Vannsin, "Recent Experience of Oxfam GB-Cambodia Land Study Project in the Land Reform in Cambodia", *Presented at the International Conference on Access to Land: Innovative Agrarian Reform for Sustainability and Poverty Reduction, March 19-23, 2001, Bonn, Germany.*

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## LAND SITUATION IN CAMBODIA

**1975 – 1979.** Under the Khmer Rouge regime, there were no land ownership rights, all lands belonged to the State.

**1979 – 1989.** After the collapse of the Khmer Rouge, land was still under the State, but people had the right to work on the land.

**1989.** There was an amendment in the Constitution that provided rights to ownership and possession — ownership rights for residential land and possession rights for agricultural land.

**1992.** The Land Law was adopted, reflecting a change in government policy from planned economy to a free-market economy.

In response, the Royal Government of Cambodia set up a National Land Dispute Settlement Commission in March 1999. Subsequently, Provincial Land Dispute Settlement Commissions were established in every province and municipality.

After meeting with non-government organizations (NGOs), the National Land Dispute Settlement Commission decided to undertake a study of the capacity of the provincial commissions. Five provinces — Battambang, Siem Reap, Banteay Meanchey (high-incidence provinces), Kompong Speu and Kompong Som (medium-incidence provinces) were selected for the study.

A senior evaluation team was dispatched to survey the five Provincial Land Dispute Settlement Commissions to determine the extent and quality of human and physical resources available to them in reference to the number and scale of land disputes that they were attempting to resolve.

In 1999 alone (the first year of their existence), the five provincial commissions dealt with about 250 cases involving more than 50,000 people. A typical case involved about 50 families disputing their eviction from over 75 hectares of rainfed land that they had farmed for 10 years or more.

The Commission's records show that the central government and its agents were partly if not wholly to blame in many of the land disputes, making it difficult, if not impossible, for the provincial authorities to resolve such cases.



## Dispute Resolution Training Seminars

A 12-day dispute resolution training seminar was conducted following the release of the assessment report. The commission also conducted a two-day follow-up session, where an actual case was heard 45 days after the first seminar.

The course covered three major areas:

- Communication skills (how to get parties to communicate, extract relevant useful information, etc.);
- Mediation concepts and procedures (how to provide advice, suggestions and usually, preferred solutions, and then persuade the parties to accept these); and
- Advisory and arbitration concepts and procedures (how to decide in favor of one party or the other).

## Mediation and Arbitration

It became apparent that the concept of mediation was unfamiliar and difficult for most of the participants to understand. In particular, the absence of a decision-maker or the lack of official intervention, and the fact that there was no “right” or “wrong” and that law, evidence or witnesses were unnecessary, were alien to them.

Balancing power between contending parties is a difficult task. This is a problem inherent to mediation anywhere. In Cambodia, it is made particularly difficult by power imbalances between the parties to most disputes and also by the cultural importance accorded to a person’s status in society. While most of the trainees understood the need for balancing and rebalancing power during the mediation process, they were unsure whether and how they could accomplish this in actual cases.

The concept of neutral mediation was difficult for the participants to put into practice, especially since many of them — being officials or military leaders — were used to making decisions.

The trainees felt much more comfortable with the concept of arbitration (which involves a finding and decision in favor of one party or the other). In

## WOMEN PARTICIPATION

One notable feature of this particular training seminar was the lack of women participation. In response to a question about this issue there was overwhelming agreement among the participants that the training should include more women. Some of the reasons given for the need for greater participation by women in the training were:

- Women are better able to understand the concerns of the women parties to the dispute;
- Women would be more likely to speak openly if another woman were mediating or arbitrating;
- Women are better at resolving disputes than men;
- Women are more courteous and better at forming good relationships and command greater respect among the parties to the dispute;
- Women communicate better with the parties than men;
- There is a need to promote equal rights for women.



fact, most of the participants were unable to understand the purpose of mediation until they had been taught arbitration and could then make a comparison.

## Access to Dispute Settlement Mechanisms

The research and training programs point to the need for a national program to address the proliferation of land disputes by giving women and men access to equitable, affordable, effective and peaceful means to resolve land disputes through the following:



- improving the cooperation between government agencies and civil society groups to resolve land disputes;
- increasing the capacity of national and provincial land dispute resolution agencies and NGOs;
- following up land dispute settlements with land registration;
- mobilizing fiscal resources to cover the recurrent costs involved in resolving and settling land disputes;
- rationalizing existing ad hoc land dispute resolution mechanisms within the new legal framework of property laws; and
- promoting the devolution of capacity and responsibility for resolving and preventing land disputes in the soon-to-be established commune administrations.

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# Discrimination in Women's Access to Land and Property: Responses and Realities



**A**cross the developing world, rural women are among the poorest and most disadvantaged groups. They face gender-based discrimination, which is reflected in inequalities in their rights and access to resources — especially land, technology and social services like education and health. Their voices are sel-

dom heard as they are underrepresented in decision-making at all levels.

In the last decade, the international community has recognized the importance of pushing for issues that advocate women's rights in the international agenda. Proof of this is the initial effort to formulate a bill of rights for women. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the only human rights treaty that comprehensively covers women's civil and political

The situation of rural women has been on the agenda of international conferences and is highlighted in the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women (1995) and World Food Summit Plan of Action (1996). The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the United Nations General Assembly in 1979.

## Source

Sissel Ekaas, Rodney D. Cooke and Bruce Moore, Rural Women's Access to Land and Property in Selected Countries, FAO, IFAD, ILC: June 2004.

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The CEDAW defines discrimination against women as follows:

*“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”* (Article 1)

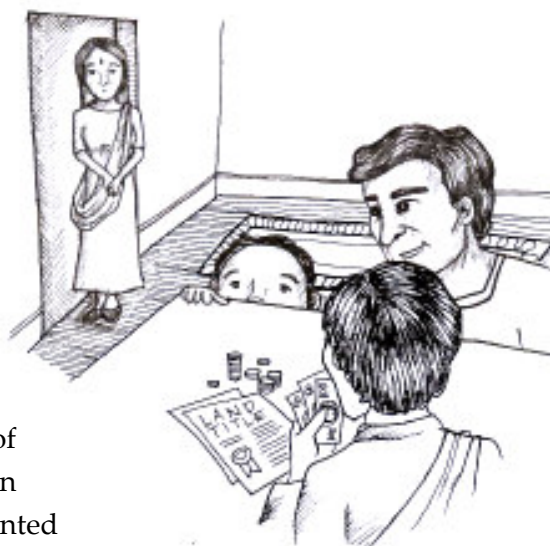
rights, as well as their economic, social and cultural rights. In Article 14, the Convention affirms the rights of rural women to equal access to resources and basic social services. It also stresses that women should participate in the elaboration and implementation of development planning, and in all community activities. This includes their active participation in policy development and decision-making affecting their lives.

The reporting procedure under CEDAW, in particular the preparation of an initial or periodic report and its presentation to the Committee on the Elimination of Discrimination Against Women, provides a unique momentum in a country to take stock of *de jure* and *de facto* gender equality. It should therefore be used as an opportunity to investigate the discrimination that still persists in various areas. NGOs are already taking advantage of regular reports to the Committee to lobby for the empowerment of women.

## Access to Property and Inheritance

Equal access to property remains one of the most disputed issues with regard to gender equality. In India, for instance, child marriage, widowhood, and property rights were identified as the three major problems faced by women. Whereas the Government has taken action on the first two issues, property rights are still far down on its agenda. The matter is further complicated by the fact that land distribution and equal access to land are often not just gender issues, but also social class and ethnicity issues. Not having access to land or full legal capacity is a particular disadvantage for women household heads, who make up a substantial share of total rural households in certain areas. Many of these women are single parents, widows, divorcees, wives of migrant workers, older women or women with disabilities.

In many countries, inheritance and property laws and practices are sources of serious discrimination against women. They may cause widows and daughters to inherit a smaller share of their spouse's or father's property at his death than would widowers and sons. Often, women are granted limited and controlled rights, and only receive income from



the property of the deceased. Moreover, inheritance rights for widows frequently do not reflect the principle of equal ownership of property acquired during the marriage. Customary practices such as levirate (the obligation of a man to marry his brother's widow) infringe on a woman's right to inherit in countries such as Cameroon. In Guinea, a childless widow's inheritance, if there are child heirs or other widows with children of the deceased, is calculated every five years of a marriage based on the "dignity and devotion" demonstrated by the woman.

In Ecuador, 21.3 per cent of families in rural areas are sustained by women alone. In Zambia, customary law does not allow women to own land, and very few do. Women, therefore, represent the majority of persons without title deeds, and 10 per cent of woman-headed households seek title on inheritance.

## Land Reform

The right to own, manage, enjoy and dispose of property is central to a woman's right to financial independence, and is critical to her ability to earn a living for herself and her family. In countries undergoing redistribution of land among different ethnic groups, the right of women, regardless of marital status, to share such land on equal terms with men is not always observed. Countries that have undergone or that are introducing land or agricultural reforms often make an effort to take gender equality into consideration. However, many obstacles arise, the first being the non-participation of women in decision-making.

**South Africa.** South Africa acknowledged that the domination of men in decision-making structures and positions contributes to women's lack of involvement in the land reform program. In Zimbabwe's Commission of Inquiry into Land Tenure, a body established to resolve the problem of unequal access to land, especially for the disadvantaged (mostly women), only one of 12 members is a woman.



The Department of Land Affairs also recognizes that women are largely ignorant of the Land Reform Program and what it has to offer. Information does not reach them because they are not regarded as potential heirs to land.

If women have no knowledge of their rights and the administrative procedures to apply for land, they cannot benefit from land reform.

As regards the right to hold land and the right to use it, many South African rural women cannot legally hold land titles. Although they may be given the right to till the land and build a home on it, legal acquisition of land is still a farfetched scenario. In most rural areas, households generally use communal land that belongs to the people of that area. Under common

African law and customary law, women are not entitled to own property. The homestead head, husband or male relative has to act on their behalf. Territorial legislation and numerous regulations also prevent women from owning land. Not holding a title becomes an obstacle when women apply for credit. To address this problem, the South African Department of Land Affairs is concentrating on legislation that would grant all married women the right to use property registered in their spouses' names as loan collateral.

**Vietnam.** In Vietnam, 90 per cent of households using agriculture land have been awarded land-use certificates. As a measure to protect women's interest in case of divorce, local administrations have advised families to register family property in both the husband's and the wife's name. Customarily, however, land certificates are issued in the husband's name, he being the household head. And because land-use certificates are seldom issued in their names, women cannot use them to apply for a mortgage or credit. Legally, a woman cannot use jointly owned property certificates issued in her husband's name in a civil transaction or as collateral for a bank loan.

Interestingly also, a survey showed that over 76 per cent of urban women and 51.2 per cent of rural women said that they had full independence and had entered into civil contracts (particularly contracts to borrow capital from a bank, mortgage property, etc.). However, 23 per cent of urban women and 46 per cent of rural women voluntarily renounced this right in favor of their husbands and children.

## SECURING WOMEN'S RIGHTS USING CEDAW

This paper presents information gathered from varied countries with specific reference to women's access to land and property, and their inheritance rights and legal capacity. It may serve as a valuable tool for all those who wish to engage in advocacy and policy dialogue in favor of rural women and to support joint effort to achieve compliance with the convention. The following recommendations can be made to support and strengthen reporting under the Convention and maximize its use:

1. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is a legally binding agreement, so women can expect to benefit from the rights established in the convention once their governments have ratified it.
2. CEDAW is the **only** human rights treaty that deals specifically with rural women. It is therefore a powerful tool to use in advocacy for rural women and in rural development programs that involve them.



**Brazil.** In Brazil, the agrarian reform program guarantees that land titles and concessions are granted to men or women, or both, irrespective of their marital status, but preferably to the household head. In practice, however, 85 per cent of the total agrarian reform beneficiaries are men. Women hold only 12.6 per cent of all land titles and concessions.

Secure access to land by women is a basic factor in food security. However, customs and common practices often prevent women from gaining or sharing household rights to land. It is therefore important to foster an understanding of the benefits that women's secure access to land can bring to the population as a whole. In particular, support should be given to the Committee to increase its focus on the situation of rural women.

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# Women and Property Rights in Eastern, Central and Southern Africa



**W**omen are the mainstay of African small-scale agriculture, comprising 30 to 80 per cent of the agricultural labor force. However, they have a more difficult time than men in gaining access to land, credit and extension services due to restrictions in customary and prevailing legal systems. Such legal obstacles exist in East, Central and Southern Africa.

An aggravating factor is a plural legal system that recognizes both customary and indigenous laws, as well as the legal system of the colonial governments. The two systems interact differently in the various countries, and results in conflict and confusion over the actual status and rights of women.

## Source

*"AFRICA: The Women's Perspective of Food in Eastern, Central and Southern Africa", International Rural Women's Workshop on Food Security: A Workshop Report, Rome, Italy, 6-9 November 1996, ISIS International-Manila People Centered Development Forum, Via Campesina, Women, Food and Agriculture Working Group.*

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## GETTING MARRIED IN AFRICA

Marriage establishes two types of property regimes: one is the “marriage **in** community of property”; and the other, “marriage **out** of community of property”.



Women married **in community of property** are in theory automatically entitled to half of the joint estate but still have no say in the administration of the estate. However, upon the dissolution of the marriage, she, or her heirs, is entitled to half of the property. This law is enforced in Lesotho, Swaziland, Namibia and South Africa.

Women married **out of community of property** are not automatically entitled to property belonging to the husband. Under this regime, both retain their separate estates which increase or decrease according to the transactions of each. Upon the dissolution of the marriage, each of the spouses retains his or her property. In Zimbabwe, all marriages are the “out of community of property” kind.

## Property Rights

The limitations on women when it comes to owning property are due largely to exclusive male ownership of property under customary laws. Central to these limitations are issues concerning marital rights, inheritance laws and child support.

## Land Tenure

The basic socioeconomic unit in the African agricultural economy is the smallholder agricultural family or household. Despite women’s significant contribution to food production (*i.e.*, 60 to 80 per cent), women acquire land use rights primarily through their relationship to male members of the household. Land tenure rights can be inherited or offered to a widow only when there is no son or no husband’s brother, and depending on whether she remains in the same family or not.

Customary land tenure systems give women fewer rights than men over land and valuable livestock. Customary and religious laws often prohibit women from inheriting real property or allow them to inherit only a much smaller share than male heirs.

## Access to Credit

There are also legal restrictions against women applying for loans. Women who are also minors, and those who do not have property or sufficient collateral, cannot qualify for loans. They are also often subject to discriminatory practices by lending institutions because of their sex or marital status. Unless they are widows and legal heads of households, women cannot apply for agricultural loans or credit in their own names.



## Feminization of Agriculture

East, Central and Southern Africa have a history of male out-migration to towns, mines, commercial farms and plantations within the country and abroad. This has led to the feminization of smallholder agriculture, as the women who are left with the responsibility for the household as well as for farming are nevertheless barred from entering into contracts to acquire farming equipment or hire labor to aid her in farming operations. Legal rights to land are vested in the husband, and only he has legal capacity to administer the property. A woman must wait for the husband, in case he lives somewhere else, to make the decisions about important farming operations.

The role that women play in agriculture has always paralleled that of men. Women also account for more than half of the labor force. This is now widely recognized, thanks to gender awareness. However, in recent years, women have had to take over more and more farming operations as a result of increasing male migration into cities and peri-urban



areas. Women are often left to take charge of farming operations — a role traditionally held by men.

### RURAL WOMEN AND CHANGES IN THE ENVIRONMENT

- Land degradation in the East and Southern African regions has resulted in increased siltation and sedimentation of major rivers and dams, as well as depletion of soils, rangelands, forests and water resources currently available to poor women.
- Droughts are a recurrent phenomenon in Africa and women have become increasingly responsible for drought response and recovery. Since the mid-1980s, Southern Africa has been experiencing dry spells resulting in severe food and water shortages.



## Policy Recommendations and Proposals for Action

A comprehensive understanding of the traditions and changing situation in East, Central and Southern Africa is important in crafting policies that would promote women's rights in Africa. The survival of African families and households largely depends on how significant changes can be made to the traditional reproductive and productive roles of women, vis-à-vis the prevalence of male-oriented ownership patterns and gender-biased property regimes.

Some proposals for legislative action include the following:

### ***On property rights***

- That the laws on interstate succession treat female and male heirs equally;
- That legislation be enacted to protect widows against disinheritance of their deceased husband's estate;

## DEVELOPMENTS IN THE POLICY ENVIRONMENT LANDSCAPE OF EAST, CENTRAL AND SOUTHERN AFRICA

*Since 1996 there have been a number of policy and legal development processes within these regions in an attempt to broadly address the land question, and more specifically, women's land rights:*

- The 1998 Uganda Land Act and the Land Amendment Act of 2004 now guarantee security of tenure for women. The country is in the process of developing a National Land Use Policy.
- Rwanda has both a Land Law and a National Land Policy and a draft National Land Use Policy that clearly provide for women's land rights, and an enforcement mechanism that guarantees these rights.
- Tanzania has a Land Policy, Land Law and Village Land Act that provide for and protect the interests of both women and men.
- Kenya is developing a Land Policy and conducting a review of its current Constitution which has been criticized as being not gender sensitive.
- In Zimbabwe, there is no substantive Land Law, only fragmented laws.
- Lesotho is in the process of Land Policy development, and has a Land Bill pending in Parliament.
- Mozambique has had a Land Law since 1997.
- South Africa has a White Paper on land issues.
- Angola and Botswana both have Land Policies and Zambia is in the final stages of developing one. Botswana's policy is that all persons upon reaching a certain age are given land, thereby guaranteeing land rights for all.

### **Lorna Juliet Amutojo**

Uganda Land Alliance

*Extracted from a Sub-Regional Reflection Meeting of Landnet East Africa*

- For married women to have equal rights with their husbands to administer joint property of the marriage;
- That the legal definition of "head of household" or "head of family" be changed to "coheads" of family, whereby both partners in monogamous marriages and partners in common law unions have equal rights and responsibilities.

### **On land use and ownership**

- That individual land titles and land use rights be distributed to women and men on an equal basis. In cases where the ownership and use rights are based on family units, titles should be distributed to husband and wife, or to partners in common law unions, as joint property;
- That land reform legislation require that women receive a certain percentage of distributed land, based on the extent of female participation in agriculture.

### **On access to credit and loans and other services**

- That government regulations for agricultural credit lending institutions require that a certain percentage of loans be made to women;
- That legislation be enacted to prohibit discrimination based on sex or marital status by both public and private lending institutions;
- That public spending be reallocated to prioritize agricultural extension and research on crops and technologies used by smallholders and women farmers; and to improving skills and productivity of the same.

### **On full participation**

- That legal obstacles to women's full membership and voting rights in cooperatives and other collective organizations be removed.

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# Women's Land Rights under Customary and Formal Tenure Systems



**T**he lopsided control over property is probably the most severe form of inequality between men and women today. Despite its prevalence, however, it is one of the most poorly documented aspects of gender inequality and is reflected in few statistical systems.

In attempting to address this imbalance, however, an important policy issue to consider is which tenure system (*i.e.*, customary or formal) can provide women with greater and more secure access to land. Central to this debate is the question of whether human rights, including rights to land, should be viewed as universal or as relative to cultural, religious, and national rights. While no clear answer exists, a simplified comparison of the two types of tenure system reveals key challenges for policymakers aiming to improve women's land rights.

## Source

Eve Crowley, "Land Rights", Brief 2 of 12, 2020 Vision Focus 6 (Empowering Women to Achieve Food Security), August 2001. Reproduced with permission from the International Food Policy Research Institute.

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## Customary or Formal?

Land rights, in both statutory and customary tenure systems, roughly correspond to degrees of power. The entitlements a woman holds determine where she fits in the spectrum--from full ownership with all the entitlements, at one end, to landlessness without entitlements at the other. In both systems, most women are located somewhere between these two extremes.

Both customary and formal tenure systems evolve and can accommodate short-term changes and opportunities. In customary systems, access to resources is based on membership of a lineage, community, or household. These systems operate most effectively where land is relatively abundant and where most land users know one another and have regular and direct contact. Formal systems are most effective where land values are high and land transactions among strangers are frequent, requiring transparency and public records to reduce information asymmetries.

Even in formal tenure systems, unwritten rights often coexist with the limited number of rights that are actually recorded in registries or titles. In practice, however, customary rights have often strengthened and concentrated the land rights of individual, senior, male household heads over multiple other interests. This results in only a small percentage of the population, and strikingly few women, holding land certificates or titles in developing countries. Joint titling appears promising, but its application is, as yet, too limited in time and scope to judge.



## Securing Rights

There are essentially two ways to enhance women's land rights. One is to *protect or increase the security of existing rights*. The other is to *create new rights or increase the range of rights over which women have control*. The comparative advantage of customary tenure systems is an institutional capacity to support existing land rights, while for formal systems it is the capacity to create new rights.

A woman's rights are secure when she can use or manage land for a defined length of time. Security of tenure consists of three dimensions.

1. **Definition** refers to clarity in the duration and content of rights. Customary rights can be ambiguous since they are established through oral contracts, which are frequently modified and interpreted. A promising area for policy development is the clarification and

registration of women's customary use rights by establishing contracts protecting widows and children from eviction. Developing leasehold contracts, with clearly defined duration and scope of women's land rights, permits effective planning and management of land and income use.

2. ***Independent control*** involves continued access to land with the right to negotiate a constantly changing set of obligations and expectations defined by the men who hold the rights. For most women, land rights are derived from their relationships to men: fathers, husbands, or brothers. The difficulty in distinguishing the rights of different household members also contributes to the false assumption that women in landed households share these rights and that women's specific land rights need only be defined when they eventually head their households. But in most cases, unlike men, women cannot liquidate, trade, or retain derived land rights when the male link is lost.
3. ***Enforcement*** talks of women's ability to defend and enforce their land rights. Tenure security depends on women's capacity to lobby for and promote their interests. It points out whether the formal and customary authorities, vested with the power to protect women's land rights, share these interests and have a strong imperative to uphold them.

## **Operationalizing Tenure Security**

For improvements in tenure security to be operational, certain issues have to be taken into consideration.

- They need to be *socially acceptable* to formal and informal governing bodies with different norms and values. Policymakers need to identify partners capable of influencing the attitudes, priorities, and incentives that govern political and group decisions.
- Proposals for improved tenure security need to be *administratively viable*. Customary land institutions are familiar and convenient to rural women as they reduce transaction costs compared to formal land administration services. But this social and physical proximity can also be repressive. Government offices and land registries can introduce new principles, maintain public land records, and offer a neutral forum in which women can effectively press their claims, but require transparent and consistent procedures and affordable transaction costs. In many countries, these institutions are inefficient, corrupt, time-consuming, and complex.
- Few women have the political connections, know-how, money, or physical proximity needed to secure land rights. A challenge for government planners is to develop capacity in land administration in order to make land transfers more efficient than customary inheritance systems.

- Another challenge is to develop a robust, affordable and accessible dispute resolution procedure. Such a procedure needs to have a quasi-judicial footing, consistency in its operation, impartial and informed officials, a court-based appeals process, and the support of both men and women.
- Where there is political will, formal tenure systems can be better suited than customary ones to rapidly creating new land rights for women. However, two major formal mechanisms - land reform and land markets - have not resulted in positive change.

## Areas for future policy attention

An examination of these experiences has brought forth significant areas for policy attention.

- Land reforms associated with new political regimes and government- or project- based land redistribution have induced significant changes to landholding patterns, poverty, and inequality, while adversely affecting women almost universally. To improve women's property rights, land reform policy must focus political will on favoring women in redistribution through stable and capable institutions.
- Changing policies that regulate land markets is a second formal mechanism for creating new rights. However, where women can legally purchase land, only wealthier women and women's groups have the income to compete in the market. Nepotism, preferential treatment, and complex and expensive procedural requirements restrict their entry to land markets. Policy should focus on reducing the administrative transaction costs and barriers faced by poorer buyers and women.
- Coalition-building through cross-sectoral alliances, unions, and lobby groups can build a shared awareness of common positions among women, encouraging joint action. Civil society groups or cooperatives have, on a small scale, succeeded in negotiating reforms and purchasing land. Coalition-building has also increased their capacity to leverage relationships of power and manipulate public opinion and legal contexts. These shifts in public attitudes are critical for creating the convergence of values that support changes in tenure systems.

Only an estimated four to 25 per cent of the beneficiaries of Latin American land reforms in the 1960s and 1970s were women. Similarly low percentages continue to characterize donor-driven resettlement and irrigation projects.

In the end, enhancing women's land rights requires that they become a political priority and a legal possibility. It also requires administrative viability, social acceptability, and moral legitimacy. Complementary policies must address women's limitations in exercising and enjoying their land rights. Even with assured land rights, investments in property require access to



financial markets and information, extension, and other services. Policymakers should be aware of the complexity of tenure systems and how legal principles associated with land rights can be subverted when put into practice. To bring about substantial progress, integrated joint action is required of each category of stakeholder noted below, in keeping with their distinct objectives.



- Women must know what rights to land they can claim and how to claim those rights.
- Formal and customary land administration officials and services must develop the administrative capacity and discipline to process records and claims in support of women.
- National governments/parliaments must approve of regulations that create the fertile ground where positive change can take root.
- The general public must recognize and accept that women's rights to land are ultimately in the interest of a broader populace, and create the popular support needed for political change.

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# Gender and Resource Rights: *Policy in Social Context*



**W**omen generally have less control of private property, and have had to depend more on common property or open access resources to support themselves and fulfill their obligations to their families. However, a more careful assessment of the extent of women's rights to common property resources is needed before embracing "the commons" as a means to reduce the gender gap in property rights.

Establishing the extent of the gender gap in property rights is complex. It depends on whether one looks only at formal "ownership" of resources or at who holds particular bundles of rights. For instance, control rights — including management, exclusion and alienation (ability to transfer rights to others) — are stronger than use rights of access and withdrawal.

## **Women's Access To Water**

Women's access to and control of water is a case in point.

### **Source**

Margreet Zwartveen and Ruth Meinzen-Dick. "Gender and Property Rights in the Commons: Examples of Water Rights in South Asia". *Agriculture and Human Values* 18: 11-25, 2001. Kluwer Academic Publishers, Netherlands.

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While women are free to use water in common property systems, it is not because of defined rights but because of the general lack of strict management rules and regulations. Strengthening rules for the use of common resources may be necessary for the effective management of common property but it could reduce women's access unless women are explicitly included as right-holders and decision-makers.

On the other hand, a woman's lack of access to water cannot simply be ascribed to the fact that she is a woman but should be analyzed in the broader framework of class and social relations of power — and even the physical structure of access to the irrigation infrastructure system.

## Putting Gender Policy in Context

The linkages between women's access to water and their rights to it requires a careful analysis of laws governing water allocation and distribution and the institutions enforcing these laws, as well as the relations of dominance and the division of labor in households.

Cases from Nepal show that women have access to water and are actively involved in irrigated agriculture but not often in the management of irrigation. Formal "ownership" — management and alienation — are vested in men as farmers or household heads, and women access water through their relationships with males. At the same time, women are not bound by the rules of irrigation associations. They can "steal" water with impunity as non-members. As female members, they can plead exemption from heavy canal maintenance work.



The linkage between assuring water rights for women and gender equality can not be simply assumed. Water reform is not a substitute for land reform and the effects of changes in water rights must be seen in relation to land tenure systems. Women may not consider water to be a primary strategic issue. At the same time, gender is not necessarily the primary determinant of access to water.

Creative thinking to devise options for achieving greater gender equality in rights to water is important to the formulation of effective policy. Merely

designing a legal framework will not by itself improve women's water use or control rights unless there are institutional enforcement mechanisms to support it. After all, laws are always assimilated by individuals operating within specific social relations of power, standards of conduct, value and interests. If women do not perceive a need, and if they are not willing to actively demand that conditions change, no amount of policy making and practice will make much difference.

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# Water Rights and Women's Empowerment



**E**mpowering poor rural women with adequate rights to water means strengthening their access to this resource for both domestic and income-generating uses. Better access to water improves women's health and incomes and liberates them from the daily drudgery of fetching water. Income-generation through gardening and farming, livestock, aquaculture, forestry, and other water-based enterprises is the mainstay of rural livelihoods, but women's opportunities for water-based income generation are still too limited.

Women's greater access to water can be negotiated relatively easily when new water resources are opened up. However, when available water sources remain the same, the competition for water becomes intense. Worldwide concerns, such as growing populations (with their increased demand for water resources), extensive water consumption, and pollution further delimit equal access to water.

## Source

Barbara van Koppen, "Empowering Women to Achieve Food Security," Brief 3 of 12, 2020 Vision Focus 6 (Empowering Women to Achieve Food Security), August 2001. Reproduced with permission from the International Food Policy Research Institute.

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## Water Uses, Issues and Concerns

### *Water for Household Consumption*

A pressing concern that should be seriously dealt with is the often steep cost of poor quality service and low-quality sanitation water resource. Addressing this basic human right to safe drinking water and sanitation has yet to be concretized, and financial support remains necessary. In any case, water supply projects become considerably more effective where the perspective of both men and women as well as their complementary intra-household roles are incorporated in project design and implementation, and decision-making.

### *Water for Income-Generation*

In order to increase women's incomes from water-based enterprises, access to water and water infrastructure are important factors. However, access to land, markets, skills, and credits, among others, also critically determine the ultimate profitability of women's enterprises.



For instance, in dual-managed or female-managed farming systems, where women make up about half or the majority of farm decision-makers, irrigation agencies need to target both men and women farmers on the same footing. However, ample evidence has shown that irrigation agencies, whether State or non-governmental, have tended to interact exclusively with male farmers, and mostly with the local administrative and political elite. Women farmers (and poor male farmers) are excluded from these negotiations, resulting in the erosion of the resource rights of these groups. Conversely, agencies (*e.g.*, irrigation institutions) that included both women and men empowered both women and men farmers, thus tapping the productivity of both. In the end, men, women and the project all gained.

## Constraints Under Growing Water Scarcity

In rural areas in developing countries, a single water source is typically used for multiple purposes, such as irrigation, livestock-raising, fisheries, washing, and even for drinking. Communal rules for water access are set and implemented through highly complex interactions among the various user groups and local authorities. However, technical, institutional, and legal interventions by outsiders may strongly impinge upon such local arrangements. Upstream water-takers and polluters who share the same river basin further affect local water availability, use and regulation. From local to basin level, large-scale water users and the administrative, political, or economic elite tend to dominate these interactions, thus

## SOME CASES OF WOMEN'S EMPOWERMENT



In India, small schemes that irrigate women-cultivated homestead lands have been successfully constructed for and managed by women's groups. A major challenge today is to develop and widely disseminate affordable, small-scale land- and water-management technologies, such as treadle pumps, bucket drips, and water harvesting techniques. By then, more poor rural women and men can obtain access to larger quantities of water. Synergy with marketing, input provision, and other rural development efforts should foster more productive use of the water.

On the other hand, in male-dominated farming systems, such as the large-scale canal irrigation schemes in Pakistan and India, women are primarily unpaid family laborers who do the transplanting, weeding, and harvesting. At best — when husbands are absent — wives can help to irrigate the land or maintain irrigation canals. Thus, the local farming system excludes the majority of women from decision-making positions in the household enterprise. Women's exclusion from community-level, male-dominated irrigation institutions, is virtually uncontested.

excluding the weaker segments of society. Poor women's needs for water are often and blatantly overlooked.

New opportunities have emerged to redress this neglect. The last decade has seen substantive efforts worldwide towards integrated water governance in order to address the growing competition for adequate, clean water. This has been accompanied by new, formal, legal frameworks and new water management institutions at basin level that call for genuine representation of all water users' interests. Community-based integrated water management institutions and local water tenure arrangements in rural areas will henceforth be linked with these new basin-level institutions. Hopefully, poor women's water needs would get utmost priority from local to basin level.

In sum, the agenda for gender-inclusive and pro-poor water governance in rural areas entails:

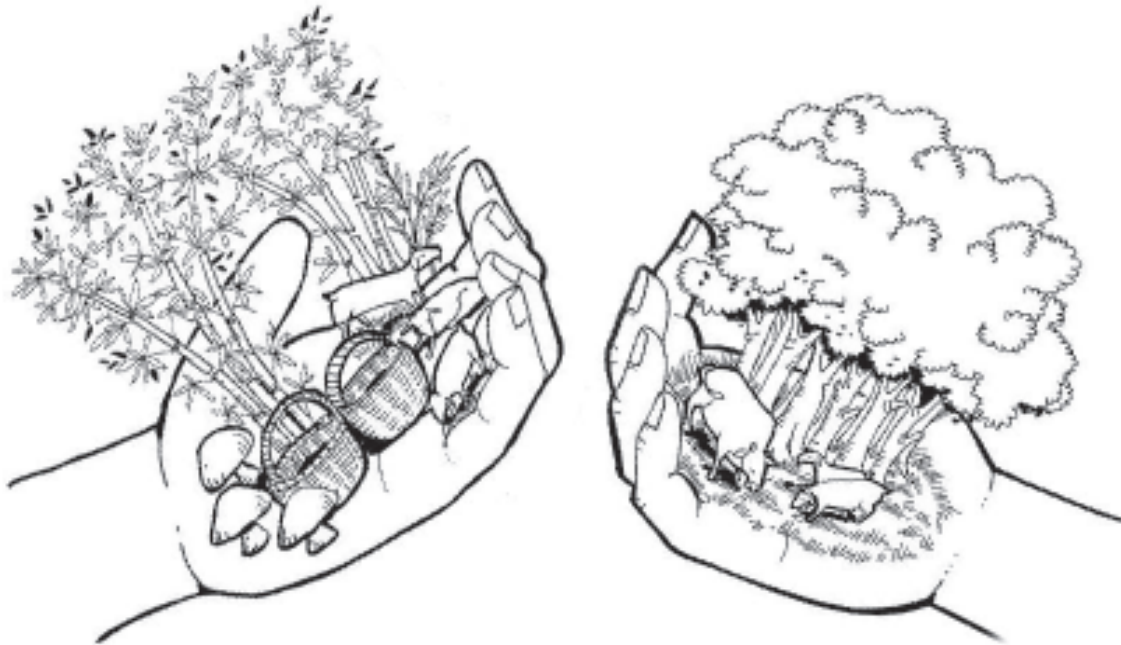
- ➔ Abolishing the excessive labor and cash costs incurred by poor women and men in meeting basic domestic water needs, while fostering equitable sharing of costs between men and women;

- Developing and disseminating affordable technologies to more poor rural women and men in order to improve their collective and individual access to more water;
- Collaborating with other gender and rural-development initiatives to foster women's independent entrepreneurship and make the range of water-based, income-generating activities more profitable;
- Informing poor women and men about new water-governance initiatives from local to basin level and including them effectively in the design of new institutions; and
- Ensuring that water is reallocated from large-scale users to small-scale users, to meet both women's and men's water-related basic needs for health and income.



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# Using Forest Resources Sustainably: *Local Solutions from Lao PDR*



**T**he majority (80 per cent) of the Lao population living in the countryside relies mainly on non-timber forest products (NTFPs) for subsistence, and secondarily, for cash income. In times of rice shortage, rural families frequently go into debt to borrow rice — with such debts often forcing them to harvest and sell forest products in a destructive manner. Rice banks can reduce pressure on forest resources by reducing chronic debt relations.

Apart from pure subsistence, NTFPs are also found to provide, on average, 55 per cent of a family's cash income in villages near forests. They also serve as a low-cost survival system, securing food, shelter and medicinal needs, and as a security system in times of food shortage or other emergencies. This suggests that every program directed at rural development and biodiversity conservation in Lao PDR should have an NTFP strategy.

In the last 50 years, however, the forests of Lao PDR have rapidly declined due to population growth and logging pressures. Forest cover has been reduced from 70 per cent of the total

## Source

Joost Foppes and Sounthone Ketphanh. "Forest Extraction or Cultivation? Local Solutions from Lao PDR". Paper presented at the workshop on the evolution and sustainability of "intermediate systems" of forest management, FOREASIA, 28 June-1 July 2000, Lofoten, Norway.

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land area in the 1940s to 41 per cent in 1999. At the same time, only a few examples of intermediate forest management systems are being implemented. Hence, as more people competed for limited forest resources, conflicts arose between village communities.

To address the problem, the local people have begun to develop new systems of managed NTFP extraction, or “forest cultivation” systems. Although these systems are still the exception to the predominant practice of “free access” forest extraction, they offer promising potential for intermediate forest management in Lao PDR and other countries.

In an attempt to study these modified forest use systems, an NTFP project was begun in 1995 by the World Conservation Union (IUCN) and the Forest Research Center of the Lao Ministry of Agriculture and Forestry, with funding from the Royal Netherlands Government.

The study showed that whereas free extraction is the main mode of forest use in Lao PDR, local communities have developed some interesting “intermediate” forest management systems.

Initially, however, the study noted a breakdown of the following traditional forest management systems:

### ⇒ ***Shifting Cultivation***

Shifting cultivation or “slash and burn” agriculture has been practiced for thousands of years in the hills of Lao PDR. In recent years, however, there has been a trend towards shorter fallow periods due to the greater demand for land and resources resulting from population growth. The reduced fallow periods have led to an overgrowth of weeds, poorer soils, lower rice yields, increased erosion, and a decline in NTFPs obtained from the forest fallow. No longer earning enough from the forest, the people have migrated to cities to become laborers. Opium production and addiction have also become a serious problem. The government has tried to end shifting cultivation by resettling villagers in valleys, introducing land allocation programs, and promoting permanent agriculture — but so far with mixed results.



## ➤ **Private Ownership of Trees**

While most of the forests of Lao PDR are considered “free access” zones, certain trees are traditionally regarded as privately owned. One example are the oleo-resin (“yang oil”) producing trees (*Dipterocarpus alatus*) that are owned and harvested by individual families. In the last decade, Lao PDR experienced an unprecedented growth — followed by a rapid decline — in its exports of yang oil, corresponding to the rapid logging and consequent depletion of its yang oil trees. These developments have resulted in the severe degradation of the Lao PDR forests, as well as a serious loss in income for the local people who make a living from selling yang oil.

## ➤ **Spirit Forests and Hunting Taboos**

Almost every Lao village has a holy or spirit forest, which is used as burial grounds or set aside as a refuge for spirits. However, the areas allotted to spirit forests have been decreasing due to demand for more land and the influx of outsiders into the villages — a widespread phenomenon in Lao PDR, where as much as two thirds of the population was displaced in one way or another towards the end of the war in 1975. Hence, the maintenance of spirit forests holds limited prospects for biodiversity conservation.

Another tradition consists of taboos practiced in individual village communities against the hunting and eating of certain types of animals. Interesting as these taboos are, most villages have stopped adhering to them or now have neighbors who do not conform to them — a result of the upheaval during the war in the 1960s to 1970s. Thus, prospects for conservation through the observance of such taboos appear also to be limited.

## **Intermediate Forest Use Systems**

The earlier-mentioned study showed that while free extraction is still the main mode of forest use in Lao PDR, local communities have developed some “intermediate forest management systems”. These seem to be driven by five key forces:

- Rapid population growth and massive population movements during and after the war of 1964-1975, leading to the disruption of traditional social structures;
- Growing market for forest products as a result of changing Government policies on economics and trade and improved transportation systems;
- Growing insecurity of land tenure and access rights, despite Government policies to regulate these matters;
- A very active and enterprising attitude of local innovators who continue to invent and test new intermediate forest use systems; and
- A growing network of support organizations/projects that assist local innovators to learn from each other and to continue testing new intermediate forest use systems.

The intermediate forest management systems discussed earlier each play a key role in different aspects of economic and social life in Lao PDR, as follows.

## **1. Single-Village Agreement on Forest Use Rules**

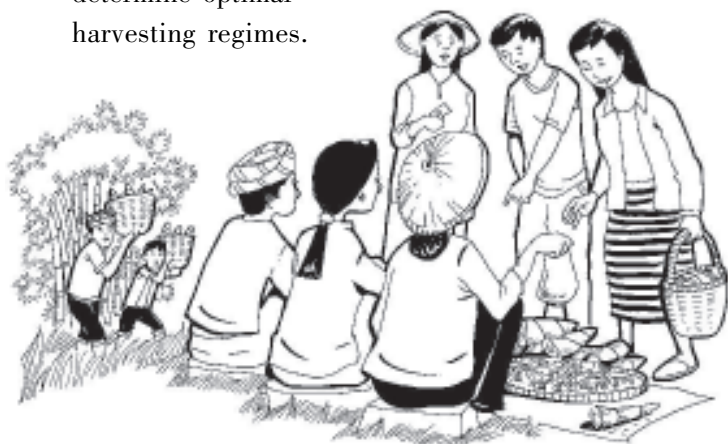
Village communities are starting to make agreements on forest use rules. Two examples are: NTFP harvesting in Southern Laos and the selling of bamboo shoots in Oudomxay.

### **STRENGTHENING LOCAL GROUPS**

Villagers of Nam Pheng, Oudomxay used to be very poor, and could not produce enough rice to feed the community all-year-round. The off-season bamboo shoots they gathered for sale during the dry season did not generate enough income. With the assistance of the IUCN/NTFP Project, the villagers were able to analyze the problem.

In a series of meetings, the community gradually realized that they could improve their sales of bamboo shoots if they would team up and sell at a fixed price, at a designated place, not measured per bundle but measured per group. The community discussed this idea until every family had agreed to join the village selling group. The results exceeded all expectations.

As a result, the community became very interested in monitoring and managing its bamboo forests. Together with District forestry officers, they are now making inventories of their bamboo forests and are testing various cutting methods to determine optimal harvesting regimes.



The experience of a village in Oudomxay offers a lesson in how to sequence group-development activities. It may be better to start with an income-raising activity (*e.g.*, an NTFP selling group) or an activity that improves community well-being (*e.g.*, rice banks) before venturing into forest management or sustainable harvesting agreements.

## **2. NTFP Harvesting Rules**

The village of Ban Nong Hin, Champasak has developed management systems that range from rotational harvesting of rattans to prohibited fishing seasons or total hunting bans for certain species of wildlife. These rules resulted from their own estimate of declines in off-takes of NTFPs from 1989-1999. Exposure to examples of management practices from other areas in Lao PDR and from other countries assisted the community in developing its own set of rules.

The NTFP Project organized a meeting with all stakeholders identified by the villagers as other user groups competing for the same forest resources:

- High-ranking provincial government officials;
- District officers;
- Soldiers of the District army camp;
- Soldiers of the army camp in the next village; and
- Four surrounding villages.

Participants discussed the declines in forest products, reasons for destructive harvesting, alternative sustainable management systems, new rules and sanctions, the roles of all forest users, etc. At the end of the workshop, all participants agreed to adopt the proposed rules, giving village communities the right to use agreed sanctions against trespassers. This model is now being replicated in surrounding villages.

### **3. Multi-Village Arrangements on Forest Use Rules**

As the village community is the traditional unit of organization in Laos, there are very few structures for inter-village conflict resolution. Therefore, the NTFP Project used workshops to create common understanding on the need for conservation and sustainable forest use among neighboring villages.

### **4. Domestication of NTFPs**

“Forest cultivation,” or “agroforestry,” consists of forested landscapes influenced by forest users. Examples of NTFP domestication being practiced in Southern Laos include the cultivation of cardamom, *sisiet* bark, broom grass, bamboo, and edible rattan shoots.

### **5. Local Social Strategies**

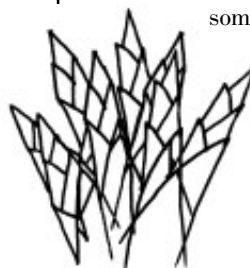
Intermediate systems provide a biologically diverse range of food, as well as subsistence needs, to the majority of the rural population. Thus, they provide an excellent risk insurance system against slack periods or times of crisis. Fish conservation and NTFP domestication seem to fit very well as local social and survival strategies and may provide a solid basis for rural life-styles in the new century.

### **6. Landscape Level Effects**

Intermediate systems have minor effects on the landscape compared to logging, shifting cultivation, and conversion to agricultural land. Forest cultivation (*e.g.*, agro-forests) could

#### **EDIBLE RATTAN SHOOTS**

Edible shoots of rattan are considered a delicacy in Laos. They fetch a good price (US\$0.20-US\$0.30/kg) at local urban markets. As forests began to disappear, rattan shoots became more difficult to find. Local innovators saw the potential for cultivating rattan to produce the edible shoots and started planting in 1994. They learned nursery methods from nearby Northeast Thailand, where rattan cultivation had started earlier. At least three families have begun to make a good income from selling rattan seedlings, and some 20 families have started selling shoots from their rattan gardens. Yields vary between 1,000 and 2,000 kilograms per hectare.



## COMMUNITY FOREST USE RULES

Village communities that had been forced out of the Xe Bang Nouan Protected Area in Salavan, Southern Laos by various governments over the last 60 years were struggling to survive on the very fragile, exhausted sandy soils around the Protected Area. They continued to use the forests inside the Protected Area intensively for fishing, collection of NTFPs and firewood, grazing of livestock, and illegal hunting and logging. Inevitably, the resulting competition for limited forest resources created conflicts among the villages.

The NTFP Project brought representatives of up to 20 neighboring villages together for a series of workshops. These workshops led to basic agreements on forest use rules that will be worked out in more detail in follow-up workshops. All participants, including district government representatives, are eager to continue the process.



provide forested landscapes over large parts of what are now agricultural or fallow lands. Cultivation of NTFPs and sustainable management of aquatic resources may reduce pressure on remaining forest resources, leaving more forests intact.

## 7. Biodiversity Conservation

The harvesting of NTFPs (including wildlife) can affect biodiversity in two ways: the harvested species itself can be affected by harvesting or planting, or other species can be

### BAMBOO PRODUCTS

The village of Ban Lak 25 specializes in the production of bamboo products, with the villagers displaying a wealth of local knowledge on bamboo. Seven species of bamboo are used by the Ban Lak 25 villagers:

| WILD SPECIES       |  | USES   |
|--------------------|--|--|
| 'Mai sod'          |  | Walls of bamboo houses, floor mats, handicrafts<br>(e.g., basketry, fish traps, food containers) |
| 'Mai hia'          |  |  |
| 'Mai lai'          |  | Basketry   |
| 'Mai ko'           |  | Construction   |
| CULTIVATED SPECIES |  | USES   |
| 'Mai sang pai'     |  | Edible bamboo shoots for sale  |
| 'Pai pungwan'      |  | Construction   |
| 'Mai phai ban'     |  | Construction, handicrafts  |

There is a gradual transition from wild bamboo stands to privately owned bamboo gardens. Bamboo is grown mainly to produce edible bamboo shoots that can be sold, rather than bamboo poles.

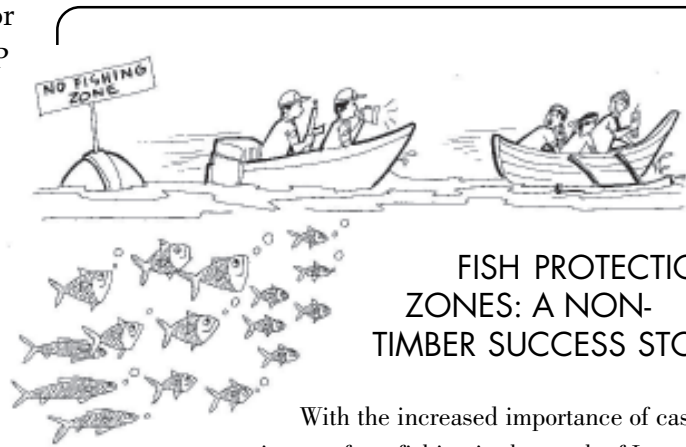
affected as a result of the harvesting or planting. The depletive effect of NTFP extraction on the survival of forest species depends largely on *which part* of the organism is harvested *and at which stage* in its life cycle. Further, the domestication of NTFPs can affect not only the availability of other plant species but also of animal species feeding on such plants. However, if agro-forests are to be compared to their agricultural alternatives, the biologically more complex agro-forests are a far better environmental alternative.

## 8. Community Fish Protection Zones

Fish conservation zones have emerged as a very popular concept. Fish are considered by most rural Lao people as a forest product, since much fish is caught in forest streams and wetlands close to forests. Because fish is such a vital food resource for the Lao people, there is considerable interest in sustainable fish management. Firstly, its results are quickly visible and easy to monitor. Secondly, fish conservation provides an excellent entry point for integrated development and conservation programs.

## Models That Have Worked

Intermediate systems, especially NTFP-based ones, are a very promising solution to the problems of forest management. But while local people can develop such locally adapted solutions, they cannot enforce these without support from outside facilitators. A network of services needs to be available to provide information exchange, technical support, social services, credit assistance, and other services. Recommendations taken from models that worked well in the IUCN-NTFP Project are:



### FISH PROTECTION ZONES: A NON-TIMBER SUCCESS STORY

With the increased importance of cash income from fishing in the south of Laos, the Lao Community Fisheries and Dolphin Protection Project developed a program of village level meetings in the Siphandone area, enabling communities to become aware of problems and to make decisions on management regulations. The meetings are held in harmony with local customs, and involve all existing local organizations. Decisions are documented and validated by local authorities. As a result, over 60 village communities in one district in Southern Laos have set up successful co-management systems for fish and frog conservation since 1993.

Taking into account the complex system of seasonal water flows and fish migration patterns of the Mekong, typical management options chosen by local communities were:

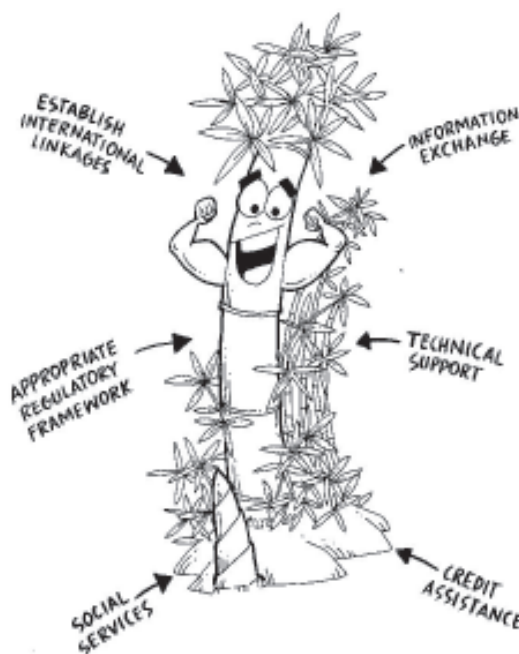
- No-fishing zones in well-defined strips of the mainstream Mekong river. These deep-water areas act as a refuge for fish during the period of peak fishing pressure in the dry season;
- Bans on stream blocking. This measure allows fish to move into spawning areas such as wetlands and paddy fields at the beginning of the wet season;
- Bans on various methods that are seen as unfair (*e.g.*, water banging, fishing with spears and lights, use of explosives, chemicals and electricity);
- Juvenile fish conservation (*e.g.*, ban on scoop-netting of juvenile snakehead fish, *Channa striata*);
- Regulations on fishing in paddy fields and communal ponds (revive community traditions); and
- Frog conservation schemes (*e.g.*, limited hunting during spawning season, no catching of tadpoles).

- Work closely with selected appropriate local institutions at all levels;
- Organize and train province/district level field teams, who will facilitate participatory processes at the village/community level;
- Use participatory techniques (PRA) to facilitate the creation of user groups and identify options for action;
- Identify and support “entry point” activities, *e.g.*, rice banks, planting trials, marketing groups, land allocation processes;
- Apply participatory monitoring methods;
- Share results through workshops at village, district, province, national, and regional levels;
- Improve local networking through stakeholder workshops focusing on specific topics;
- Arrange village-to-village exchange visits and study tours for effective sharing of local information;
- Provide examples from other countries to local user groups through international networks and by means of workshops, study tours, e-mail exchange, literature and magazines; and
- Use examples from successful villages for study tours by outsiders from other villages, provinces, and other countries.

## Options for Government and Aid Organizations

Some options for government and aid organizations deciding how to support the development of intermediate NTFP production systems are:

- Add an NTFP strategy to all rural development and biodiversity conservation projects/ programs in the country;
- Set up NTFP development support units at the province and district level;
- Specify NTFP programs for forest dwelling ethnic minorities to emancipate themselves socially, reduce poverty, preserve their cultural heritage, and protect their environment;
- Support national research and training programs to backstop locally adapted NTFP programs;
- Establish a national program for forest products marketing/trade support;
- Set up permanent institutions for ethnobotanic data collection and storage;
- Create a regulatory framework to strengthen community rights and stimulate fair trade;
- Support the establishment of international linkages to encourage the regional exchange of technical information on NTFPs.



Lao PDR has a remarkable opportunity to build a strong NTFP sub-sector as a basis for sustainable economic development in the Southeast Asia region. By strengthening its rural communities, it also has the best chances to preserve its rich biodiversity and cultural heritage. Intermediate forest systems are likely to turn out to be the only realistic alternative for Lao PDR, given the country's unique combination of relatively low population densities and large forested areas.

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# Tenure Arrangements for Non-Timber Forest Products in Southern Laos



The experience of forest dependent communities in Pathoumphone District of Champasak Province in Southern Laos offers proof that forest dependent communities have developed multiple and complex tenure arrangements for managing and protecting various non-timber forest products (NTFPs), and that it is essential to carefully consider these tenure arrangements in the context of outside management initiatives.

## Communal Land, Private Trees

Most forest resources, whether trees or non-timber forest products, are traditionally considered common property resources by the villagers of Pathoumphone District. However, tenurial rights over these resources may vary in a number of ways. For instance, privately owned trees can be found on commonly owned land, while some malva nut trees, for example, that are found on private land may be commonly owned.

### Source


Ian C. Baird and Somphong Bounphasy. "Non-Timber Forest Product Use, Management and Tenure in Pathoumphone District, Champasak Province, Southern Laos". Remote Village Education Support Project — Global Association for People and the Environment, January 2003.

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Meanwhile, individual rights to trees (in relation to the collection of NTFPs) are determined by the nature of the products being harvested from them.

In the case of wild honey, for instance, honeybee tenure rights, or ownership rights to trees where the honey bees nest, are based on the type of bees nesting in particular trees, as shown on *Table 1* below.

**Table 1.** HONEYBEE TENURE RIGHTS



| Type of Honey Bees | Characteristic  | Tree Tenure  |
|--------------------|---|--|
| 1) Pheung Phoum    | Nests on all tree types; produces from 5-30 liters of honey per nest                | Temporary private ownership of tree (reverts to community after 1 harvest of honey)            |
| 2) Pheung Ton      | Nests only on one <i>deua han</i> tree; produces from 5-10 liters of honey per nest | Permanent private ownership of <i>deua han</i> trees; rights to tree may be passed on to heirs |
| 3) Pheung Kon      | Nests on hollowed insides of trees; produces only 1 liter of honey per nest         | Private ownership of trees passed on to heirs  |



Wild fruit trees are by tradition considered common property. However, fruit trees that had been planted by an individual or group of individuals, whether on private or public land, are considered private property. The cutting down of wild fruit trees and/or their branches is prohibited.

Vines and other plants that are dependent on primary growth trees are considered common property. Villagers have the right to harvest and sell these products. Outsiders, meanwhile, have to pay fees to the village in order to partake of them.

### THE MALVA NUT TREE

The malva nut tree is among the tallest trees in the semi-evergreen forest of the Pathoumphone District of Southern Laos. Although it had always been abundant, the villagers found little use for its fruit, except as an ingredient in a basic Lao dish. Between 1980-1990 however, the demand for the malva nut rose dramatically, owing to the discovery of its medicinal use by ethnic Chinese. This prompted the villagers to come up with creative and sustainable methods of harvesting, trading, taxation, marketing and management of the malva nut trees and its subsequent economy. Malva nut tree plantations have also been established by communities to supply the growing demand for the malva nut.

## NON-TIMBER FOREST PRODUCTS IN CHAMPASAK PROVINCE

Regardless of ethnicity, the people of Pathoumphone are heavily dependent on forest products for their livelihood. Indicating the importance of NTFPs in Champasak Province, Foppes (1996) reported the collection of 300 different products. He roughly classified these into five main groups:

- (1) *food products* [bamboo shoots, fish, bush meat, wild vegetables and fruits, wild tubers, insects and molluscs];
- (2) *construction materials* [bamboo, rattan and other fibers];
- (3) *gums and resins* [wood resin, dry resin, “bong” bark and sticklac];
- (4) *medicinal plants* [malva nuts, cardamom, fern roots, neam bark and vomica nuts]; and,
- (5) *ornamental plants* [orchids, ferns and curcuma flowers].

## Factors influencing NTFP and Forest Resource Management

### 1. Markets for NTFPs

A ready market for a variety of NTFPs assures people in forest-dependent communities of a reliable source of income and livelihood. Since these communities are generally located in the uplands and thus have limited access to road networks, their agricultural activities have remained largely at the subsistence level. They are therefore highly dependent on products such as wild honey, vines, leaves, herbs and medicinal elements, and fruits to augment their incomes and livelihood options.

### 2. Strong Village Communities

The presence of strong village communities, particularly indigenous communities, with their traditional and sound knowledge of forest and NTFP management, helps a lot in maintaining ecological balance and forest sustainability. Villagers act as forest guardians trying to strike a balance between livelihood and income options and resource sustainability.

### 3. Cultivation

Some forest resources like the cardamom and the malva nut tree are now being cultivated by

### WOOD RESIN TREES

Wood resin trees are large perennial trees that are well-known in Southeast Asia for their wood oil, which is used in a wide range of products, including torches, epoxies, varnishes and paints, and perfumes. Naturally grown trees are initially considered common property but once a person invests labor in cutting a hole in the tree to facilitate the extraction of wood resin, the tree becomes the exclusive private property of that person. Rights to these trees then become inheritable.

When it comes to the right to cut down wood resin trees for timber, practices vary among villages. In some communities, only tree-tapping rights are considered exclusive, while the sale of timber should benefit the entire community. In other

villages, ownership of the trees includes the right to tap and cut the trees. However, the community taxes individuals who profit from their wood resin timber.



## INSIGHTS AND LESSONS

Some useful insights and lessons can be drawn from the experience of Southern Laos. Some of these can be summarized as follows:

- Different plant-based NTFP resources are managed under different tenure and management arrangements. As has been shown, the same resource can be managed under different tenure arrangements, depending on the circumstances.
- Tenure arrangements can be permanent or temporary, and they can certainly change according to circumstances. They are often multilayered.
- Different communities, even in the same district and within the same ethnic group, can have quite different resource tenure arrangements. Many of these arrangements are not mandated by government decrees nor are even written down.
- Management regimes are generally much more complicated than are generally perceived.
- It is important for forestry planners to consider the multiple and varied forest use patterns and tenure arrangements that exist for the different forest resources, including NTFPs.



- Local people use and manage forest resources in particular ways, based on their local ecological knowledge.
- Multiple resource tenure analysis (*i.e.*, the recognition of different kinds of resource rights and its creative application in tenurial management) needs to be carefully considered and integrated into the planning process, especially when developing plans for logging of any kind, including so-called “sustainable logging”.

villagers in selected areas in the Pathoumphone district. Forest tree and NTFP varieties that thrive well under cultivation provide a new source of livelihood and protect against the indiscriminate harvesting of wild growth forest resources.

Some agroforestry systems such as the one for *phou* leaf production, and the system for managing wild cardamom, encourage the retention of forests either as old-growth trees for the *phou* leaves to climb up on, or as a natural secondary forest suitable for cardamom production. It is unfortunate though, for both protected area management and for local people, that these two systems are now in serious decline due to market factors.

## Moving Towards Efficient NTFP and Forest Resource Management

### *Mapping of Forest Resources*

A study of existing forest resources provides a useful tool for sustainable forest resource management systems. Identifying various forest resources will help upland/forest communities to develop appropriate resource management technologies/systems.

### *Market Research and Product Development*

Research regarding market possibilities and the development of NTFPs should be undertaken in the context of carefully considering local resource tenure arrangements, in order to assist communities in strengthening management systems and finding suitable markets for their NTFPs.

## ***Government Regulations***

Government mandated regulations sometimes end up damaging the systems that local people are already implementing, thus leading to resource destruction and decline. For instance, the ban on the commercial trade in and export of wood resin from Laos that was enforced in 1996 caused drastic declines in prices and markets for this product. The government should recognize that tree-based NTFPs are critical to the livelihoods of the villages concerned, and that understanding local tenure arrangements for different NTFPs is essential for determining appropriate management strategies.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Sharing a Common Pot: *Community Management of Forest Food Resources in Lao PDR*



**F**orest food resources occupy a central place in the food system of the Lao people. Rural communities traditionally obtain food from natural forests, fallow swidden, agro-forests, rice fields, and associated aquatic environments. Seasonally available fish, frogs, bamboo shoots, plants, tree leaves, insects, wild meat and mushrooms are essential components of the daily diet of forest dwellers and upland shifting cultivators. Because they provide food year-round and can also be sold and exchanged to obtain rice during times of drought, flood-induced crop failure and economic hardship, forest foods make a vital contribution to the otherwise nutritionally poor and bland diets of rural households. At the same time, the cultural significance of traditional foods for daily meals in the home, on ceremonial occasions and as sought-after delicacies in restaurants, has generated a strong market among the growing urban population and lowland farmers who no longer have access to productive forests. Thus directly through consumption, and

## Source

Kate Clendon, "The Role of Forest Food Resources in Village Livelihood Systems: A Study of Three Villages in Salavan Province, Lao PDR," IUCN, August 2001.

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indirectly through sale and barter, forest food resources make a significant contribution to household food security, both locally and at the national level.

However, at current levels of harvesting, these food resources are at risk of being depleted. Already, villagers are finding it harder than ever to meet their daily food needs from forest food resources. As a result, the latter now make up an increasingly smaller proportion of the diet than in the past. The decline in forest resources has also had direct negative impacts on the livelihood of these forest-dependent people.

Clearly, the traditional system of open access sharing is no longer able to cope with competitive harvesting by growing numbers of people.

A field study (*see box article*) conducted in 1998 in three communities in southern Lao PDR yielded quantitative proof of the critical value of forest foods in augmenting the people's diet, and thus ensuring food security throughout the community, particularly among the poorest households. Participatory research was conducted in three subsistence communities located on the edge of the Xe Bang Nouan National Biodiversity Conservation Area (NBCA) in the south of the Lao People's Democratic Republic (Lao PDR). These communities are Ban Khamteuy, Ban Konglunoi and Ban Nongthe.

The field study was undertaken as part of the Non-Timber Forest Products (NTFP) Project, which was started in Lao PDR in 1995 as an integrated development and conservation project, administered by IUCN — The World Conservation Union and the Department of Forestry of Lao PDR. The project aims to promote the well-being of local communities within the context of biodiversity conservation, through the sustainable development of non-timber forest resources.

As recently-settled lowland agriculturalists, these predominantly Lao Theung/Katang communities are historically and culturally dependent on the forest. Their self-sufficiency in food was based on fishing, hunting and gathering, and swidden cultivation. Moreover, the study drew out community perceptions of food resource management and thus pointed to opportunities for community-based management approaches that integrate conservation and development.

## **The Contribution of Forest Food to Community Well-Being**

### ***Food for all seasons***

Forest food resources make a significant contribution to the food system of the study households throughout the year, both directly for consumption, and indirectly through sale and exchange for rice and essential cooking ingredients. As seen in *Figure 1*, frogs, fish, small animals and greens are gathered continuously, while the collection of other species with shorter periods of availability is distributed across the seasons. Forest foods thus provide a regular flow of nutrients to household diets.

**Figure 1. KHAMTEUY ANNUAL CALENDAR FOR FOREST FOOD RESOURCES**

| No. | Food Resources | MONTHS |   |   |   |   |   |   |   |   |    |    |    | Collected by |   |   |   |
|-----|----------------|--------|---|---|---|---|---|---|---|---|----|----|----|--------------|---|---|---|
|     |                | 1      | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | M            | W | B | G |
| 1   | Frogs (Kop)    |        |   |   |   |   | █ |   |   |   |    |    |    | ✓            | ✓ | ✓ | ✓ |
| 2   | Frogs (Khiat)  | █      | █ | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 3   | Crabs          | █      | █ | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 4   | Shrimps        |        |   |   |   |   |   | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 5   | Snails         |        |   |   |   |   |   | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 6   | Eels           |        |   |   |   |   |   | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 7   | Snakes         | █      | █ | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 8   | Fish           |        |   |   |   |   | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 9   | Fish (fa)      |        |   | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 10  | Turtle         |        |   |   |   |   | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 11  | Len            |        |   |   |   |   | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 12  | Kathang        |        |   |   |   |   | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 13  | Lizard         |        |   |   |   |   | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 14  | Nyeh           | █      | █ | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ |   |   |
| 15  | Rats           | █      | █ | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 16  | Squirrels      | █      | █ | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 17  | Bamboo shoots  |        |   |   |   |   |   | █ | █ | █ | █  | █  | █  | ✓            | ✓ |   |   |
| 18  | Dohrk gachaw   |        |   |   |   | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ |   |   |
| 19  | Pak wan        |        |   | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ |   |   |
| 20  | Mushrooms      |        |   |   |   |   | █ | █ | █ | █ | █  | █  | █  |              | ✓ |   | ✓ |
| 21  | Chilo          |        |   |   |   |   |   |   |   |   |    | █  | █  |              | ✓ |   | ✓ |
| 22  | Pak naam       |        |   | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 23  | Pak kadon      |        |   | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 24  | Pak tiew       |        |   | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 25  | Honey/Larvae   |        |   |   |   | █ | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 26  | Toads          |        |   |   |   | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 27  | Big toads      |        |   | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ |   |
| 28  | Pak samek      |        |   |   |   |   |   |   |   |   |    | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 29  | Pak eleh       | █      | █ | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 30  | Bon            | █      | █ | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  |              | ✓ |   | ✓ |
| 31  | Red ant eggs   |        |   | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  |              | ✓ |   | ✓ |
| 32  | Chachan        |        |   |   | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            |   | ✓ |   |
| 33  | Mango          |        |   |   |   | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ | ✓ | ✓ |
| 34  | Mak chong      |        |   |   |   | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ |   |   |
| 35  | Tow            |        |   |   |   |   |   |   | █ | █ | █  | █  | █  | ✓            | ✓ |   |   |
| 36  | Low            | █      | █ | █ | █ | █ | █ | █ | █ | █ | █  | █  | █  | ✓            | ✓ |   |   |

M = Men; W = Women; B = Boys; G = Girls



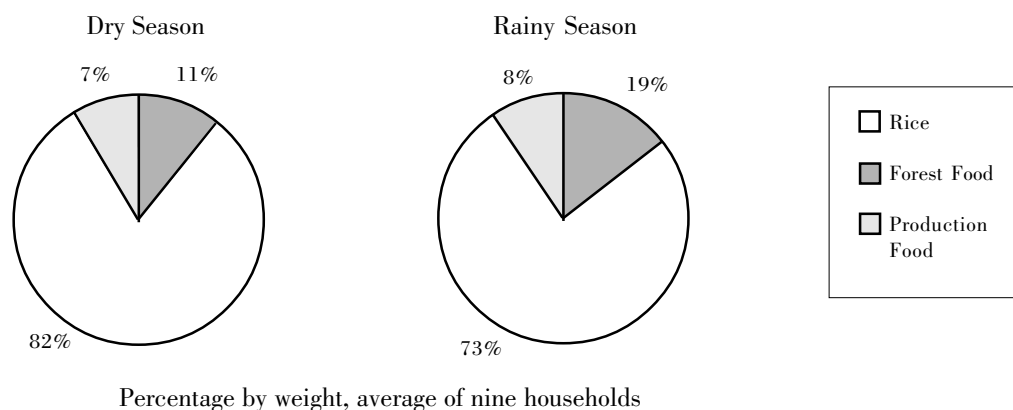
## Rich inputs for poor diets

The food system is based on the staple glutinous rice. As such, this dominates the diet, at an average proportion by weight of approximately 82 per cent and 73 per cent of total consumption during the dry and rainy seasons, respectively (Figure 2). Second to rice, forest foods are an essential component of the diet, accounting on average for 11 per cent and 19 per cent of total household consumption in the dry and rainy seasons.



Therefore, apart from rice, forest foods amounted to 61 per cent and 70 per cent of total consumption. As forest foods provide year round diversity to otherwise nutritionally poor, poorly balanced, and bland diets, they ensure a regular source of key nutrients.

**Figure 2.** HOUSEHOLD FOOD CONSUMPTION



## What are forest foods worth?

The Kip values recorded in *Table 1* are a summation of the daily household estimates for all foods consumed, including food eaten in the fields during rice cultivation. As far as possible, valuation was based on the actual selling/buying/exchange values in the village.

Forest foods represent a significant proportion of total food value, with a household average of 11 per cent to 19 per cent in the dry and rainy seasons respectively. Household variation ranges from four per cent to 48 per cent, with the poorest households recording the highest percentages of total food value derived from forest foods.

**Table 1. DAILY HOUSEHOLD FOOD CONSUMPTION VALUE**

VILLAGE/  
HOUSEHOLD

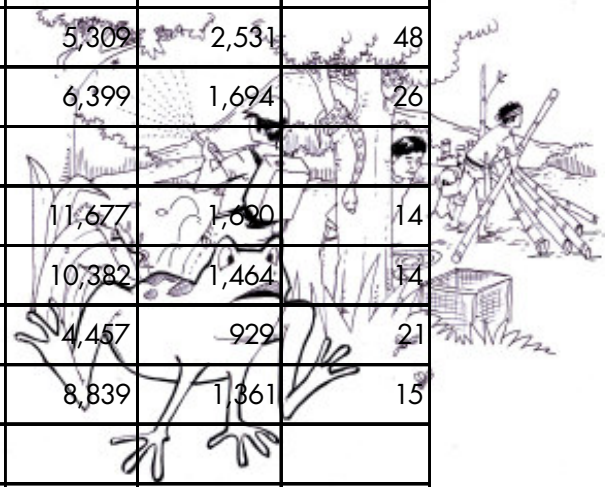
Dry Season (\$1 = Kip 2,500)

Rainy Season (\$1 = Kip 3,850)

|                  | Dry Season (\$1 = Kip 2,500) |                      |                       |                        | Rainy Season (\$1 = Kip 3,850) |                      |                       |                        |
|------------------|------------------------------|----------------------|-----------------------|------------------------|--------------------------------|----------------------|-----------------------|------------------------|
|                  | Adult Equiv.                 | Total food (kip/day) | Forest food (kip/day) | Forest food % of total | Adult Equiv.                   | Total food (kip/day) | Forest food (kip/day) | Forest food % of total |
| <b>Khamteuy</b>  |                              |                      |                       |                        |                                |                      |                       |                        |
| HH1              | 2.8                          | 4,246                | 462                   | 11                     | 2.9                            | 6,381                | 1,316                 | 21                     |
| HH2              | 4.7                          | 2,889                | 267                   | 9                      | 4.7                            | 7,506                | 1,234                 | 16                     |
| HH3              | 6.9                          | 2,278                | 341                   | 15                     | 4.6                            | 5,309                | 2,531                 | 48                     |
| Average          | 4.8                          | 3,138                | 350                   | 11                     | 4.1                            | 6,399                | 1,694                 | 26                     |
| <b>Konglunoi</b> |                              |                      |                       |                        |                                |                      |                       |                        |
| HH1              | 7.4                          | 4,605                | 591                   | 13                     | 7.9                            | 11,677               | 1,690                 | 14                     |
| HH2              | 5.5                          | 8,884                | 1,017                 | 11                     | 5.6                            | 10,382               | 1,464                 | 14                     |
| HH3              | 2.6                          | 2,636                | 255                   | 10                     | 2.6                            | 4,457                | 929                   | 21                     |
| Average          | 5.2                          | 5,375                | 621                   | 11                     | 5.4                            | 8,839                | 1,361                 | 15                     |
| <b>Nongthe</b>   |                              |                      |                       |                        |                                |                      |                       |                        |
| HH1              | 5.2                          | 4,059                | 361                   | 9                      | 5.2                            | 7,016                | 1,081                 | 15                     |
| HH2              | 5.0                          | 3,947                | 156                   | 4                      | 5.1                            | 5,749                | 741                   | 13                     |
| HH3              | 2.8                          | 2,486                | 242                   | 10                     | 2.8                            | 3,761                | 760                   | 20                     |
| Average          | 4.3                          | 3,497                | 253                   | 7                      | 4.4                            | 5,509                | 861                   | 16                     |

**Community Perceptions of Food Resource Management**

In recent years, the area covered by the study has been subject to commercial logging, and the effects of war and recurrent insecurity have continued to influence traditional patterns of resource use and farming by restricting access to forest and village land. Wildlife and forest resources were plentiful until the early 1980s, but population pressure has imposed increasing demands on natural resources, leading to a decline of the overall resource base on which the villages depend. Production of rain-fed rice underpins the livelihood system, but



declining soil fertility and unreliable rainfall have led to serious rice shortages. While the forest continues to play an important role in the village livelihood system, particularly as a source of daily food, forest resources are becoming less plentiful due to competitive harvesting and habitat loss.

## Traditional Resource Sharing

Village elders recount how traditional sharing operated in the past, when resources were abundant and gathering was for family consumption only. Aware of their own contribution to resource decline, villagers acknowledge that overharvesting has exceeded the replacement capacity of key food species. Traditional methods of fishing and hunting have given way to more expedient but destructive practices, including the use of guns, fine mesh nylon nets, poison, explosives and battery torches, thus encouraging indiscriminate collection of under-size fish and tadpoles, and large quantities of frogs. There is also concern about destructive methods and high harvesting levels of bamboo and *Pandanus*. Free ranging cattle are reported to cause damage, and previously recognized rights of use to certain sites and resources are being ignored.

**Table 2.** VILLAGER ANALYSIS OF TRADITIONAL RESOURCE SHARING

|                      |  |                    |   |
|----------------------|--|--------------------|---|
| <b>Strengths</b>     | <ul style="list-style-type: none"> <li>• Strengthens cooperative sharing within and between villages</li> <li>• Encourages working together to meet common needs</li> <li>• Problems can be resolved to avoid sanctions and conflict</li> <li>• In the past, resources were plentiful and provided for everybody</li> <li>• Traditional collection methods conserved resources</li> <li>• Traditional sharing and rights are respected by villagers</li> </ul> | <b>Weaknesses</b>  | <ul style="list-style-type: none"> <li>• Equitable sharing is difficult</li> <li>• Many people are competing for declining resources</li> <li>• Leads to conflict as difficult to protect resources according to rules</li> <li>• Leads to forest and resources loss through careless use, cutting trees, hunting, burning</li> <li>• Harvesting practices and equipment (poison, nylon nets, explosives, battery torches) are destructive</li> <li>• Traditional rights are not always acknowledged in official rules and regulations</li> </ul> |
|                      | <ul style="list-style-type: none"> <li>• There is an opportunity for sustainable resource management if:               <ol style="list-style-type: none"> <li>i) people are aware of needs and benefits of conservation</li> <li>ii) boundaries are clearly defined, mutually agreed and respected by neighboring villages</li> <li>iii) rights and regulations are jointly planned, agreed and respected</li> </ol> </li> </ul>                               |                    | <ul style="list-style-type: none"> <li>• Villagers cannot ensure sustainable resource management without adequate support from district, provincial and NBCA authorities in:               <ol style="list-style-type: none"> <li>i) developing awareness of conservation</li> <li>ii) enforcing regulations</li> <li>iii) applying sanctions</li> </ol> </li> </ul>  |
| <b>Opportunities</b> |  | <b>Limitations</b> |   |

These infringements represent a loss of livelihood resources as well as a potential source of conflict. Villagers agree that greater control over resources is needed in order to reduce the impact of competitive and destructive harvesting. Clearly-defined village boundaries should help in this respect, but due to a strong cultural sense of sharing, established patterns of open access sharing still influence resource use (*Table 2*). Although the NBCA was designated in 1993, heavy resource use within the area continues. This involves not only the permitted gathering of food resources and other NTFPs, but also ongoing hunting and burning, for which no one takes responsibility, least of all the NBCA authorities who, the villagers claim, are unable to monitor the area or impose sanctions.

## **Land and Forest Allocation**

Since land and forest allocation was carried out in 1998, Khamteuy and Nongthe have accepted responsibility and formal use rights for demarcated sections of the NBCA. Reportedly, conservation awareness has improved among neighboring villages, who have agreed to report instances of fire, tree cutting and wildlife hunting to the district authorities. However, numerous examples of ongoing conflict over resource use were mentioned. For example, destructive harvesting of *mak chong* by cutting down trees in the area allocated to Khamteuy in 1998 was seen as a serious infringement of the hitherto recognized rights of Khamteuy villagers to this valuable resource.

Problems were also reported between Khamteuy and the northern villages of Budtapan and Phoupie in Savannakhet Province over nonrecognition of fishing restrictions in a designated reserve reach on the Xe Bang Nouan; in addition, encroachment into rice fields and village forest by neighboring villages was commonplace.

Although they acknowledge the potential benefits of land and forest allocation, villagers report ongoing hunting, tree cutting, destructive harvesting and forest fires. Despite agreement on the part of village committees, illegal harvesting and burning continues, but penalties do not serve as deterrents due to lack of villager awareness and low levels of enforcement. There is inadequate cooperation amongst villages, and management is difficult due to fear of conflict. But even when village boundaries are clearly defined, and land and forest allocation takes effect, available resources must still be shared. Therefore, the traditional system continues to have relevance, forming the basis of future resource management.

## **Sustainable Management of Key Food Resources**

The key food resources identified by villagers, based on ecological status, importance for subsistence use, and potential for income generation, were fish, frogs and bamboo shoots. Villagers reviewed current harvesting practices in relation to growth, regeneration and life

cycles of the species concerned, then proceeded to design sustainable harvesting and management systems. The following are some proposed components of these systems:

- (For fish and frogs) Establishment of defined breeding and reserve areas, and controlled breeding;
- (For bamboo) Individual planting around family rice fields, and shared use on village land;
- Planting of fodder species (*mei du* for cattle and *kabuk* for pigs);
- Prohibition on the sale and exchange of forest food resources until productivity has increased through sustainable management;
- Cooperation within the community and with neighboring villages in order to share and manage resources sustainably;
- Securing the support of district, provincial and NBCA authorities for the management systems that have been formulated and agreed by the communities; and
- Strict enforcement of rules.



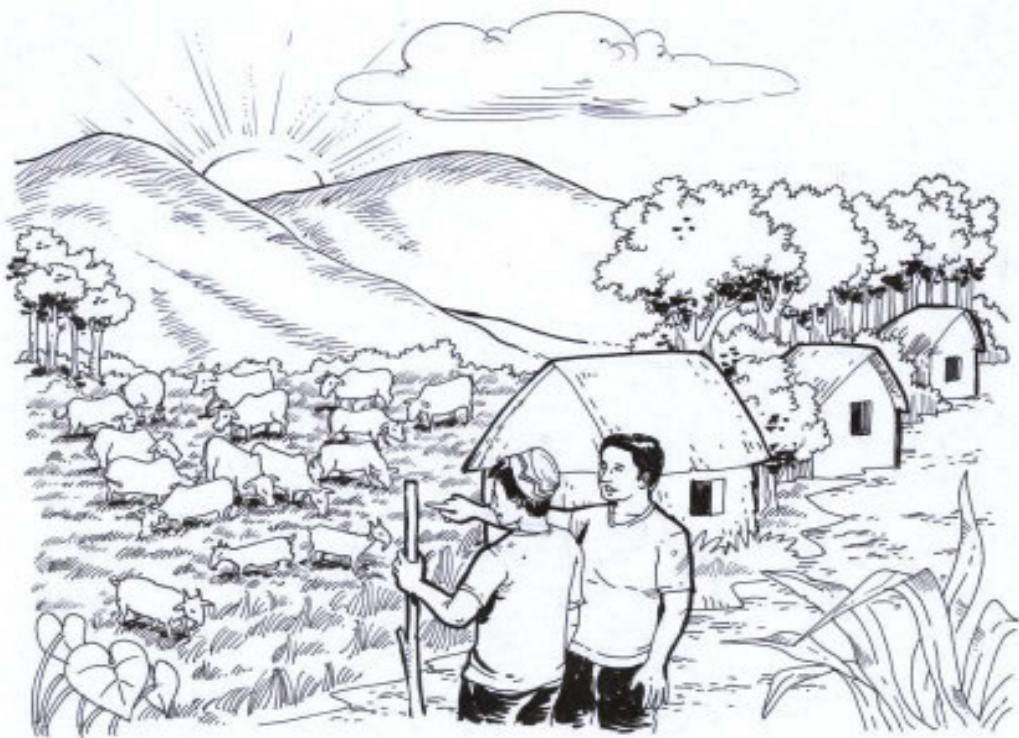
## Towards Food Self-Reliance

The social cohesion and adaptive capacity of the southern Lao communities have enabled them to survive as largely independent economies with minimal inputs from outside. Nevertheless, their dependence on the forest for food and other products remains a critical aspect of their livelihood.

As marginalized communities living in difficult conditions, their future depends on sustaining the natural resource base. Therefore, promoting self-reliance based on community management of locally available resources offers a vitally important opportunity for conservation and development.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Restoring Nepal's Hillforests through Community Based Forestry Leasehold



The hill forest ecosystem of Nepal supports the livelihood (including animal rearing and crop production) and spiritual needs of the hill population. Human pressure on the hill forest ecosystem has increased to such an extent that some 200 hectares of forest per day are cleared, converted, or reduced to shrub/bush lands. This has resulted in the loss of plant species and high levels of erosion, which has in turn led to the loss of soil nutrients. Agricultural productivity has suffered as a result, and rural incomes have declined. Forty-five per cent of Nepal's hill population currently lives below the poverty line.

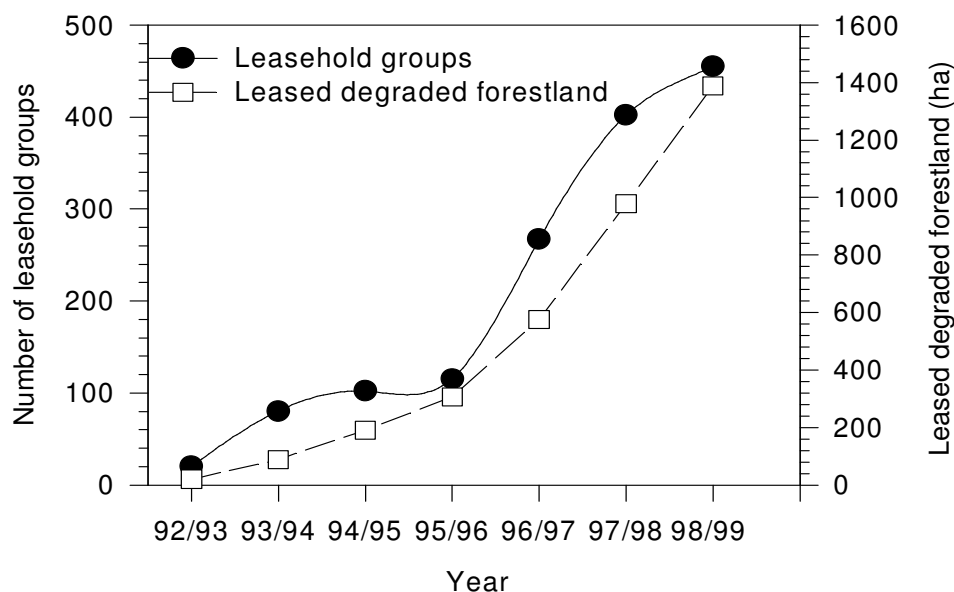
## Source

Madan K Gautam, Eryl H Roberts, and Bijay K Singh, "Community-Based Leasehold Approach and Agroforestry Technology for Restoring Degraded Hill Forests and Improving Rural Livelihoods in Nepal".

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A community-based forestry leasehold approach that has been tried by the Government of Nepal appears to be meeting its objective of restoring the degraded hill forest ecosystem as well as improving the livelihood prospects of the mostly poor hill population.

**Figure 1.** LEASEHOLD GROUPS AND THE CORRESPONDING DEGRADED FORESTLANDS HANDED OUT



**Source:** recalculation from the project data: FAO, 2000

In 1993, a Government project leased degraded forestlands and granted the leasehold land tax-free to eligible families (*i.e.*, those below the poverty line) to whom it also provided training and some production input. The Hills Leasehold Forestry and Fodder Development Project was launched by the government of Nepal with assistance from Food and Agriculture Organization (FAO) and the International Fund for Agricultural Development (IFAD). The leasehold groups were given charge of protecting the land from grazing and fire, and with regenerating the land both naturally and with agroforestry plantations of multipurpose tree and crop species.

From 1993-94 to 1998-99, forestland was leased under the project at an exponential rate. (See Figure 1). Restoration support activities were then conducted, such as the distribution of over 5.5 million seedlings of multipurpose forest-tree and fruit-tree seedlings along with planting stocks of grasses.

The project has since resulted in a 70 per cent increase in forest cover, and overall improvement in the income levels of leasehold families.

## Program Approach

### ***Defining degraded Forest Lands and Institutionalizing Leasehold Groups***

The degraded forestlands targeted by the project for leasehold distribution range from 400 to 1,800 meters in altitude and are situated in the lower to middle hills at the northern outcrop of

the Siwalik hills and river valley. Most of these lands are of moderate to very steep slope, and were previously overexploited forest or shrub lands, eroded forestlands with low organic matter and exposed rock and stones with low moisture holding capacity. Overgrazing and frequent forest fires had led to such conditions. The other leasehold lands were either failed plantation sites, or encroached forest areas that had been abandoned.

Blocks of such lands were identified and leased to groups of families living below the poverty line. Thereafter, six or more enlisted families formed a group, selected their officers, and designated a name for themselves. A certificate of leasehold of degraded forestland was then issued to the group by the Department of Forest, granting them a 40-year lease on the land, at the rate of one hectare per family.



## Management Strategies and their Expected Outcome

Three main management approaches have been used in restoring degraded leasehold forestlands:

### 1. *Natural regeneration through land management*

Once the degraded forestland was officially handed over to the groups, the members felt a sense of security and ownership of the land. This sense of ownership made them conscious of the need for long-term management of the forestland.

Forest fires and unregulated livestock grazing are usually the major stumbling blocks to natural forest regeneration in Nepal. However, in recent years, no fires have been reported among over 600 groups of leased forestlands. Similarly, the groups stopped grazing their cattle, and managed to control and eventually stop, grazing of cattle from nearby communities. This has resulted in a 75 per cent reduction of forestland grazing, thus promoting natural regeneration and establishment of the regenerated seedlings.

Leasing out forestland to groups aimed to:

- 1) Provide a sustainable institutional setting for the leaseholders and empower them for leasehold land development;
- 2) Have the group members work together on the parcel of leased land and share the output equally rather than “fragment” it for the benefit of individual families; and
- 3) Establish a self-regulating mechanism (e.g., if a leasehold member breaks the rule, the entire leaseholder group suffers).



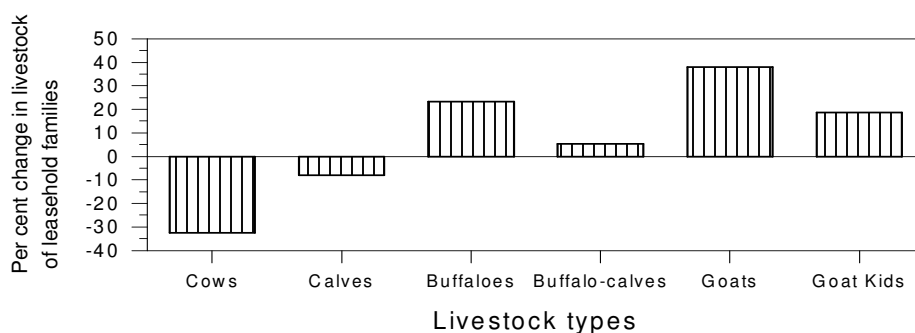
## 2. *Establishment of buffer strips against encroachments on forestland*

Forty-three leasehold groups in Sindhupalchok have restored about 120 hectares of forestland with forest vegetation. A buffer strip put up between farm and forestland has also put a stop to further forest encroachment. Nepal farmers habitually encroach on forestland by extending farmlands into adjoining forests. Leasing degraded forest strips has prevented private landowners from encroaching on forestland. Also, as the leaseholders developed a feeling of ownership on the forestlands, they engaged in agroforestry, growing both forest and non-forest annual crops.

## 3. *Plantation in abandoned forestlands*

Degraded forestland has been restored using agroforestry practices, such as the planting of multipurpose tree species to stabilize the slope. About 120 hectares of forest that had been degraded due to shifting cultivation has been restored under the leasehold forestry program in Chitwan and Makawanpur districts.

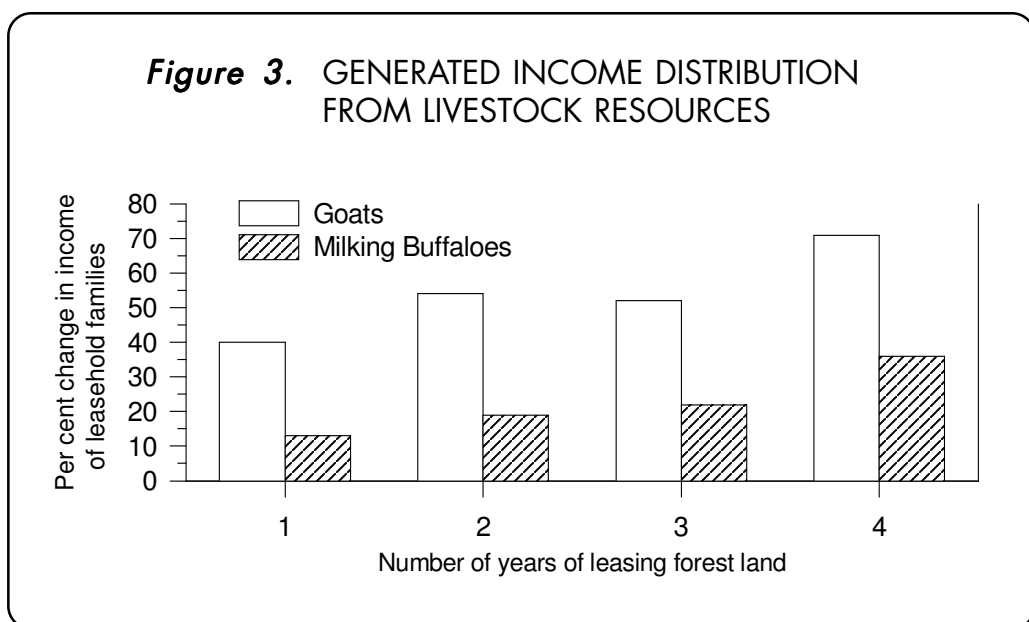
**Figure 2.** AVERAGE CHANGE OF LIVESTOCK TYPES FROM EXISTING BREEDS TO SELECTIVE IMPROVED BREEDS OF PER FAMILY



With more animal feed being supplied through the cultivation of multipurpose tree species and forage species, a change in farming systems, especially the type of livestock being reared by the leasehold families, took place. *Figure 2* shows a decrease in the number of less productive cows and calves being reared by 32 per cent and eight per cent, respectively, and an increase in the number of productive buffaloes and goats by 24 per cent and 38 per cent, respectively. The change in livestock quality resulted in an increase in income from 40 to 70 per cent from goat sales, and 13 to 36 per cent from milk sales (*See Figure 3*).

In 1995, the leasehold communities started reaping their first products. Although grazing was banned, wild grasses used as animal feed and roof thatch, and sal leaves from the thinning of the naturally regenerated seedlings could be collected after a year. Silviculture operations followed. In the second year and onwards, the forage grown in plantations could be collected and used to feed the leasehold families' livestock. The ready supply of forage also encouraged the rearing by leasehold families of higher milk-yielding cows and buffaloes. Crops such as lemongrass, forage seeds of stylo, and molasses yielded additional cash income starting from the second year of the program. Later, from 1997 to 1998 and onwards, fodder trees such as

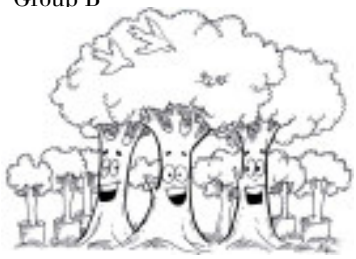
Badahar, Ipil-ipil, Tanki, Mulberry began to be harvested. Until recently, most of the forage seed was imported. The introduction of forage crops as an understory of forest trees provided forage as well as seed for the local market.



## Program Impact

To understand the program's impact, the most recently established leasehold groups were studied. The results gathered are summarized in *Table 1*.

**Table 1. IMPACT OF THE LEASEHOLD APPROACH ON SELECTED LEASEHOLD GROUPS**

| Effects of Leasehold Approach   |   |
|---|---|
| <p>1. Ramanthali Leasehold Group — composed of 7 families and 3 independent female and 4 male members</p>                       | <ul style="list-style-type: none"> <li>• Increase in social capital (another 18 groups were formed by mid 1998-1999)</li> <li>• Formation of a cooperative of leasehold groups</li> <li>• The cooperative sells seeds of forage species, mainly stylo, and earn more than <math>7.0 \times 10^6</math> Nepalese rupees per year (Rp 80 = \$1)</li> </ul>  |
| <p>2. Angare Bhatta Group A and Group B</p>  | <ul style="list-style-type: none"> <li>• Restoration of the degraded leased forestland through the establishment of tree plantations to supply firewood and timber needs; removal of weeds and shrubs to encourage seedling growth; putting up of a construction trail and fire control lines; sowing of forage seed; gully control by planting grass and forage</li> <li>• Forage and grass production</li> <li>• Naturally established trees started covering up the ground</li> <li>• Forage production and tree coverage motivated the enlistment of 17 groups from surrounding communities.</li> </ul> |
| <p>3. Dalantar Pakha leasehold group</p>  | <ul style="list-style-type: none"> <li>• Degraded forestland became relatively productive</li> <li>• 50 leasehold groups forming cooperatives</li> </ul>  |

## Impact of the Leasehold Approach

The leasehold approach has so far yielded favorable outcomes. *Table 2* provides a comparison of the leaseholder's economic, social and cultural situation before and after program implementation.

**Table 2.** THE ECONOMIC, SOCIAL AND CULTURAL SITUATION OF THE LEASEHOLDERS BEFORE AND AFTER THE PROJECT IMPLEMENTATION

| Concerns                                 | Before  | After  |
|--|---|--|
| DOMESTIC and EDUCATIONAL CONCERNS        | <ul style="list-style-type: none"> <li>Female pupils give up after three to four years of schooling.</li> </ul>   | <ul style="list-style-type: none"> <li>The restoration of leasehold lands increased incomes progressively. By raising incomes and reducing the time spent on collecting fodder, the project allowed parents more time with their school-going children, assisting and encouraging them in their schoolwork. It also lessened the children's involvement in household activities, hence giving them more time for their studies. As a result, the dropout rate was significantly reduced.</li> </ul>  |
| SOCIAL CAPITAL BUILDUP                   | <ul style="list-style-type: none"> <li>Before the program, women were a suppressed lot.</li> <li>In the first two years of the program, elite groups assaulted leasehold female members and carried out destructive activities.</li> </ul>  | <ul style="list-style-type: none"> <li>The positive impact on women's socioeconomic condition boosted their morale, confidence and self-respect. Formation of a legally recognized leasehold group united the communities towards a common goal and encouraged them to face problems squarely.</li> <li>Increase in the number of leasehold groups spurred interactions between groups and exchange of information, technical know-how, and local experts.</li> </ul>  |
| HEALTH AWARENESS                         | <ul style="list-style-type: none"> <li>People sought professional help only if they were severely ill since they were not used to buying the full course of their medical prescriptions with the little income they have or preoccupation with collecting forest products.</li> </ul> | <ul style="list-style-type: none"> <li>Health awareness along with greater financial capacity, e.g., from incomes earned from selling milk, forage seeds and green vegetables, has changed the attitude of leasehold members towards consulting medical professionals and taking medication. People now consult with the medical professional at the very early stage of their illness and take their full course of medicine.</li> <li>The change in their vegetable growing pattern increased their intake of vegetables, thus improving their diets. Surplus vegetables sold in the local market also provided additional income.</li> </ul>  |
| FARMING SYSTEMS and FOREST PRODUCT NEEDS |   | <ul style="list-style-type: none"> <li>The greater availability of animal feed through the cultivation of multipurpose tree species and forage had a positive effect on the farming systems, especially the rearing of livestock. <b>Figure 1</b> shows a decrease in less productive cows and calves by 32 per cent and eight per cent, respectively, and an increase in productive buffaloes and goats by 24 per cent and 38 per cent, respectively. The change in livestock quality resulted in an increase in income from 40 to 70 per cent from goat sales, and 13 to 36 per cent from milk sales (<b>Figure 2</b>). Similarly, the number of families benefiting from selling agroforestry farm products has increased significantly from the start of the project to its fourth year of implementation. Income generation from seed production was dominant in all the years, followed by forage/fodder (<b>Figure 3</b>).</li> </ul> |

## Sustaining the Gains

The current restoration approach to managing Nepal's hill forest ecosystem, where leasehold groups have been able to develop a reciprocal relationship between meeting their livelihood support needs and managing the forestlands, appears to be sustainable. However, some issues have to be carefully looked into and immediately addressed to ensure that the project continues to be implemented in line with its objectives :

- Not enough confidence on the part of the government to entrust leasehold groups with better quality forestlands;
- Inadequate technical and educational support, especially on the biophysical interaction of trees and crops; and
- Need for market and financial (mortgage) support.



### POSITIVE INDICATORS

As a result of leasehold forestland management, there has been a significant reduction of forestland grazing by livestock, good forest fire control, terrace improvement for tree and intercropping planting, which are positive indicators of hill ecosystem restoration. Similarly, it will possibly result in a positive impact on land and water conservation of degraded hill ecosystems. In addition, leasehold forestlands have been planted with a higher diversity of multipurpose tree species and forage species, which could contribute directly or indirectly to the establishment of micro scale ecosystems.

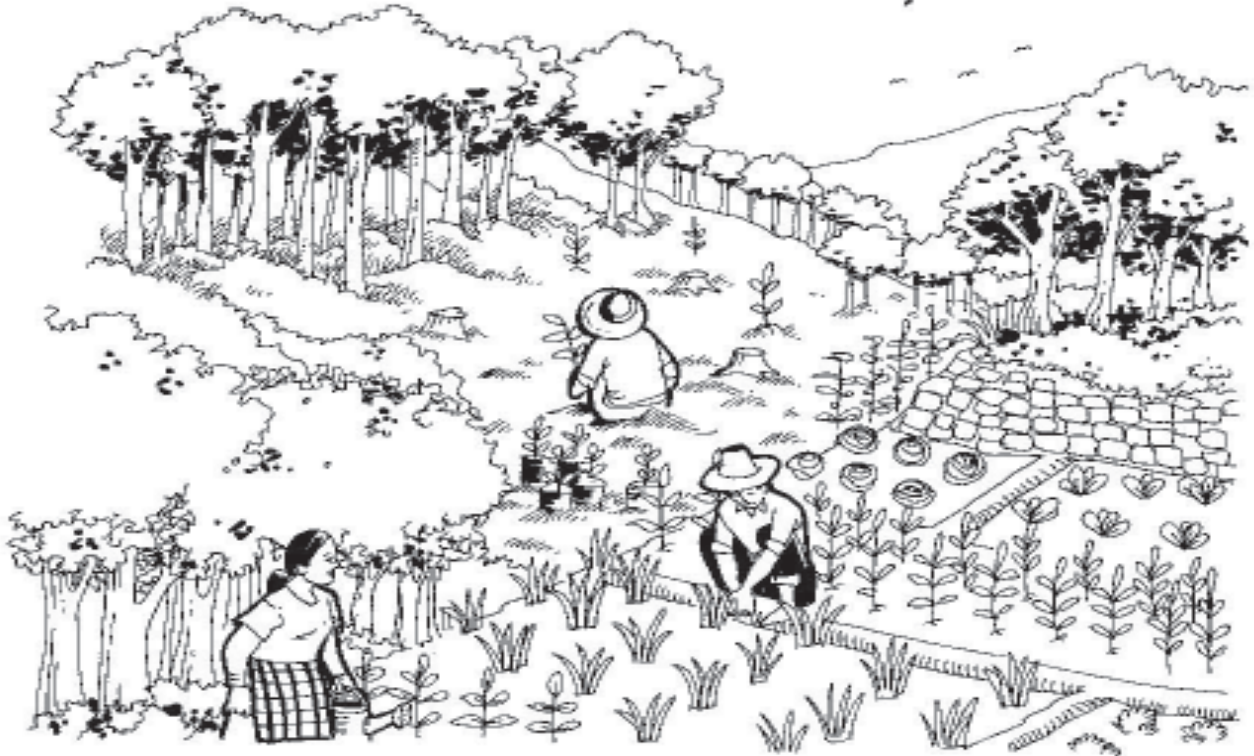
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# Factors Influencing Changes in Shifting Cultivation in Asia



Since the 1960s the peoples of the South and Southeast Asian Regions have begun to switch from the practice of shifting cultivation to more permanent agricultural methods. The following factors have influenced the search for alternatives to shifting cultivation:

***Population Growth and Limited Production.*** Population growth in the uplands has led to shortage of food, fiber and daily necessities. The low return on land under shifting cultivation has prodded communities to look for more permanent and productive methods.

***Use of Appropriate Technology and Cropping Systems.*** The introduction of farming technologies, such as terracing and the use of animal-assisted farm tools, has proven to be more productive for hill farmers in these regions. New cropping systems have also facilitated the transition process.

***Physical Infrastructure and Support Services.*** Relatively well-developed physical infrastructure and the provision of support services (e.g., credit) in Peninsular Malaysia and in some parts of

## Source

G. Rasul and G.B. Thapa, "Shifting Cultivation in the Mountains of South and Southeast Asia: Regional Patterns and Factors Influencing the Change." Regional and Rural Development Planning, School of Environment, Resources and Development, Asian Institute of Technology, Klong Luang, Pathumthani, Thailand. June 2003.

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Indonesia have enabled farmers to integrate the growing of rubber and other cash crops with shifting cultivation. Extensive road networks and access to transport have given farmers easier access to markets as well as to urban areas, where opportunities for nonfarm employment have further encouraged the shift away from shifting cultivation.

The absence of these factors, on the other hand, has deterred the adoption of new land use practices in Laos and Vietnam in spite of similar biophysical conditions in these countries.



**Government Intervention in Forest Management.** The delineation of national parks and wildlife reserves, watershed areas, and reforestation and soil conservation areas by the government has encouraged people to stay put and develop a parcel of land on a long-term basis. Usufruct rights have also helped to foster a sense of tenurial security and eventually encouraged farmers to make the necessary labor and capital investments for the development of intensive agriculture.

**Taxation and Land Tenure.** The imposition in Nepal of high taxes (as much as 50 per cent of crop production) on State agricultural land that is being used for crop production has encouraged people to produce not only to meet household needs but also to pay such taxes. The receipt for tax payments represent the grant by the government of usufruct rights to the farmers.

#### PENINSULAR MALAYSIA

Government programs are being implemented to help transform shifting cultivation to sedentary agriculture.

#### NORTHERN THAILAND

- Many fields are now permanently cropped, with some farms growing two to three crops a year;
- Crops are diversified, with fruits and vegetables replacing traditional low-input crops like maize and upland rice;
- Home gardens, fruit trees and livestock raising are integrated into the farming systems

#### NEPAL

- Permanent cultivation systems are integrated with livestock raising;
- All hill farmlands are now terraced to prevent soil erosion

**Programs for Indigenous Peoples.** Comprehensive development programs, resettlement and livelihood opportunities, and the establishment of tree plantations have all encouraged shifting cultivators and indigenous peoples to adopt more permanent farming methods.

*Table 1* summarizes the regional patterns in changes in land use, livelihood, settlement, financial positions, cropping systems and input use, as well as the degree of commercialization in areas where shifting cultivation has given way to permanent cultivation. The areas include those in northern Thailand, Java and some parts of the outer islands of Indonesia and Peninsular Malaysia, the CHT of Bangladesh, Mountains of Laos, Northeastern India, and the Mountains of Nepal.

**Table 1.** LAND USE CHARACTERISTICS IN AREAS WITH SHIFTING CULTIVATION (SC) IN SOUTH AND SOUTHEAST ASIAN COUNTRIES

| Characteristics  | Pattern A   | Pattern B   | Pattern C  | Pattern D  |
|--|---|---|--|--|
| <b>Country</b>   | Northern Thailand                                   | Java & some parts of the outer islands of Indonesia & Peninsular Malaysia | CHT of Bangladesh, Mountains of Laos, Northeastern India, Outer Islands of Indonesia | Mountains of Nepal   |
| Relative change from SC to permanent cultivation                   | Major proportion changed; small area under SC       | Moderate change; considerable area under SC                               | Little change; large area under SC   | Almost entirely changed  |
| Land Use   | Intensive   | Semi-intensive  | Semi-intensive   | Intensive  |
| Crops  | Mostly cash crops                                   | Cash crops and cereal crops   | Mostly cereal crops  | Mostly cereal crops  |
| Integration of trees and livestock with crops                      | Medium  | High  | Medium   | High   |
| Input use  | Use of external inputs                              | Limited use of external inputs  | No use of external inputs  | Limited use of external inputs                                       |
| <b>Means of cultivation</b>  | Power tiller and tractor                            | Power tiller and tractor  | Hoe, spade and plough  | Hoe, spade and plough  |
| Degree of Commercialization  | Semi-commercialized                                 | Semi-commercialized   | Subsistence  | Subsistence  |
| Livelihood   | Stable income from both farm and nonfarm activities | Besides SC considerable income from agroforestry and forest products      | Besides SC settlers depend on gathering and hunting                                  | Relatively stable but low income majority are below the poverty line |
| Settlement   | Mostly permanent                                    | Both permanent and temporary  | Both permanent and temporary   | All permanent  |
| Dynamism in the system (savings, capital formation and investment) | High  | Medium  | Low  | Low  |

## JAVA AND BALI, INDONESIA

- Shifting cultivation has been completely replaced by sedentary agriculture;
- Terraces have been constructed on hill slopes to secure sustainable crop yields;
- Shifting cultivators now grow perennial crops, such as rubber, cashew, rattan, coffee, coconut, clove and fruit trees;
- Crops are selected to meet market demand; high-value crops are preferred over bulky, low-value crops.

## LAOS

- Although still predominantly practising shifting cultivation, areas near transport facilities are beginning to practice permanent cash crop cultivation;
- Tree plantations are also increasing in the country.

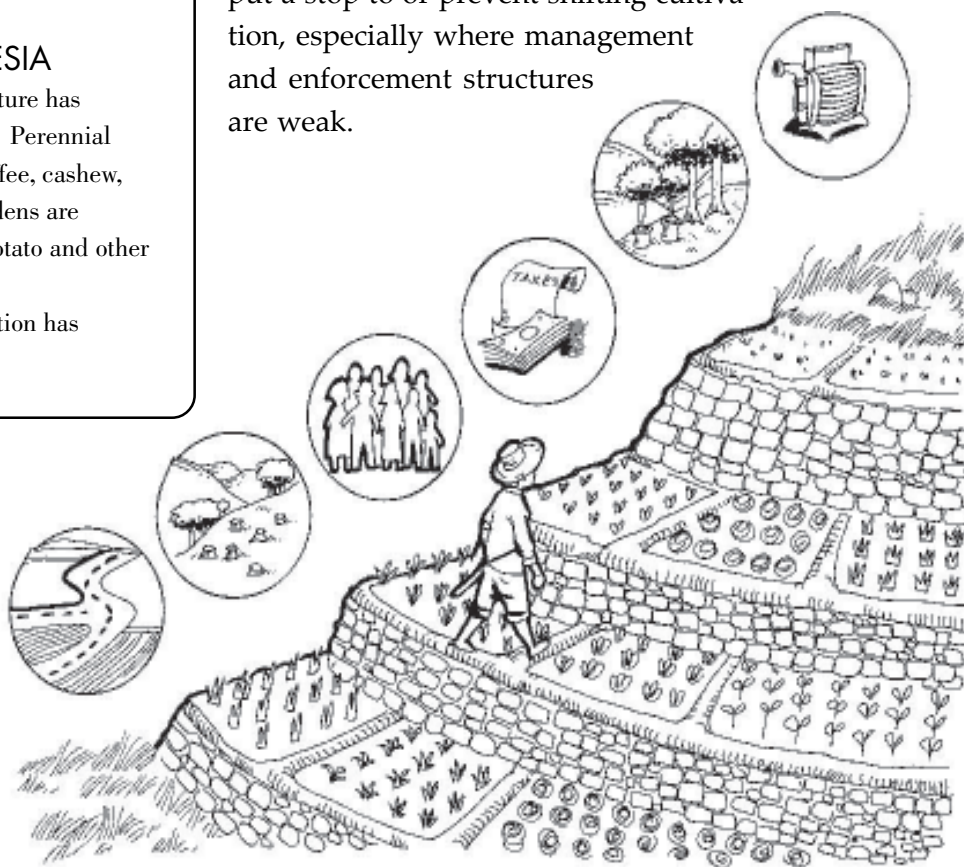
## KALIMANTAN, INDONESIA

- Tree-based sedentary agriculture has replaced shifting cultivation. Perennial tree crops such as rubber, coffee, cashew, rattan, oil palm and fruit gardens are integrated with rice, sweet potato and other upland crops;
- Terracing for wet rice cultivation has begun.

An effective shifting cultivation control strategy would require the following:

1. The grant of land ownership rights to shifting cultivators;
2. Linking shifting cultivation areas with local and regional market centers through infrastructure development; and
3. Provision of necessary support services, such as extension, credit and marketing.

Regulating or controlling shifting cultivation has been a major challenge in the mountains of South and South-east Asia. Population growth and expansion of State control over common resources do not automatically put a stop to or prevent shifting cultivation, especially where management and enforcement structures are weak.



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# Equitable Resource Access under Shifting Cultivation Systems in Northeast India



Shifting cultivation systems in Northeast India have been extensively studied, but some aspects, like their tenurial arrangements and how they provide access to resources, are rarely dealt with. As a result, perceptions regarding shifting cultivation (known locally as *jhum*) completely overlook its unique strength: a built-in mechanism that assures access to natural re-

sources by all community members regardless of their economic or social position, and which, therefore, fosters social cohesiveness.

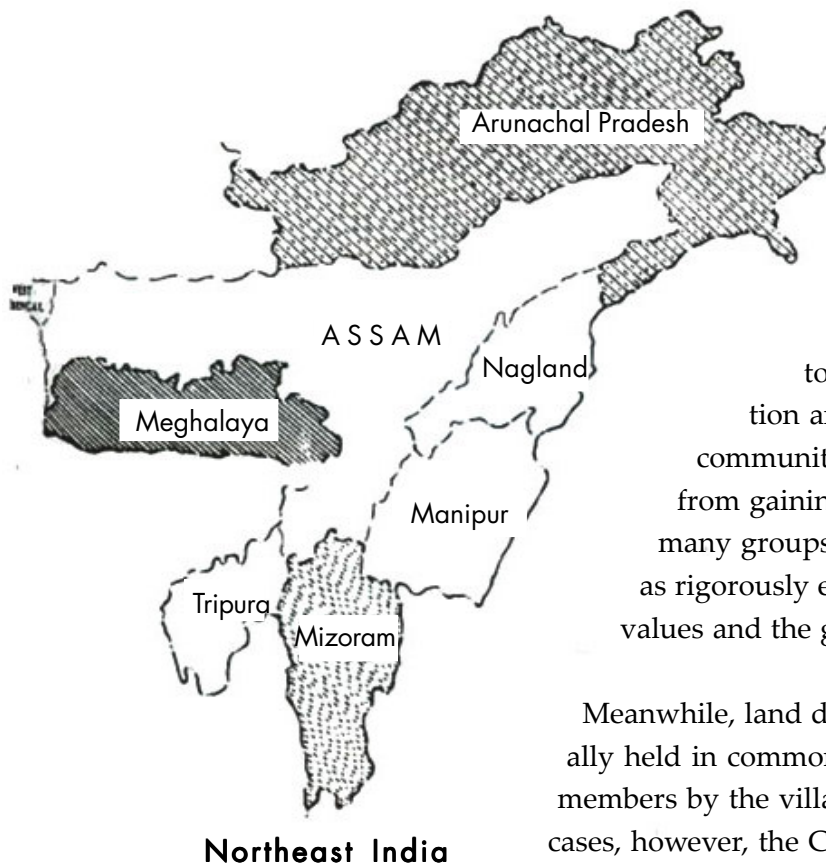
**SHIFTING CULTIVATION** is a farming practice whereby land is allowed to lie fallow after a cropping instead of being continuously cultivated.

Land ownership, holdings and tenurial arrangements vary widely among the different ethnic groups of North East India that are practicing shifting cultivation. However, a common and basic framework of tenurial arrangements can be discerned within these variations, whether the land belongs to the Chieftain or is held in common under

## Source

Dhrupad Choudhury, "Ensuring Universal Access to Resources: Tenurial Rights in Shifting Cultivation Systems in Northeast India."

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the supervision of a traditional institution like a village council. In both cases, private landholdings are confined to settlements (for housing), home gardens, and, among many groups, to private or individual forests. Individuals may inherit land, but land transfers need to be approved by the traditional institution and are restricted to members of the community. This effectively prevents outsiders from gaining control of private lands. Among many groups, however, this restriction is no longer as rigorously enforced as before, owing to rising land values and the greater inducement to sell land.

Meanwhile, land devoted to shifting cultivation is generally held in common, to be allocated among community members by the village traditional institution. In some cases, however, the Chieftain, together with clan elders, holds sway, but his decisions are always made in consultation with each household. Again, land for shifting cultivation may be inherited but may not be transferred to outsiders.

## Patch Selection and Plot Allocation

### *Patch selection*

The process of patch selection and plot allocation normally begins towards the end of the year, usually in September or November, when the rains stop. The timing could vary among different groups, depending on their location within the region (and the associated climatic variation) and the demands on labor for harvesting.

In any given year, the selection of patches for cultivation is determined by the fallow cycle. Deviations from this pattern arise where the total land available for shifting cultivation has been reduced as a result of land conversion. In such cases, the land earmarked for shifting cultivation is fragmented while the fallow cycle is reduced to make up for the land shortfall.

To further illuminate the process of patch selection and plot allocation, a description of the practice among the *Aos* of Khar Village, in the Mokoichung District, is described in the next section.

## ***Plot allocation and plot size determination***

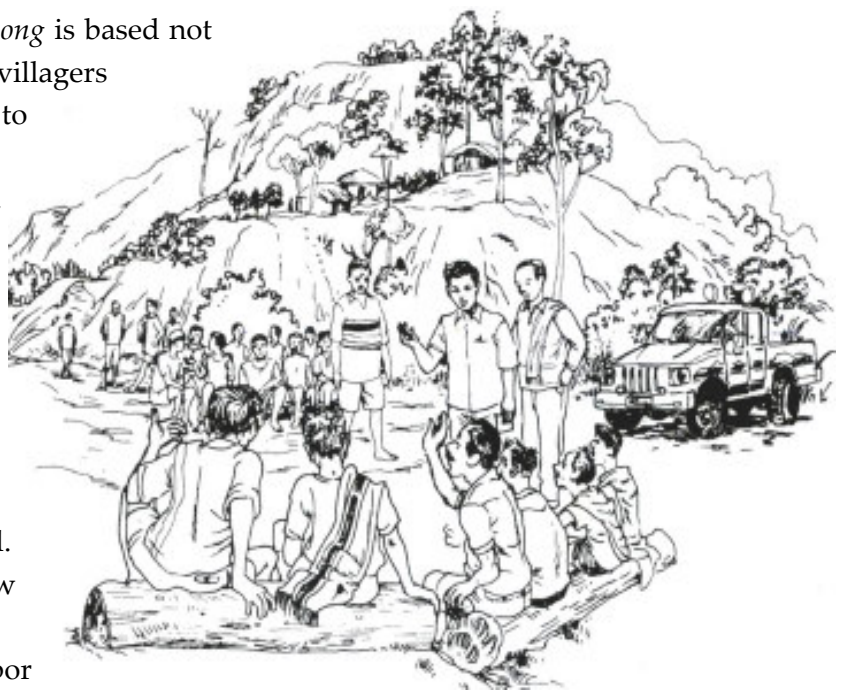
The Village Council, composed of clan elders, selects the *jhum* (or *bok*, among the *Aos*) for cultivation in the next year. As the selection of a *bok* is predetermined by the fallow cycle, this step in the process is really just a formality.

The chosen *bok* is subdivided into clan patches, or *kitong lhus*. The demarcation of *kitong lhus* within each *bok* reflects the hierarchy among the clans as well as the chronology of immigration and settlement in the village. The founding clan or clans hold the top positions in the village hierarchy, and thus get the primary sites for their *kitong lhus*; they are those whose member or members had played an important initiating role in the establishment of the village. Hence, the pecking order among the clans is determined by the role they played in the initial history of the village. Within each clan, meanwhile, member households are ordered according to the role individual members had played.

Other clans not originally part of the community may join the village, provided there is enough land left over for them and only if the clans all agree to admit new members. Thus, clans of later entrants to the village do not hold *kitong lhus* in all *boks*.

Once the *kitong lhus* have been demarcated, the clans allocate plots (or *aamongs*) to member households. In earlier days, when land was sufficient, allocating the *aamongs* was a fairly straightforward matter. But the ease with which the task was undertaken probably owed more to the fact that the *Aos* had an inherent mechanism within the traditional allocation framework to ensure that plot sizes corresponded to actual needs and availability of labor.

For instance, the size of an *aamong* is based not on family size but on what the villagers refer to as “number of mouths to feed within the household”. Hence, rather than being fixed, *aamong* sizes may vary from year to year. When household members leave the village, even temporarily, that household gets a correspondingly smaller *aamong*, thus drawing the distinction between demand and actual need. This is a perfect example of how to rationalize land resource optimization on the basis of labor availability and returns to labor.





After thus determining the plot sizes, there is usually “surplus” land within *kitong lhus* and within *boks*. This land is redistributed to households that had not been given *aamong*s within the *bok* for that particular year. These households are generally members of clans of later entrants to the village. They cannot inherit land but have limited access rights (*i.e.*, while the particular *bok* is being cultivated).

Another situation that gives rise to such short-term access to land in a *bok* is when households that had been allocated *aamong*s decide not to cultivate it, or use only a portion of it. In this case, the household may allow another household that has no *aamong* to cultivate the land. No rent is exacted but the beneficiary household may offer a token payment in kind. This system of plot size rationalization and redistribution — unique to shifting cultivation systems — ensures universal access to land resources for agriculture.

Once cultivation in the *aamong*s is over, all tenurial rights are suspended and access rights revert to the clan and the village council, in that order. At that point on and until the next cultivation, any member of the village may hunt or gather on any part of the *boks*. The clans however retain exclusive rights to harvest the produce of perennial crops that they had planted.

Access to resources — land and other resources — is thus universal and egalitarian within shifting cultivation systems, an arrangement unsurpassed by other sedentarized systems.

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# Impact of Privatization on Fallow Management



Customary tenure institutions have often viewed swidden lands as communal property. In recent years, however, this perception has come under increasing attack. A number of factors, including State policies and programs, the intrusion of market-oriented practices even in remote areas, growing populations, increasing individualism and higher expectations of living standards, as well as the weakened authority of local institutions, have all supported the trend towards the privatization of communal property.

## Source

Malcolm Cairns, "Property Rights Dimensions of Indigenous Fallow Management: Summary of Ten Intersecting Issues", Southeast Asian Regional Research Program, International Center for Research in Agroforestry (ICRAF).

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Generally, collective land tenure systems do not encourage long-term investments by farmers on better fallow management, since their access to swidden lands is merely short-term and insecure (swidden lands are frequently redistributed within the community). However, privatization does not guarantee sustainable land use either. Land commodification often leads to the accumulation of lands by the elite. This in turn leads to the social divide between the landed and the landless, as well as to arrangements like land rental, contracted crops, share cropping, etc.

**Swiddenists** are known to be pragmatists. They need to be assured of their security of land tenure before they would invest labor and capital in the management of fallow lands. Conversely, fears that the State would evict them or refuse to recognize their customary land claims may lead to a “mining” mentality, wherein resources are exploited without concern for long-term consequences.

When the number of users increase, leading to a shortened fallow cycle, swiddenists become less interested in land management. This is what is referred to as the “swidden degradation syndrome.” When they do adopt certain fallow land management strategies, it would most likely be because the State or a project requires it rather than because they see the inherent value of such practices.

## Implications of Privatization and Intensified Fallow Management

An analysis of the costs and benefits of improved fallow interventions needs to consider the various fallow products and services, as well as who has tenure over them. Communities are not homogeneous and will be differently affected by interventions. There will invariably be winners and losers, both within and between communities.

Case studies suggest that land privatization may adversely affect the more marginalized and forest-dependent subgroups within swidden communities, such as women or the landless, who depend heavily on communal fallow lands for grazing livestock, and for the collection of firewood, non-timber forest products, etc. (Gan and Xu, 1997b; Saigal, 1997).

At the regional level, as lands are increasingly mapped, demarcated and fall under private, corporate or State claims, the forest frontier will rapidly disappear. Clearly, the equity implications of land enclosure warrant careful investigation. The privatization of swidden lands may also impact other components of the farming system in ways that are not immediately obvious.



## Free-Range Grazing: Obstacle to Improved Fallow Husbandry

Young fallow lands are frequently an important source of fodder for free-grazing animals. Hence, changes in swidden practices have ramifications on the livestock husbandry. Many upland communities traditionally open their swiddens in large contiguous patches covering entire hillsides, and then subdivide plots to be managed by individual households. This practice facilitates:



- The use of communal labor;
- Guarding the swidden perimeter against wild boar, monkeys and other pests;
- Maintenance of a single access path; and
- Social fencing against livestock intrusion.

These large communal swiddens thus rotate around the village territory, with livestock generally following one year behind grazing on the remnant crop residues and native grasses.

Although this arable cropping-livestock-fallow sequence works well, it is nonetheless a major impediment to individual farmers' attempts at improved fallow management. Under these conditions, fallow crops are targeted by every hungry cattle in the neighborhood, and are quickly destroyed by overgrazing and compaction (see Cairns, 1997a).

Without fencing, improved variations of fallow management are unlikely to gain a foothold. A critical mass of like-minded neighbors is needed to reach a community consensus before adaptations can be made to the systems.

## Perils of Too Many Restrictions

Recent access to profitable market opportunities has triggered the rapid proliferation of economically improved fallow lands.

A good example is the explosion of "jungle rubber" in Indonesia in the early 1990s in response to the development of the country's tire industry and wider access to the *Hevea brasiliensis* germplasm (Penot, 1997). However, State interventions in the control of fallow products tend to distort markets, increase transaction costs and lower farm-gate prices, eventually rendering the trade in fallow products economically unviable. The demise of the rattan-based fallow in Kalimantan following Indonesia's ban on the export of unprocessed or semi-processed rattan canes illustrates this danger (Belcher, 1997).

### DEBUNKING THE MYTH

The philosophical underpinnings of Asian governments' opposition to swiddening lies not only in the loss of timber assets, but also in the popular perception that fallow lands are idle and unproductive — and hence to be discouraged. Policy-makers look far more kindly on the promotion of plantation economies, *e.g.*, rubber and palm oil, that generate foreign exchange and tax revenues for State coffers. Efforts to map and classify uplands have led to increasing tensions between State agencies and resident swiddenists because of a fundamental dichotomy in how fallow lands are viewed:

- **The States' view** — forest lands are periodically destroyed by marauding slash and burn farmers and thus in need of protection.
- **The Swiddenists' view** — agricultural lands on which trees are deliberately encouraged to grow on a cyclical basis, as an integral component of a sustainable farming system.

Several studies have illustrated the often intricate and productive management of swidden fallow and their importance to household economies. It is therefore important to build strong arguments that these lands are far from abandoned — but constitute an essential phase of a wider and more rational land-use rotation.

A restrictive policy environment also discourages the production of smallholder timber as a fallow crop. Bhutanese farmers, for example, are prohibited from selling timber in the market despite evidence that planting *Pinus wallichiana* and other quality timber species is far more lucrative than current arable cropping systems (Dukpa et al., 1997).



Farmers have often expressed an interest in expanding beyond the usual monocultures, and in experimenting with promising indigenous species. However, they fear that forestry officials may accuse them of poaching from State forests. Such uncertainty makes farmers vulnerable to increased demands for graft that, coupled with royalty charges and transit permits, bite deeply into their profit margins.

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# Private Rights in Public Forests: *The Practice of Sokshing in Bhutan*



**B**y law, all forest areas of Bhutan that have not been registered as private land are government-owned, and are called “government-reserved forests”. Under these reserved forests, however, are areas registered in the name of households as *sokshing*. These are plots of forest land where leaf litter is collected. Leaf litter is initially used as cattle bedding. After being mixed with cattle waste, it is used to fertilize the fields.

While labor intensive, this land husbandry practice increases water retention capacity, improves soil fertility, and prevents the soil from being infected with disease-causing insects and pests.

## **Sokshing Management**

Although *sokshing* are *de jure* State-owned, government recognition of their importance to the local people makes their *de facto* management more defined than that of non-*sokshing* natural forests. The management of *sokshing* evolved from indigenous practices among rural agricultural communities. Among these practices is “silviculture” (*i.e.*, the promotion of desired species). Such preferences have guided the management, composition, and structure of *sokshing* — in

### **Source**

Lam Dorji, Institutions in Forest Management: A Case of Sokshing Management in Bhutan

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particular, the emergence of the *Quercus* (oak) as the dominant species in most *sokshing*. Local people (predominantly women) periodically clear out herbs, shrubs, and seedlings of unwanted species, which would otherwise compete with the *Quercus* seedlings. In addition, the users manipulate the natural growth of *Quercus* trees by pruning the apical meristem to stimulate lateral branching. The resulting greater number of leaf-bearing branches increases the rate of litter production per unit area.

## **Institutional Arrangements in Sokshing Management**

### ***Sokshing Ownership and Resource Use***

In villages that are primarily rural, a wide range of institutional arrangements have evolved from an array of interacting social, cultural, traditional, religious and economic factors. There are many locally evolved “rules in use” guiding individual and collective action, and which are manifested in local customs or traditions that are adhered to regularly and according to need.

With the formalization of land registration after the first National Assembly in 1953, *sokshing* were also registered as part of household or community “*Sa Thrams*” (legal land register). Therefore, while indigenous arrangements defining rights and duties already existed at the village level, *sokshing* gained recognition at the national level with the official registration. The Forest Act of 1969 and amendments to the Land Act of 1978 introduced further changes to *sokshing* rights.

### ***Individual and Collective Sokshing***

Institutional mechanisms to regulate *sokshing* ownership and the use of leaf litter are employed in both *individual* and *collective sokshing*:

*Individual sokshing* are registered in the name of individual proprietors. Having or not having a *sokshing* has a lot to do with what has been inherited and registered by a household before 1969. Villagers are aware that forests, including *sokshing*, are national property and that the proprietor has private rights only to the leaf litter. However, any attempt on the part of a non-proprietor to appropriate trees without the consent of the proprietor is considered a breach of customary rules. Boundary definitions along with rough area estimates that are available in registrations are further supplemented by oral traditions and internal written agreements that serve as a basis for both informal as well as formal conflict resolution.

*Collective sokshing* are forest areas that are designated for collection of leaf litter by the “*mang*” (community people). Local rules governing use of collective *sokshing* differ from village to village. Some villages have collective *sokshing* without any specified rule or norm, and people can simply go and collect leaf litter from the *sokshing* just as they would from nonnatural forests. However, other collective *sokshing* have well-defined rules that must be adhered to (see box).

## Significance of Sokshing

*Sokshing* institutions induce a difficulty factor that enables *sokshing* to perform two important functions in protecting themselves as well as non-*sokshing* natural forests from unrestrained human access and use. These are:

- the buffer effect; and
- deterrence to optimal foraging.

### *The Buffer Effect*

Since proprietor-monitored *sokshing* are located near the villages, other users (*i.e.*, those without *sokshing* of their own) have to travel greater distances to access non-*sokshing* natural forests for leaf litter, wood and non-wood products. Meanwhile, *sokshing* proprietors tend to limit the use of their *sokshing* to leaf collection in order to preserve its leaf litter-generating capacity.

### *Deterrence to Optimal Foraging*

In the absence of rules, community members tend to practice “optimal foraging” (*i.e.*, first exploiting resources closer to their settlements), thereby degrading the resources to the extent that they lose much of their value to the community. In the case of individual *sokshing*, studies have shown the opposite: *sokshing* trees have higher stem densities and greater basal area per hectare. This difference may be attributed to the fact that individual

## CONTROL OF COLLECTIVE SOKSHING USE

In the village of Khankhu, the local people collectively maintain their pine forest as a *sokshing*. The village has a system, dating back in history and passed down as a customary norm, that facilitates leaf litter



collection in an equitable way. No individual may collect leaf litter before Ri Tangni (releasing or opening the forest), a period determined each year by the villagers. During Ri Tangni, all villagers have unlimited access to the forest, so that each household hires as many laborers as possible to maximize the leaf litter collection.

This informal forest management system is simply an agreed set of rules and practices which are commonly understood, strictly observed and verbally passed down from one generation to the next. This is an interesting contrast to the loose, but nevertheless well-respected individual *sokshing* institutions.

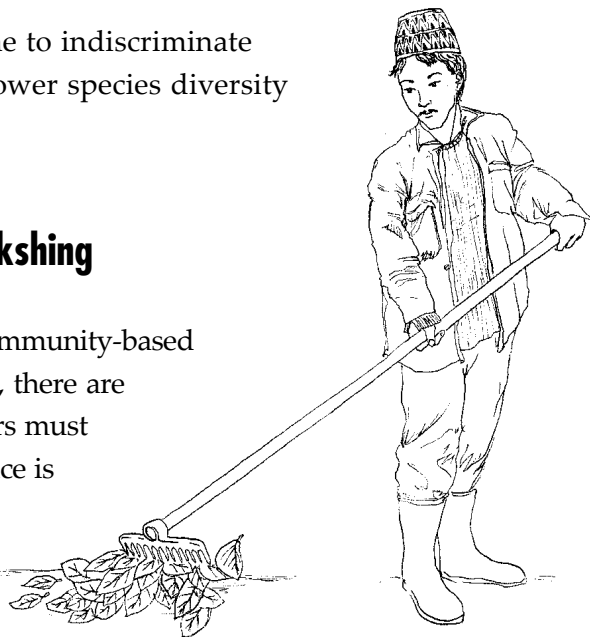
Proprietors of collective *sokshing* seriously confront rule infractions. If an individual is seen collecting leaf litter before Ri Tangni, the observer will inform other households in the village. Individuals from the households will then collectively confront the transgressor, immediately confiscate the contraband, and return it to the forest. In some serious cases, the community has taken the rule breaker to court.

*sokshing*, although closer to villages, are not prone to indiscriminate cutting. It must be noted however that there is lower species diversity in *sokshing* compared to natural forests.

## Issues and Potential Future Concerns for Sokshing

The *sokshing* practice in Bhutan is an example of community-based natural resource management (CBNRM). However, there are issues and concerns that planners and administrators must address if this valuable resource management practice is to remain relevant in the future. Some of these are:

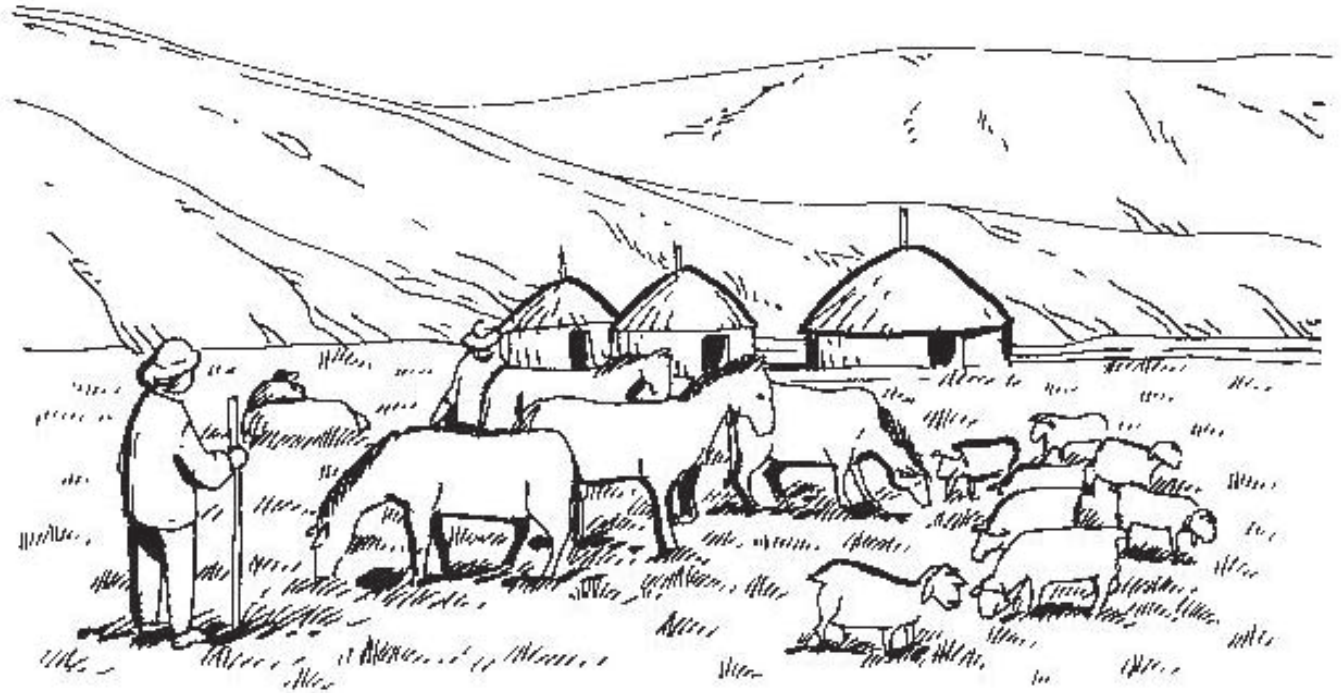
- **Regeneration and sustainability of *sokshing*.** The relatively low species diversity and minimum undergrowth or regeneration in *sokshing* may render the practice unsustainable and cause it to disappear entirely following the death of old trees because there is a long gap before the next set of trees becomes viable for litter collection.
- **Changing resource use.** The shift from the use of leaf litter to other forms of agricultural inputs, such as chemical fertilizers, which comes with economic development, may undermine the value of the *sokshing* in the eyes of local people and encourage them to cut down the trees for timber and fuelwood instead. The diminishing utility of *sokshing* in agriculture is also likely to lead *sokshing* proprietors to convert their *sokshing* into other land uses. In the event, *sokshing* would lose their capacity to deter optimal foraging and to serve as buffers between villages and non-*sokshing* forests.
- ***Sokshing* ownership.** The term *sokshing* “owner” is defined in the Forest and Nature Conservation Act of 1995 as a person with a registered *sokshing* and who has all the rights of access, withdrawal, management, and alienation. In practice, however, the law withholds alienation rights. In addition, the registration of *sokshing* implies that the government cannot allot a currently registered *sokshing* to other individuals because it remains a *sokshing* regardless of any physical changes it undergoes (e.g., disappearance of trees), or whether they are used for collecting leaf litter or not.



The immense challenges and hindrances to development posed by degrading and declining forests throughout the world make sustainable forest management critical. In this regard, the practice of *sokshing* in Bhutan’s rural forest communities can be built upon to encourage local forest management in countries facing similar conditions.

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# Community-based Co-management of Grassland Resources in Mongolia



**T**he grasslands of Mongolia, which make up about 82 per cent of the country's land area, represent the largest remaining contiguous area of common grazing land in the world. They are home to some 176,000 herding families and 23.9 million heads of livestock (2002).

Nomadic livestock producers are the backbone of the Mongolian economy. Livestock production accounted for 45 per cent of employment and 21 per cent of the gross domestic product in 2002. The tradition of herding is rooted in the country's long history, and grasslands or pasturelands have always been a common property resource.

However, more than 75 per cent of the country's grasslands are overgrazed and becoming desertified as a result of the growing number of herd families and herd sizes, severe climatic conditions, intensified agricultural practices, poor management, and the impact of the recent economic transition, among others.

## Source

H. Ykhanbai, B. Minjigdorj, E. Bulgan, and the Team, 'Co-Management of Pastureland in Mongolia.' Ministry for the Nature and the Environment, Mongolia. Case paper No. 8 dated 25 May 2004.

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In response to this situation, co-management approaches, interwoven with traditional practices, were introduced and have since yielded lessons for community herder groups, local governments, NGOs and other stakeholders.

## Grasslands as a Common Resource: A Historical Perspective

Pastures or grasslands in Mongolia have never been under private ownership. They are and have always been the property of the State and used in common by herders or customary groups.

Open ranges and grasslands used to be controlled by feudal clans and tribal groups. Even then, however, they were commonly owned and used by herders who would come and go with the seasons, bearing their herds and their families.

Herder groups used different pastures or areas for spring, summer, autumn, and winter grazing; this system was developed and adapted to meet local climatic variations and livelihood needs. Herders moved their animals and camps throughout the four seasons, and it was common for a small group of herding families (*khot ail*) to move

together to a new seasonal pasture. Within

a given season there were also shifting and rotational systems which meant that animals grazed in different areas in a seasonal pasture, as agreed by customary groups of herders and local governments.

The Great Yassa Code of 1229 linked specific groups of herders to geographically defined territories, and nomadic movements were coordinated by designated leaders.

The Khalka Djurim of 1709 further defined

customary law by providing explicit references to pasture rights, distinguishing between secular and monastery herds. It also made provisions for sacred sites and reserved camp sites; and formalized the criteria for settling disputes over campsites. In the late 18<sup>th</sup> century, other formal regulations were enacted prohibiting certain long distance movements across territorial boundaries.

Under the Soviet era (1921-1990), all croplands, pasturelands and even livestock, became the property of the State. Citizens used State pasturelands to herd State-owned animals in exchange for a salary. Seasonal grazing movement schemes and pasture use regulations were developed, adopted and administered by *collectives* as State entities. Under this system, no disputes arose between herders over pasturelands since the State, through the collectives, made most of the decisions.



In 1992, following the transition from a centralized Soviet-style management system towards a more market-oriented one, private ownership of animals was re-instituted. It was in this period that herder families increased 2.5 times, and livestock by about 17.5 per cent. Pasture management authority and responsibility was also devolved to the local level governments and herders. The new Land Law (2002) defines pasturelands in Mongolia as public property under the common use principle.

## Issues and Problems

### *Recent Economic Transition*

Following the recent economic transition, stakeholders in pasture and natural resource management are now having to “unlearn” their practices under a centrally planned economy in order to cope with the impact of the “opening up” of the country’s economic and political systems.

In the Soviet era, herders were guaranteed full employment, and some elements of the customary system were maintained. In the post-Soviet period, herders are no longer employed by the State.



Hence, old-style herding

became an easy entry option for the increasing number of unemployed. This led to an increase in herd sizes to maximize profit, and ultimately to greater pressure on the fragile environment. Between 1992 and 1999, the number of families involved in herding more than doubled, and livestock numbers increased by some 30 per cent (National Statistical Yearbook, 2002) to 33 million, a first in Mongolian history. During this transition period, the weak arrangements between herders and local administrations, as well as the lack of an appropriate management system, worsened pasture conditions and led to widespread overgrazing.

### *Open Access Lands*

The view that grasslands or pasturelands are a common resource and public property has created an open access situation. Shorter term economic and livelihood needs are pushing families to increase their herd sizes as a means of survival in the face of competitive market conditions.

### ***Increased Concentration, Less Mobility***

Herder families are also moving less frequently due to competition for land. This has led to a concentration of animals around water sources, settlement areas, haylands, and seasonal camps, and thus to a breakdown of the customary system of nomadic pastoralism, which had heretofore been an effective way of using and managing grasslands.

### ***Fragile Ecosystems and Harsh Weather Conditions***

Pastureland ecosystems in Mongolia are fragile, highly susceptible to degradation, and slow to recover. Harsh weather conditions, in the form of *dzuds* or severe winter seasons, over the last few years has had a devastating impact on the livelihood of most herders. Consecutive *dzuds* from 1999 to 2002 resulted in a combined loss of over 10 million animals, or over 30 per cent of total livestock. Almost 12,000 herding families were left without animals, and a further 18,000 were left with fewer than 100 animals (Ykhanbai et al, 2003). Coupled with the progressive degradation of pasturelands, this situation could pose a serious environmental and economic problem for the country.

### ***Limited Capacity of the State***

The limited capacity of the State to effectively monitor and manage the pasturelands has helped create an open access situation. The current capacity of national and local government for pastureland management, particularly in providing policy guidance and building the capacity of resource users, needs to be strengthened. There also has to be a more visible and appropriate policy to support communal arrangements for common property resources such as pasturelands.

## **Testing Co-management Approaches**

In response to the issues cited above, co-management approaches to natural resource management were introduced through a project called "Sustainable Management of Common Natural Resources in Mongolia". This was supported by IDRC-Canada, and implemented by the Ministry of Nature and Environment in collaboration with other ministries and NGOs.

The project sought to address the challenge of environmental degradation through a combination of participatory and action-oriented field research in three *sums* (districts). These districts are representative of Mongolia's herding systems, its three main ecoregions (steppe, mountain-steppe, and steppe-

***Co-management*** is the sharing of authority and responsibility among stakeholders, a decentralized approach to decision making that involves user groups as partners or co-equal decision-makers with government.

**(Jentoft, 1989; Pinkerton, 1989; Berkes, 1991)**



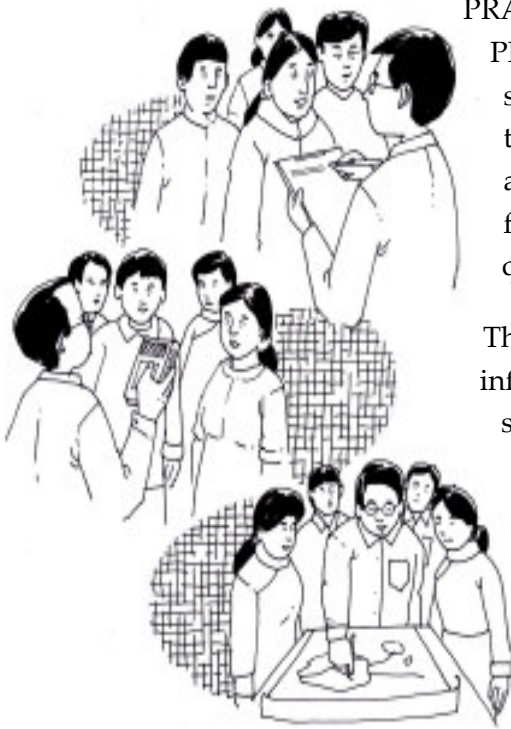
forest), and the different forms of social organization, and were thus selected in order to test the feasibility of co-management arrangements in different settings.

The Project aimed to develop more community-centered or participatory approaches to natural resource management based on co-management principles. It sought to modify traditional systems by providing policy and institutional arrangements at the local and national levels. Such policies and arrangements should allow for more herder group rights and responsibilities.

## **Project Approaches and Strategies**

Prior to the start of the Project, a one-year study was carried out to understand the issues of pasture management, conduct a profiling of various ecosystems, and to learn participatory rural appraisal (PRA) methods. A multidisciplinary team of eight women and seven men was constituted, most of whom were born and grew up with their herding families.

### ***Participatory Rural Appraisal (PRA)***



PRA was used as a general method for the study. Various PRA tools, such as focus group discussions (FGDs), semi-structured field interviews, household surveys, oral testimonies, mapping of herd movements, gender assessment study, seasonal diagramming, and semi-formal interviews with individuals, were used for qualitative analysis.

The use of PRA facilitated the following: generating information and information sharing among the stakeholders; prioritization of problems; identification of pasture management practices; and mapping of natural resources, seasonal pastures, water sources, infrastructure, etc. PRA also fostered a sense of “ownership” of the pastureland; heightened awareness of environmental and socio-economic problems, and the need to protect and manage pasturelands; promoted accountability and transparency; and fostered recognition of the role of women.

### ***Community Organizing***

The Project team selected herders that were widely respected in the community to serve as entry points for discussion in the neighborhoods. After the PRA meetings, herders consulted with each other about the possibility of forming a community organization, and the majority agreed to form one among themselves.

## Co-management mechanisms

### *Community Herder Groups*

A group of 13 to 32 herding families compose a community of herder groups for each project area. Each group is considered as a relatively homogeneous economic or social unit in terms of family, language, history, ecosystem and other similar characteristics.

### *Co-management Agreements*

Co-management agreements are instituted among herders within a community; and between communities and local level governments. Roles and responsibilities of the parties involved are agreed upon and stipulated in these agreements.

### *Sum Level Co-management Team*

A multi-stakeholder group, called the *sum* level co-management team, is also established, with representatives from herder communities, local governors, NGOs, local schools, other (community) leaders, and some members of the project team.

### *Community Revolving Funds*

When the community organization was established, herders agreed to create community revolving funds, which were made up of contributions by members of the community. The contributions were animals, such as sheep and goat, cashmere etc. The project contributed cash for the development of small credit schemes. These revolving funds are used by the communities to organize activities and to support poor members. Some 10 communities have a fund of up to 2 million MNT.

In the beginning, only the men attended the meetings of the community organization. Later on, the women also joined. In pastoral agriculture, both women and men play important but different roles; however, the role of the women is usually undervalued. Women's groups were thus established in all the communities to increase their participation in decision-making for natural resource management (NRM). The Project encouraged women's initiatives in protecting natural resources according to inherited knowledge and customs.

Assisted by the women's groups, the community leaders organized activities among the women to support income-generating projects (*e.g.*, handicrafts, felt-making, vegetable growing); provide venues for learning from each other; and perform participatory monitoring and evaluation (PM&E) of the community's co-management efforts.

### **Capacity Building**

The Project also provided various support services, such as (1) training (in NRM, pasture management, seeding of haylands, reforestation, handicraft making, project monitoring and evaluation); (2) networking; (3) venues for sharing experiences among groups (such as inter-site, and herder-to-herder visits); and (4) institutional support (micro-credit schemes, setting up of information database, organizing community groups, drafting policies and regulations).

## **Participatory Processes and Conflict Management**

Stakeholders' equal participation in the planning process facilitated the following:

- Incorporation of all stakeholders' viewpoints;
- Support for initiatives by herders and communities;
- Sharing of knowledge among stakeholders in planning and implementation;

- Resolution of equity issues and conflicts between community and non-community herders, between herders within and outside the community organization, and between herders within the community, as well as disagreements with newcomers.

### ***Linking the local to the national***

Linkages between natural resource management policy and planning activities at local and national levels were strengthened. By facilitating the flow of information from the local to the national level, and vice versa, the Project helped to ensure that local issues are considered in the preparation of national level plans. Discussions with herder groups on the drafts of national policies and legal documents also facilitated feedback and incorporated local inputs into the national law.

## **Changes and Outcomes**

The implementation of co-management procedures resulted in the following major changes:

### ***Increased cooperation between herders, local governors and other stakeholders***

Herders became aware that the effectiveness of the mechanisms instituted depended on joint action, and thus understood the benefit of cooperating with one another and with local institutions. By being part of a community, herders became conscious of their strength as a group, to influence *sum* or *bag* governors, and to contribute to the implementation of good pasture policy. PRA helped herders understand the importance of their equal participation in NRM and to learn to express their ideas.

### ***Establishment of CBNRM institutions, increased capacity of communities, and improved livelihood for herders***

In the three years that the Project was implemented, the number of communities in the project area has increased from three to 15, and new ones are currently being established. Communities have been trained in PRA and participatory monitoring and evaluation. Women members have gained capability in PM&E. New livelihood activities have brought about short-term economic benefits to herding families. Herders have acquired new and additional sources of income, such as planting vegetables and making handicrafts. The income of herders in the study sites has increased by up to 67 per cent in the last three years.

### **Why did herders decide to join community organizations?**

Both rich and poor herders were interested in arresting environmental degradation and increasing their economic benefits. Poor herders were the most interested in being involved in CBNRM because of their need to improve their livelihood, secure their pastures, participate in decision-making, and reduce the costs of herding animals. On the other hand, the richer herders were concerned with maintaining positive social relations and ensuring the supply of labor for agriculture production. Some richer herders who refused to participate in the community organizations at the beginning joined eventually, after several discussions and negotiations with the district level management team.



## **Contents of Co-Management Contracts**

The rights and responsibilities of community members, *sum* and *bag* governors are stated in the contracts. The roles and responsibilities of all stakeholders, as agreed upon in community meetings and discussions, are also included.

### **Local governors agree:**

- To approve community rights to exploit/allocate certain pasture areas according to the laws and regulations;
- To link more effectively the *sum*'s economic and social policy with community activities, and to support their sustainable NRM and livelihood activities;
- To define community pasture borders in the *bag* and to discuss this during the *bag*'s people's representatives meeting; and
- To regulate exclusion, in communication with other governors, of outsiders from the community pasture area.

### **The community members agree:**

- To follow the community rules and regulations;
- To follow community decisions on pasture use; and
- To work in close connection with other members and to exchange experiences, etc.

The agreements are valid for four years and are assessed annually at the stakeholders' meeting.

*(As part of project interventions, several communities entered into contracts with local government on pasture use, according to the new Land Law provisions. In these contracts, boundaries for seasonal pasture were clearly agreed to in the topographic maps, and all regulatory measures, as well as responsibilities of protection and use rights were then transferred to the community.)*

## **Introduction of customary and innovative pasture use practices**

A survey in 2003 showed that 87 per cent of the community members think that community joint efforts in the shifting and rotation of seasonal pasture have improved the overall pasture quality, and that more than half of community members in all the study sites are now able to calculate pasture (carrying) capacity by themselves.

Through the protection and improvement of community hayfields, establishment of a hay/fodder fund, and preparation of additional fodder for the winter season, herders in the study sites have been able to reduce average annual animal losses to an average of six to 12 per cent.

## **Learnings and Challenges**

Mongolia's experience in community-based co-management of grassland resources has generated some significant lessons as well as highlighted a number of continuing challenges. These include the following:

1. Establishment of resource management groups within communities helps to draw people's attention to sustaining the ecosystem and relating this to rural development;
2. Broad participation, transparency and collective decision-making help ensure the success of community-based natural resource management;
3. Co-management creates an effective link between local and central governments in the context of decentralization; and between government and herder groups in the sustainable management of common grazing lands;
4. Awareness-building and understanding by all stakeholders are important in order to settle conflicts and disputes, especially among herder groups;

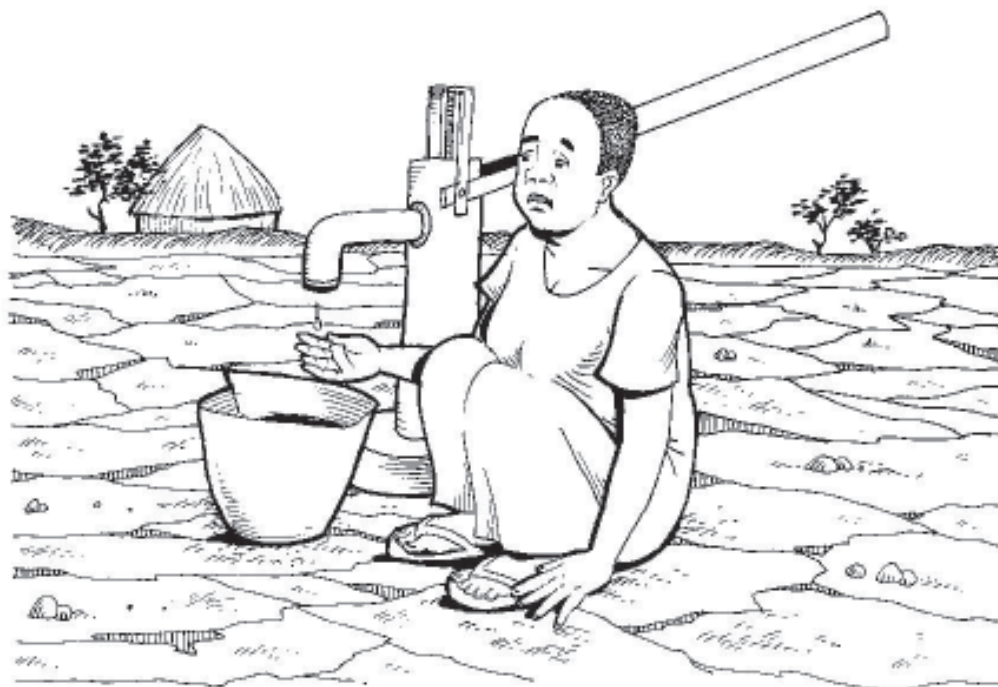
5. The optimal size of herder groups and their communities depends on the characteristics of the ecosystem, sustainable livelihood opportunities, as well as the traditions and local culture of the herder communities. Over time, it will be important for herder groups to address issues of inequalities in herder size within their groups, as well as to regulate livestock numbers, based on the carrying capacity of the ecosystem;



6. Community Based Natural Resource Management (CBNRM) should move towards a more comprehensive natural resource management that would include other ecosystems and not just grasslands, following the initial success of community-based pasture management in Mongolia; and
7. Transitional economies such as Mongolia need more time, and more supportive policies in implementing CBNRM.

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# Right to Water: *In Search of a Legal Basis*



**W**ater is essential to life. Yet, despite universal recognition of the importance of water, the international community has shown little political will to enshrine access to this resource as a human right.

The most exhaustive and authoritative elaboration of the right to adequate water is General Comment 15 which was developed and drafted by the Committee on Economic, Social and Cultural Rights (CESCR), the agency charged with interpreting and monitoring the International Covenant on Economic, Social and Cultural Rights.

This declaration recognizes that the “right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use”. This statement creates both freedoms and entitlements.

## Source

Ramin Pejan, “The Right to Water: The Road to Justiciability,” IRC International Water and Sanitation Centre (IRC), *Responding to Poverty: Promoting Productive Uses of Water at the Household Level. (Statement from a symposium held in Johannesburg, South Africa, Jan. 21 - 23, 2003)*

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With regard to *availability*, the supply of water for each person should be “sufficient and continuous”. Adequate *quality* requires that water “be safe, therefore, free from micro-organisms, chemical substances and radiological hazards.” In addition, water must be of an “acceptable color, odor and taste.” *Accessibility* means “water and water facilities and services have to be accessible to everyone without discrimination...”

## Right to Water and other Human Rights

**Right to Life.** Water is sustenance. Every human being has the inherent right to life. In this regard, General Comment 6 of the Human Rights Committee states “the right to life has been too often narrowly interpreted. The expression ‘inherent right to life’ cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures.”

**Right to Housing.** The CESCR outlined in General Comment 4 that “all beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water... sanitation and washing facilities.” The Commission on Human Rights’ Special Rapporteur on Adequate Housing states that the “full realization of the right to adequate housing is closely interlinked with and contingent upon fulfillment of other rights and services, including access to safe drinking water and sanitation. No dwelling should be deprived of water because such deprivation would render it unlivable.”

**Right to Food.** Water is essential to agriculture, and much of the food in rural areas is harvested through sustenance farming. The Commission on Human Rights Special Rapporteur on the Right to Food recommended that drinking water be treated as a public good and thus included within the right to food.

**Right to Health.** Unsafe water can lead to a number of diseases. The CESCR’s General Comment 14 on the Right to Health defines it as an inclusive one that extends not only to timely and appropriate health care but also to those factors that determine good health. Those factors would include access to safe drinking water and adequate sanitation, especially for vulnerable groups, such as pregnant women and children.

Other rights that are implicated by lack of adequate water include: the right to self-determination, and other human rights such as the right to a healthy environment and the right to development. Related to the right to life, the right to food and the right to development require the productive use of water at the household level in order to fight poverty.



The right to adequate water is also reflected in a number of international human rights declarations. Article 14 of the Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW) provides that “State Parties shall...ensure to such women the right...to enjoy adequate living conditions, particularly in relation to...water supply.” On the other hand, Article 24 of the Convention on the Rights of the Child (CRC) requests States to take measures to combat disease and malnutrition “through the provision of adequate nutritious...foods and clean drinking water.”

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The United Nations declared 2003 as the “International Year of Freshwater” with the aim to, inter alia, reassert the UN Millennium Declaration Goal: “to halve, by the year 2015, the proportion of the world’s people...unable to reach or to afford safe drinking water” and “to stop the unsustainable exploitation of water resources.”

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## State Obligations

Under General Comment No. 15 of CESCR, the States must immediately satisfy the following core obligations:

- Ensure access to the minimum essential amount of water that is sufficient and safe for personal and domestic uses to prevent disease;
- Ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups;
- Ensure physical access to water facilities within a reasonable distance from the household and with very little waiting time;
- Ensure equitable distribution of all available water facilities and services; and
- Monitor the extent of the realization, or non-realization, of the right.

States also have an international obligation to refrain from interfering — either directly or indirectly — with another country’s enjoyment of the right to water. The declaration also recommends that States facilitate the enforcement of the right to water in other countries, for example, through financial and technical assistance. Furthermore, water should never be used as an instrument for political and economic pressure and sanctions.

## Implementation and Monitoring

The declaration on the right to adequate water likewise requires States to prepare a plan to enforce the right to sufficient water at the national level. This includes the establishment of a national water policy, legislation and strategy. The formulation and implementation of a national strategy requires



good governance and compliance with principles of accountability, transparency, people's participation, decentralization, legislative capacity, and the independence of the judiciary.

In terms of monitoring, the State must use appropriate indicators and benchmarks. "The indicators should address the different components of adequate water (such as sufficiency, safety and acceptability, affordability and physical accessibility), be disaggregated by the prohibited grounds of discrimination, and over all persons residing in the State's jurisdiction." In addition, the State should set benchmarks in relation to each indicator.

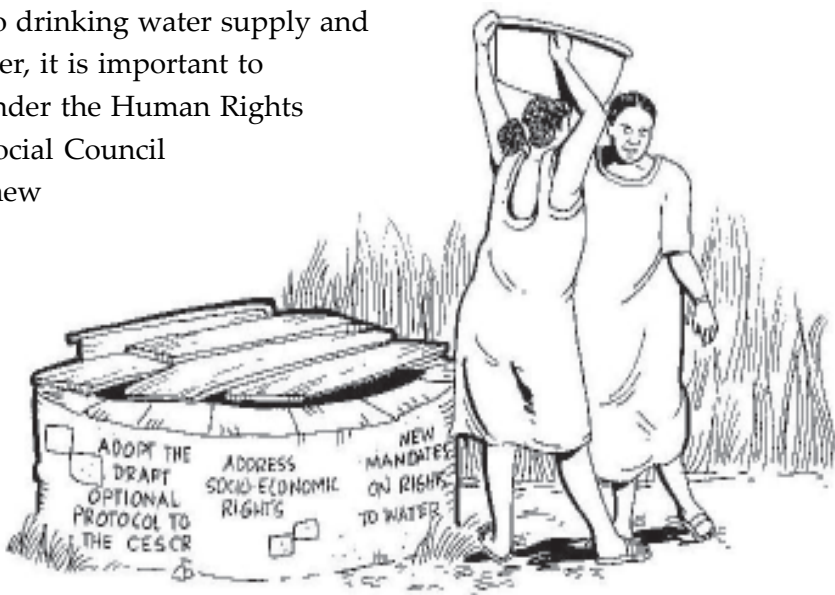
## Enforcement and Remedies

All persons or groups that have been denied the right to water should have access to effective judicial remedies and other appropriate remedies at national and international levels. The declaration also recommends that judges, adjudicators and members of the legal profession should be encouraged by the State to pay greater attention to violations of the right to water.

## What Should Be Done?

Within the U.N. human rights system, there are a number of developments that bode well for the emergence of a right to water.

1. *States should adopt the Draft Optional Protocol to the CESCR, thus creating an individual complaint system;*
2. *The Human Rights Commission should create a new special rapporteur on the right to water with the mandate to address individual complaints and urgent action appeals.* An independent expert on the right to water already exists. Its mandate is limited to undertaking a study of the right to drinking water supply and sanitation. In this connection, however, it is important to establish a new thematic mandate under the Human Rights Commission or the Economic and Social Council focusing on the right to water. This new mandate should be broadened and allow the special rapporteur to seek, receive and respond to information on all aspects of the realization of the right to water, including the urgent need to address water scarcity;



## South Africa

South Africa is one of the few countries in the world that expressly recognizes the right to water in its Constitution. It has made significant progress in creating the context for the realization of the right to adequate water by developing a national policy on water management, by enacting national framework legislation to deal with water management and water services, and by developing national strategies to implement this legislation.

The South African Constitutional Court has developed jurisprudence regarding economic and social rights applicable to the potential justification of the right to water.

In two landmark cases, the court ruled that lack of funding for a government program is not an excuse for inaction.

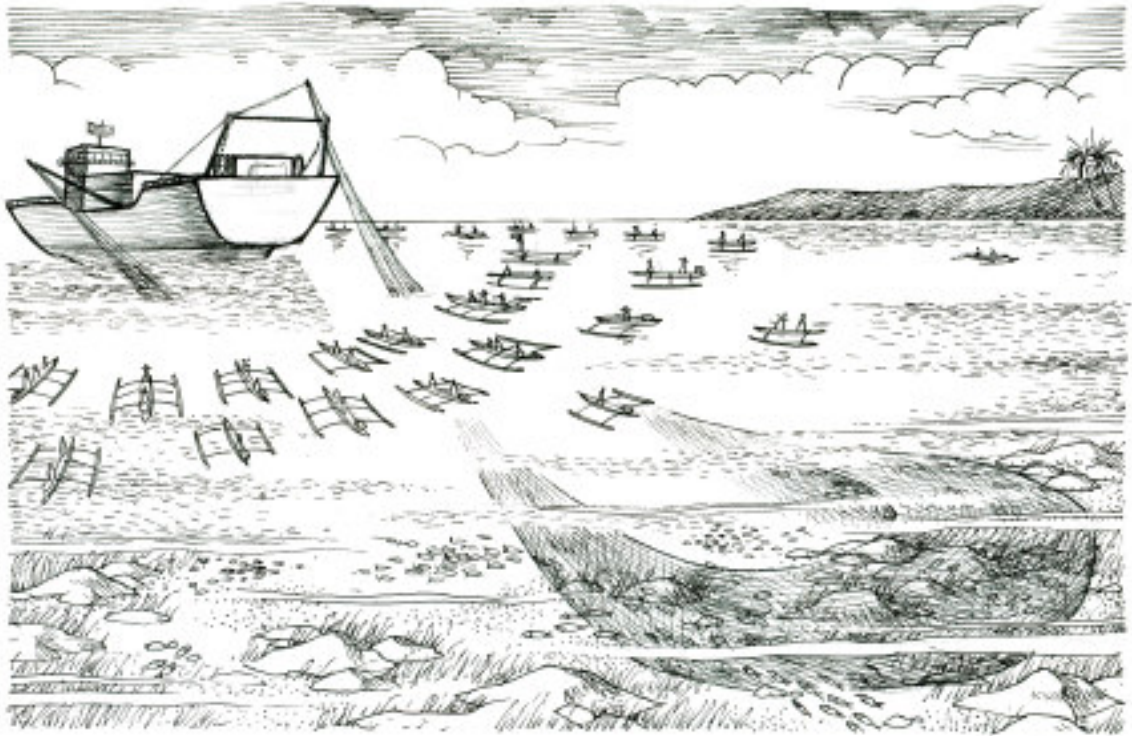
In addition, the South African government enacted two laws that deal with water rights. The National Water Act (NWA) addresses water management, and the Water Services Act (WSA) addresses water services.

Although it is premature to say that its efforts are successful, South Africa has provided and continues to provide the international community with an example of how the right to water can be implemented. In this sense, South Africa's efforts are a success, since it has created and set forth a process for important dialogue and construction with regard to the right to adequate water.

*3. Non-government organizations dealing with human rights need to pay more attention to socioeconomic rights.* It is no longer convincing to rely on excuses, such as difficulties in documenting violations, in order to get around the monitoring of how socio-economic rights are being respected.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Collective Action and Co-management in Fisheries



Until the late 1960s, villagers on the island of San Salvador in the Philippines enjoyed open and unrestricted access to an abundance of coastal resources. In the early 1970s, an influx of migrants, combined with the integration of the village economy into the international market for aquarium fish and a shift to destructive fishing operations, ruined the local fishing grounds, and conflicts erupted. Government claims of full control over the use and protection of marine and coastal resources did not stop the depletion or degradation of the resource.

The developing world presents many similar examples where central government management of fisheries resources is unable to either reduce overfishing or counteract destructive fishing methods. The State often lacks the capacity to enforce property rights and regulations on resource use.

## Source

Mahfuzuddin Ahmed, K. Kuperan Viswanathan, and R.A. Valmonte-Santos, "Collective Action and Property Rights for Sustainable Development: Collective Action and Property Rights in Fisheries Management", Brief 7 of 16, edited by Ruth S. Meinzen-Dick and Monica Di Gregorio, 2020 Vision Focus 11, International Food Policy Research Institute: Washington, D.C., 2004. Reproduced with permission from the International Food Policy Research Institute. [http://www.ifpri.org/2020/focus/focus11/focus11\\_16.pdf](http://www.ifpri.org/2020/focus/focus11/focus11_16.pdf)

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Fisheries are complex and interdependent ecological and social systems that require integrated management approaches. The actions of one person or group of users affect the availability of the resource for others. Managing such common pool resources requires conscious efforts by a broad range of stakeholders to organize and craft rules enabling equitable and sustainable use of the resources for everyone's benefit. Collective action is often a prerequisite for the development of community-based institutions and the devolution of authority that is required from central to local authorities.

## Collective Action in Fisheries

There is extensive evidence that communities can improve the conditions of the shared resources on which they depend. Over the past decade, the community of San Salvador has organized and established, with the help of government intervention, a marine sanctuary and reserve. An arrangement for community-based management of coastal resources fostered collective action by forming and strengthening local organizations. These organizations became responsible for marine resource management and income-generating projects, and they reduced over-fishing and other destructive practices. A local ordinance banned fishing within the sanctuary and allowed only nondestructive fishing methods in the marine reserve. The local municipal council passed an ordinance providing legal protection for the sanctuary. From 1988 to 1996, the average fish catch increased, and living coral cover and the number of coral species doubled. But not all efforts to establish collective action in fisheries are successful. Research in Bangladesh suggests that the boundaries of the bodies of water, the scale of the resource, and the type of fishery all play a significant role in determining whether efforts to foster collective action succeed. Existing property rights also influenced the types of new institutions for collective action that could be established. One community in Bangladesh was unable to regulate access to the closed fishing grounds where leaseholders had historically controlled access to and stocking of carp, even after community-based fisheries management was introduced and individual leasing was discontinued. Only through successful collective action was it possible to protect group rights over individual ones.

## Property Rights Arrangements

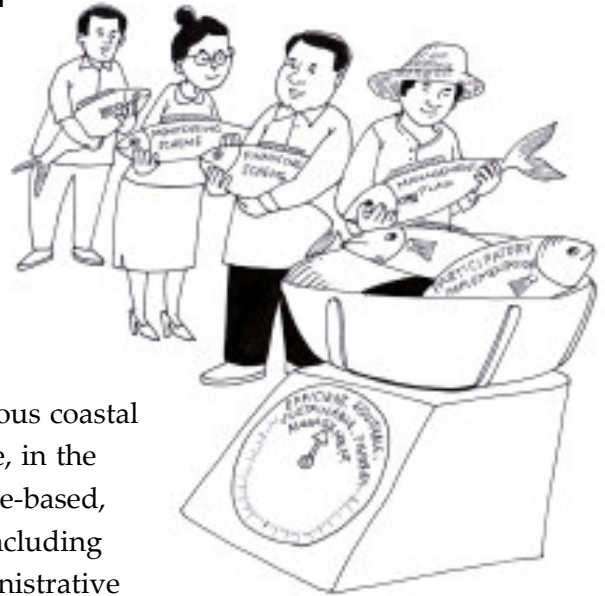
Private, State, or community control each has its own limitations in fisheries management. Private ownership often has prohibitively expensive enforcement costs and unequal distributional outcomes. Direct State control has high information costs and often lacks



monitoring mechanisms, trained personnel, or financial resources. In some cases community control excludes the poorest people from access to a common property resource, increasing inequality. Combining State, private, and community control over fisheries in imaginative ways can offer more efficient, equitable, and sustainable management. This combination is often referred to as co-management. Co-management in fisheries involves the active participation and cooperation of government, nongovernmental organizations (NGOs), organized fishers' groups, and other stakeholders in management decisions. It can help build cross-institutional collective action. It represents a more democratic governance system than State management because users are more involved in determining the rights over the fishery and in sharing decision-making authority. It improves management efficacy by drawing on local knowledge and securing higher compliance with rules.

## An Example of Successful Co-Management

Fisheries management involves multiple natural and human settings. San Miguel Bay in the Philippines is a multispecies, multigear bay surrounded by three cities and 74 coastal villages whose major livelihood is fishing. Since the 1980s conventional fisheries management problems—overfishing, distributional inequity, and limited economic opportunities—and negative impacts from various coastal and land-based sectors have been evident. Here, in the 1990s, the WorldFish Center conducted an issue-based, multisectoral, and multidisciplinary analysis (including ecological, economic, social, political, and administrative perspectives) that led to the production of a coastal environmental profile, a technical report detailing the status of fisheries, and an integrated fisheries management plan. The management plan included financing and monitoring schemes, participatory implementation plans involving diverse organizations and institutional levels, and the establishment of the San Miguel Bay Fisheries Management Council, composed of provincial and municipal government representatives, NGOs, academic institutions, and various local organizations.



San Miguel's experience highlights (1) the critical role of an appropriate human perception of the situation; (2) the importance of collective action and stakeholder participation at key stages of research, planning, and implementation; (3) the usefulness of structured decision methods for research, planning, and associated debates; and (4) the efficacy of research combined with planning efforts to ensure its utilization and relevance on the one hand and to provide a scientific basis for management planning on the other.



## Empowering Communities

Unfortunately, governments rarely undertake co-management as a means of empowering fishing communities and increasing democracy. Instead, governments often consider co-management an instrument to achieve their objectives more efficiently by involving fishing communities in the implementation process. Part of the

problem is that the organizational structures of government departments have not adapted to the new co-management concept. Most fisheries departments are still staffed with natural scientists and are almost exclusively focused on resource conservation rather than on fishing communities' livelihoods.

Collective action can help to empower poor communities, as the example of San Salvador Island shows. But effective co-management requires government to devolve real and substantial rights and responsibilities to representatives of fishing industry organizations or groups of harvesters to achieve sustainable resource management. Moreover, devolution of rights is generally not successful without collective action.

For collective action to succeed, governments and fishers should meet to discuss problems and their possible solutions and to develop arrangements for management. Fishers should be asked to express their concerns and ideas and be given an opportunity to develop their own organizations, networks, and coalitions. The government's role is to provide legitimacy and accountability for local organizations and help develop collective action institutions such as community-based and co-management organizations. Successful long-standing arrangements for marine fishery co-management, such as in Japan and Norway, all have a legal foundation.

Where authorities do not devolve some of their powers, governments can abuse co-management arrangements to extend control where it was previously absent. Government agencies need to supplement department staffing with new professional skills and develop capacity to deal with co-management processes in several communities simultaneously. Such changes may require reorienting mindsets both in government organizations and in communities.

**Governments rarely undertake co-management as a means of empowering fishing communities and increasing democracy. Instead, governments often consider co-management an instrument to achieve their objectives more efficiently...**

## The Challenges Ahead

Despite progress in achieving collective action and co-management for fisheries, a number of challenges remain:

### ***1. Developing co-management institutions on a larger scale***

Many of the problems and issues facing fisheries can be solved only on provincial, national, or even international levels. Fishery resources are generally too large to be entirely within the control of a few communities. In these cases, it is imperative to provide for representation of fishery groups at different levels.



### ***2. Reconciling local and global agendas***

Often, international agreements on fisheries and local environmental management contradict each other. The government needs to meet its double obligation of attending to international agreements while sharing decision-making power for fisheries management with communities.

### ***3. Identifying a management knowledge base acceptable to stakeholders***

To maintain scientific validity and achieve wide acceptance, co-management systems need to reconcile both formal scientific knowledge and fishers' knowledge. One approach may be to identify science-based indicators of the status of the resource system that also reflect fishers' observations.

### ***4. Developing approaches to manage conflicts***

Management arrangements may require access rights to be limited to some resource users and to exclude others, often resulting in conflicts. Participatory approaches for managing such conflicts are crucial for successful co-management.

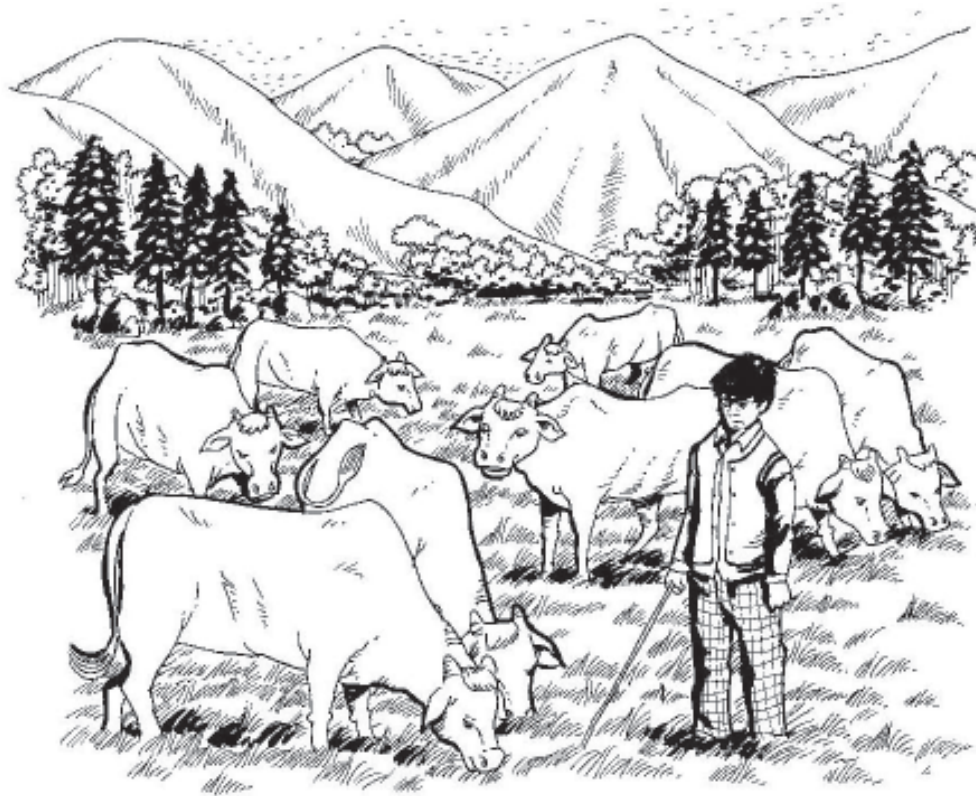
### ***5. Reforming existing institutions to empower local communities to participate in determining management objectives***

This step may require substantial changes in governmental fisheries management agencies and in stakeholders' perceptions of their respective roles.

These issues must be addressed in practical experiments with collective action and co-management. The results need to be documented and the experiences communicated to others who may be in the process of establishing or developing collective action capacity among fishers.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Common Property Resource Issues in the Hindu Kush-Himalayas



**T**he Hindu Kush-Himalayas (HKH) are the highest and most populous mountain ranges in the world, extending 3,500 kilometers from east to west and home to nearly 140 million people. The total geographical area is over 354 million hectares. Of this, 5.4 per cent is used for agriculture; 24.1 per cent is forest; 32.5 per cent, pasture land; and 2.5 per cent, national parks or protected areas.

## Source

Anupam Bhatia, Suresh Raj Chalise, Camille Richard, "Institutional Innovations for Sustainable Management of Common Property Resources in the Hindu Kush-Himalayas."

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## HKH Common Property Resources

In the Hindu-Kush Himalayas, common property resources include *rangeland*, *water*, and *forest resources*.

### ***Rangeland Resources***

The HKH rangelands include native grasslands and shrublands, as well as forest areas which are often converted to shrub or grassland through the processes of grazing, burning, and abandoned





cultivation. Livestock in the HKH are primarily sustained by vast native rangelands and forests managed as a common property resource by millions of farmers and pastoralists who rely on these diverse ecosystems for their subsistence. Rangeland resources encompass more than any other ecosystem in the HKH, and display a diverse assortment of plant communities, wildlife species, and various distinct cultural groups. Rangelands of the HKH are important for a number of reasons:

- They are the headwaters of the principal river systems of the region;
- They provide habitats for numerous wildlife and plant species, many of which are endangered;
- They provide forage for grazing livestock; and
- Many occur within protected areas and are becoming increasingly popular as tourist destinations.

### **Water Resources**

The HKH are the largest storehouse of fresh water in the lower latitudes and as such are important water towers for nearly 500 million people. They are the source of major river systems: the Indus, the Ganga, the Yarlung-Tsangpo, the Brahmaputra, the Nu-Salween, the Yangtse, and the Mekong. Called the “Third Pole”, they contain the greatest mass of ice and snow outside of the earth’s polar regions. The availability of water at such great heights points, at least theoretically, to significant potential for power generation, irrigation, and flood control through the construction of multipurpose storage dams.



### **Forest Resources**



Forests cover 24.1 per cent of the total geographic land area of the HKH region. Forest cover varies greatly among the different countries: from a low of three per cent in Afghanistan (with the lowest per capita forest availability of 0.12 hectare) to a high of 58.8 per cent in Bhutan (with a per capita forest availability of 1.9 hectares). These forests are teeming with innumerable varieties of flora and fauna and multitudes of ecosystems.

## **Management of HKH Common Property Resources**

### **A. Rangeland Management**

Strategies for range management and pastoral development in the HKH should aim to:

- Maintain rangeland productivity;
- Rehabilitate degraded areas;
- Protect and improve biodiversity;
- Promote sustainable livestock production; and

- Improve people's standards of living by stimulating economic growth and increasing employment among the local population.

## Key Issues

The key issues related to the sustainable management and use of rangeland ecosystems in the HKH region include the following:

### 1. *Inadequate understanding of the dynamics of rangeland ecosystems*

Basic knowledge is needed regarding range ecosystem structure and functions in order to assess how an ecosystem will respond to changing management scenarios.

### 2. *Lack of knowledge of traditional pastoral production systems*

Many traditional grazing and livestock management systems are highly evolved and dynamic, incorporating techniques for pasture allocation and access, rotational grazing, and range condition and health indicators designed to maintain range productivity and prevent overgrazing. Development projects must be designed with a proper appreciation of the herders' social and economic values, priorities, and incentives.

### 3. *Rangeland degradation and loss of biodiversity*

A general climatic drying trend is apparently resulting in reduced production on many rangelands of the HKH. In addition, many regions are experiencing rapid social and economic transformations that ultimately affect the number and composition of livestock and associated rangeland use. Without adequate information on how these changes are affecting pastoral societies and the environment that sustains them (wildlife and plant species), these resources cannot be adequately protected.

### 4. *Shortage of forage supplies in winter*

Winter fodder is the key limiting resource in most of the HKH. Thus, the regulation of winter resource access becomes the key to the successful management of rangelands. Many indigenous management systems for common property re-



sources operate by regulating animal numbers based on the number of animals that can be sustained by the supply of winter forage.

#### **5. *Weak institutional capacity and insufficiently trained human resources***

Many of the institutions involved in rangeland management lack a suitable system for gathering, organizing, and analyzing relevant range resource data. Fortunately, there is growing awareness of rangeland resource issues in the HKH, and the need for adequately trained personnel. New perspectives in rangeland resource dynamics, coupled with computer-assisted technology (e.g., Remote Sensing and GIS), can facilitate effective implementation.

#### **6. *Inappropriate policies and development approaches***

The mainstream perspective of many governments is that indigenous rangeland management systems are ineffective. This has led to the uncontrolled exploitation of the grazing resource. Underlying this view is a lack of understanding of the true causes of overgrazing, some of which are:

- Existing range resources are under additional pressure because of government policies to increase agricultural lands in areas generally not suitable for cultivation;
- Elsewhere, agricultural policies undermine the importance of livestock in the mountain farming system;
- Rangelands that have been traditionally managed as a common property resource are now being allocated as private land under some government policies;
- Protected area policies in high-elevation rangelands are usually formulated without proper knowledge of traditional pastoral systems and wildlife habitat; and
- Community forestry policies do not recognize the need for grazing lands in forest ecosystems and generally exclude grazing by both local and transhumant herds within community forests.

### ***B. Integrated Forage Management***

A functional paradigm for HKH rangeland resource management should involve the sustainable use and maintenance of forage resources (native range, forest, pasture, and agricultural lands) that incorporate both scientific and indigenous systems of management, that meet the optimal needs and desires of the household and community (increased livestock and/or crop production, water availability, and forest products), and that do not disrupt the integrity of the ecosystem.

Given this paradigm, policy-makers and donor agencies should take note of the following in developing range development programs:

- Consider the potential for opportunistic range management strategies that are built upon traditional grazing systems rather than on rigid stocking rates;
- Consider the value of participatory planning and strengthening of grazing associations to empower people;
- Promote an integrated approach to incorporate biodiversity issues into the planning process; and
- Promote flexible financing and long-term time frames for livestock and forage development project funding.

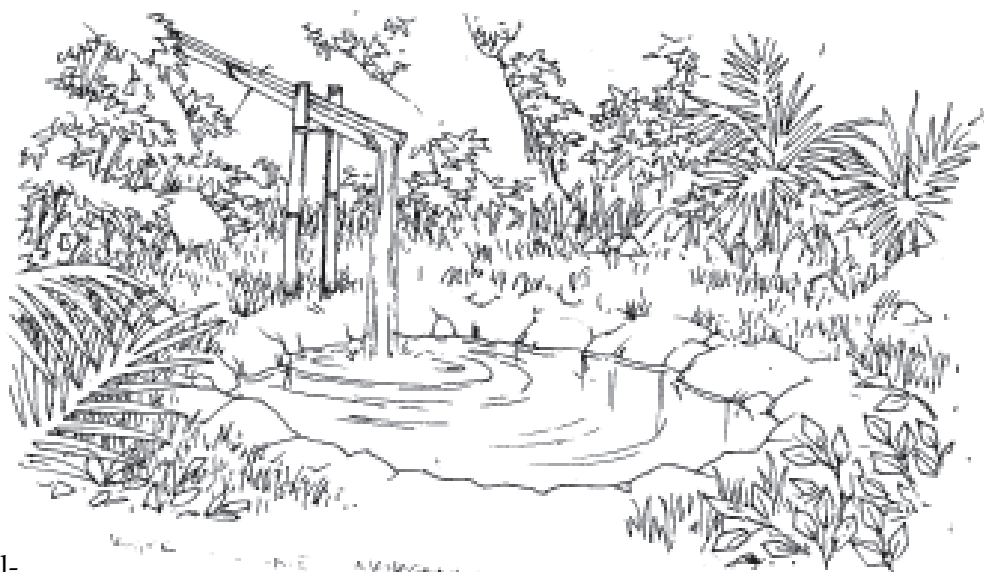
### **C. Water Resource Management**

Depending on available resources and local ingenuity and skills, mountain communities have developed diverse strategies for the management of water. Strategies have varied in accordance with local climates, biogeophysical conditions, available technical know-how, and also a consideration of the particular needs for water (household consumption, irrigation, or other uses). These indigenous systems of water management vary widely within the HKH region. Even so, strong community participation and management of such systems are important common features.

Local ingenuity and skills have been applied in the past to store and use water to meet year-round needs and to develop agricultural systems. These should be taken into consideration in the design of water resource management programs.

At the national level, mega-projects for power, irrigation, and flood control were most preferred in the past in many HKH countries. Today, there is a growing and active campaign to shift to small projects, considering the environmental consequences of large projects, the fragile geology and active seismicity of the area, and the costs that are normally beyond the capacities of the countries to bear.

In addition, improvement of the knowledge base on the climate-ecol-



ogy-hydrology of the HKH is vital — particularly in a region where environmental degradation and frequent disasters, such as landslides and floods, are caused by precipitation, both normal and abnormal.

#### **D. Forest Resource Management**

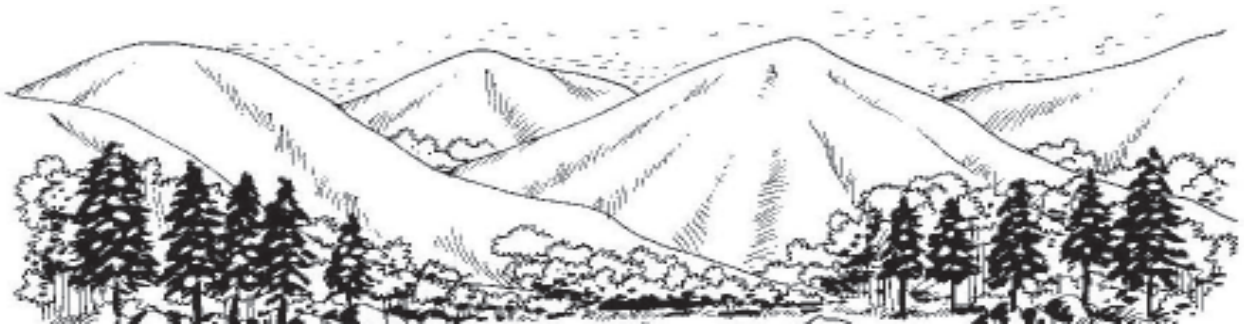
As the world's youngest, highest, and most rugged mountain system, the Himalayas is the scene of constant natural upheavals that are largely beyond human control. However, forest resources are rapidly being lost mainly in two ways: (1) large forest areas are being converted into farm land and settlements, infrastructure facilities, and various development projects; and (2) severe degradation of forest growing stock through continuous and excessive removal of biomass to meet the needs of increasing human and livestock populations. The result is an upset in nature's balancing mechanism and its ability to regenerate.

Other effects of the lack of appropriate forest resource management:

- Lack of legal, administrative, and institutional support for the management of forest resources;
- Breaking down of many well-established traditional, indigenous natural resource management systems without their replacement by new and better ones;
- Confusion, competition, and conflict among rival institutions for control of and authority over resources, thereby preventing integrated, holistic, and scientific approaches;
- Limited resources available for forestry development because the land available for forestry is poor, marginal, degraded, and under excessive pressure;
- Inadequate forestry resource information base, research, and development activities;
- Failure of forest management to reach both accessible and inaccessible areas;
- Failure of forest development programs to recognize indigenous species and their biodiversity, the needs of the local people and the environment; and being guided instead by economic considerations (*e.g.*, industry needs or the ease of planting and tending); and
- Difficulty of effective reforestation (*i.e.*, ensuring that the forest survives and grows to an optimal usable size) due to planting of useless species in accessible areas rather than replacement of useful species in difficult areas where the deforestation is occurring.

The strong complementarity between the common property resources of the mountains and the plains can — with appropriate policy measures and innovative management

approaches, partnerships, and institutional development — help both the uplands and the lowlands guarantee the sustainable use of such resources. Institutions at various levels — local, national and regional — should be carefully designed to reflect the concerns of the many stakeholders involved.



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# Social Capital and Management of the Commons: *The Kalahan Case*



It is frequently assumed that people who use common pool resources, or the commons, are concerned solely with their own interests. This is a misconception and completely ignores the existence of cooperatively managed resources in various social and historical settings. Studies have shown that forests, fisheries, pasture lands, wildlife and water resources can be managed and protected as common property by self-governing associations of local users. (Fikret Berkes [ed], Daniel Bromley).

However, protecting the commons requires a concerted effort by the community and institutions in order to ensure the sustainability of resource use. Just as importantly, social capital, which is embodied in informal norms and networks of trust and reciprocity, must be cultivated to promote collective action in community conservation efforts. The Kalahan Case offers clear evidence of this.

## Source

Francisco Magno, "Crafting Conservation: Forestry, Social Capital, and Tenurial Security in the Northern Philippines", A dissertation submitted to the Graduate Division of the University of Hawaii, December 1997, Published by the Institute of Philippine Culture (IPC), Ateneo de Manila University.

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## The Kalahan Case

In 1974, the Ikalahan/Kalanguya community in northern Philippines was granted exclusive rights through a communal stewardship agreement to use and manage 14,730 hectares of classified forest land for 25 years. The tenure is renewable for another 25 years.

Assisted by a non-government organization, the Kalahan Educational Foundation (KEF), along with village elders and barangay officials, established a forest management regime that sought to address both conservation and livelihood concerns. Their main objective was to help build the

capacity of the community to limit their livelihood activities to designated zones and thereby spare the primary forests from degradation.



- Logging in the primary forest was curtailed.
- Timber-cutting in the secondary forest was selectively allowed only for domestic construction purposes, with the further stipulation that harvested logs could not be sold to outsiders.

- Swidden farming was permitted but the size of the land devoted to such activity was severely restricted.
- Farmers were dissuaded from using chemical fertilizers and were instead encouraged to harness natural composting techniques.
- Wild fruits gathered by local people were purchased by the KEF and processed into jams and jellies thereby providing an additional income source to the community.
- Every household was asked to send a representative to participate in tree-planting activities which were regularly held to coincide with the onset of the rainy season.
- Boundary rules were erected, restraining resource access by outsiders who were also prevented from taking up residence in the community except in case of marriage and employment with the KEF.

The Ikalahan/Kalanguya community consists of six *barangays* or villages encompassing the western part of the municipality of Sta. Fe in Nueva Vizcaya province and the northeastern section of San Nicolas in Pangasinan province.

This community of around 530 families was the first local group to acquire legal tenure to public forest land in the Philippines.

Community rules regarding resource use were established by the KEF Board of Trustees whose members are elected by the villagers. The proposed rules were extensively discussed in village meetings before they were approved. The KEF then enforced and monitored compliance with the rules in coordination with the *barangay* council. Disputes concerning the use of resources were resolved either through the traditional *tungtungan* process presided over by village elders or through less elaborate mediation procedures conducted by the KEF and barangay officials.

As a result, the Ikalahan/Kalanguya community developed a sustainable forest-farm system where sustainable livelihood niches have been carved out of the secondary forests. Meanwhile, the old-growth forests have been maintained and large sections of the Kalahan forest zone are being reforested.



The Ikalahan/Kalanguya experience validates the belief that recognizing the land tenure rights of long-term forest occupants is essential in fostering resource protection. However, securing the people's tenure is only the initial step. Communities need to create strong institutions that will mobilize collective action towards the development of rules, norms, and practices governing the use of the forest without damaging its regenerative capacity.

Institutions play an important role in forging common goals and in facilitating their achievement. They are created not only to formulate rules but to enforce them. They are meant not only to structure relationships but to make them work.

## How to Make Institutional Management Work?

- Centralized, top-down development strategies may not work. While they could have positive macroeconomic results, they are also likely to have negative consequences for resource sustainability and socioeconomic equity. Instead, the strengthening of participatory and “local approaches” to development is recommended.
- The smallness of scale is also crucial in facilitating collective action. It has been argued that small groups are in a better position than large ones to monitor the behavior of fellow



### CALCULUS APPROACH VS. CULTURAL APPROACH

How can institutions affect individual actions and preferences? The major responses to this question have been termed by Peter Hall and Rosemary Taylor as the “*calculus approach*” and the “*cultural approach*”.

- In the **calculus approach**, the focus is on rational actors who rank their preferences and engage in strategic interactions in order to maximize their individual utility. These strategic calculations and exchanges operate through institutions which, according to Kenneth Shepsle, serve as the social glue which was missing from the behavioralist's atomistic conception of individuals. Institutions provide the strategic context in which optimizing behavior is pursued under the aegis of rules according to which participants are identified, prospective outcomes are determined, alternative modes of deliberations are permitted, and the specific manner in which revealed preferences, over allowable alternatives, by qualified players takes place.
- While the calculus approach looks at how individual behavior is governed by a “logic of exchange” where agents pursue self-interest within the constraints established by institutional rules, the **cultural approach** focuses on how individual actions are influenced by social preferences generated by a “logic of appropriateness” dictated by institutional templates. In this sense, institutions do not only affect players' strategies but shape their goals as well, aside from mediating social relations and structuring political situations. (Kathleen Thelen and Sven Steinmo, 1992).

members in such a way that mutual assurances and cooperation are cultivated. While the potential of generating collective action may be greater in small-scale societies, this is not guaranteed in the absence of strong institutional rules and conventions which nurture mutual trust and cooperative behavior.

- State support is also critical in helping forest-dependent communities resist encroachment pressures from outsiders. While it is possible that indigenous property regimes and local knowledge systems that are protective of the environment could persist over time even in the absence of State recognition, these traditional arrangements are nonetheless subject to constant threats of disruption. Studies indicate that forest-dependent communities, bereft of tenurial security, are often displaced from their natural resource base by powerful socioeconomic forces.
- The role of third-party intermediaries, such as NGOs, deserves to be underscored. Since local villagers often lack the experience necessary to face diverse cultural, bureaucratic and organizational demands, many community forestry projects could very well owe their existence to third-party intermediaries.



## Social Capital

Rule-breakers are sanctioned through the installation of effective information and monitoring systems. Hired forest guards and *barangay tanods* (volunteer guards) are deployed to monitor and put a stop to illegal resource activities.

Under KEF rules, sanctions for unauthorized timber harvesting may range from the payment of fines to the reforestation of the site where the violation took place.

The existence of sanctions, however, does not fully explain why people obey rules or join conservation activities. A major part of the reason that people cooperate in protecting resources is the presence of substantial stocks of social capital in the local community. Rules are complied with because violations carry not only the threat of punishment but also the shame of social disapproval.

In the Kalahan forest area, the high degree of mutual interchange fostered by social capital is exhibited in the voluntary assistance rendered by community members in cooperative activities.

Furthermore, the intensity of civic engagement in the area is manifested in high levels of attendance in community meetings.

The term “social capital” was initially used by Glenn Loury to refer to a set of social resources within a household or community which promotes the development of human capital. Incorporating the concept of social capital within a general theory of social action, James Coleman has depicted it as a productive collection of structural resources, embedded in social relations, which facilitates the achievement of certain ends that would not have been attainable in its absence. Forms of social capital include norms, obligations, information potential and voluntary associations which promote trust and cooperation.

To a large extent, where cultural norms of trust and networks of cooperation are well-established, people bound together in a net of multisided relations will likely coordinate their activities even in the absence of external enforcers. In the Kalahan forest area, social capital has created the conditions for the people’s active participation in community conservation efforts.

***Social capital*** consists of resources which are built on trust, reciprocity and mutual aid.

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# Customary Institutions as a Force for Conservation and Good Governance



*The processes and lessons presented in this paper are based on local experience in Gobi Gurvan Saikhan National Park in Mongolia's South Gobi Province, and in Altai Tavan Bogad National Park in the country's westernmost Province Bayan Olgi in the Mongolian Altai Mountains.*

*In the two parks, new partnerships in governance are emerging. Local herder communities, strengthened by resource right contracts with local authorities and currently developing their own institutions, are becoming catalysts for better governance. Involvement of non-government organizations facilitate cooperation between stakeholders.*

**M**ongolia is a country in transition. Since 1990 the people of Mongolia have been striving to develop new institutions and a regulatory framework appropriate to their country. The roles and responsibilities of institutions and their ways of working together are still being developed and tested. This is particularly true of local institutions charged with natural resource management.

## Source

Compiled by Sabine Schmidt, with Gantuil Sukhee, Saulehkan Bagiman, Munkhjargal, Keith Swenson, Gansukh G., Kamal Kar, Otgontsetseg A. "The Role of Herder Communities and Non-Government Organizations in Shaping the Governance of Two Protected Areas in Mongolia," a paper presented at the Mobile Peoples Workshop, Governance Stream, World Parks Congress, 2003, Durban.

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Government institutions fall short when evaluated according to the “good governance” principles of accountability, transparency, efficiency, rule of law and participation. Local governments, which are mandated to oversee the use of grazing lands, lack management and governance skills. The same goes for local park administrations in relation to Protected Area Management. However, due to the relatively small population size and a large national territory, these government institutions have not behaved as large bureaucracies but have in fact been accessible to citizens.



Mongolia’s livestock herders, notwithstanding the enormous challenges they face given the current socioeconomic changes, are not marginalized but rather highly esteemed as representatives of the country’s nomadic tradition. As a matter of fact, livestock herding is still a mainstay of the country’s economy.

According to Mongolia’s Law on Protected Areas, a National (Conservation) Park is divided into three zones, each with designated management and protection purposes and use limitations. The *Limited Use Zone* allows grazing, while the *Travel* and *Tourism Zones*, aside from allowing grazing, permit local people access to secondary natural resources, medicinal and food plants. This non-exclusionary use of National Parks reflects the importance accorded by the State to ensuring access by herders to resources on which their livelihood depends.

In the Mongolian context, management by local communities of natural resources and protected areas is the preferred option, not least because the resources of central government for park management are scarce and park administrations lack experience, skills and logistics support. The non-equilibrium drylands ecosystem of the Gobi for instance can sustainably be managed only by local institutions.

The procedure for establishing Protected Areas (PAs) in Mongolia starts with proposals by local citizens to their *Khural* (local parliament) which may forward such to the Ministry of Nature and Environment, from where the proposal may be put to the national parliament for final decision.

## **Evolution of the Gobi Gurban Saikhan National Park Governance**

In 1993, the Ministry of Nature and Environment (MNE) of Mongolia received proposals from two district governments and from the World Wildlife Fund (WWF) to put certain areas of the “Three Beauties of the Gobi” under protection as a National Park. MNE had requested WWF to support the development of a network of PAs. Prior to 1993, certain sites in the area

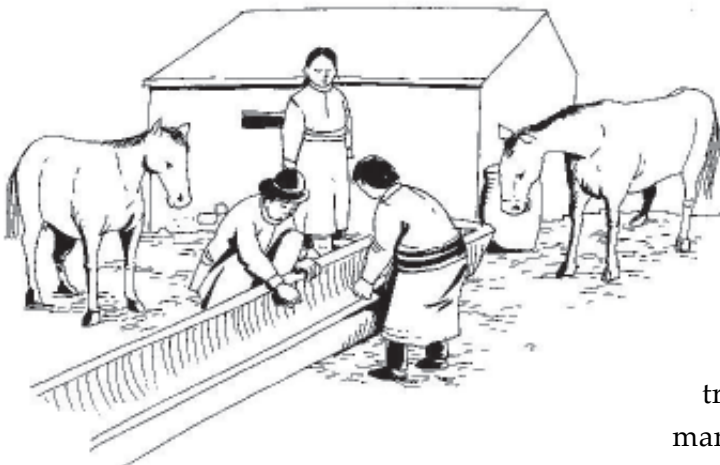
were already under protection and were being administered by the South Gobi Protected Areas Administration.

At this point, there was very little consultation with, let alone active participation from the local herder communities about managing the protected area. The park administration had full control of the area and enforced all regulations. These regulations were unknown to the resource users as they had had no active role in their formulation.

## Community Organization as the Driving Force to Improve Governance

In the years following the establishment of the park, which coincided with Mongolia's transition to democracy, local communities observed a lack of coordination of natural resource use, social services, and information. Participatory analysis of institutions found that local people had a low opinion of the relevance of government institutions.

Since 1998, local communities of the Gobi Gurvan Saikhan National Park (GGSNP) have been organizing themselves to develop sustainable livelihoods and to protect natural resources. Their emerging organizations, *nukhurluls*, are customary institutions adapted to socioeconomic and political changes and are becoming a driving force not only for local conservation initiatives, but for social change and better governance as well.



By forming *nukhurluls*, communities combine the benefits of tradition and contemporary practice and knowledge. While young people, particularly younger women, lead the community initiatives, the elders provide support and share their wisdom and knowledge, which are rooted in traditional community life and resource management.

### THE SOCIAL ACTORS IN THE PARKS INCLUDE:

- Local communities of livestock herders;
- Local communities of citizens of rural center;
- Bufferzone Councils: representatives of the district citizens *Khural* (parliament), PA administration, local community and NGOs;
- Local, national and international enterprises in the tourism, mining and pharmaceutical sectors;
- *Sum* (district) and *Aimag* (province) Governments;
- Park Administration of Ministry of Nature and Environment;
- Ministry of Enlightenment;
- Local and national NGOs;
- National and international scientific community;
- Mongolian border guards.

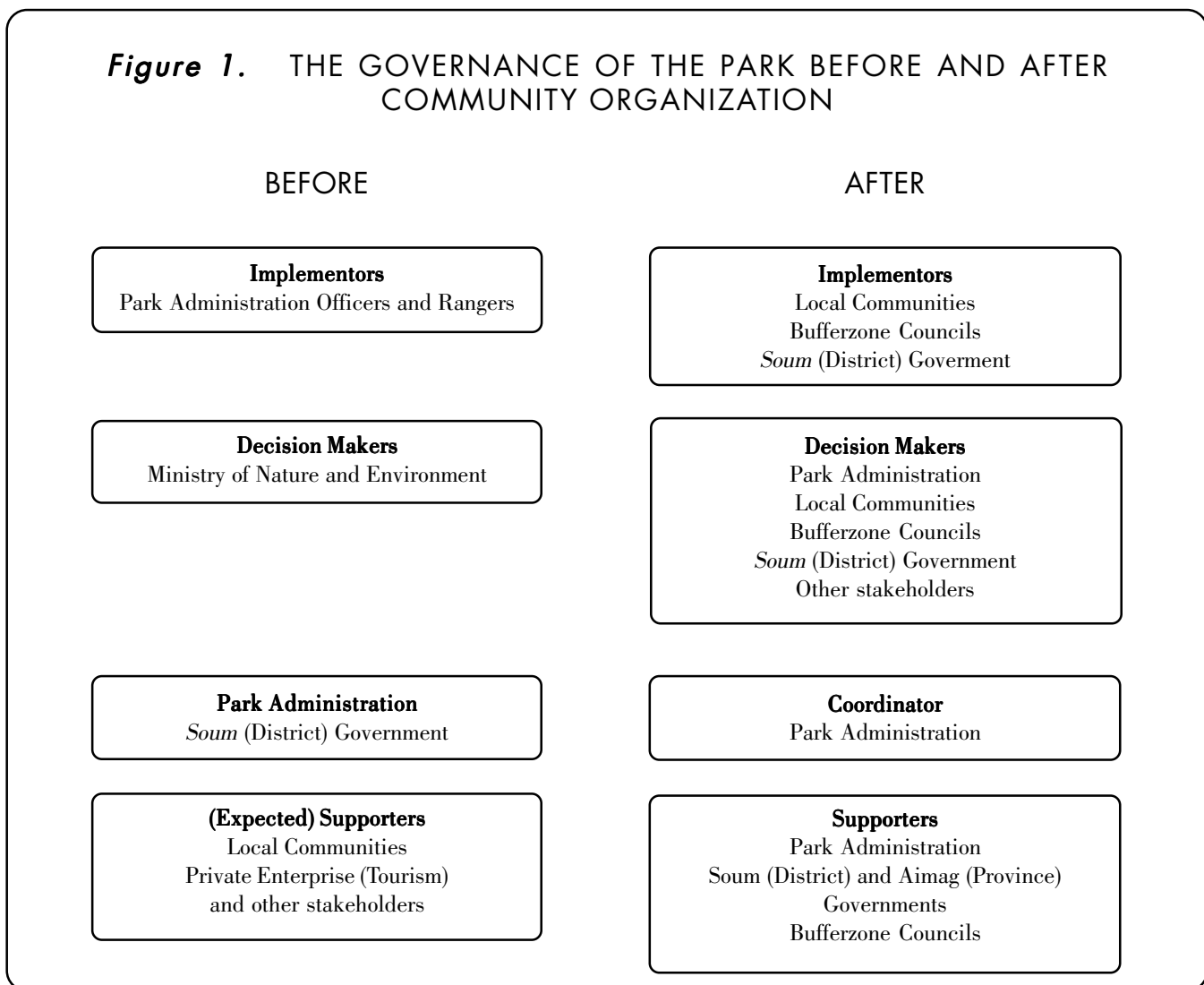
Today, certain areas of GGSNP are being managed by local herder communities, and local people are leading the development of resource conservation and sustainable use practices.

The sheer size of the park area, the few resources for monitoring and law enforcement available to the park administration, and the prominent role of herding in Mongolian society and culture have all created a favorable environment for the emergence of herder organizations and their acceptance as partners in governance and as local resource management institutions by government authorities. Local peoples’ participation in the governance of the park now seems an obvious strategy for all actors.

## Evolving Local Governance Models

The processes triggered by this experiment have turned the formal governance structure of the park around. While the National Park is formally a “Government-Managed Protected

**Figure 1.** THE GOVERNANCE OF THE PARK BEFORE AND AFTER COMMUNITY ORGANIZATION



Area”, the real governance structure of the parks is being shaped by social actors in the respective areas (Figure 1).

The Park Administration, which is given charge of the governance of the park, is coordinating the collaborative management of the park. All stakeholders and the local peoples are encouraged to take initiatives in nature conservation, community development and sustainable livelihood options in the buffer zone surrounding the park.

Bufferzone Councils have been established in each *sum* (district). Bufferzone Councils are established in order to ensure “broad community participation in appropriate Buffer Zone development, correct use and protection and restoration of natural resources.”

Bufferzone Councils are becoming important local institutions in the development of the park communities and in promoting cooperation between park administrations and the local government. Bufferzone Funds are providing better access to micro-credits and group credits, a crucial factor in developing sustainable livelihoods for households in rural Mongolia.

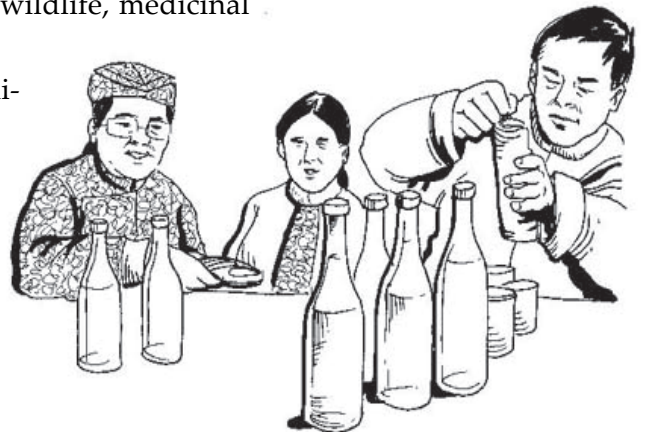
Tourism enterprises are taking an active role in the discussions on the use and management of the park. They are also helping to fund programs for protection and visitor management and are cooperating with local communities for the utilization of more local products and services.

Community organizations are benefiting from improved resource management and value addition to their products. They are initiating and implementing activities to prevent degradation of grazing lands, and to protect watersheds, wildlife, medicinal plants, native trees and bushes, historic values and sacred sites. Aside from improvements to their livelihood and the management of their natural resource base, social development – through community organization – is manifested in better access to services and information, and in cooperation with government and non-government organizations.

## EXPERIENTIAL LEARNING OF THE PRINCIPLES OF GOOD GOVERNANCE

In the Gobi, community leaders have identified what makes community organizations strong and effective. The identified success factors clearly reflect principles of good governance:

- Openness and freedom to express one’s thoughts;
- Clearly explained objectives;
- Equal rights among members;
- Joint decision-making, especially in money matters;
- Transparency;
- Effective monitoring and evaluation;
- Existence of penalties and incentives system;
- Close cooperation with *sum* (district) and *aimag* (provincial) government officers;
- Proper documentation of opinions in the work plan;
- Localized training so everybody can participate;
- Self-reliance and initiatives; and
- Inclusion of the poorest households.





## Lessons Learned

The role of community organizations as catalysts for better governance cannot be overemphasized. Drawing lessons from local experiences is vital to developing appropriate models of governance based on community-led conservation and collaborative management initiatives.

- Community organization has promoted better governance through experiential learning.
- Strengthened and empowered community organizations can exert pressure on government institutions.

### INNOVATIONS IN GOVERNANCE AND CAPACITY DEVELOPMENT OF THE IREEDUI

The *Ireedui* community group in Bayandalai Soum (District) has an impressive record of public awareness, nature conservation and social activities, and as a partner in the collaborative management of the Gobi Gurvan Saikhan National Park. Community initiatives that attest to the efficacy of their efforts include:

- establishment by local women of a mobile community center to serve the needs of herding households living far from the rural administrative center;
- development and agreement among member households on the norms for grazing management and on the use of local technology dungstoves in place of burning bushes as firewood;
- restoration of resources and initiatives to develop sustainable grasslands management, prompting the local government to grant (natural resource use) tax exemptions, and the park administration to support their efforts;
- drawing of a contract with the Park Administration and local district government that transfers land and resource rights to the group for 15 years. The contracted land extends across all management zones of the park, including the strictest protected special zone; and
- successful installation of a learning site for communities and government institutions to share best practice in organizational development, cooperation and local governance. (For instance, the Southgobi *aimag* governor sent all *sum* governors to *Ireedui* to learn from the herder community's experience.)



- The community organizations with the poorest socioeconomic profiles tended to make the greatest effort for natural resource restoration and conservation. Survival amidst adverse socioeconomic changes has pushed them to develop a strong organization, founded on cooperative efforts.
- Women have proven to be effective as leaders and facilitators of the organization.
- The need of nomadic herders to formulate a sustainable pasture management system and strategies for collective management and mobility has triggered the development of important processes – the improvement of governance and development of appropriate local governance models.
- The ongoing processes among civil society and government institutions make the parks important learning sites in a country that is developing a new institutional and legal framework for natural resource management. Governance models based on collaborative and community-led natural resource management are relevant not only in the Protected Area

context. They may also contribute to the sustainable management of the grasslands utilized by Mongolia's herders.

## Developing an Enabling Legal Framework for Better Governance

Policy and law makers have recognized the significance of the lessons learned and have formulated proposals for changes and amendments to legislation on Protected Areas, Natural Resources Management and Land Use in Mongolia that are due to be discussed by the *Ikh Khural* (national parliament).

The recommendations intend to provide a legal basis for the transfer of resource rights and responsibilities to local communities, for a greater role for community-appointed rangers, for more equitable benefit sharing and for the management of State and Local Protected Areas by local communities, NGOs or economic entities.

### THE CASE OF ALTAI TAVAN BOGAD NATIONAL PARK

After Community Leaders involved in community organizing and negotiations with the Gobi Park Administration shared their experiences with Kazakh herder communities in Altai Tavan Bogad National Park, new processes began in this Protected Area:

- dialogue among stakeholders and co-management agreements;
- community organizing and negotiation for resource use by local communities;
- emergence of Womens' NGO as process facilitator;
- empowerment of rural women; and
- formal cooperation agreement between the Womens' NGO and the Park Administration.

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# Impact of Customary Law on Land Rights and Natural Resource Management Practices



Prior to colonization, the Northern Kankana-ey, an indigenous people of the Cordillera Region in Northern Philippines, led a tight and intricate sociocultural life that was largely influenced by the people's rice-growing activities on the slopes of the Mountain Province. Spanish colonization had only a slight impact on this indigenous group. In contrast, the American Colonial Era (1900-1950s) in the Philippines, which was characterized by intensive exploitation of natural resources, caused a turnaround in Kankana-ey practices: from multifaceted village farming (home-gardens for medicinal herbs, small vegetable patches for home and small-market consumption, swidden farms) to commercial-scale vegetable farming, which the colonial and the subsequent post-independence governments, deemed most suitable and profitable for the site. The Kankana-ey people's encounter with the

## Source

Dr. R. Reyes-Boquiren, 1995. "Natural Resource Management Practices and Property Rights: Interactions Between Custom Law and State Law"; Marco, J. and Nuñez, E., Eds. Participatory and Community-Based Approaches in Upland Development: A Decade of Experience and a Look at the Future, 3<sup>rd</sup> National Conference on Research in the Uplands. De La Salle University Press, Manila, Philippines

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cash economy would have grave implications for this indigenous people's social fiber and their management of the ecosystem.

## **Basis of Property Rights and Resource Management Practices**

### ***Basis in Customary Law***

Customary law recognizes three types of land rights under two property regimes, as follows:

- 1) Common property regime: communal land rights and indigenous corporate group (the family, clan or ward) land rights; and
- 2) Individual property regime with individual land rights.

*Communal land rights* refer to rights that are equally enjoyed by all citizens of a community to resources within their defined territory which have not been claimed by any individuals or indigenous corporate groups. Citizens, in turn, are those who were naturally born in, have married into, or are otherwise permanent residents of the community. The resources over which citizens have equal rights include the forest, where no permanent improvements have been made, that is, the forest ground which can be cleared for cultivation or used as grasslands for grazing animals; and the products found therein: lumber, fuel wood, fruits, honey and the like.

*Indigenous corporate group land rights* refer to rights of a descendant group, family or group of families constituting a section of the settlement, such as a ward. Continuous occupation eventually legitimizes and transforms usufruct rights over a cleared swidden farm into ownership claims which are handed down from generation to generation. Such land is held in common by members of the group, and the benefits are shared by them.

*Individual land rights* include rights to residential lots, irrigated rice fields, and permanent swidden fields. These are transferred by inheritance or sale.

### **Basis in State Law**

In contrast to customary practices, State law assumes the supremacy of the Regalian Doctrine, a colonial State law which declared all natural resources as State property. While it theoreti-



cally recognized prior vested rights, as in the case of the Kankana-ey, the Regalian Doctrine nevertheless prevented the exercise of such rights over the forests.

The colonial governments under Spain and the United States differed in their enforcement of the Regalian Doctrine. The Spanish colonial government recognized indigenous people's rights to land in several ways: (1) by not allowing *natives* to be removed from one settlement to another; (2) by ensuring that the grant of farms and lands to Spaniards would not injure the *natives*; and (3) by accepting long and continuous possession as proof of ownership in lieu of title deeds.

In contrast, the colonial government under the United States not only strengthened the position of State law vis-à-vis customary law regarding land use, access and control, but also laid down the political, cultural, economic and social infrastructure to facilitate resource exploitation. From 1900 to 1946, for instance, the Cordillera witnessed an unprecedented scale and intensity of resource extraction by the mining and commercial logging industries.

The policy on land registration was later drawn up to regulate ownership and utilization practices. However, it failed to address the need to recognize the vested rights of the indigenous population, on one hand, and to ensure social justice, on the other, as private business corporations and enterprising individuals (among them American prospectors, soldiers and officials) began laying claims to mining areas and forests in the Cordillera.

From 1946 to the 1990s, the Constitution of the Philippine Republic has upheld the principle of the Regalian Doctrine by declaring all lands of the public domain — excluding agricultural land — as State-owned, and therefore inalienable.

In addition, certain laws have aided the opening up of forests and the conversion of portions of the same into agricultural land.

The Forest Reform Code (1974) retained the exclusion from alienation and disposition of all lands of the public domain with an 18 per cent slope or greater. Presidential Decree 1559 (1978) was more definitive: *kaingeros* (shifting cultivators), squatters, cultural minorities and other occupants of public forests shall be ejected. The Cordillera Organic Act prohibited the

## INDIGENOUS PEOPLE'S RIGHTS ACT: A LANDMARK LAW

The 1997 Indigenous Peoples' Rights Act (IPRA) establishes procedures for the recognition of individual and communal ownership of "ancestral domains" and "ancestral lands". Among the salient features of the IPRA are:

- Recognition of the principle of indigenous peoples' ownership and control of their territories;
- Acceptance of the exercise of customary law in the adjudication of disputes and for community decisions regarding resource management and land allocations;
- Establishment of the principle of "free and informed consent" before lands can be alienated or transferred;
- Provision for bureaucratic obstacles in the way of third parties wishing to exploit indigenous lands;
- Insistence on full participation of indigenous peoples in the establishment of protected areas and watershed management regimes on their lands.

alienation and disposition of lands of the public domain for the benefit of nonmembers of indigenous communities.

## **Interaction of Customary and State Law: Impact on Ecosystem Sustainability**

### **EVOLUTION OF LAND RIGHTS BASED ON CUSTOMARY LAW OF THE KANKANA-EY**

- The first phase in land access for use is to locate and settle in or use an open access area (viz., area not yet claimed by anyone).
- By clearing the land and improving it in the course of use, prior usufruct rights are established. On communal land, such rights revert to the community when not maintained or utilized by the one who has use rights.
- Possession rights and eventually private ownership rights are achieved over cleared and/or transformed land through continuous use over a long period. Residential land, rice fields and established swidden farms are considered privately owned by individuals, and are handed down equally to offspring or close kin (where there are no children) as such. All other types of land (according to use) are maintained as communal land.
- Offspring who decide to marry or reside elsewhere retain their inherited land. This holds true until the fourth oldest remembered generation. Henceforth, parents decide whether to give a share of the land to offspring who marry or relocate to another village, or the offspring may decide to give up his/her inheritance, in favor of other siblings/offspring.
- Acquisition of land happens through purchase, mortgage, or by clearing vacant land.
- Land is alienated from the family or clan by selling or mortgage to non-relatives. Alienation of land from the family through either selling or mortgage was increasingly resorted to since the 1950s. The common reasons for selling or mortgaging land include: expenses for burial, education, distance of the cropping area from the settlement, out-migration by the owner.
- Communities had dynamically evolved their own natural resource management systems and rights for land access, use and control, according to land availability, relative to population size and intensiveness of utilization.
- Only among permanent cropping settlements are concepts of boundaries and territory long established, as a result of resource competition with neighboring villages primarily over forest land, forest products, and water sources. Such concepts of territory and boundaries evolved as elements of custom law. In comparison, the concept of boundary is established in accordance with State law in open access areas.

Customary and State law have converged in two areas: the protection of common resources, *i.e.*, forests and watershed, for the greater good; and the recognition of private individual and corporate ownership rights to land. Generally, however, the interactions between the two systems have not proved to be complementary from the perspective of ecosystem sustainability.



The following trends appear to substantiate this observation:

- The opening up of land for vegetable farming presaged the gradual shift from subsistence production to production for the market. Road construction since the 1930s has been accompanied by the massive clearing of trees. At about the same time, two big logging firms started commercial operations. Massive *kaingin* was encouraged by the continuing spread of commercial vegetable farming.
- The conversion of subsistence-based land use systems into commercial vegetable production systems has undermined the local subsistence economy. High-input, import-dependent and intensive cropping has replaced subsistence farming, while uninformed land use conversion practices have resulted in massive soil erosion, forest fires, land use conflicts, and decline of the indigenous system.
- Commercial vegetable gardening has completely transformed the landscape into a “cabbage and potato patch”, and led to the gradual degradation of the watershed. The clearing of more and more forest cover for vegetable-planting purposes has also caused the lowering of the water level, soil erosion and flooding. Changes have also been observed in the climate and temperature.

On the other hand, customary law itself has not adequately protected the integrity of the ecosystem. Several factors and trends explain how forest resources had been depleted notwithstanding the existence of customary and State laws meant for their protection.

- ☛ Trees are being cut not just for domestic use, but also for commercial purposes. Officials and residents have been lenient, and political will has proved to be weak. Customary law has not been effectively enforced by traditional leaders.
- ☛ Both community residents and nonresidents are cutting trees for various reasons and without proper guidance in forest utilization.
- ☛ The communities are not replanting trees often or quickly enough. Forest fires are taking place more from carelessness rather than from an intentional or willful act.

## Impact of Agricultural Commercialization

The shift to agricultural production under government sponsorship and foreign assistance has led to greater productivity, but has had the following social impact:

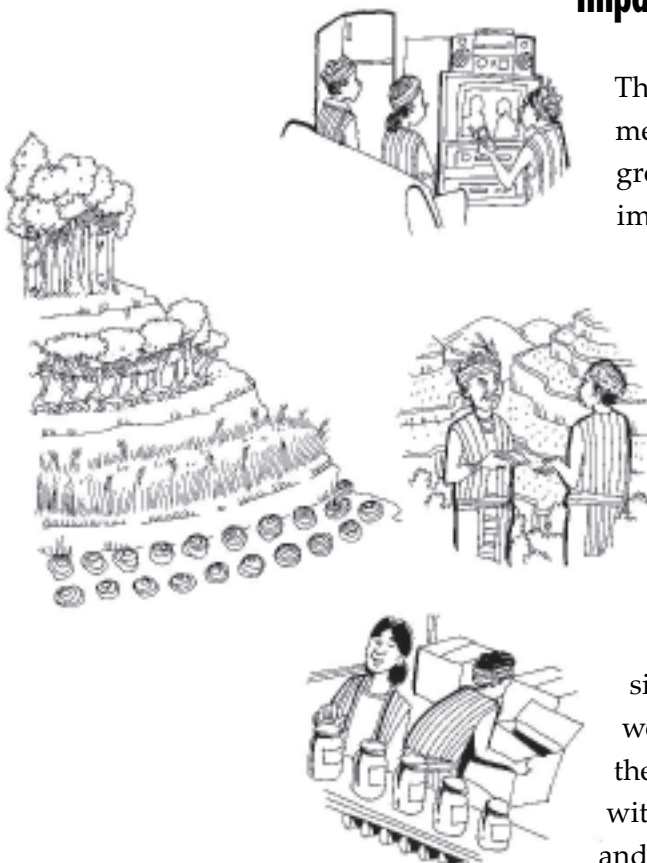
### *Changes in Lifestyle*

Agricultural modernization has resulted in marked changes in housing and living conditions, mobility, and trading. Until the mid-1970s, most Kanakana-ey households obtained their basic needs from what was naturally provided by the local ecosystem: rice, fruits, local materials for housing, and even the setting for simple community gatherings. Only a few items were bought outside (*e.g.*, sugar, coffee, salt). Since the 1970s, however, and particularly in the 1990s, with cash readily to hand, canned food, bottled drinks and liquor, concrete and galvanized iron sheets for

housing materials; and appliances such as radio and television sets, video players, and refrigerators became part of everyday life among the people.

Consequently, lifestyles also began to change rapidly. Community aspirations were gradually replaced by mainstream choices, such as education in urban centers, among others.

Mainstream political structures began to ease out traditional indigenous institutions for community decision-making. The council of elders, with their consensus-seeking methods for deciding matters affecting the whole community, was subsumed under the formal structures and procedures of the colonial and the post-colonial State.





Other important village institutions with defined functions were soon relegated to performing ceremonial functions and the settlement of local disputes.

Eventually, the rituals became infrequent; and the circles for social interaction were eventually lost due to the migration of the employable village members to more urbanized places.

### ***Effects on Community Solidarity***

Community concerns, such as the maintenance of irrigation systems, which used to be addressed communally or collectively have become projects to be managed by organizations or the village council. The nature and requirements of intensive cultivation have introduced the concept of paid labor and wage relations, and changed cooperative interactions among community members irrevocably. Thus, the spontaneity of community labor for the common good has been lost.

## **A Return to the Traditional in the Resolution of Present-Day Issues**

Despite the changes that have taken place in the last 90 years on the ecosystem and culture of the Northern Kankana-ey villages of the Cordillera Region, the very essence of their indigenous way of life has not been completely lost.

The integration of community village elders into today's mainstream political units as holders of knowledge and source of authority is an indication that the country has learned, albeit slowly, the value of indigenous cultures and knowledge systems in coming up with ways to manage resources sustainably. Whether or not these trends eventually lead to a reconsolidation of the northern Kankana-ey communities would have to be decided by the Kankana-eyes themselves.

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# Restoring Traditional CBNRM in Sub-Saharan Africa



**P**re-colonial Africa was characterized by creative and varied ways in which communities managed natural resources under a variety of tenure arrangements (*i.e.*, private, common property, communal). Africa's colonization by Europe changed all that when the people's rights to the land and resources were taken away from them. The local communities felt alienated from their former practices, while the colonial administration proved unable to manage the resources at all levels. The result was a weakening of the resource base. Post-Colonial Africa and subsequent development approaches did not improve the situation.

Murphree (1996) identifies four phases in the evolution of natural resource management in Africa, as follows: conservation *against* the people; conservation *for* the people; conservation *with* the people; and conservation *by* the people. The first three are, in fact, historical phases,

## Source

Dr. James C. Murombedzi. "The Evolving Context of Community-Based Natural Resource Management in Sub-Saharan Africa in Historical Perspective."

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while the last, conservation by the people, is viewed as the broadly desirable objective of current policy initiatives in sub-Saharan Africa. (See Table 1. *Development Approaches in Sub-Saharan Africa*)

**Table 1. DEVELOPMENT APPROACHES IN SUB-SAHARAN AFRICA**

| Period                               | Attributes   | Outcomes  |
|--------------------------------------|--|---|
| 1950s Modernization                  | Industrialization is key to economic growth<br><br>Indiscriminate use of natural resources in the name of development        | Strengthening of centralized and bureaucratic State with a disregard for local concerns       |
| 1970s Agricultural/Rural Development | Focus on agricultural development and integrated rural development programs with large-scale international loans for capital | Centralized State empowered through credit; direct government action and centralized planning |
| 1980s Structural Adjustment          | Large national debt, weak and poor governments, weaker and poorer societies, unemployment, poverty, market-driven economy    | Stagnation, devolution and democracy  |

## Key Issues in CBNRM in Sub-Saharan Africa

While programs of community participation in natural resource management are still evolving in Africa, attempts are continuously being made to characterize, categorize and define the commonalities among these programs. Meanwhile, a wide range of issues have come to the fore.

### **Tenure Reforms and NRM**

In the post-independence period, virtually every country in Sub-Saharan Africa attempted to reform its indigenous land tenure systems. This was done on the assumption that indigenous tenure systems were outmoded. Bruce (1998) observed that land reforms attempt to redistribute *rights to land*, and not the land itself. Since land tenure comprises a bundle of rights, tenure reform consists of removing some of those rights from the bundle and awarding them to others, and adjusting the relative powers and responsibilities among the State, communities, and individuals. (See Table 2. *Levels of Control Over Resource Use*)

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*The broad African picture remains one of struggle by rural peoples to find acceptable livelihoods on a deteriorating resource base without the rights they need to unleash their abilities to sustainably use the resources of the micro-environment in which they live.*

— Murphree, 1996

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**Table 2.** LEVELS OF CONTROL OVER RESOURCE USE

| Level of Control                           | Attributes  | Control Processes   | Outcome  |
|--|---|---|--|
| State control                              | <ul style="list-style-type: none"> <li>• Centralizing policies/legislation</li> <li>• State Resource Management Agencies</li> <li>• Centralized decision-making</li> </ul>  | <ul style="list-style-type: none"> <li>• State policing/enforcement</li> <li>• Budgetary Provisions (usually inadequate) for resource management</li> </ul>   | <ul style="list-style-type: none"> <li>• High-intensity “State vs. local” conflict</li> <li>• Unregulated/illegal resource use (poaching)</li> <li>• State and stratified citizen benefits</li> <li>• Pressures for devolution</li> </ul>                    |
| State control with community ‘involvement’ | <ul style="list-style-type: none"> <li>• State Resource Management Agencies</li> <li>• Some devolution of resource rights to State defined “Local Level” (usually Local Government)</li> <li>• Limited landowner participation in decision-making</li> <li>• Limited rights devolved to landowners</li> <li>• Disaggregation of land and resource tenure</li> </ul> | <ul style="list-style-type: none"> <li>• Joint State/local policing/enforcement</li> <li>• Local and State budgetary provisions (usually inadequate)</li> <li>• State definition of land use</li> </ul>                       | <ul style="list-style-type: none"> <li>• Low-intensity “State vs. local” conflict</li> <li>• Reduced unregulated/illegal resource use</li> <li>• State-local benefit sharing</li> <li>• Impetus for more devolution</li> </ul>                               |
| Landowner control                          | <ul style="list-style-type: none"> <li>• Most robust in private/leasehold tenure systems</li> <li>• Comprehensive and landowner rights</li> <li>• Locally determined and competitive resource use</li> <li>• Local landowner resource management capacity</li> <li>• Aggregation of land and resource tenure</li> </ul>   | <ul style="list-style-type: none"> <li>• Self-policing</li> <li>• State and other assistance with enforcement</li> <li>• Production of locally relevant benefits</li> <li>• Local landowner definition of land use</li> </ul> | <ul style="list-style-type: none"> <li>• Intra-community conflict</li> <li>• Local institutional development to regulate conflict</li> <li>• Direct local resource management</li> <li>• Adaptive resource management</li> <li>• Local innovation</li> </ul> |

Efforts to introduce reforms have often produced disappointing results. This failure has shifted attention to models that attempt to build on indigenous tenure systems, and the need to create a supportive legal and institutional environment. This includes the explicit recognition of indigenous tenure rules, legal protection of land under indigenous tenure, and provision for conflict resolution mechanisms. This *adaptation* paradigm, which allows different levels of community participation in the management of specific resources, has influenced recent land tenure reforms in sub-Saharan Africa. It has also initiated the process of devolving specific rights to resources and resource use.

In general, however, African governments have continued to mistrust communities with natural resources, and legislative reforms have tended to limit the extent to which communities themselves actually control and manage their resources.

### ***Local Institutional Development vs Traditional Authority***

The history of Africa has shown how successive colonial and post-colonial governments attempted and succeeded in destroying local-level resource institutions. This problem is recognized in most attempts to (re)institute community-based resource management. As a result, local institutional development has become an integral part of most CBNRM models and initiatives in Africa. However, such efforts have tended to focus on creating new and formal institutions, and to ignore the remnants of traditional resource management institutions, to the detriment of CBNRM initiatives. On the other hand, the nonrecognition of government-appointed officials by the community meant that traditional leaders have retained their authority over land and natural resources.

*An important lesson from these tenure reform initiatives is that it is difficult to create new institutions ex nihilo (from nothing). Rather, institutional innovation has to rely on traditional systems and hierarchy.*



### ***Translating Rights into Reality***

It is not sufficient for the State to create an enabling policy and legislative environment (through the devolution and protection of communities' rights to resources) to encourage communities to manage their resources. Rights only become real when they translate into programs designed to enforce the enabling laws. Another issue is that the passing of new resource rights results in a complex interplay of formal and informal institutions in the context of the social reality of the affected communities. Active agents will have to press their claims and struggle to make their rights a reality.

## **Towards Conservation by the People**

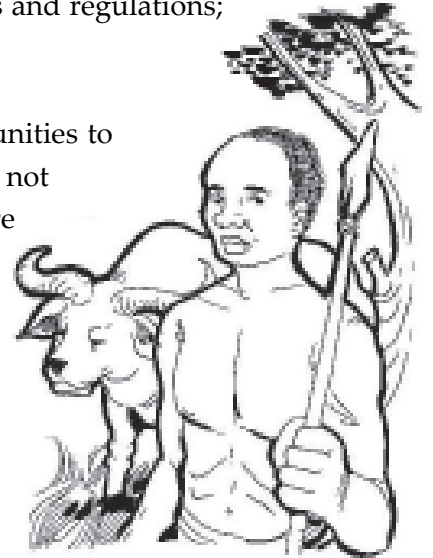
Given these conditions, conservation efforts need to move beyond the current stage, where people are involved in conservation, to the point where communities become the primary managers of resources to which they have strong and inalienable rights.

To do this, however, several conditions have to be met:

1. Communities should have clear and unambiguous rights to land and resources;

*The embeddedness of traditional leadership in the social and cultural life of rural communities provide incentive for the participation of local communities in the task of resource management.*

2. The government must provide policy guidance and assistance and enforce locally agreed rules and regulations;
- and
3. The private sector must assist communities to develop marketing skills, and should not impose modes of resource use that are not in line with the communities' overall production and consumption strategies. This can be complemented with research to develop ecologically, economically and politically appropriate and socially acceptable modes of resource use.



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# From State to Household Forestry: *Forest Policy Reform in Vietnam*



**U**ntil the early 1990s the management, exploitation, processing, and distribution of Vietnam's forest resources were controlled exclusively by the State. From the 1950s to the 1960s, the government nationalized large tracts of land in the midland and upland regions of Northern Vietnam. Land with a slope above 25 degrees was designated for forestry purposes and put under the management of State Forestry Enterprises (SFEs). Local people were barred from using forest resources. By the early 1990s, there were 412 SFEs. Close to 350 smaller SFEs, which usually managed a few hundred hectares, were placed under the authority of provincial and district governments.

However, State forestry proved to be a disaster for Vietnam's forest resources. By the late 1980s such resources had rapidly declined. Between 1973 and 1985, the country's forest cover was cut at the rate of 300,000 hectares, or three per cent, per year.

## Source

Thomas Sikor, "Forest Policy Reform in Vietnam: From State to Household Forestry," pp. 18-37 in: Mark Poffenberger (ed.), *Stewards of Vietnam's Upland Forests*, Asia Forest Network, Berkeley, 1998.

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## Problems under State Forestry

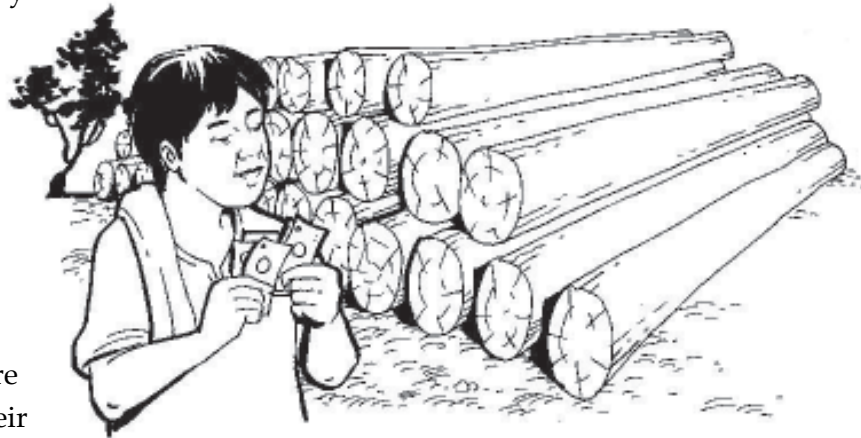
Forestry management by the State proved to be unsuitable due to the following reasons:

➤ *Unresolved conflicts between local people and State forest enterprises over control of the forest*

Because State forestry did not accommodate local subsistence needs and livelihoods, it was impossible to get the cooperation of the local people in forest administration.

➤ *Mounting external demand for forest resources and land*

The demands of a rapidly developing Vietnam exerted strong pressure on SFEs to optimize timber productivity rather than managing forest resources for future production (MOF 1991a). As the SFEs were largely autonomous, their day-to-day operations often exceeded the approved harvesting levels.



➤ *Inadequate investment funds and innovation*

The central government preferentially allocated capital to industry and infrastructure projects. Barely three per cent of investment outlays went to forestry. The capacity of the forest sector to generate funds also proved limited. For instance, in the period 1986-1990 the forest use charges collected amounted to only 20 per cent of the estimated total investment in the forestry sector. The capital shortage therefore restricted afforestation efforts and forest management. Similarly, highly centralized research and training severely limited the capacity of the forestry sector to react to changing circumstances and to adapt technical recommendations to heterogeneous local conditions.

➤ *Conflicting interests between local and central levels of the forest administration*

The sharing of responsibility and power among the different levels of the forest administration reinforced tendencies to overcut and otherwise use the forest unsustainably. Authority over production planning, forest protection and silvicultural management was divided among different levels of administration in a way that obstructed the enforcement of planning targets and protection regulations by the central office. The sale of wood products also proved too lucrative for local authorities and SFE managers to resist.



## Household Forestry

The Tropical Forestry Action Plan, the Forest Resources Protection and Development Act, and the First National Forestry Policy signaled a radical break with State forestry in 1991. The new policy designated households to replace SFEs as basic management units for forest and forest land.



### FORESTRY MANAGEMENT UNDER THE STATE

- About 22 million people lived on or close to forestland in 1986, of which only one million were employed, on a temporary basis. It therefore forced the rest to find alternative sources of subsistence and income.
- The small number of forest personnel did not help the enforcement of boundaries. There were 7.4 hectares of forest and 17 hectares of forest land per forest worker and 46 hectares of forest per permanent worker. In effect, agriculture continued to expand into such forest land. Fuelwood became a free commodity, whose use was constrained more by the costs of collection and transportation, than by State regulations.

### Major Policy Reforms

Since 1993, the new Land Law and accompanying implementing laws have provided for the transfer of forest land to households under long-term land use rights. State authority over forest resources is now limited to specifying land use categories and the right to recover land under narrowly defined circumstances.

Land allocation takes two forms, depending on the condition of the forest land. Barren land and land with planted forest are to be transferred to rural households (MOF, 1993) for their management and protection, while the remaining natural forests are expected to stay under the authority of SFEs or State entities, which contract former employees and farmers living in surrounding villages for their management and protection (MOF, 1993). Households receive a regular salary from the State unit for the management of the forest.

Current reforms are likewise redefining State control over forest land. Forest land has been classified

as land for production, protection, and special purposes, such as nature or wildlife preservation (MOF, 1991), with their corresponding management and use regulations.

The changing role of the State has also led to attempts to reform the SFEs. The Ministry of Forestry envisions four different kinds of SFEs to complement household-based forest operations in the future (Nguyen, 1993):

1. Forest service enterprises would support afforestation, management, and protection activities undertaken by households, but would also extend into other rural support services (agricultural extension, etc.);



2. Forest exploitation and processing enterprises would purchase, process and market the processed product;
3. Forest industry groups would explore and open up new marketing possibilities; and
4. Environmental protection enterprises would be responsible for the management of national parks and watershed reserves.

While the first three types of enterprises are intended to become financially independent, the last will mainly be financed through the State budget.

As a further step to increasing the autonomy of the SFEs, the government has transferred authority over most of the centrally managed enterprises from the central to provincial and district levels. The government has also created various organizations to provide specialized services in forestry and rural development to households to complement the reformed SFEs. Funding is now being given out on a per project basis rather than as periodic budgetary allocations.

## Initial Outcome of Policy Implementation

The drastic change in policy from State to household forestry has yet to be fully implemented by the Vietnamese government. Land allocation, State enterprise reform, and the development of new support organizations will continue in the coming years. Yet, the implementation of the new policy in some areas has produced first experiences.

- Land allocation has failed to produce the rapid improvements in the productivity of land use achieved in agriculture (Nguyen, 1993). The land allocation process itself has progressed at a slow pace. Rural households and organizations that had received forest land before 1990 have used only 29 per cent of it for productive purposes. By the end of 1992, less than one per cent of all forest land allocations had been recorded in formal land use rights certificates (Vu, Nguyen, and Warfinge, 1993);

Households or individuals receiving land are given the right to exchange, transfer, lease, mortgage, and pass on the land for inheritance. They usually receive use rights for a period of 50 years. By August 1992, about 800,000 households had obtained land use rights for parcels of forest land.

### **The Viet Nam**

**Agricultural Bank (VAB)** has provided households with credit for agricultural and forestry production since 1991. In 1994, the VAB extended loans to between two to three million households. Preferential interest rates were granted for investments in mountainous areas and into afforestation.

- Forest protection efforts, which are the responsibility of the upgraded Forest Protection Departments, have achieved mixed success;
  - Credit to households for forestry through the Viet Nam Agricultural Bank has been limited;
  - The new project-based funding has received much criticism for its limited success to meet the goals envisioned by the original policy;
  - Conflicts between local people and State enterprises over the control of forest resources and land and over local innovations in forest management may be reduced; and
- The new policy quickly produced impressive reforestation results on household farms in regions that are relatively wealthy, have access to national wood markets, and are benefiting from national and international support programs.

## **Challenges to Household Forestry**

Discrepancies between the intended outcomes of the new policy and its actual effects have quickly become apparent. These discrepancies have also been attributed to the same forces that made State forestry unsustainable. But forest policy reform is changing the intensity and geographical distribution of the impact of these forces.

1. *The allocation of forest land to households is reducing conflicts between rural people and State enterprises in some areas, but increasing them in others.*

Allocation of land use rights increases people's control over forest land and facilitates more intensive and long-term use where government perception of appropriate land use matches people's interests in the use of forest land.

2. *Different local interests in the use of forest and forest land*

Individualizing forest management favors individual interests over those of the community in the exploitation of forest resources. Forest land allocation has also led to the concentration of forest land in the hands of those who command more resources and have access to political power and social networks. Forest land is becoming a base of capital accumulation for some better-off households, while increasingly excluding access by less well-off households.

### 3. External demands on the forest and forest land

Economic liberalization is inducing a significant increase in “spontaneous” migration to the centers of industry. This migration is in turn fuelling booms in construction and industry which put enormous pressure on forest areas that are more easily accessible from urban and industrial centers.

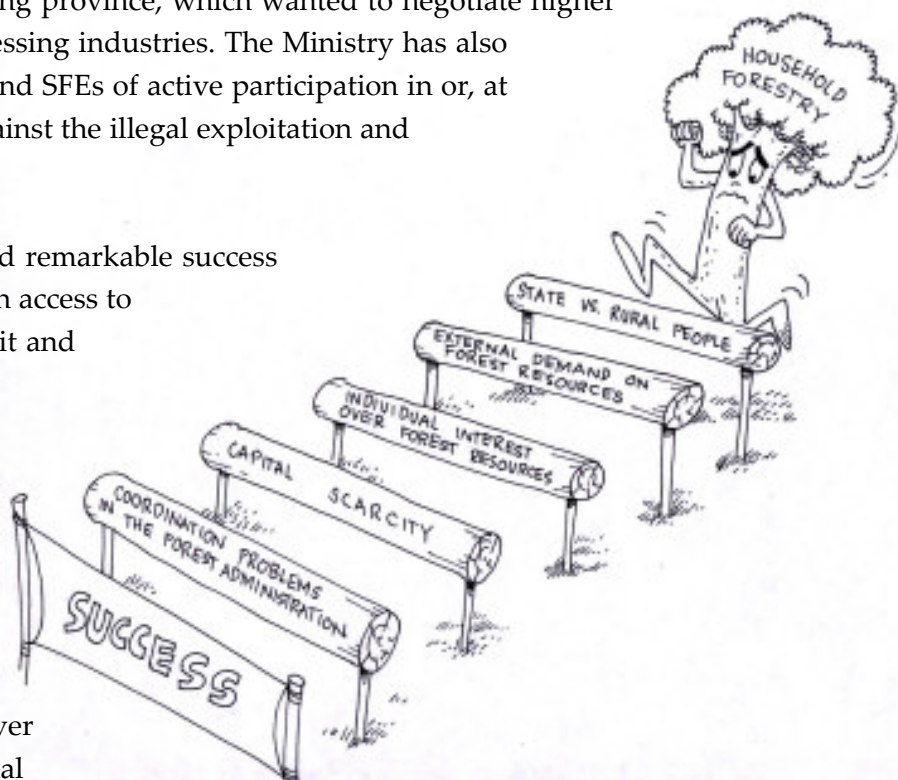
### 4. Capital scarcity

International loans and grants have substantially increased the capital available for forestry investment. Yet, few private investors would willingly forego the higher returns from urban/industrial and agricultural projects in favor of forestry investment. The prospects for forestry investment are even more limited in not-so well-off regions, as people do not produce the surplus necessary to invest in forestry. However, investments in tree plantations pay off in regions where the trees are grown as part of a highly commercialized agricultural crop system. The closure of VAB branches in remote regions is proof of their unattractiveness to investors.

### 5. Coordination problems between different levels of the forest administration

Increasing administrative power over the forest at the provincial level has at times led to provincial actions that do not match the objectives of the central government. An example of this is the strong opposition from the Ministry of Forestry to a logging ban imposed by the authorities of Tuyen Quang province, which wanted to negotiate higher prices from their wood processing industries. The Ministry has also implicated local authorities and SFEs of active participation in or, at least, neglect of measures against the illegal exploitation and trade in forest products.

Household forestry has produced remarkable success in relatively wealthy regions with access to national wood markets and credit and extension support programs. In other regions, however, the challenge is to use the opportunities opened up by the new policy to find solutions for forest management. Among such opportunities is the growing control by local people and local governments over forests, and the decline in external



demand on forest resources in remote regions, which is helping promote flexibility in forest management in accordance with local conditions. These opportunities can be the basis on which to tackle the continuing problems of forestry in remote regions: the conflicts between State agencies and local people over land use; conflicts between different local interests in forests; the lack of investment; and finding the appropriate roles for the different levels of forest administration. Supporting innovative capacities at the local level can facilitate an adaptive process of trial and error to find management solutions for sustainable forestry in Vietnam. Local forest management systems already practiced by ethnic minorities may point to sustainable management practices and regimes.



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# *Campesino* Communities and Land Use



The bond between *campesino* communities and property is an old one. The concepts of property that are held by the *campesinos* today originated in a series of titling processes involving indigenous people's properties that started about 150 years ago and were built on older principles of land use and possession (cf. Glave, 1992; Diez, 1998).

The *campesinos* view the history of their land as a series of struggles and claims, and defense or recovery (it should be noted, not acquisition) of their "ancestral" land — a process that has been marked by conflict and lawsuits with haciendas, cooperatives, other communities and the State.

Most of the *campesinos* in the Peruvian Andes are grouped into communities. Majority of the decisions regarding production are taken within the family, but the communal organization regulates the general process.

## Source

Alejandro Diez Hurtado, "Interculturality and communities: Collective property and individual property", In: Debate Agrario No. 36, December 2003.

Alejandro Diez Hurtado, "Comunes y haciendas. Procesos de comunalización en la sierra de Piura." Cusco, CBC-Cipca, 1998.

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The community is generally the guarantor of each family's access to land. However, its capacity to influence the decisions of each family as well as to control access by the families varies according to the type of land.

The community plays a very important role in two "political" functions connected to property and access to resources: (i) it is the first level of authority in settling conflicts among its members; and (ii) it is responsible for defending the land, in whole or in part, against third parties.

The present *campesino* communities have a management committee with a president, secretary, treasurer and other officers, all of whom, according to the law, must be reelected every two years. There is also a communal assembly, which is the highest level of authority. All community members registered in the communal register can take part in the assembly.

With regard to ownership and usufruct (both for the settling of conflicts and in collective representation with the outside), other organizations and authorities often participate. Water users' committees, livestock farmers' committees, community farms, associations of landless *campesinos* and even rural self-defense groups may carry out some functions of regulation, control and defense, and must therefore be taken into account. In many communities, State authorities, especially lieutenant governors and *no letrado* justices of the peace (a non-professional, honorary, local official) are incorporated or included in these functions.

The very existence of the communities is a kind of "republican pact" between community members and the State. Communities of indigenous people were legally recognized by the State in the 1920 Constitution, a recognition later ratified in the 1933, 1979 and 1993 Constitutions. In all these charters, the Peruvian State granted indigenous communities the status of juridical persons and set itself up as guarantor of the ownership of their lands.



## Ownership vs. Usufruct

While the distinction between ownership and usufruct may be clear in abstract terms, the two concepts are blurred in practice. Both refer to certain degrees of availability and use of the land; the difference is that usufruct excludes the possibility of sale and transfer.

However, many community members still transfer their usufruct rights, under the guise of both "sale" and inheritance. Such transactions are always within the limits imposed by the

## DIFFERENT LAND TYPES

One central element in considering the issue of *campesino* property is the production practice that allocates some portions of land either for family use or collective use based on the production cycle. This practice is sanctioned by custom and is not only subject to norms, but is supported by a series of communal institutions which decide who can use each piece of land and when, in some cases stipulating penalties against offenders.



Collective and family rights of access and usufruct depend to a large extent on the specific form of production and use of each individual portion of communal land. Broadly speaking, four types of “production zone” with relative rights of ownership and appropriation can be distinguished in *campesino* societies:

- **Irrigated lands** are those where rights of exclusive access for individuals and families are more developed. The “owners” farm them as family undertakings and can transfer or inherit them without submitting to communal control. They are usually located in the lowlands and tend to be of better quality and more productive. Formal ownership of the land is maintained and some communal pressure may be exercised through control of the use of water or irrigation systems — which is usually effective in fostering communal participation in general.
- **Drylands** are those where production depends on climatic variations and the availability of water. They usually have marked slopes and are scattered about various sections of the communal land, possibly subject to a rotation system of irrigation under communal control. Depending on the geographical zone, the community can regulate turns for use of the land and sometimes also the crops that may be sown, and the dates to start sowing and harvesting, when the land is left free for collective use.
- **Rangelands** are generally “collectively” owned and are used for the extensive grazing of livestock. Greater communal control is exercised over these lands, through charging for grazing or rental rights and leasing out individual plots. Rangelands are usually found in high places and are the least productive of the lands. These lands are considered more “communal” in terms of ownership than others whose ownership is shared with the families. For the use of these lands, the community usually charges grazing rights according to how many heads of livestock each community member owns.
- **“Publicly used” lands** are those which may belong to any of the previous types of land and which correspond to land considered “communal” but is treated as private property for uses of collective interest. These lands may be worked directly by those holding position during their term in office, or may be rented out to some community members for them to farm.



collectives. (Most communities only allow intra-community transfer.) Thus, while community members recognize community ownership, viewing themselves as “holders” or “usufructuaries” of the land where they work, they nonetheless consider themselves “owners” of these lands.

The collective ownership of the *campesino* communities presumes a certain fiction of equality among their members. In practice, the lands allocated to families tend to be unequally distributed. Not everybody has equal access to lands with collective usufruct — generally rangelands — from which community members with more livestock benefit particularly.

However, those who do not have real access to the lands are nevertheless equal owners of the whole communal territory in law. This results in the disparity between “formal owners” (in principle all the community members) and usufructuaries (who consider themselves “owners”). This problem is exacerbated by two factors: (1) the lack of precision of the communal land registers, which are not kept up to date and moreover do not include all the community members who have “rights” over the communal territory; and (2) the emigration in recent decades, as a result of which a large section of the population is not resident in the communities but retains their “rights”.

The dynamics within communities hinges on a series of tensions that are inherent to them and springs from the distinction between the individual and collective spheres. All communities show signs of a permanent tension between the rights of families, the rights of the collective and the rights claimed by various factions and groups within them.

**Table 1.** FAMILY RIGHTS AND COMMUNAL CONTROL ACCORDING TO TYPE OF LAND

| Type of Land   | Family Rights           | Communal control  |
|----------------|-------------------------|---|
| Irrigated Land | Almost absolute         | Indirect via control of use   |
| Dryland        | Limited by collectivity | Control of turns, types of crop, and dates of sowing and harvesting |
| Rangelands     | No family appropriation | Charging of grazing dues, rental of ranges                          |

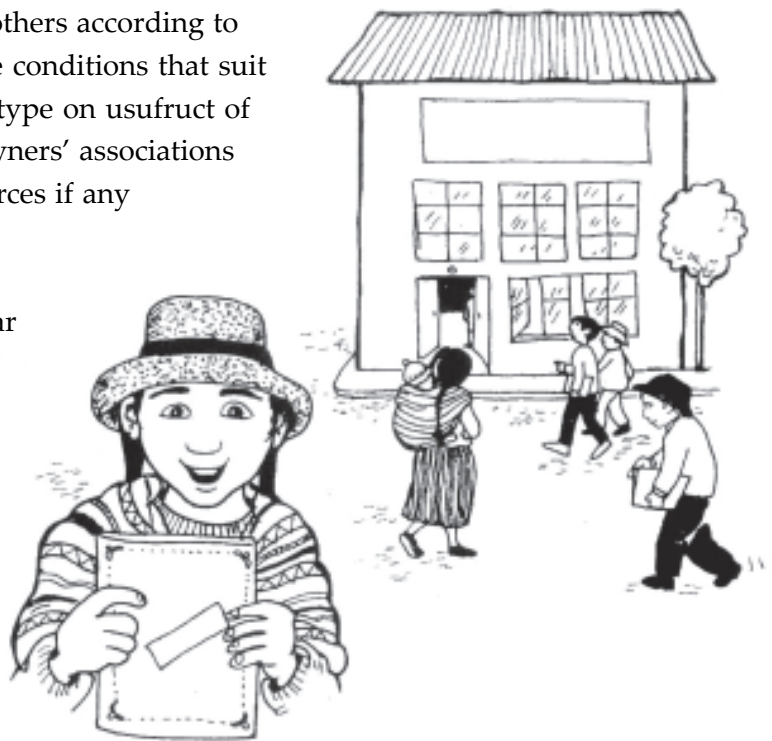
A. Diez

## Which land should be titled and why?

Irrigated lands should be individually titled. This approach would free family lands from possible communal pressure, guarantee security of ownership and facilitate transfer. Produ-

cers would be able to associate freely with others according to their interests, in the manner and under the conditions that suit them best. Some restrictions of a collective type on usufruct of the land could be retained in the form of owners' associations with functions of control of collective resources if any exist.

Although there may be no definition or clear policy on the matter, the process of communal titling should be accompanied by a proposal for a redefinition of the communities' functions, reinforcing their role as guarantors of family rights of usufruct over communal lands.



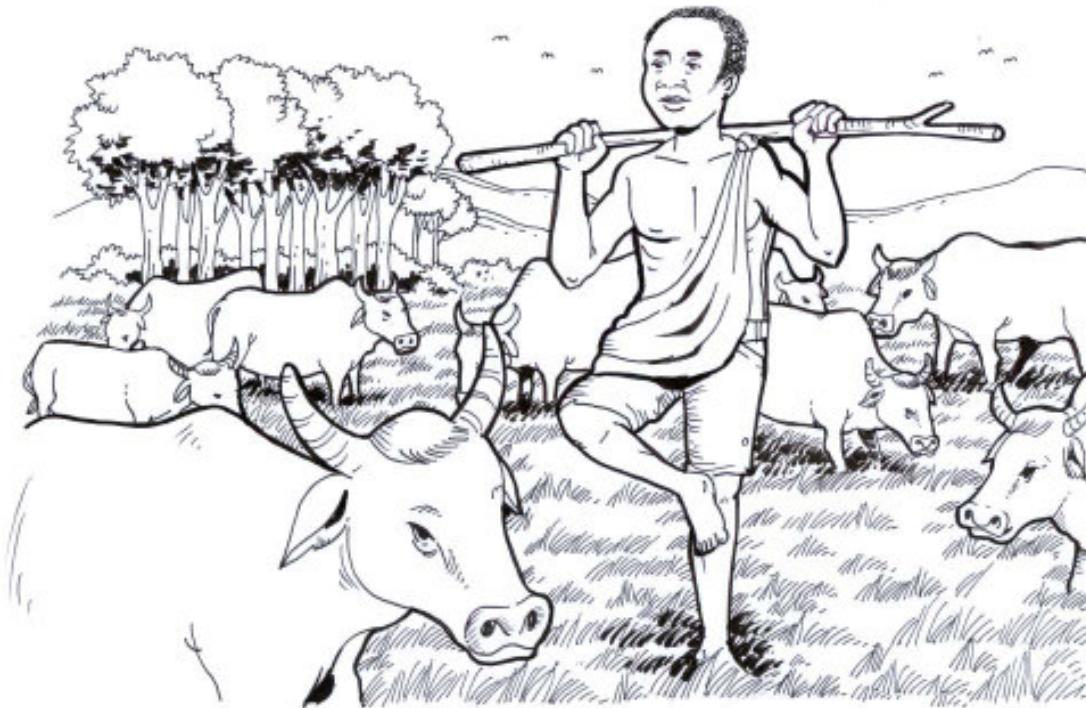
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# Collective Management of Rangelands under Different Tenure Systems



**R**angelands have been subject to a wide range of tenure arrangements, with different structures for regulating their access, use, and management. These include many customary and tribal institutional arrangements that have functioned for a long time. Each of these property rights regimes and institutional options is associated with different costs for achieving various goals, such as poverty reduction, equitable access to resources, and sustainable use and management of those resources. This article considers the benefits and costs of alternative tenure and institutional arrangements and the impact of existing legal and policy frameworks on the sustainability and equity of pastoral production systems under three categories of landownership.

## Source

Tidiane Ngaido and Nancy McCarthy,  
"Institutional Options for Managing  
Rangelands," International Food Policy  
Research Institute

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## 1. State Ownership

Proponents of State involvement maintain that only an external authority can enforce the best use of, and investment in, common pool natural resources. Defining the "best" use rates and

investments, however, requires a good deal of information on local conditions. In most cases, government agencies responsible for State rangelands have only limited knowledge of agroecological conditions, and even less understanding of local rules of use and management. These information-related problems increase the costs of enforcing management decisions by government agents.

Collective action is less likely to take place under State tenure because pastoralists may fear that their claims on returns to investments they make now on State land will not be recognized in the future. Nonetheless, a number of different institutional arrangements has been introduced to manage some of these costs, including the granting of common use rights to communities or cooperatives, grazing licenses, and leaseholds.

**a. Common Use Rights for Pastoral Communities**

Some governments provide tacit recognition of pastoral communities' use rights and their potential for informally operating grazing networks. This tacit recognition, however, gives pastoralists only a limited role in management and investment decisions and an even smaller role in deciding on the evolution of property rights. Users often do not have the right to reallocate common land to alternative activities like cropping or reserves. This limits the capacity of pastoralists to respond to local conditions. By appropriating pastoral resources and limiting the role of local-level pastoral institutions, State ownership has often fostered land use conflicts and led to the breakdown of collective action within and across pastoral groups.

**b. Common Use Rights for Pastoral Organizations**

In theory, the State and local organizations could work together to create and enforce use rules and investment activities. But in practice, the costs of negotiating such rules have often been prohibitive. In most West African countries, pastoral cooperatives have mainly been involved in distributing subsidized feeds. This type of cooperative fosters collective action between members because they are certain to reap the benefits of their investments and control access to improved pastures. However, concerns about potential conflicts between cooperative members and nonmembers remain. In the Sahel, most of the pastures exclusively used by members of pastoral organizations reverted to common pastures, open to all community members, at the end of the projects.

In central Tunisia and Morocco, State institutions, generally forest services, are entrusted with the responsibility for improving and managing the resource. After the improvement, rights holders purchase grazing or cutting licenses. The revenues generated are used to pay off improvement costs. Theoretically, these ranges will revert to communities once improvement costs are recuperated. In practice, however, such transfers have often not taken place.

### c. Grazing Licenses

As part of a strategy designed primarily to reverse rangeland degradation, government-managed grazing reserves issue grazing licenses. In the best-case scenario, the government has a well-defined and well-funded investment strategy. Grazing reserves are opened for grazing during specific periods of the year, and any herder can buy a license, whether or not he or she is a member of



the tribe or community that held traditional claim to the reserve area. Pastoral communities contribute little to the management of these reserves, and the main collective action of community members has often been to hinder State licensing policies. The approach has also been widely criticized because of the high costs of fencing and guarding reserves and the lack of community participation in improving and managing these reserves.

### d. Individual Leaseholds

The practice of granting long-term individual leaseholds on range resources remains limited. In Botswana, leaseholds have, in some cases, led to increased livestock production and improved rangeland conditions, but the policy has been strongly criticized on equity grounds. In many cases, people with previous claims to resources have been dispossessed or denied further access without compensation. This situation has led to additional pressures on the now smaller common pool resource base, increasing range degradation and leading to conflicts between large and small herd owners. Widespread individual leaseholds increase the vulnerability of pastoral communities during droughts by limiting their capacity to move and negotiate access to neighboring pastures. There is very little collective action under this system.

In summary, State ownership often does not promote community stewardship and limits collective action and incentives for members to manage their resources effectively and make long-term investments. Competing claims between pastoral communities and States

have created situations of confusion and

open access, leading many

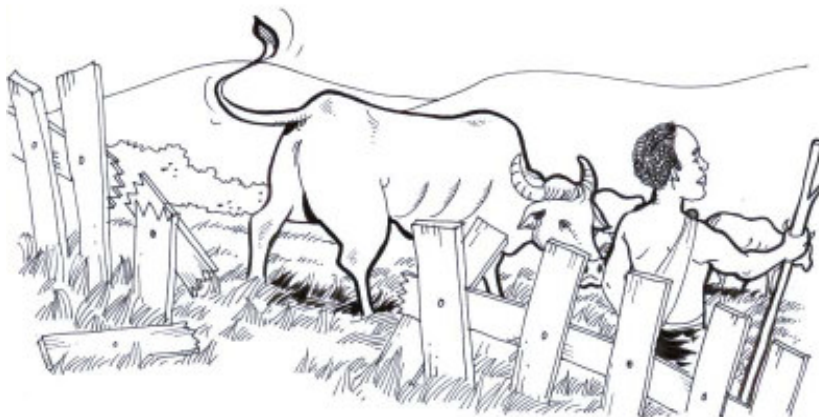
pastoralists to challenge the

State and traditional range management rules and

activities and in some cases to appropriate

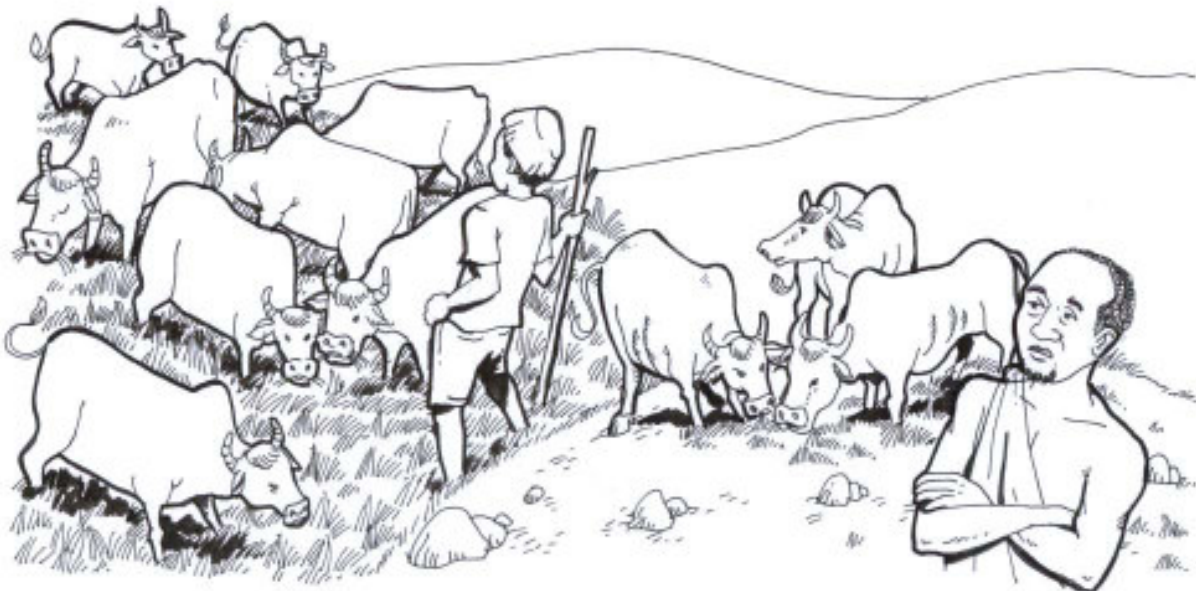
common rangelands

illegally.



## 2. Individual Ownership

In pastoral areas of central Tunisia, individual private property rights have fostered the transformation of pastoral and nomadic systems into agropastoralist systems. Privatization has led to the wide-scale adoption of fodder crop production, including cacti and shrubs. The efficiency of this option, however, depends on the performance of land, purchased input, credit and output markets, and legal and institutional provisions to reduce land fragmentation. Obviously, the potential for misappropriation of land by the politically powerful and equity issues are of utmost concern. Also, such a system is likely to reduce herd size, mobility, and collective action within and between pastoral groups, and consequently pastoralist households may become vulnerable to drought.



## 3. Common Property

Common property rights make tenure more secure, but the communities must bear all costs of making, monitoring, and enforcing rules regarding rangeland management. Managing access to and use of resources can be difficult, particularly when benefits and costs are not equally distributed. Common property rights are generally granted to a fixed and well-defined group for rangelands with well-defined boundaries, thereby limiting flexibility and herd mobility.

Nonetheless, under community ownership, local institutions may keep their traditional roles of managing the resources, deciding how to allocate resources between pastures and croplands, and deciding on the nature of the rights to be allocated to members and nonmember. These opportunities may empower local institutions and provide them with the capacity to

mobilize collective action and sustain the livelihoods of their communities. Landowning communities may enter contractual arrangements for improving their resources.

Achieving efficient, equitable, and sustainable rangeland management depends on the costs and benefits of alternative systems. These costs and benefits, in turn, depend on agroecological, sociocultural, and economic characteristics. The conservation and management of rangelands require not only tenure security, but also an understanding of local livestock production and risk management strategies and factors that promote collective action, which can then be integrated into national policy formulation strategies and project designs.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Development of Common Property Institutions in South Africa



In South Africa's Reconstruction and Development Programme (RDP), land reform is envisaged as the driving force for rural development in general. The document outlines the goal of redistributing 30 per cent of agricultural land from whites to blacks within five years, as well as the restoration of land which was forcibly appropriated after 1913. The RDP land distribution policy focuses on:

- Assisting groups and individuals to acquire land through the land market, with substantial grants and subsidies from the State;
- Establishing a program to achieve security of tenure for landholders, including tenants, while recognizing and supporting new forms of customary and communal tenure and new forms of common ownership; and
- Providing settlement support for those moving back to their land or onto new land.

Land reform is seen as proceeding in tandem with the restructuring of agriculture, to open opportunities for black farmers, particularly small-scale ones. Thus a crucial aspect of land reform is the nature of the farming systems which the beneficiaries are likely to adopt (livelihood systems which combine agricultural and nonagricultural income).

## Source

Ben Cousins, "A Role for Common Property Institutions in Land Redistribution Programmes in South Africa," Gatekeeper Series No. 83, International Institute for Environment and Development.

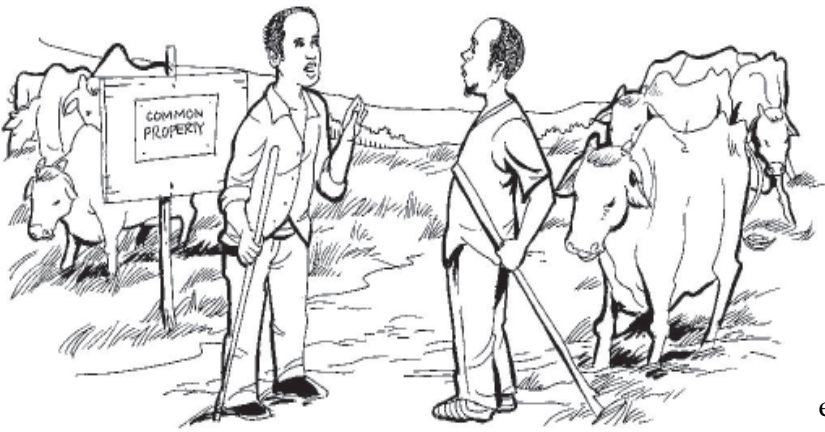
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Livestock production on communal rangeland is likely to be a central feature of these livelihood systems. The focus of this article is therefore on the design and development of common property institutions (CPIs) for the management of natural resources, particularly communal grazing land, within South Africa's land redistribution programs.

## Rationale and Vulnerabilities of Common Property

Under common property, the use rights of individuals can be delineated and regulated so that resources are not overexploited. Such common property arrangements are potentially equitable, economically efficient, ecologically appropriate and sustainable.



A minimum definition of common property provides that group membership rules are well defined and nonmembers are excluded from common resources. Such arrangements are adequate when there is not too much pressure on resources. But with population growth, technological change, national economic integration, and the decline in the political legitimacy of local institutions, intensified controls and their enforcement become necessary.

When common property rules break down or fail to evolve to fit changing conditions, several outcomes have been observed:

- Increased resource degradation as the property regime slips towards open access;
- "Spontaneous enclosure," or privatization; and
- Capture of the commons by groups of commercial producers who may pursue private accumulation strategies in the name of community development.

## Critical Issues

Four critical issues must be confronted in any attempt to work with common property regimes:

1. Ecological dynamics;
2. Socioeconomic structure/definition of user groups;
3. Effective management strategies;
4. An enabling policy environment.

### 1. Ecological Dynamics

Three key points have emerged from recent rethinking of rangeland ecology:

- a. *High stocking rates on communal rangeland often make economic sense and are usually below (a highly variable) ecological carrying capacity.* Thus, external interventions to force down stocking rates against the will of livestock owners will be resisted and are thus both unnecessary and unlikely to succeed.

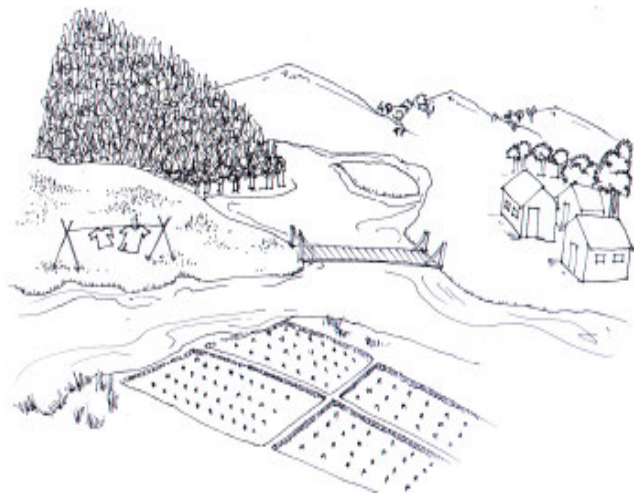
Herd movement as a management strategy should be accepted and facilitated, rather than suppressed. Herders should be encouraged to coordinate the movement of their herds and to agree on access to key rangeland resources at different times of the year and in different years. Meanwhile, institutional mechanisms for negotiation, mediation and conflict resolution must be designed in the event of conflict. Due to spatial heterogeneity at the local, regional and national levels, “co-management” with government agencies and State legal authorities will probably be appropriate, even as the importance of building strong local institutions is affirmed.

- b. *There is a distinction between equilibrial and non-equibrial systems.* In equilibrial systems, there is direct feedback between animal numbers and vegetation states, successional processes can be identified, and conventional notions of carrying capacity are relevant. Exclusive forms of common property, with clearly defined and enforced boundaries among user groups, are appropriate to equilibrial systems.
- c. *In non-equibrial systems, the use of patchy environmental resources would be more appropriate as a strategy, as would nonexclusive forms of tenure.* These allow coordinated access to the heterogeneous patchwork of resources on a large scale, within a framework of a great deal of temporal variation. One form that this could take is “key resource” or focal point management and tenure, in which clear rights and duties are defined for only those patches that are critical for system functioning, and not for large territories containing resources of low productivity, which are difficult to restrict to exclusive use.

## 2. Socioeconomic Structure and the Definition of User Groups

Membership criteria in common property regimes must be clarified, including the rights and duties of absentee members of rural communities and other groupings.

The *size of the user group* is critical, since transaction costs are lower in smaller and more cohesive groups. However, where environmental heterogeneity is marked, this must be balanced by the need to include access to a variety of resource patches.



*Agreement on rules and guidelines for resource use* is also required. This is more likely where there is cultural homogeneity and shared value systems. Thus in resettlement situations, attention should be given to promoting and facilitating the emergence of community identity. *A clear focus on resource management* can assist this process, since the need to elaborate a collective management regime is itself a powerful catalyst for communal institutional development. Congruence between institutions for resource management and other institutions (*e.g.*, local government) may also be helpful.

Potential conflicts between uses of a resource and between different categories of users can be defused through *negotiating rules* which embody compromise solutions. However, this requires that the complexity of various uses and categories of users be recognized and expressed within the institutional process.

The “capture” of common property regimes by powerful elites is a potential problem. External authorities or agencies, or those at high levels in an institutional hierarchy, can act to *lend support to the interests of the less powerful and wealthy* but only if the increasingly differentiated structure of rural economies is recognized and understood.

### **3. Effective Management Strategies**

In the South African context, the critical issues for developing effective management structures are:

#### **a. Co-management: The Role of the State**

The State has a definite role to play in creating the conditions for effective local management. This role requires the State to classify territorial rights, adjudicate boundary disputes, and provide technical assistance to local groups. State policies can also help improve the economic incentives for collective action (*e.g.*, by offering preferential marketing rights to groups managing common pool resources). More importantly, government can assist in enforcing resource management rules which have broad local support but cannot be made effective because community authority is not in itself strong enough.

However, co-management arrangements should aim at defining *an enabling, facilitative and backup role for the State*, rather than replacing or undermining local institutional capacity.



### **b. Institutional Innovation**

A second possibility is to create new institutional arrangements which combine elements of traditional or customary institutions with newer, more formal arrangements initiated by the State. Despite the impact of colonialism and economic integration, the former often remain meaningful to rural communities. Thus, elements of customary institutions that are appropriate in contemporary circumstances should be retained, strengthened and given legal recognition. Customary institutions for regulating resource use are often kinship-based, are also territorial in nature, and may be combined with formal institutions set up by the State in hybrid or “mixed” institutions. One example is to retain customary authorities on elected bodies but in an *ex-officio* position. However, such arrangements are effective only to the extent that the “mixed” institution has legitimacy and exercises real power over resource management.

### **c. Resource Management Rules**

Operational rules govern the way that a common pool resource is used. Apart from membership rules, these involve the definition of jurisdictional boundaries and the partitioning of resource use (*i.e.*, limiting where, when, and to what degree resources can be exploited by group members). These rules must take adequate account of technical and ecological realities. They should also be clear-cut and unambiguous, so that all members can know and agree on them.

Additionally, the fewer rules there are, the more likely it is that they will be followed and that infringements will be interpreted as such.





## **4. An Enabling Policy Environment**

What kind of policy environment and support services are conducive to the establishment and effective functioning of common property regimes? Perhaps the most important aspects of such environments are:

- *An appropriate legal framework*, giving legal identity to common property arrangements which evolve at the local level, but without imposing rigid and restrictive structures;
- *Support services* which assist communities and groups to design their own appropriate institutional arrangements, using a facilitative and process approach;
- *Appropriate rule enforcement procedures* at higher levels in the institutional hierarchy to back those which prove ineffective at lower levels;
- *Democratic processes* which guarantee the rights of the less wealthy and powerful (including women and youth) to effective participation in decision-making;
- *Institutional mechanisms for conflict resolution* within and between user groups, through negotiation, mediation or arbitration; and
- *Training in skills, such as literacy and record keeping*, which are needed for efficient local administration and organization.

**Table 1.** A CHECKLIST FOR DESIGN OF COMMON PROPERTY REGIMES IN LAND REDISTRIBUTION PROGRAMS

|   |   |
|---|---|
| <p><b>User group issues</b></p> <ul style="list-style-type: none"> <li>✓ Have rules for user group membership (entry and exit) been clearly defined?</li> <li>✓ Is the size of the user group appropriate in relation to the resource base?</li> <li>✓ Do institutional arrangements and/or organizational structures provide a voice for the less powerful within the group?</li> <li>✓ Do institutional arrangements promote the emergence of a “community identity”?</li> </ul>  |    |
| <p><b>Resource management rules</b></p> <ul style="list-style-type: none"> <li>✓ Do rules clearly establish the conditions for collective decision management rules making over resources (e.g., the right of the group to establish limits on individual use)?</li> <li>✓ Have jurisdictional boundaries been clearly defined? In non-equilibrial ecosystems, have boundary issues been sufficiently clarified?</li> <li>✓ Are operational rules easy to understand, unambiguous, and easily enforceable?</li> <li>✓ Have the number of rules been kept to a minimum?</li> <li>✓ Do rules make provision for the monitoring and punishment of infringements?</li> <li>✓ Do rules take into account potential conflicts between different uses of the resources, and between different categories or groups of users?</li> <li>✓ Do rules establish the organizational form for decision making (e.g., elected committees)?</li> <li>✓ Does the user group have the right to modify and adapt the operational rules?</li> </ul> |   |
|    | <p><b>Authority and Enforcement</b></p> <ul style="list-style-type: none"> <li>✓ Has authority been allocated to the appropriate level(s)?</li> <li>✓ Have relationships between the user group and government agencies, legal and customary authorities been clearly defined?</li> <li>✓ Do institutional arrangements have a recognized legal identity?</li> <li>✓ Have mechanisms been designed for negotiation, mediation and conflict resolution, within and between user groups?</li> </ul> |
| <p><b>Resources</b></p> <ul style="list-style-type: none"> <li>✓ Do partitioning rules take adequate account of ecological and technical realities?</li> <li>✓ Is there sufficient flexibility over boundaries in non-equilibrial systems?</li> <li>✓ Do rules take into account the spatial and temporal variability of resources?</li> </ul>  |   |

Questions of common property management are likely to be important within land reform programs in South Africa, and in relation to communal rangelands in particular. Given the fundamental transformations in the economy and society which have affected customary tenure systems in the region over the past 150 years, critical issues related to incentives for rural groups to engage in collective action, and appropriate structures of authority, have come to the fore and must be dealt with.

Any conflicts that arise can largely be addressed by approaching common property problems with an adequate understanding of the central issues involved, and by making institutional development a prime concern of development agencies. This also reinforces the need for an approach to land and agrarian reform which lends active support to local level processes of decision-making and institution-building.

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# Governance of the Commons under a Privatization Regime



**B**y far the biggest threat to common pool resources (CPRs), or “commons”, throughout Africa is privatization, which is broadly defined to include not only the transfer of CPR ownership into private hands but also other forms of institutional reorganization like “marketization”. Marketization refers to the promotion of private sector-like behavior in organizations, such as public and community groups.

**Common pool resources** are natural resources used by different users at the same time, such as forests, grazing areas, fisheries and game, for which exclusion or partition among users is difficult or costly, but the use by one person reduces the availability for others.

The privatization of CPRs results in exclusion for many and control for a privileged few. It changes not only the patterns of ownership and tenure security, but also the role of the State and the agenda with respect to the public good. Protecting common interests and the public good against private interests has therefore increasingly become a matter of concern. The State should play a central role in balancing interests, redressing injustice, and governing markets.

## Source

Thea Hilhorst, Lorenzo Cotula & Munyaradzi Saruchera, “Promoting Common Property in Africa: Networks for Influencing Policy and Governance of Natural Resources [Co-Govern],” A Report of the First International Workshop, Protea Hotel, Sea Point, Cape Town, South Africa, October 6 – 9, 2003.

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## Considerations for Effective CPR Governance

### *Relations among stakeholders*

The mainstream view of tenure systems for CPRs underlines the importance of well-defined relatively small user groups and clear boundaries for the resources. But given the reality of multiple use, fuzzy boundaries and overlapping social identities, an alternative perspective has emerged which focuses not on the content of rules but rather on providing a framework for processes such as negotiation, contestation and cooperation. The trend is towards promoting multiple stakeholder platforms based on negotiation and dispute settlement, but the experience in this regard is still limited.



### *Risks of community-private sector contracts*

Being represented by people with limited experience in the workings of the market, communities entering into contracts with private entities are more likely than not to end up with the short end of the stick. In such negotiations, investors are bound to push communities to agree to certain uses for their natural resource base which they may later regret. It is therefore important that communities build their capacity to negotiate while they still have control of most of their assets.

NGOs can help the communities secure better deals by providing essential information and specialized advice on the issues at stake. But such practice is not yet prevalent, and many communities are vulnerable to exploitation.



### *Benefit-sharing*

The best way to forestall such problems is to agree beforehand on how decisions will be taken on matters like how income from the CPRs would be used or allocated. For instance, the income could be used towards maintaining the natural resources, replenishing the general reserves, putting up a community development fund, or distributing dividends to members. Conflicts are bound to arise if the mechanism for deci-





sion-making is unclear or not generally accepted, and if financial management is not transparent.

National policies and investments may yield benefits for the community. The question then is how these benefits should be shared beyond the community. Taxation is one option. But the counter argument to this is that the benefits come at a cost and that when divided among all community members, the actual gain is rather low. However, when public actions increase the value of the land considerably, then a one-off value taxation may be appropriate.

### ***Assessment of effects and impact***

Monitoring of CPR management systems needs to include the process as well as the outcome or impact. Process indicators should include the level of community empowerment, institutions and structures established, equity in decision-making, and conflict management and behavioral change towards CPRs. Impact indicators evolve around the sustainability of resource use and the importance of the benefits from resource use in terms of poverty alleviation and community development.

### **Next Steps**

New practice, innovation and even failures should influence policy. However, the issue is how to determine

## **NEW LEGISLATION IN SELECT AFRICAN COUNTRIES**

New legislation on CPR management has been introduced or is being discussed in several countries.

**South Africa** embarked on land reform involving redistribution, restitution (for those dispossessed of their land after 1913), and tenure reform (to provide greater security in communal areas). The last aspect is still hardly addressed while redistribution and restitution are behind target. Most claims for restitution are in urban areas. Also, land reform seems to benefit mostly emerging commercial farmers and is less clearly contributing to the alleviation of poverty.

**Kenya** is in the process of developing a new constitution and a new land policy. This is an opportunity to raise awareness for CPRs, which used to be ignored, and to propose an adequate legal framework based on the principle of subsidiarity which will give local people the option of developing their own models.

Kenya was at the forefront of land privatization but problems with this policy option have made it unsustainable. As a result, there is more interest in alternatives to privatization. The new government of Kenya is paying more attention to pastoralism as an important economic sector. In the case of pastoral land, the proposal is to make community property possible, in the form of a corporate title.

In **Mozambique**, community user rights are strengthened by the new forestry law which should stimulate sustainable management and investments. Communities are also entitled to 20 per cent of the logging tax from concessions in their areas. They can use the areas given out in concessions to harvest products needed for subsistence but need a license if they intend to sell.

## IMBALANCE IN PRIVATE SECTOR-COMMUNITY DEALS

An interesting experiment is underway in southern Africa, where rights over wildlife, initially granted only to large-scale commercial farmers, have recently been extended to the communities. Private entrepreneurs doing business in the lucrative tourism and hunting industry now have to strike deals with the new owners — the communities.

However, most community members have limited knowledge of and experience with this industry and are not familiar with entering into contractual arrangements with the private sector. In the process of setting up community-private sector partnerships, many communities have actually “signed away their rights.” Without access to information, markets, capital and entrepreneurial skills and capacity, communities — despite having stronger rights — are on an unequal footing with the private sector.

In some cases, the devolved power proves to be weaker than the authority that is already being exercised by community leaders. In Ghana, for example, where a new policy on decentralized forest management is being prepared, communities are already managing forest resources informally. The local earth priests play an important role in allocating land and use rights. Therefore, the government’s proposal for co-management would actually lead to a reduction of existing rights.

Ideally, national governments, while retaining sovereign control, should create an environment for local governments and the multi-stakeholders to negotiate the management terms. Governments should also protect the public good and balance public and private interests. Governments can also play a crucial role in facilitating deals between the communities and the private sector through information dissemination, advice and “protective legislation.”

picture. Building capacity to deal with markets and having a political voice are as important to sustaining these endeavors.

best practice and for whom, and how best to spread best practice especially among policy makers.

It is important to connect with policy makers and to find out which issues they are interested in and how the experience of local people could be made relevant to them. Field visits, the use of mass media (particularly radio), well-targeted publications, advocacy, etc., are some options.

There is no single blueprint for CPR management as the type of resources involved, the users and the issues at stake vary widely. Policy makers should provide a framework while devolving authority to local decision-makers who would then work out the nitty-gritty of defining resource use, rights, regulations and sanctions.

Developing tenure and management models which allow for community ownership also raises questions about the public good, the organization of society and economy on “local” terms and how to ensure equity and protection for all. Would these result in a “social economy” that is more balanced and resilient? What policy support is needed to assist such developments legally and financially? What room for maneuver exists for communities: can they resist; should they buy in; or will they lose out?

Securing and firming up local people’s rights is very important but is only part of a bigger

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# Promoting Linkages in CBNRM



Community-Based Natural Resource Management (CBNRM) starts with communities as the focus and foundation for assessing natural resource uses, potentials, problems, trends and opportunities, and for dealing with adverse practices and dynamics (Little, 1994). However, effective operational linkages, both horizontal and vertical, are just as important in the management of natural resources. Community-based groups should be able to extend their influence beyond their local domains, as well as their access to “outside” resources (e.g., authority, expertise, funds, and personnel). At the same time, the cooperation of other communities and higher level actors or external entities such as local or district governments, NGOs and/or academic institutions must be secured.

Linkages, through broad coalitions for example, can bring multiple perspectives and capabilities into CBNRM. They can facilitate the reform of policies and institutional arrangements, as well as help resolve and manage conflicts in countries where such linkages have been established.

## Source

Norman Uphoff, “Community-based Natural Resource Management: Connecting Micro and Macro Processes and People with their Environments.” *A paper presented at the International CBNRM Workshop, Washington D.C., May 1998. Cornell International Institute for Food, Agriculture and Development (CIIFAD), Cornell University, USA.*

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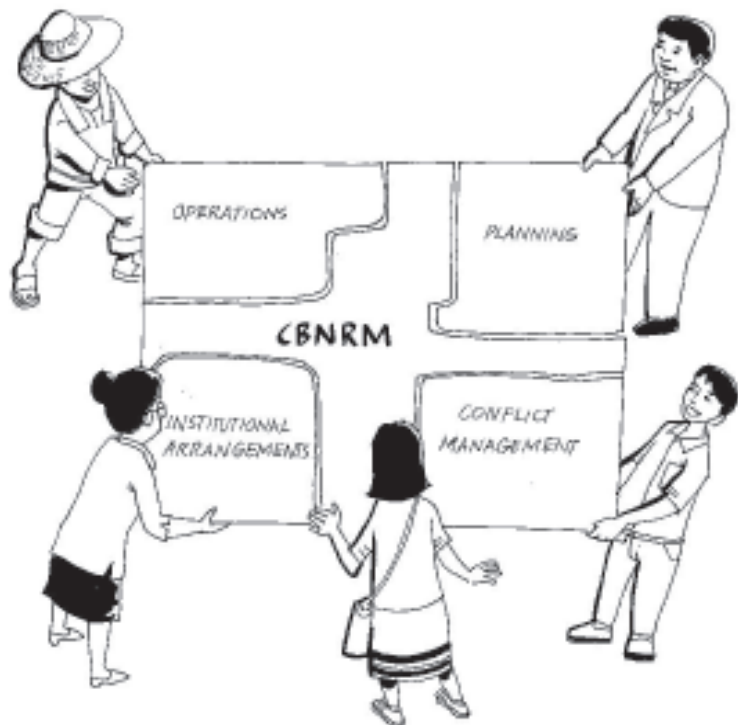
Each participating organization contributes according to its comparative advantage and organizational objectives. Coalitions represent conjunctions of public, private and middle-sector activities, although private-sector involvement comes mostly from nonprofit rather than for-profit organizations. The involvement of State institutions is often informal, neither committing nor compromising public authority. Rather, State institutions harmonize their exercise of authority with what “civil society” institutions and community representatives think would be most beneficial. In this way, CBNRM may be evolving interesting new forms and exercises of public authority.

Operational linkages should be considered not only in management, but also in planning processes. Planning requires the involvement of multiple actors at various levels, especially those that require spatial or geographic spreads for scaling up, such as in environmental planning. It is important that various stakeholders are involved in the visioning process which would ultimately set the directions and priorities the program would take.

Some experiences where operational linkages have brought about multi-stakeholder partnerships in protected area management or have contributed to resolving and managing resource use conflicts, are reflected here.

## Consortiums in CBNRM

Linkages that have taken the form of broad coalition-building in support of CBNRM are being formed all over the world. They are grounded in community level activities and initiatives but have a larger view and strategy, both in terms of geographic area and diversity of partnerships. They purposely support actions at local and national levels and beyond.



## CBNRM Goals as Basis for Linkaging

Coalitions and partnerships in support of CBNRM can use the following goals as their basis for coming together as a group.

- *Preservation and protection of natural resources, i.e., preserving biodiversity and maintaining the renewability of particular flora and fauna that are endangered within vulnerable ecosystems;*

- **Improvement of income, security and well-being of communities that are associated with and dependent on natural resources.** This could include the preservation of the *cultural identity* and *integrity* of indigenous peoples;
- **Sustainability and viability of the management system**, which includes the ability to evolve and adapt to changing conditions, and keep operating costs down;
- **Promotion of equity** in the distribution of benefits from the system of management. Benefits should be acceptable to all, and should incorporate gender concerns.
- **Promotion of participation and empowerment** of the communities involved, as well as building the capabilities of other stakeholders in their various roles in CBNRM.

The same criteria can be used for evaluating CBNRM programs and projects.

Linkages in CBNRM are an important mechanism to enhance the participation of a larger and more representative grouping in order to share expertise and information as well as generate influence and material support. Broad coalitions and support networks are effective ways to bring the “local” to the “global,” and vice versa.

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# Principles for Formulating Land Policies: *A Policy Framework*



**L**and is not just a commodity. It is a factor of production, a capital asset and a source of identity. The interrelated social, cultural, economic, institutional and political factors involved in land make it an asset different from all others.

Yet, land policies in developing countries still bear the influence of colonial land distribution systems which then and now have tended to restrict local people's access to good land. On the other hand, subsequent State involvement in land issues has led to many cases of economic inefficiencies and social injustice. Unequal land distribution and unchecked market forces have, in some cases, led to land being taken from small farmers and growing rural poverty. The reinstatement of land rights is therefore an essential aspect of the policy and institutional reforms required to promote equitable and sustainable development.

## Source

This article is repackaged from "EU Land Policy Guidelines: The Policy Framework". This paper draws substantially on recent strategy documents prepared by several EU member State agencies, as well as the World Bank's Policy Research Report (2002) and associated consultation documents, and policy documents from the International Land Coalition, International Fund for Agricultural Development and Food and Agriculture Organization.

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Land policy reform calls for a multidisciplinary approach to ensure that the needs of different stakeholder groups, in particular the poor and vulnerable, are effectively addressed. It is therefore imperative that all land policies deal with:

- **Poverty reduction.** Improving poor families' access to land and natural resources is key to broadening the economic opportunities available to them. Direct and secure access to land is an essential basis for survival and growth. Acknowledging that rural people need rights to control and manage their territory is a way to guarantee their access to resources which they have helped to maintain and preserve. Common property resources are particularly important to the incomes of poorer groups.
- **Identity, citizenship and social justice.** Democratic States need to guarantee the rights and assets of every citizen, especially the weakest and the poorest. There is a need to create and test innovative ways to ensure that the law is accessible to marginal and weaker groups. For example, access to land is an important issue for women, and in many Latin American countries, joint titling of land to spouses is now a legal requirement.

All land policy lies at the heart of a people's economic and social life, as the distribution of property rights has a tremendous impact on both their equity and productivity.

Land policy reform is essential to securing the broader objectives of social justice and economic development.

Oftentimes, these rights are not fully recognized, leading to social and political marginalization and land conflicts. Research shows that indigenous communities are among the poorest. Hence, to ensure the survival of these communities, promote equity and protect their immediate environment, mechanisms to secure indigenous peoples' (IPs') rights to their lands must be put in place. The case of minority groups illustrates how, in many countries, land rights are closely related to the fundamental rights of citizens.

## Key Components of Land Distribution Efforts

- **Support for agricultural development.** Access to land is a necessary condition for encouraging investments and improvements on land. However, land titling is not always the best way to increase tenure security, nor does it automatically lead to greater investment and productivity. Reasonable crop prices, access to inputs, availability of credit, and the organization of markets and processing are important features of the agricultural sector.
- **Conflict resolution and post-conflict recovery.** Conflicts are likely to arise where resources are scarce and access to them is restricted. Hence, in order to forestall land-

related challenges and disputes, conflicting claims must be addressed before establishing a land registration program. For example, in countries that have experienced armed conflict, a fair and just handling of land tenure questions is often the central component of any reconstruction exercise, both to maintain the peace and to provide the conditions under which economic growth can be reestablished.



- **Improved governance.** Given the value of land, land administration provides fertile ground for corruption and political patronage. Thus, the design of rules, structures and procedures regarding land tenure must consider how best to minimize such risks. This should be done by establishing checks and balances, for example by opening up the process to public scrutiny and disseminating information more widely. An effective and responsive judiciary system that is accessible to poor and marginal people is also crucial.
- **Local government and decentralization.** Decentralization offers a valuable opportunity to shift more of the responsibility for land management to communities. It can also bring the resolution of disputes much closer to local stakeholders, and ensure that the management of land and the revenues from it are more closely scrutinized. However, decentralization may also have politically charged consequences, such as on land reform efforts. It can strengthen the hand of the local elite in decisions concerning the use of resources. Moreover, while decentralization could open up new ways to manage land and resources, it does not offer immediate answers to questions of accountability, or where power and decision-making should lie.
- **Taxation.** Trade liberalization has led to a substantial reduction of trade duties, thus making land increasingly attractive as a potential fiscal asset to meet fiscal targets. However, local land taxes would have to be accompanied by more effective and secure rights, and adequate provision of services by the local government if they are to be accepted by the communities. The government should also classify land according to quality and productivity, and tax it accordingly. The likely impact of such a tax on production strategies and levels of investment must also be considered.
- **Environmental management.** Land policy can help guard against environmental degradation and its social and economic costs. Clear and protected rights, effective rules defining access, and regulating the use of land and natural resources are essential to effective long-term management of land and resources. For instance, certain areas within a country may have to be set aside to conserve biological diversity, reduce risks of erosion and pro-

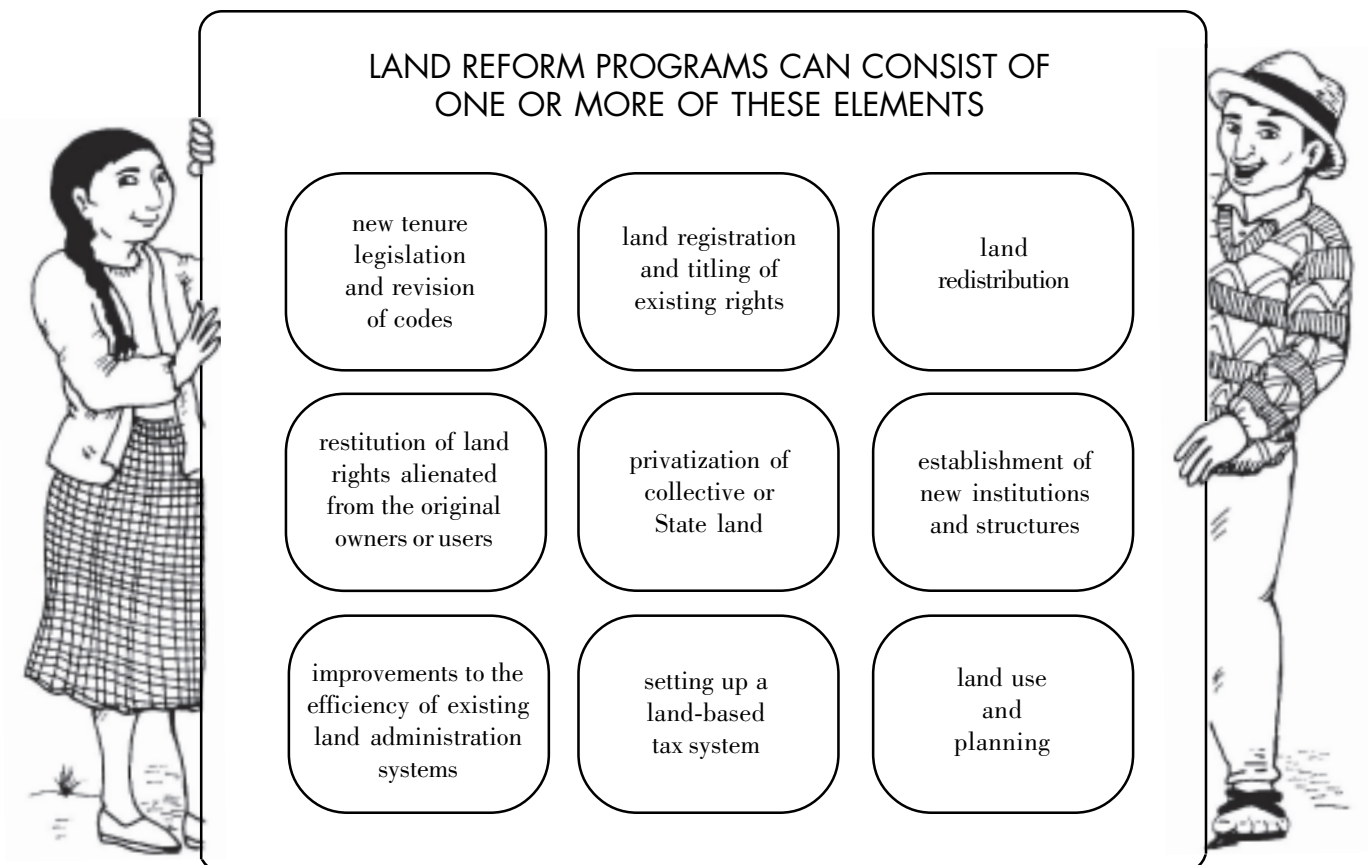


vide for common public spaces. Governments are now realizing the need for joint management with rural people of many protected areas.

- **Land use planning.** Agricultural expansion or rapid urban growth can cause many land-related problems. The consequences of unplanned land use are most apparent in peri-urban areas and in regions that receive a lot of migrants or refugees. Changes in population and patterns of land use need to be regulated in some way to minimize the adverse impact of poorly-sited buildings, the loss of green spaces, and the allocation of land for infrastructure development and service provision. Thus, land policy needs to be coherent with land use planning at the local, regional and national levels. Government planners should engage and negotiate with local land users regarding their plans.

For each of the components described earlier, there is a broad set of options. Due to this diversity, there can be no blueprint approach to land reform. The objectives, the political choices they reflect, and the legal and institutional options chosen are highly dependent on the specific economic, social and political context and its historical background, the institutional framework, the main issues to be dealt with, the type of agriculture, and relations between government and the people. Effective implementation of these options depends on the institutional capacity of the public, private and community-based organizations involved.

## Central Issues to the Design of Land Policy

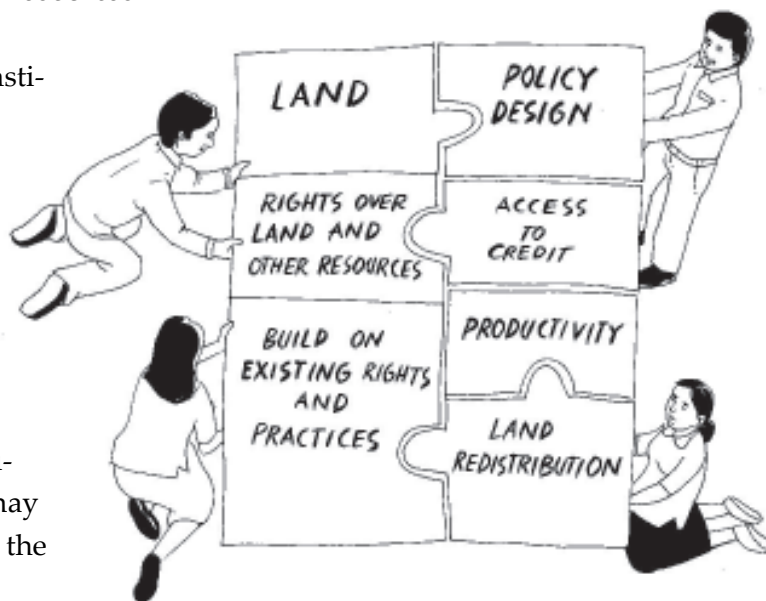


**Table 1: Overview of Land Policy Reform Processes in Different Regions**

| REGION                            | MAJOR ISSUES AND TRENDS   | ACTION REQUIRED   |
|-----------------------------------|---|---|
| <b>Asia</b>                       | <ul style="list-style-type: none"> <li>Continued duality of customary and statutory systems.</li> <li>Relatively little land subject to title. Population pressure, declining holding size, growing landlessness.</li> <li>Strong centralized systems of land administration. Lengthy bureaucratic procedures and backlog of land disputes.</li> </ul>  | <ul style="list-style-type: none"> <li>Recognize farmers' rights. Introduce simpler decentralized systems of land administration.</li> <li>Redistribute land in some countries.</li> <li>Strengthen women's land rights under both customary and formal systems.</li> <li>Develop rental markets for the poor. Reflect land policy in Poverty Reduction Programs.</li> </ul>  |
| <b>Africa</b>                     | <ul style="list-style-type: none"> <li>Strong legacy of colonial administration, structure and legislation. Very low percentage of land subject to title.</li> <li>Legal pluralism with many conflicting and overlapping laws and systems for land administration, establishing land claims and conflict resolution.</li> <li>Common property resources key to poorer groups.</li> <li>Major disparity within the continent:               <ul style="list-style-type: none"> <li>East and South Africa characterized by large-scale alienation of land by colonial powers, commercial farmers, and national parks.</li> <li>West Africa, where there is very limited white settlement, continued strength of customary powers overlaid by sequence of legal, political and institutional changes.</li> <li>North Africa, where a legacy of strong central government control has meant few incentives for local management.</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>Redistribute land where great inequities remain.</li> <li>Gradually formalize local land rights through decentralized land administration and more accountable processes. Build bridges between customary and statutory rights to provide greater security to the former.</li> <li>Address implications of high HIV/AIDS on land issues.</li> <li>Strengthen alternative sources of credit.</li> <li>Establish and protect rights to common property.</li> <li>Support negotiation between State and people to enable consensus regarding new rules.</li> <li>Strengthen women's land rights in both local/customary and formal systems.</li> <li>Reflect land policy in Poverty Reduction Strategy Papers.</li> </ul> |
| <b>Latin America</b>              | <ul style="list-style-type: none"> <li>Large inequities in land distribution, despite long-standing land reform programs.</li> <li>High number of landless. Large number of squatters and others with informal holdings, no legal status.</li> <li>Major areas in which indigenous peoples claim rights.</li> <li>Shift from deeds to title registration, but widespread failure to keep register up-to-date.</li> </ul>  | <ul style="list-style-type: none"> <li>Exercise political will and allocate the economic resources needed to pursue land redistribution more effectively.</li> <li>Seek alternatives to market-assisted land reform.</li> <li>Look for ways to formalize land claims of informal sector and indigenous peoples. Support recognition of collective ownership rights.</li> </ul>  |
| <b>Central and Eastern Europe</b> | <ul style="list-style-type: none"> <li>Privatization of State and collective agricultural enterprises over the last 10 years by establishing private farms.</li> <li>Restitution of former holdings, resulting in small and fragmented holdings</li> </ul>  | <ul style="list-style-type: none"> <li>Strengthen land administration, consolidate holdings through participatory procedures and innovative approaches.</li> <li>Look into exchange of holdings, use of land reserves.</li> </ul>   |
| <b>Former Soviet States</b>       | <ul style="list-style-type: none"> <li>Privatization of State and collective farms through issuance of shares, rather than division of estates.</li> <li>Growing concentration of shares in some places.</li> <li>Weak incentives to increase productivity.</li> <li>Limited land markets.</li> </ul>   | <ul style="list-style-type: none"> <li>Help set up mortgage systems to enable purchase of land by poorer groups.</li> <li>Improve understanding of gender roles and prevent rising poverty among women.</li> </ul>  |

## ***Securing rights to land and related resources***

Securing of rights is a question of institution and enforcement. Many natural resources, especially those that are scarce, unpredictable or irregular, do not lend well to private ownership and are more efficiently managed as a collective asset. In many rural areas, farming societies are based on a mix of individual rights and collective regulations, the combination of which may differ depending on the setting and the resources in question.



## ***Building on existing rights and practices***

In the past, land tenure systems in customary areas have been considered backward, insecure and a constraint on productivity growth. The aim was therefore to replace them with a formal, State-led system based on private ownership. However, the fact is that customary tenure has proven to be quite dynamic. In most cases, there is no major inefficiency in customary land management systems that could justify their replacement. Even if the aim of the State is to develop a formal system of titles, it should opt for a progressive evolution that builds on existing rights and gives them legal recognition.

## ***Titling is not always the solution***

It is widely believed that land registration or titling is necessary to secure rights, increase productivity, and gain access to credit, but experience has shown that titles are neither necessary nor sufficient to achieving these aims. Moreover, land registration programs are reliable only if the registry is regularly updated. Titling programs can actually lead to increased insecurity and inequity where procedures allow for political manipulation in favor of wealthy individuals. Titling can bring increased hardship for poorer people where land rights are complex and where lack of access to information about the procedure as well as the cost exclude them from such processes.

This does not mean however that titling is never useful. It plays a role in a number of circumstances, such as where land markets are evolving rapidly, where many people from outside the local community are involved, where farming systems require substantial amounts of capital that decentralized credit cannot provide, and where urban encroachment is a major threat.

## ***Land rights administration: Lowering transaction costs***

Land administration involves a range of different functions: information on rights and transfers, adjudication, and arbitration supported by systems of land surveying, mapping, land information, valuation, registration of rights, recording of transactions, issuance of titles and collection of fees or rents.

The design of the land administration system is a very crucial issue. Too often, centralized land administration is top-heavy, inefficient and costly. Some degree of decentralization will help to achieve more effective land and natural resource management, since more relevant and detailed knowledge regarding land rights is found at the local level.

The key aspects that need to be considered for a user-oriented land administration include:

- Resolving contradictions between norms;
- Offering simple, accessible procedures, with well-known rules that address the problems faced by farmers;
- Promoting efficient arbitration systems which are accessible to people;
- Removing inefficiencies in land administration and ensuring accountability;
- Maintaining a public record of land claims;
- Ensuring effective publicity of land claims prior to their registration and conversion to title;
- Avoiding opportunities for corruption presented by difficult and complex procedures; and
- Providing avenues for appeal.

Using new technology, such as global positioning satellites (GPS), can also improve the quality and efficiency of land information systems.



## ***The role of the rental market in enhancing productivity and access***

Given adequate guarantees of security for the transacting parties, land rental markets provide users the flexibility to increase or decrease their landholdings according to changing needs without permanently reassigning their underlying rights. They help give the poor access to land and allow them to temporarily or partially withdraw from farming without losing their landholdings.

## ***Land redistribution***

Due to the more effective use of labor, production in small- and medium-size farms has proven to be more efficient than in larger farms. There are therefore limited economies of

scale in agriculture. On the other hand, there are economies of scale in the processing, distribution and marketing of goods in a competitive global market.

However, land distribution may produce a temporary decrease in productivity if there are not enough economic incentives, and institutional, financial and technical support to help new farmers develop their holdings.

Problems in transferring land ownership remain. Should it rely on a market-based process and the principles of willing-buyer/willing-seller? Or should the State take a more interventionist approach? While market-led reforms avoid the damaging aspects of forced redistribution, the availability of land for sale and funding constraints both greatly limit the speed and impact of such reforms. To be equitable and successful, such processes require transparent procedures, political will, and strong donor support.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Policy Designs for Land Management



**M**ost countries have been engaged in various land-related measures, both to address the perceived weaknesses of existing systems, and to establish new mechanisms for land management that are believed to be necessary to encourage greater growth, equity or environmental sustainability. Certain key lessons can be drawn from this varied experience.

**1. Recognize that land reform is a long-term, complex and highly political process.**

The processes — changes in laws, registration, and establishment of new structures for land management and administration — are likely to be long-term, complex and highly political. This requires governments, donors, and other groups involved in supporting these processes to take a long-term strategic approach, and to make a commitment to see it through.

**2. Promote inter-ministerial collaboration, with in-depth analysis of current situations.**

Land issues are multidisciplinary, and thus should involve different ministries and institutions. Constructing a common framework of analysis, based on field research, is

## Source

This article is repackaged from “EU Land Policy Guidelines: The Policy Framework”. This paper draws substantially on recent strategy documents prepared by several EU member State agencies, as well as the World Bank’s Policy Research Report (2002) and associated consultation documents, and policy documents from International Land Coalition, International Fund for Agricultural Development and Food and Agriculture Organization.

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necessary to achieve consensus on the reforms needed and to work towards relevant and effective solutions.

### 3. Promote a participatory approach to policy making.

To foster a sense of ownership and promote effective implementation, governments must consult, listen to and engage with different actors, and understand their views, providing them with a platform for discussion of policy options. Strong political support for the reform is needed and has to be built over time.



#### KEY PRINCIPLES UNDERPINNING EFFECTIVE LAND MANAGEMENT SYSTEMS

1. Recognize that land reform is a long-term, complex and highly political process;
2. Promote inter-ministerial collaboration, with in-depth analysis of current situations;
3. Promote a participatory approach to policy making;
4. Take into account the gap between statutory law and local practice;
5. Identify key principles and allow for diverse solutions within them;
6. Take into account the implementation costs of designing land tenure reform measures;
7. Carefully craft the rules and tools;
8. Recognize that the impact of reform depends on changes in practices and not on the legal text alone;
9. Ensure widespread dissemination of information on the scope and content of the reform;
10. Approach gender issues carefully;
11. Recognize the rights of minorities; and
12. Include sound land use planning in land policy.

### 4. Take into account the gap between statutory law and local practice.

In many countries, there are huge gaps between the law and the practice of it. Such gaps can cause conflicts. But where legal changes recognize and support broader social changes, then they would be more likely to guide behavior in directions sought by government, and thus prove to be more effective. Hence, new legislative provisions need to take account of the broad range of current land practices, with a view to adapting rather than merely replacing them.

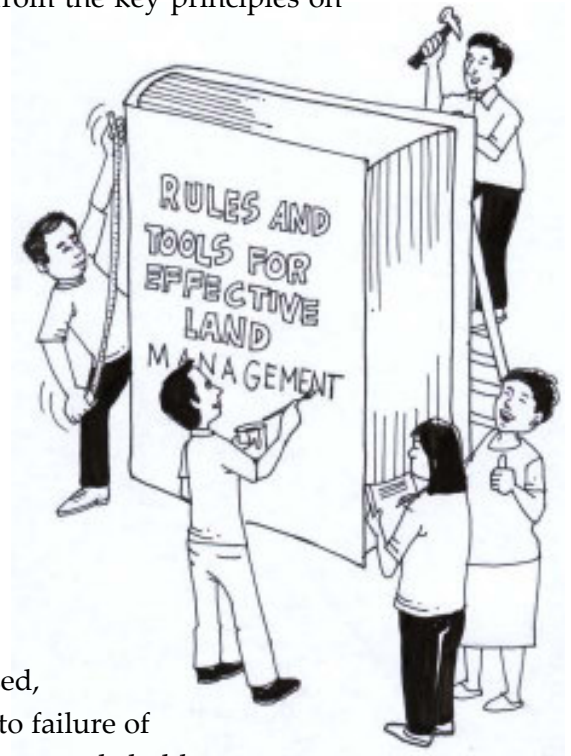
### 5. Identify key principles and allow for diverse solutions within them.

Different situations require different solutions. Land issues, including the pattern of land use, population density, strength of local structures, and systems for regulating land rights, differ widely among countries. This makes it necessary to focus on priority areas and to tailor

interventions to local circumstances without deviating from the key principles on which the policy is based.

**6. Take into account the implementation costs of designing land tenure reform measures.**

Setting up new structures and procedures can be very costly. Hence, it is a good idea to strike a balance between designing a comprehensive set of structures and processes for managing land, and opting for a minimalist approach, which is more affordable. It may also be better to build on existing institutions, and establish pilots to test approaches for later replication. Similarly, it makes more sense to focus on areas of highest priority rather than to try to cover everything.



**7. Carefully craft the rules and tools.**

Rules, tools and procedures have to be carefully discussed, designed and tested, to avoid loopholes that could lead to failure of the reform and other unintended negative effects. Different stakeholders are likely to try to manipulate procedures to further their own interests.

**8. Recognize that the impact of reform depends on changes in practices and not on the legal text alone.**

A change in legislation is not by itself sufficient to achieve the broader objectives sought by many reforms to land policy. For example, where land is redistributed to the landless,



considerable financial and technical support may have to be expended for some time to help new landowners to take advantage of market and other opportunities. Equally, the population needs to be informed of new laws and procedures, if they are to benefit from them. This argues for the dissemination of information in a form that is comprehensible and relevant to people's needs.

**9. Ensure widespread dissemination of information on the scope and content of the reform.**

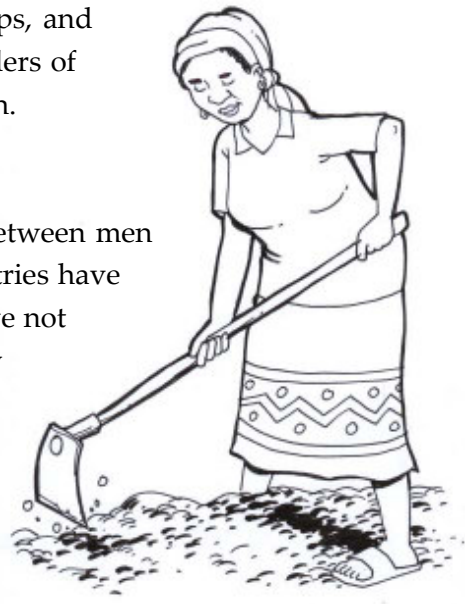
Failure to properly disseminate information about such laws negates the purpose of the reforms. The language and terminology of legal texts can be a major hurdle. Thus, the new provisions have to be translated into the appropriate local languages and terms. However, given the high level of illiteracy among rural populations, particularly women, non-written



means of communication (*e.g.*, through radio, workshops, and extension work) will be required to inform all stakeholders of changes to their legal rights and the implications of such.

**10. Approach gender issues carefully.**

Despite broad agreement on the principle of equality between men and women where land rights are concerned, few countries have either not translated such principles into law or else have not enforced it. While legislation makes it possible in theory for those who feel aggrieved to claim rights with judicial sanction, not everyone will gain by pursuing their formal rights in this manner. Typically, women and men uphold traditional gender roles and relationships over formal rights. Unfortunately, women lack the confidence, information, experience and resources to get what they are entitled to by law. The knowledge that they can ultimately turn to the law may help strengthen their position in negotiations.



**11. Recognize the rights of minorities.**

Measures to secure the rights of minority groups and indigenous peoples must be based on respect for customary laws and tenure regimes. Capacity-building measures may be required to overcome entrenched prejudices in national administrations and to allow for the effective participation of these groups in the design and implementation of policy and legal reforms.

**12. Include sound land use planning in land policy.**

The quality, value, and location of land, including its vulnerability to degradation, vary widely. Land policy needs to take such diversity into account, and tailor rules and procedures to particular settings. A land use planning approach which is based on a consultative process, which allows for changes in land use, including the alienation of land for infrastructural needs in exchange for compensation, and which incorporates environmental principles and objectives, must be sought.

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# Influencing Government Policy through Advocacy



**I**n January 1995, a group of international and national NGOs met to form the Uganda Land Alliance. The Alliance was set up as a pressure group with the mission of ensuring that land policies and laws are reviewed to address the land rights of the poor, women and other vulnerable groups. It developed six major approaches:

- Lobbying and advocacy;
- Public dialogue and awareness building;
- Land rights protection;
- Research and documentation;
- Monitoring implementation of policies and structures established by the 1998 Land Act; and
- Networking.

## Source

"Influencing Government Policy Through Advocacy: The Experience of Uganda Land Alliance"

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The Alliance chose to focus on land policies and laws because the mainstay of Uganda's economy is agriculture, with close to 75 per cent of its population depending heavily on subsistence agriculture.

The Alliance took the view that advocacy is a force for social change and transformation, directed at highlighting power relations in society, assuring marginalized people a place in public decisions and making their lives and environment healthier, safer and more productive.

## What the Alliance has Learned

In the course of its advocacy work, the Alliance has learned the following valuable lessons:

- *Have well-done research, gender disaggregated data and valid information*, especially when you are lobbying experts/technical persons in the field. This information must be precise and concise, and should include arguments from all angles (legal, political, economic, social, constitutional, ethical, moral) and, where necessary, should be backed up by verifiable statistical data.

### Reminders to Advocacy Groups



- **Legitimacy** — Who are you? Who do you speak for? With what authority do you speak? How do you know what the people you are speaking for want?
- **Credibility** — How much can the organization be believed or trusted? Is its information reliable, its programs and services sound, its staff qualified? Is the organization accountable internally and externally?
- **Mobilization of resources** — Can you show that your work is relevant and that you therefore deserve funding from whatever the source may be?
- **Sustainability** — Beyond financial sustainability, does the organization have membership sustainability (continuing relevance to the needs of its constituents and beneficiaries)?
- **Consensus building** — Does the organization agree on the key issues that will form the basis of the advocacy campaign, and how these will be presented? Are any dissenting parties dealt with in a sensitive manner so that disagreement does not lead to disintegration of the network?
- **Mobilization of a critical mass** — Are these issues around which the organization can mobilize a critical mass or not?

- ***Make follow-up appointments*** to find out whether the policy makers have read your communication proposal or not, so that alternative procedures may be devised.
- ***Understand the environment one is working in.*** Identify which policy(ies) is/are relevant to the issue being lobbied for and how the proposal you are suggesting will affect them. Identify who your allies and opponents are, who the key decision-makers are, and who are the people who influence them.
- ***Understand the procedures and workings of government.*** For example, know the stages involved in drafting a law from the technical committee up to Parliament so that you know the options available at each stage and how to use each of them.
- ***Keep an open mind and avoid prejudices*** when you disagree with people, especially the policy makers. Always leave room for further negotiation, since they have the power to make the changes being lobbied for.
- ***Maintain clearheadedness and commitment to purpose.*** Understand that lobbying is a process, not an event. Advocacy is about influencing the powerful on problems that concern people, especially those that have been marginalized and excluded from the political process. It is about politics and change, about values and beliefs, about consciousness and knowledge. Therefore, change cannot occur overnight. Keep this in mind so that you do not give up in the face of setbacks, opposition, or apparent defeat.
- ***Have a strong coalition of different civil society groups with various backgrounds,*** including religious institutions and leading public opinion leaders. The strength of numbers, especially in getting policy makers to respond, cannot be overemphasized. Coalitions also play an important role in providing a broad information base.



- ***Remember that, in lobbying, the target is always a person,*** never an institution or elected body. Avoid sending blanket letters to an organization. Target individuals within the key institutions who have the power to make decisions or those who have influence over these decision makers — then follow-up with those persons.
- ***Obtain commitment of the members of the coalition for the duration*** of the lobbying process. Coupled with this is the need for transparency and openness in

handling the lobby process. Any form of activity that is improper or unclear may alienate some members, thus leading to the collapse of the lobby coalition.

- **Rally sufficient resources, both human and financial.** People who are knowledgeable on the issues being lobbied for must be on standby at all times to either do research and analyze the issues involved, or to attend a meeting with policy makers to present the proposal being lobbied for.
- **Consider establishing contact with decision-makers through informal means,** if official channels initially prove difficult. Sometimes the most vital links with these people can be made informally, with positive results. It then becomes easier to set an appointment to follow up the issue formally.

- **Cultivate a good relationship with the media** in order to receive considerable and favorable coverage from them. If you can get an issue into the media often enough, policy makers will take notice and may even make the first contact with you. However, media exposure may be double-edged as some negative publicity may cause serious damage to the campaign. Therefore, deal with the media cautiously.



- **Undertake sustained action to engage public discussion and build awareness** about the need to address the legitimate interests and concerns of women in land issues.
- **Conduct action-oriented research and documentation** of women's realities and experiences under the different land tenure systems.

## Target Issues

In addition to the above lessons learned on effective advocacy, further specific efforts must be made to ensure that women and land rights issues become part and parcel of the national and international agendas. Further, discussions on land must be broadened and deepened so that land is not just perceived as a political and legal issue, but also as a cultural, socioeconomic, development and human rights issue.

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# The Role of Different Stakeholders in Implementing Land Policies



**G**iven the varied socioeconomic situations as well as the diversity of people and interests in the world, national land policies should aim to provide solutions that are tailor-fit to the needs of the different stakeholders and to local circumstances.

In general, however, land policies should strive to be accountable, transparent and cost-effective. The system of administration should be oriented towards ensuring that the rights of the poor and less powerful groups are respected and confirmed.

It is, therefore, important for the central and local government, the private sector, civil society groups, local communities and donors to know their respective roles and work together towards a meaningful program.

## Source

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## STAKEHOLDERS

Central/Local Government



Private Sector,  
Civil Society



Donors



## ROLES

- Draw up policies and establish laws, structures, and procedures to protect property rights;
  - Ensure fair and secure distribution of land rights;
  - Set out agenda by consultation;
  - Receive inputs from a wide range of interested parties;
  - Review policy with a view to formulating legislative, structural and procedural provisions;
  - Decide trade-offs among different objectives;
  - Address land issues constructively/minimize conflicts.
- 
- Participate actively in consultation processes;
  - Get involved in monitoring and review of how rules are implemented.
- 
- Continue to address land issues without forcing the pace;
  - Offer funds to support preparation/implementation of land reform without taking over from government;
  - Contribute to research, institutional and capacity-building.

— *From the “EU Land Policy Guidelines”*

## The Role of Central and Local Government

It is the duty of the government to draw up policies and establish laws, structures and procedures for the protection of property rights. Ensuring fair and secure distribution of land rights lies at the heart of a country’s economic, social and political life. Decisions taken today regarding changes to land policy will have long-term ramifications on how power is exercised later on and how opportunities will be made available to those yet to be born.

Given the centrality of land rights and policy, governments need to set out their agenda by consultation and to review policy with a view to formulating legislative, structural and procedural provisions. Receiving inputs from a wide range of interested parties should help governments to gain a clearer idea of priorities, and the nature of the choices to be faced.

Governments must decide on the trade-offs among different objectives. Clear choices must be made, such as between a tenure system geared towards securing ownership rights for large-scale commercial farmers and securing the use and access rights of small stakeholders. If a government is truly working towards poverty reduction, it must ensure that the policy is favorable to the majority of land users.

To address land issues constructively as well as to minimize conflict, a legal framework flexible enough to deal with the diversity of local situations must be adopted. This makes local government a “natural” partner in land policy. However, laws must be drafted to ensure that local authorities remain impartial and that their decisions are consistent with national policy.

## **The Role of Private Sector, Civil Society Groups and Local Communities**

Governments need to engage the private sector, direct land users and civil society groups in dialogue to discuss proposed land policies, identify priorities and think through the long-term implications of a particular course of action.

Participatory consultation processes are now widely used in many countries. But these are largely empty, due to the limited commitment by government to respond to feedback, and uncertainty regarding how to incorporate the diverse observations and counterproposals. Instead, governments tend to rely on a small group of “experts” to formulate its plans.

The private sector, civil society groups and local communities should not only contribute to designing policy, but must also be closely involved in monitoring and reviewing the way the new rules, structures and procedures are being implemented.

## **The Role of Funding Partners**

In the past, many donors, including European Union member States, have been

## **EU STRATEGIES**

The European Commission and European Union member States have played a major role in international debates and in development policy regarding land tenure and land regulations. In general, the following strategies can be considered by EC and EU countries:

- Initiate a common approach to land policy and tenure reform, encourage the sharing of experience between EC and member States and support greater coordination and common understanding of land issues;
- Advocate a more balanced approach to land reforms by multilateral institutions and for stronger integration of land tenure issues into national development processes (Poverty Reduction Strategy Paper, national/rural development strategies, etc);
- Actively encourage coordination and collaboration with other donors, in particular within the UN family (such as FAO and UNDP), in support of national reform processes in line with each agency’s specific field of expertise and presence in the country; and
- Develop initiatives for applied research and development on the linkages between land and poverty and between land tenure and the environment.

The EC and EU member States can improve the impact of land reform by jointly supporting national reform processes, and in particular by:

- Supporting the design and implementation of sectoral approaches to implementing participatory land tenure reforms which take into account the necessary institutional development and which are attentive to issues of sustainability and recurrent cost implications;
- Contributing to making the design of land policy and reforms a truly participatory endeavor, specifically by encouraging government to secure the participation of civil society, indigenous people and local communities in the debate;
- Supporting capacity development in land administration at all levels, including local communities; and
- Supporting monitoring and evaluation of the impact of the reform and encouraging proper dissemination and discussion of research findings.



reluctant to get involved in the highly political issue of land reform. Their support had been limited to promoting titling and land information systems, and other noncontentious activities.

Today, donors are beginning to recognize the importance of addressing land issues. However, they must enter this area cautiously. They can help support processes but not force the pace; offer funds to support the costly aspects of preparing and implementing land reforms without taking over from government; and contribute to research, and institutional- and capacity-building.

## Lessons learned

1. Land reforms are complex undertakings which require firm political commitment by the State and support from society at large. Donors' support must be non-dogmatic, non-intrusive and well-informed on the prevailing situation.
2. Donors' support must be accompanied by an in-depth dialogue with the State at the highest level, and must encourage large inter-ministerial coordination and debate.
3. Land reforms are long-term processes, going through a series of successive phases requiring an iterative approach. Donors should be ready to accompany such processes over the long period. Sector approaches can provide some safeguards against the risk of one or another donor discontinuing support.
4. Gender-sensitive legislative reforms are essential, though not sufficient to secure enforceable access to, control over and use of land resources by both women and men.
5. Information and awareness are key. Donors must contribute to the understanding of different stakeholder interests and strategies and should encourage the search for consensual solutions.
6. Research can be a powerful tool for understanding and steering national processes. Donors can be instrumental in accompanying implementation with research and encouraging feedback and debate on emerging issues.
7. Land reforms are extremely case-specific. Donors should support tailor-made solutions that are strongly linked to local social and institutional contexts and avoid blueprints.



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# Can Land Funds Work for the Poor? *A Learning Experience from Ecuador*



**L**and Funds, or a pool of financial resources frequently established by governments to finance the cost of purchasing land for the rural poor, have generally had disappointing results, not least because these have not been complemented by programs that help the beneficiaries become sufficiently profitable to repay the Land Fund.

In contrast, an Ecuadorian NGO, the Fondo Ecuatoriano Populorum Progressio (FEPP), was able to successfully implement a land fund program by combining land purchases with programs designed to give the poor access to other factors of production. The FEPP experience has shown that the difficulties that land funds have sometimes encountered or created in other places can be overcome by engaging the related processes which together can bring about a measurable change in the living conditions of marginalized people.

## Source

Manuel Chiriboga and Carlos Jara.  
"The Cost of Land: Can Land Funds  
Work for the Poor? A Learning  
Experience from Ecuador".

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## The Failure of Agrarian Reform in Ecuador

Since the 1990s, agriculture in Ecuador has been progressively transformed by the demands of structural adjustment programs and market deregulation. The 1994 Agrarian Development Law was passed largely to promote sector modernization and to consolidate a new structure of concentration, supported by the business sector.

This law became an instrument to protect private property. Rural land began to be sold on an unprecedented scale. The State abandoned its agrarian reform policy as a way of modifying prevailing forms of land tenure so that pressures from landless peasants and miniholders would not get in the way of modernization in the sector. No attempt was made to rectify inequalities in land distribution; rather, conflicts were simply *processed* by the State, and public responsibility ended with the provision of certain services.



*“Reducing access by campesinos to land to a strict logic of purchase and sale simply ignores the campesinos’ socio-cultural realities.”*

Land was allocated only where demographic pressure demanded it, and following cash compensation at market value. This policy however did not take into account the nature of the financial market and hence of the virtual impossibility of *campesinos’* obtaining capital.

It is not surprising that after a decade of such conservative modernization in Ecuador’s agriculture sector, only 2.3 per cent of landowners control nearly half (or 42.6 per cent) of the land.

(Third National Agricultural Census conducted by INEC, the Agricultural Information and Census System and the Ministry of Agriculture, June 2002)

This situation of concentration is made even worse by the lack of education in many campesino communities (*i.e.*, as much as 23 per cent of *campesinos* have had no schooling whatsoever); lack of access to appropriate technology or to the necessary infrastructure; low coverage of public services; and poor access to formal credit sources (which currently service less than three per cent of potential demand by Ecuadorian farmers). Given the high interest rates on both formal and informal credit and low productivity on their farms, *campesinos* find themselves caught between a rock and a hard place. In many places, particularly along the coast, this situation has led to land being lost to banks or moneylenders, or sold to urban buyers.

## The FEPP Land Program: An External Debt Swap Initiative

The *campesino* and indigenous uprising of June 1990 forced the Government to find a solution to disputes over land access. The answer was found in a proposal presented by the Ecuadorian Episcopal Conference, at the suggestion of FEPP, to set up a land acquisition fund. A swap operation for USD 6 million was authorized. Once a procedure had been agreed with the Monetary Board, FEPP purchased USD 930,000 in Ecuadorian debt securities, equivalent to

The Fondo Ecuatoriano Populorum Progressio (FEPP) is a private, ecumenical, nonprofit social foundation sponsored by the Ecuadorian Episcopal Conference and set up by lay persons. The FEPP bears the influence of the more progressive elements of the Catholic Church.

15.5 per cent of the face value of the operation, to purchase USD 6 million from the Banco Santander in the New York secondary market. To do this, FEPP obtained funds from sources in Germany, Switzerland, France, the Netherlands, Austria, the United States and Italy.

The Central Bank recognized 70 per cent of the value of the debt purchased and handed over State bonds. This provided the initial financing for the program. By means of this operation, FEPP established a fund to acquire land in the amount of 5,091 million *sucre*s (USD1=1,919 ECS or *sucre*s [1993]), at a conversion rate of 5.47 times per unit invested. (Navarro)

As of December 1997, when the program finally ended, funds had been provided to acquire 45,706 hectares of land benefiting 9,287 families. In addition, 343,481 hectares of land were titled, benefiting 1,946 families.

## The Land Purchase Process

The following procedure was followed by FEPP in its land purchases:

1. The *campesino* organization identifies the property and evaluates the possibility of purchasing it.
2. On this basis, an application is submitted to the FEPP Regional Office.
3. The FEPP Regional Office evaluates the application and decides whether to intervene.
4. The proposal is sent to PROTIERRAS (PT), which decides how to proceed, including an analysis of the information, type of support required, training activities, etc.
5. PT performs a detailed analysis of the property, including a land survey.
6. PT performs a legal title review.
7. The stakeholders begin negotiations, based on information provided by FEPP regarding assessment, estimated requirements and ability to pay, and land prices in the area.
8. In parallel, a production plan is drawn up to enable negotiations to take place on credit terms and conditions, and the guarantee fund is set up.
9. The production plan is drawn up, economic organization begins, and markets are identified.

FEPP-PROTIERRAS (PT) was formed by FEPP in 1997 to provide services to requesting *campesino* organizations in land surveying, as well as legal advice in the purchase and legalization processes.



10. Commitments for purchase and sale between sellers and buyers are signed in the presence of a notary.
11. The information is sent to FEPP and/or CODESARROLLO for analysis of the credit application.
12. Once the application has been approved, funds to pay the owner are delivered.
13. Final legal instruments and mortgages are prepared and the transaction is registered.
14. The plan in support of the organization's economic activity is put in operation.



CODESARROLLO, or People's Savings and Loan Cooperative for Development, is a financial institution that is mobilizing part of the FEPP lending system.

The average duration of the foregoing process is three to four months.

## Strategic Approach

FEPP's approach to operating its land fund program can be gleaned from various aspects of program implementation.

### **Risk Management**

1. The *campesino* organization's members frequently have experience in production and capacity for market positioning, and are known to and supported by FEPP Regional Offices, significantly diminishing the risk. Also the fact that credit is provided to the organization allows a system of collective guarantees and mutual vigilance to take effect. In many cases, this implies that part of the property acquired is identified for collective operation, with profits being used to repay the credit.
2. One requirement for allocating credit to *campesino* organizations is that a Guarantee Fund be set in the amount of 10 to 20 per cent of the loan, deposited in a savings account determined by FEPP. These funds may come from the organization's prior savings or from savings collected at the time. The establishment of this fund is a clear indication that the *campesinos* are prepared to proceed with the process of land purchase.
3. The beneficiary organization mortgages the property in favor of FEPP as collateral security. Interest rates are set within a range that depends on the nature of the activity, and are variable, and less than but close to market rates.

### **Credit Repayment**

4. Once the rules for negotiating the land purchase have been established, FEPP technical staff intervene to establish, together with the *campesino* organization, a feasibility project that supports the value of the land, and hence ensures the ability to repay the credit incurred. Credit for purchasing land is accompanied, when needed, by another loan designed to activate production factors and reorganize social relationships.

5. FEPP ensures compliance by the borrower organization with its obligations by developing its intangible capital (*i.e.*, market information, solidarity, financial discipline, skills, management capacities, communication), carrying out a viable production plan and promoting innovation.



6. The loan amount and repayment period are determined jointly by FEPP and the *campesino* organization, according to the organization's potential and prospects. Experience shows that when repayment periods are not set properly, this has an adverse impact on portfolio recoveries.



### ***Institution-building***

7. A beneficiary organization is never abandoned or left to fend for itself. FEPP puts in motion an entire process of technical assistance, socio-organizational support and social capital development. This support is calculated to produce a desired development impact, *i.e.*, to create opportunities for sustainability and ensure credit repayment.
8. FEPP works to orient the organization's new management model towards business goals. Not a few beneficiary organizations that had received land credits have gone on to operate as microenterprises. Some reorganize as agro-artisanal associations for profit, particularly when the production plan includes processing and adding value. In other cases, they organize as cooperatives, workers' associations, or as communities. In still others, several economic organizations may be formed within a community, linking groups to lines of activity.

## **Lessons from the FEPP Experience**

1. FEPP has been an effective intermediary in land valuation processes by using their skills, knowledge and influence to strengthen the power of the poor to negotiate fair land prices. Market imperfections have been reduced by having an intermediary able to offset the lack of knowledge and experience of the poor farmers to negotiate the purchase conditions. The institutional assistance to the loan beneficiaries resulted in lower land prices.
2. Land titles are a precondition to accessing Land Funds. But land titling is complex: it involves legal processes often beyond the capacity of the rural poor alone; requires multiple steps; involves numerous direct and indirect costs; and requires substantial time, including transport to land registry offices. FEPP provided direct assistance to farmers to complete and reconcile these transaction processes. Moreover, this experience highlights that success is related to the capacity of the intermediary, in this case FEPP, to achieve security of rights and tenure.

3. *Land Funds are a necessary but not sufficient condition for land poor households to become profitable producers.* Without access to the other factors of production, such as skills and technical training, and access to markets, the poor will not become sufficiently profitable to service the cost of repayments to the Land Fund. The risk of losing land will escalate. Since Land Funds are normally limited to land purchase, FEPP's experience confirms that the success of Land Funds depends on complementary resources for accessing these related resources and factor markets. Land must be considered in a more comprehensive framework of development. While this approach is more costly, the production services, as the FEPP vision has shown, are essential to sustainability and improved household well-being.
4. Designing, using and sustaining the benefits of Land Funds is challenging. Lessons from past land redistribution programs have shown that competing and powerful interests have, in many cases, reacquired these lands. FEPP has given particular attention to social mobilization and strengthening or establishing institutions of the poor to provide knowledge, access to services and collective action and power to represent and protect the interest of the rural poor.
5. Land Funds frequently face problems of repayment, because poor families seldom receive the support services they need to make their land productive nor access to fair market



prices for their products. Under the Land Fund activities of FEPP, an important focus is placed on ensuring that land beneficiaries can gain access to these services. This results in both higher family incomes and the financial ability to repay. However, this is a necessary but not always sufficient stimulus for repayment. Therefore, FEPP, through its trusted relationship with the land beneficiaries, was able to make them understand that repayment results in subsequent loans that will improve further the rural economy, from which they will receive direct and indirect benefits. The high repayment rate for FEPP is a very important success indicator for Land Funds.

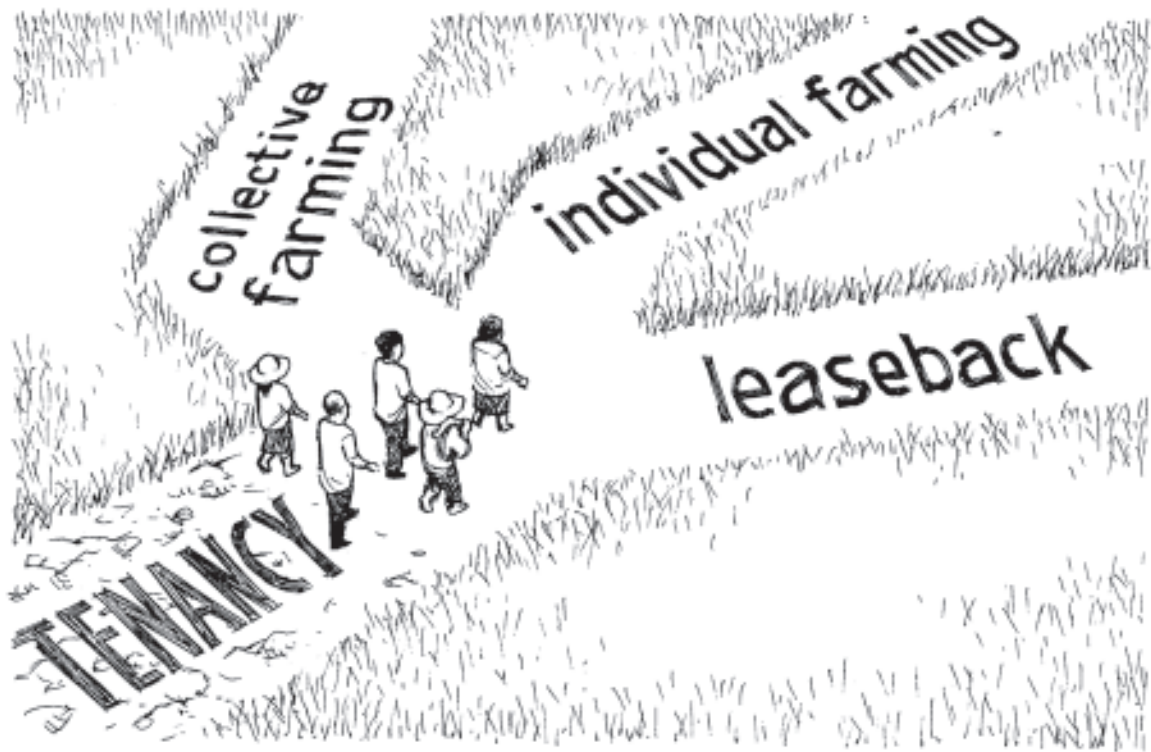
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Navarro, Wilson, Registro de Casos de Compras, Legalizaciones y Titulaciones de Tierras apoyadas por el FEPP, 1997-1998 (Record of Land Purchases, Legalization and Titling supported by FEPP, 1997-1999)

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Collective Farming as a Transition Strategy for Beneficiaries of Agrarian Reform



Since 1998 the re-distribution of private lands in Capiz Province (located in Western Visayas, Central Philippines) under the Philippines' agrarian reform program has been resisted by the former landowners. Even in cases where land had been successfully turned over to ARBs, landlords have attempted to regain control of awarded land through leaseback arrangements with the farmers. Under such an arrangement, farmers revert to their former status as paid plantation workers instead of assuming their new role as managers of their land.

In particular, the sugar-growing haciendas (estates) which are the subject of this article proved to be attractive targets for leaseback schemes because these haciendas were covered by a collective title (called Certificate of Land Ownership Award, or CLOA), which did away with the problem of negotiating with many ARBs. In response to

## Source

Antonio B. Quizon, and Mary Grace L. Riguer, "Collective Sugarcane Farming in Capiz, Philippines: Survival in a Dying Industry?", *Globalization and Small Farm Household Agricultural Practices in the Philippines. A Case Study*, CARRD and ANGOC, Philippines, 2003.

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this, two non-government organizations, namely, the Center for Agrarian Reform and Rural Development (CARRD) and PAKISAMA (a national federation of organizations of peasants, fisherfolk and rural women) proposed that the ARBs try out cooperative-managed collective farming. This option would fortify them against landlord harassment as well as help them get access to production capital from the formal banking sector.

## Collective Farming on three Sugar-Growing Estates

In 1998, CARRD and PAKISAMA applied for government funding for the collective farms being put up by two cooperatives: ESMAC (at Hacienda del Carmen/Sta. Ana) and CARBMPC (at Hacienda Carmencita). They immediately ran into problems: the government did not think that the two cooperatives had the capital or the managerial capacity to undertake such a project. It eventually agreed to provide production loans to the cooperatives

but only after CARRD had signed on as co-financer. The same arrangement held true for the collective farming project of SNARBMPC in Hacienda Sto. Nino.

The haciendas (feudal estates) were Haciendas Carmencita and Sto Nino, both in President Roxas, and Hacienda del Carmen/Sta. Ana in Barangay Binuntucan, Pontevedra. In all three haciendas, a cooperative was formed among some of the Agrarian Reform Beneficiaries—CARBMPC (Hacienda Carmencita); SNARBMPC (Hacienda Sto. Nino); and ESMAC (Hacienda del Carmen/Sta. Ana).

The cooperatives were the legal holders and managers of the collective farm projects.

Meanwhile, a Project Committee composed of representatives of the cooperatives, CARRD, and the government, was created to monitor and evaluate the performance of the collective farms. This committee also recommended policies to govern the projects.

CARRD was co-proponent of the cooperatives for three years, or until the cooperatives could manage their own operations. It provided (1) financial assistance to the cooperatives as their counterpart to the loans they take out; (2) capability-building and agriculture extension services like education and training, strengthening of management systems, and technical production assistance.

Day-to-day operations at the collective farms were run by a management staff, which included: (1) a professional farm manager who served for three years, after which s/he was succeeded by other members of the cooperative; (2) an accountant/bookkeeper; (3) a treasurer/cashier; (4) a general clerk; (5) field foremen, who supervise the daily operation of the farms; (6) field guards charged with security in the farms; and (7) laborers.

The farm manager was in charge of allocating work within the estate. As a rule, he prioritized members of the cooperatives, or ARBs and their immediate family, living in the village, in regard to hiring workers.

To ensure repayment of government loans as well as the regular amortization on the newly-acquired lands, the sugar *quedans* (receipts issued by the sugar mill to sugar farmers which indicate their share of the raw sugar after tests conducted on the purity of the harvest) were made out to the government. The government sold the *quedans* to the highest bidders, deducted all loan obligations from the proceeds of the sale, and deposited the rest in a bank account of the cooperative. The cooperatives were charged market rates on the government loans.



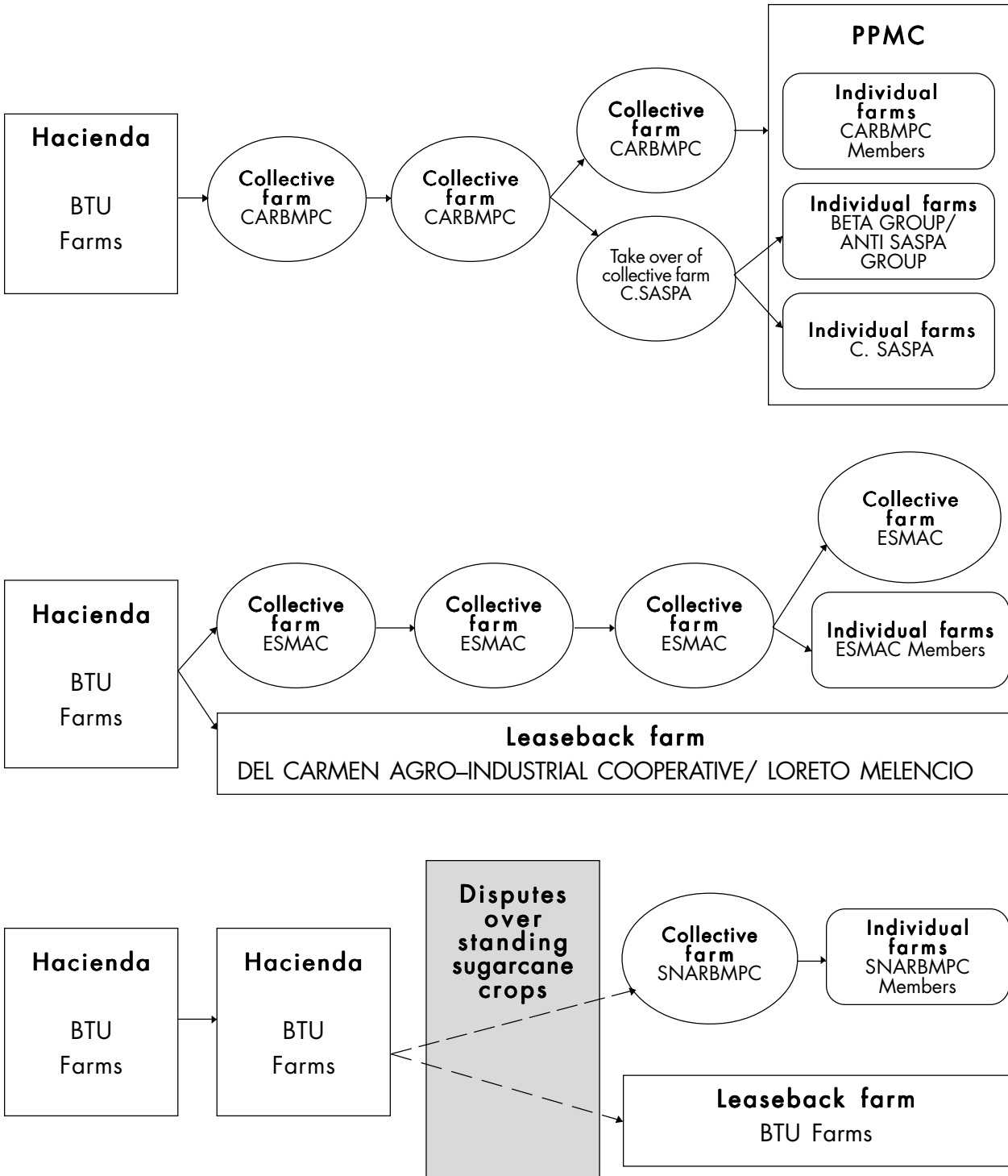
The cooperatives generally paid higher wages to their workers. CARBMPC paid a fixed amount (PhP70) per day per labor requirement (i.e., cutting, hauling, field cleaning). This was higher than the PhP50 daily wage rate paid by the former hacienda managers. ESMAC paid more for a half-day's (three-hours) work per worker.

At the same time, the cooperatives instituted a profit-sharing scheme in which workers earned a daily wage as well as a share of the profit at the end of each cropping season. The net income from the collective farms was distributed among members in the form of shares, rebates and contributions to the cooperative's operational funds. CARRD, as NGO co-proponent, also received a share as compensation for its monitoring and extension costs.

## **Evolution of collective farming in three farming communities**

Although governed by similar mechanisms, the collective sugarcane farming projects in the three haciendas took on different routes after their first cropping cycle: CARBMPC failed in its second crop cycle; ESMAC succeeded until its fourth crop cycle; and SNARBMC shifted to individual farming in its second crop cycle. However, all the collective farming projects were notable similar in one aspect—they all led to individual cultivation (see Figure 1).

| CROP YEARS |           |           |           |           |
|------------|-----------|-----------|-----------|-----------|
| 1998-1999  | 1999-2000 | 2000-2001 | 2001-2002 | 2002-2003 |



**Figure 1.** EVOLUTION OF SUGAR FARM MANAGEMENT IN THREE HACIENDAS, CROP YEARS 1998–2003

## Collective farming as a transition or coping strategy

In the three haciendas, collective farming has proved to be a *coping or transition strategy* designed to assist former sugarworkers in making their lands productive. However, collective farming in sugar lands is a necessary first step (and often, the only option available to ARBs) immediately after land redistribution.

- Collective farming increases farmers' capacity to access formal credit. No banking institution is likely to provide or to process a huge number of small, individual loans for farmers without any track record. Also, experience shows that farmers are likely to lose their lands altogether if they seek production loans at usurious rates from moneylenders.
- Since the farm's finances are centrally managed, the cooperative is able to accumulate and build-up internal capital. The case of ESMAC has shown that, with sound financial management, a cooperative may achieve a level of self-reliance for its annual production capital requirements within just four cropping seasons.
- Collective farming allows greater margin for immediate on-field experiments, since no single household assumes the full impact of a possible crop failure. Already, cane variety testing has been done on the collective farms.
- Finally, the *transition* period (i.e., three to four years) allows the cooperative sufficient time to adjust, mature and develop its leaders, acquire new skills and managerial capacities, and explore new contacts with potential business partners.

However, the longer-term target is still individual farming, with only certain farming-related activities (e.g., land use planning, credit and savings, technical/agricultural improvements, marketing and pricing) to be kept up under collective arrangements.



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# GPS and 3-D Mapping: *Effective Tools to Establish Ancestral Domain Claims*



**T**hree-Dimensional (3-D) Mapping is a technique that the Philippine Association for Intercultural Development (PAFID) has developed and used through the years in implementing its Land Tenure Improvement Program. Unlike ordinary maps, a 3-D Map is like a real picture of a place: it reflects all the important land and water marks in the area under study. Just as importantly, it indicates the location of resources on which the communities derive their livelihood, as well as features that have a social, cultural and even spiritual significance to the local people. As such, the 3-D map is not only a physical representation of the area but also a record of collective and communal knowledge.

## Source

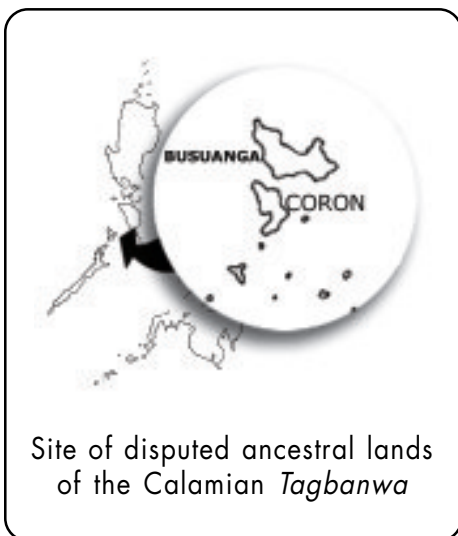
Philippine Association for Intercultural Development (PAFID) and Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA), "Staking a Claim on Ancestral Land and Waters", Paper prepared by PAFID and PhilDHRRA.

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This tool was used in combination with Global Positioning Satellite (GPS) technology to great success in the first-ever legal claim for ownership of ancestral land and waters filed in the Philippines. While inexpensive, the 3-D map proved to be an accurate representation of the

area being surveyed. On the other hand, GPS technology was used to validate the 3-D map. Hence, this case shows how local knowledge combined with state-of-the-art technology to produce a map of such accuracy that the tribal people's claim could not be denied.



Site of disputed ancestral lands of the Calamian *Tagbanwa*

## Background and Context

In the early 1970s the municipal government of Calamian in Northern Palawan, Philippines appropriated what had long been considered as the ancestral caves of the *Tagbanwa* clan — an indigenous clan spread out among Palawan's northern cluster of islands — claiming that these belonged to the State. Rights to these caves were auctioned off to the highest bidders, who, in exchange for a fixed rent, would henceforth have exclusive rights to harvest the birds' nests found in the caves. This cut off the *Tagbanwa* from their traditional source of income. The municipal government also ordered the clan to pay taxes on their ancestral lands. The *Tagbanwa* struggled to comply, borrowing heavily on their already diminished birds' nest harvest. But this exaction eventually proved too great for this subsistence folk; they defaulted on their loans and went bankrupt.

What followed was a time of great poverty and hardship for the clan. A few families, driven by desperation, agreed to work as nest gatherers for the winning bidders under a leasing scheme implemented by the municipal government.

A few, however, decided to protest the confiscation of the clan's property and the onerous taxation on their lands. They had heard about the grant of a Community Forest Stewardship Agreement (CFSA) to the *Tagbanwa* in Quezon, Central Palawan, which guarantees tenure, albeit limited, in exchange for the community's management of forest resources. However, some of the *Tagbanwa* felt that a CFSA would leave the coral reefs and *teeb ang surublien* (ancestral waters) unprotected since the CFSA was confined to forest resources. This aspect weighed heavily on the *Tagbanwa* leaders and led them to consider applying instead for a Certificate of Ancestral Domain Claim (CADC). In the early 1990s, cyanide and dynamite fishing became prevalent in the *Tagbanwa*'s artisanal fishing grounds, and this had led to a significant reduction in the daily fish catch in near shore areas.

As traditional small fisherfolk, the *Tagbanwa* felt that they would be unable to survive in their ancestral lands if the *teeb ang surublien* were progressively destroyed. As one of their leaders explained, the indigenous sea cannot be separated from the ancestral land claim as each sustains the other and neither is viable as a separate entity. The indigenous seas were regarded as natural, inseparable adjuncts of ancestral land, integral to the survival of the Calamian

*Tagbanwa* people. Hence, as early as 1990, the clan had already expressed their desire to include coral reefs in their ancestral domain claim.

Thus, on February 19, 1993 the *Tagbanwa* leaders filed a petition for a CADC with the local office of the Department of Environment and Natural Resources (DENR). In the next three years, the leaders followed up their CADC application, with little success. The application papers were eventually “found” gathering dust in a desk drawer at the DENR, and still unsigned.

## Something Old, Something New

### ***Community Based Mapping***

In 1996, a field worker from the Philippine Association for Intercultural Development (PAFID) was sent to assist the clan. To establish the extent of the area under dispute, the field worker helped the community in preparing community sketch maps. In these sketch maps, officers of local organizations in the area, together with clan representatives and village elders, indicated the relative location of such land and water marks as houses, *Tagbanwa* sitios, water sources, mangrove areas, burial sites, coral reefs, fishing grounds, kaingin (slash-and-burn farming sites), and cashew groves, among others. These sketch



maps would be the basis for preparing base maps to be used in the on-ground survey of the ancestral domain. (See *steps to the 3-D Mapping Process and Community Resource Assessment and Planning on next page.*)

***Utilizing community memory and customary law***

In preparation for the actual survey, sworn statements from village elders were collected, as well as evidence of long-term use and occupation of their territory. In general, the extent of their ancestral domain was common knowledge and fairly established among the *Tagbanwa* communities. Yet, decisions still had to be reached with regard to selecting corners for the domain. While drawing sketches, leaders of the local organizations as well as elders and clan representatives discussed the placement of corners or boundary points to each of their claims until they reached consensus.

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***“If it [the ancestral land claim] includes land, then it should also include the sea, because without the sea the Tagbanwa would not survive.”***

— Ben Calix,  
Tagbanwa leader



# THE 3-D MAPPING PROCESS AND COMMUNITY RESOURCE ASSESSMENT AND PLANNING

What follows is a general outline of the process in conducting 3-D mapping and community resource assessment and planning.

## Introduction

Getting the team together  
Registration of participants  
Orientation and Levelling off

## Module 1: Input on the situation of indigenous people in the Philippines

Input is provided on the general situation of indigenous peoples (IPs), particularly their struggle for socioeconomic and tenurial rights as well as relevant figures and statistics on the IP population, demographic condition, and other concerns/issues.

## Module 2: Input and review of the local community situation

Inputs include an overview of the general socioeconomic and political situation of the Philippines to help the participants understand how the national situation impacts on local conditions. Then they are guided through the necessary steps to analyzing their situation.

Workshop guide questions are written on a board or manila paper for the group's reference during the group workshop activity. They are asked to describe their local situation during specific periods (e.g., before the Second World War, during the Marcos Regime, or more simply, the past and present) giving emphasis on the resources they depend on for their survival, important landmarks like burial caves, lakes, rivers, boundaries of communities, communal forest and reserved forest, etc.

## Module 3: 3-D mapping orientation and group workshop

- How is the contour map made or prepared?
- Who makes or prepares it?
- What is the ideal size of a 3-D map?
- What is a 3-D map?
- What are its uses?
- What is the advantage of having a 3-D map?
- How is a 3-D map done?
- What important things should be found on a 3-D map?

## Module 4: Actual 3-D mapping

- Preparation of the base board
- Tracing, cutting, and layering
- Coating with marine epoxy

## Module 5: Thematic mapping/timeline

Timelining is done after completing the raw 3-D map.

At this point, participants are asked to locate and trace on the map (by putting temporary markers) important geographical markers, forest boundaries, communities (original settlers and new), transient/new settlers, fishing grounds, lakes (names), rivers, springs (names), sacred places like mountains, centennial trees, and other important features like slash-and-burn farming, or kaingin.





### 3-D Mapping Process, cont'd.

#### **Module 6: Coding of present local situation, land and marine uses**

The participants are guided in the assignment of codes, using different colors, to indicate the present local situation, and land and marine uses.

#### **Module 7: Coming up with community rules and regulations to govern the use and preservation of land and forest resources, ancestral waters, flora and fauna, minerals and other natural resources, medicinal plants, sacred places and burial grounds**

Presented to the participants is the final 3-D map of their place where they can see the exact picture of their domain, and where important landmarks like rivers, lakes, fishing grounds, and others are located. With the map, they are able to identify which parts of their domain are prone to destruction or exploitation by members of the community or by outside groups.

Their task now is to identify ways to protect and preserve the invaluable resources present on and in their ancestral lands and waters.

#### **Module 8: Visioning workshop**

Participants are divided into workshop groups to brainstorm on what they want or envision their community to be. The output of each of the workshop groups is reported or presented to the big group for critiquing and consolidation.

#### **Module 9: Community planning**

Inputs on how to prepare a community plan are given. The participants are asked to go back to their respective workshop groups to discuss and design a strategic plan which would operationalize their identified objectives and the rules and regulations they have come up with.

A *Tagbanwa* group in the northern cluster of Palawan indicated boundary points on land based on their knowledge of which islands had been traditionally occupied by their ancestors and what customary law dictated as clan inheritance.

All known settlements, as well as lands planted to paddy rice, were also included. The survey points in the mountains were traced far enough to include the trails taken by their ancestors in gathering forest products. Meanwhile, other boundary points on land were set according to *Tagbanwa* taboos. For example, the area inhabited by the *iraw balidbiran*, a winged snake, formed one edge of their ancestral domain. Otherwise, the boundary points followed the peaks and ridges of the northern Busuanga mountain range.

Their basis for selecting the boundaries for the indigenous seas was equally straightforward: all coral reefs or marine resources, fishing grounds, *panyaan*, reserves and other marine territories that had been passed on to them by their ancestors and used currently were included in the claim.

## ***Indigenous and modern methods working in tandem***

The marine survey involved Trimble GPS receivers. The GPS continuously recorded a stream of positions as it moved along the survey path, thus building up a boundary line. The equipment and the survey party were ferried aboard a motorized *banca*, steered by a *Tagbanwa timon*, or boat captain familiar with the area.

Because a member of the clan had directed the survey path, community members were assured that the boundaries were the exact points or areas they had indicated.



A GPS expert aboard a banca being steered by a *Tagbanwa* boat captain

### ***Map validation***

Mapping experts helping the clan applied differential correction to the survey results before preparing a GPS map. (Differential correction is a numerical method designed to refine extraneous, satellite anomalies that had been intentionally or unintentionally introduced into the field data.) Without differential correction, the positions read from GPS receivers would be irrelevant to making accurate boundary maps. The experts then digitized several features from maps of the Coast and Geodetic Survey, specifically, rivers, lakes, coastlines of islands, location of peaks, and coral reefs. Next, they overlaid the corrected boundary points and the corrected outline of major coral reefs and culled the place names from the community sketch maps. Based on the latter, another layer was created to indicate the location of swiftlet caves, burial grounds, *kurut* groves, fishing grounds, villages and sitios, coconut and bamboo groves and other indigenous uses of the territory.

The resulting maps were presented to a general meeting of local *Tagbanwa* organizations. Residents thereupon annotated the map with place names in the *Tagbanwa* dialect. For Jimmy Quijano, a young *Tagbanwa* from one of the *sitios* (villages) represented at that meeting, the spread of the Calamian *Tagbanwa* territories as laid out in the maps brought a sense of pride, and made them feel that “*meron din kaming puwang sa mundo*” (We too have a place in the world).

The maps went through several revisions as village elders and local leaders weighed the merits of keeping out sensitive information from the maps to prevent poachers and other outsiders from using it to their advantage. They also used several symbols to indicate important resources: for example, a picture of a *tekbeken* (octopus) was used to mark the location of the *panyaans* (habitat of octopus, and also where the tribal healers and shamans commune to gather strength and power).

After all the corrections were made, the maps were redrawn and given to the local leaders, who then attached it to their CADC application. The PSTFAD then conducted a validation of the claim and thereafter forwarded its report to the DENR Regional and Central Office in March 1998.

## The Pay-Off

After much delay and in spite of formidable opposition, the *Tagbanwas'* struggle to get recognition for their ancestral domain claim finally bore fruit. On June 12, 1998, or six years after they filed their application, a CADC covering 22,400 hectares of land and waters was signed and approved by then DENR Secretary Victor O. Ramos.

The *Tagbanwas'* triumph represents the first successful legally binding ancestral waters claim in Asia. It later became the basis for the inclusion of ancestral waters in the Indigenous "Peoples Rights Act of 1997". It has since become a rallying point for other marginalized Tagbanwa communities to organize the "SARAGPUNTA", a region-wide coalition of indigenous *Tagbanwa* in the Philippines, and continues to encourage other indigenous peoples (IP) groups, both local and international, to work for their rights over their traditional waters.

## Reflections

The *Tagbanwa* communities' experience is one of a kind in the history of indigenous peoples' struggle to gain tenurial rights to their ancestral land and waters. Unlike many ancestral land claims, the *Tagbanwa* claim included evidence from submerged areas and their particular ecology, which are not so well-known. The 3-D mapping tool proved useful in this regard because it drew from the people's knowledge of these areas. Their experience has set a valuable precedent for identifying and delineating ancestral domains.

The success of the *Tagbanwa* communities' struggle can be credited to the following: (1) the people's great interest and commitment to conserving and protecting their natural environment; (2) the democratic and strong leadership of the *Tagbanwa* organizations; and (3) external linkages and technical support provided by a community development-oriented non-government organization like PAFID.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Land Use Planning in the Uplands of Lao PDR



**L**aos is a small, mountainous country with a very low population density — less than 20 persons per kilometer — making pressure on land and forest resources quite low as well.

In Laos, land and forests are, by law, State property. Thus, the move by the government in 1996 to set up a comprehensive Land Use Planning (LUP) and Land Allocation (LA) program was significant.

## Source

Dr. Jens Kallabinski, "Land Use Planning (LUP): an Approach to Poverty Reduction and Stabilization of Shifting Cultivation in the Uplands of Lao PDR to Improve Upland Livelihoods"

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The objective of the LUP and LA was to promote decentralized and community-based management of natural resources, with the aim of actualizing the following national development goals:

| Social Goals  | Economic Goals  |
|---|---|
| <ul style="list-style-type: none"> <li>• Poverty reduction</li> <li>• Food security</li> <li>• Village consolidation</li> </ul> | <ul style="list-style-type: none"> <li>• Stabilization of shifting cultivation</li> <li>• Increase of agricultural productivity combined with sustainability to secure long-term income</li> <li>• Opium eradication</li> <li>• Creation of a community-based natural resource management (CBNRM) program to improve and protect forest areas and their biodiversity by transferring the responsibility to the village level</li> </ul> |

The LUP/LA national program has since covered 95 per cent of the villages in Bokeo Province and 40 per cent of the villages in Muang Singh and Nalae Districts. (It is scheduled to end in the year 2005.)

### ASSESSMENT QUESTIONS

#### Process of LUP

- Did the villagers understand the purpose of LUP?
- Is there a noticeable difference between the shorter methodology which was being applied and the improved approaches by the GTZ?

#### Socioeconomic changes

- How does LUP contribute to poverty reduction?
- What are the implications and impacts on the villagers' daily livelihood?
- What changes were the villagers confronted with after LUP?
- What effects does LUP have on environmental issues?

## Impact Assessment of LUP

To determine the impact of the LUP/LA program at the village level, the GTZ (Deutsche Gesellschaft für Technische Zusammenarbeit und Entwicklung) conducted an assessment of the LUP process and the socioeconomic changes (*see box article*) in seven villages in Muang Singh District, four villages in Nalae District, and two villages in Bokeo Province. The assessment was conducted from November 2003 to January 2004.

## Methodology

The assessment instrument was a questionnaire that combined semi-structured and structured interview approaches, in consideration of interviewers with little training in conducting interviews. The questionnaire was translated into the Lao language to minimize misunderstanding due to language differences and to facilitate the questioning of the villagers.

During the interviews, the following constraints arose:

- ➡ Valuable information was lost in the translation;
- ➡ Time for the interviews was restricted, making it impossible to conduct actual field studies (*e.g.*, checking of plots or crops).

- The presence of an official from the Department of Agriculture and Forestry (DAF) official might have influenced the interviewees' responses.
- Difficulties were encountered when trying to locate legal documents (either within the village or at the DAF).

## Results

Despite marked differences among the villages assessed (*e.g.*, in economic status and village history), the results of the assessment showed the following commonalities in the responses of the interviewees:



### Positive aspects

- ✓ All the villages seemed to approve highly of the clear village boundaries, which reduced quarrels with adjacent villages.
- ✓ Most of the villages cited a considerable improvement in their forest regeneration.
- ✓ Some of the villages claimed that their living conditions had generally improved.

### Negative aspects

- ✗ Land zoning within the village boundaries was done arbitrarily, and failed to consider actual topography, soil conditions, etc.
- ✗ A high percentage of land within the village boundaries was designated for conservation and protection purposes, leaving limited areas for agriculture and forest production that are insufficient to meet the villagers' daily needs.
- ✗ Pressure on Non-Timber Forest Products (NTFPs) increased in some areas, leading to a noticeable decrease in certain products (*e.g.*, green bamboo).
- ✗ LUP created greater pressure on arable land by failing to allot plots to be used as fallow land for shifting cultivation.
- ✗ Increasing pressure on agriculture led to decreased yield and thus to greater poverty. Some families sought to improve their livelihood by opening up land that had not been allocated and often lies within protected forest areas.

## Modifying the LUP Approach

The goals set by the Lao government for the LUP/LA program were apparently not matched by actual experience in the villages. Thus, in 2002, the GTZ supported a revised LUP/LA approach in the Muang Singh District. The GTZ strengthened the participation of the villagers to implement the LUP in order to improve long-term livelihood.

For this purpose, the importance of spending more time in the villages to gather data, make a needs assessment, and fully understand the problems of the villagers (both male and female) was recognized. The integration of the villagers' knowledge into the LUP process was likewise seen as vital to achieving sustainable land use. However, the difference in impact between the original LUP procedure and the modified LUP procedure (*see table below*) has yet to be assessed over time.

## Guidelines for Methodological Adaptations

Based on the impact assessment of the LUP/LA program, the following guidelines are recommended for methodological adaptations in the procedure:

| <b>Eight-Stage LUP/LA Procedure</b> |  |  |
|-------------------------------------|--|--|
|                                     | <b>ORIGINAL</b>  | <b>MODIFIED</b>  |
| <b>Stage 1</b>                      | Preparation for the implementation of LUP and LA activities (training of staff, preparation of materials, village consultations) | LUP and LA preparation   |
| <b>Stage 2</b>                      | Village boundary survey, land use zoning, forest surveys and land zoning, forest surveys and land use mapping                    | Introduction to LUP, gender exercise, Participatory Analytic Resource Map (PARM) |
| <b>Stage 3</b>                      | Data collection and analysis concerning land tenure, socioeconomic conditions and needs  | Village boundary delineation and agreement                                       |
| <b>Stage 4</b>                      | Village land use planning and land allocation meeting  | Land use and forest survey, village profile                                      |
| <b>Stage 5</b>                      | Agricultural field measurements  | Village zoning, forest and agricultural land allocation decisions                |
| <b>Stage 6</b>                      | Preparation of forest and agricultural agreements and transferring rights to villagers   | Signing of contracts and land tenure   |
| <b>Stage 7</b>                      | Land use management extension  | Promotion, extension, support  |
| <b>Stage 8</b>                      | Monitoring and evaluation  | Monitoring and evaluation  |

## Laws, Policies, Regulations

- Prepare a summary of the relevant laws (including a handout of short explanations in Lao) to facilitate understanding of the legal policy; and
- Have the village regulations (including traditional rules) drafted by the villagers themselves.



## Data Collection and Storage

- Improve the cooperation between the Community Development workers and other teams in order to avoid duplication of data collection;
- Focus only on land and natural resource issues; and
- Analyze the data gathered more thoroughly to make best use of them in the LUP process.

## Boundary Agreement and Land Use

- Take aerial pictures for use in defining zones and land use;
- Standardize all boundary agreements and have these signed by neighboring villages to obtain their full consent;
- Allocate agricultural use areas to villages which depend on shifting cultivation to allow for a sustainable rotational cultivation system (including fallow periods);
- Spend more time to identify additional paddy land which could be designated as reserve land for future allocation; and
- To prepare for future resettlement of villages, use enlarged topographic maps to identify potential areas for settlement (including new paddy fields, water supply, topography, etc.).

## Land Allocation

- Ideally, allocate all land within the village boundaries for permanent crops only;
- Develop criteria for new land in consultation with the villagers to help minimize social conflicts among them and to improve the livelihood of the poorest villagers;
- Integrate migrating families into the process; and
- Review the cases of relocated households that had migrated to new villages after the implementation of LUP.



## Extension

- Provide technical advice to offer the villagers alternatives to their traditional land use; to do this, conduct a parallel analysis of land capability and development;
- Provide neutral advice to the villagers to prevent new forms of land misuse or exploitation;
- Offer consultancy on a long-term basis to teach the villagers new agricultural methods; and
- Extend financial support to help poor villagers to grow new crops.

## Monitoring & Evaluation and Future Prospects

- Conduct regular follow-up (initially on a monthly basis, then gradually less frequent over time) of the LUP/LA process through assessment visits, monitoring the impacts, and evaluating the understanding of LUP; this will help identify new problems and conflicts at an early stage and thereby help to address them more quickly; and
- Make the successful LUP/LA process the starting point for an improved community-based mechanism for Natural Resource Management (NRM) covering non-timber forest products (NTFP), firewood and timber production, as well as the protection of land, water supply, etc.

The suggested improvements in the LUP/LA program could be done step-by-step, making use of existing partnerships with government agencies or NGOs. This bottom-up approach would help the villagers understand the LUP process better, address their daily needs, and thus be more beneficial to them.

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# The Community Resource Balance Sheet



**T**he Natural Resource Accounting (NRA) approach makes it possible to estimate the monetary value of changes to a country's ecology and stock of natural resources, and to adjust the national income or Gross National Product (GNP) accounts accordingly. In the NRA framework, imputations of monetary value may be based on: (1) the actual market value of the resources depleted, or the market value of restoring environmental quality; (2) the economic value of the effects of environmental damage on people; and (3) the monetary value of instituting measures that mitigate the effects of the damage on people.

## Source

Dr. Arturo C. Boquiren, 1995. "The Community Resource Balance Sheet." Marco, J. and Nuñez, E., Eds. Participatory and Community-Based Approaches in Upland Development: A Decade of Experience and a Look at the Future, 3<sup>rd</sup> National Conference on Research in the Uplands. De La Salle University Press, Manila, Philippines

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However, some issues related to assigning monetary value remain unresolved. For instance, there is widespread perception that no system of national accounts is likely to capture the true economic cost of environmental damage caused by economic activities. Moreover, the NRA approach is considered as not comprehensive enough to measure development because it only takes stock of natural resources — measuring their value vis-à-vis economic activities — and ignores the social dimension.

In contrast, the **Area Balance Sheet** approach takes into account both the social and the environmental factors of development. This concept was developed by the Asian Institute of Management in the Philippines. Meanwhile, the **Community Resource Balance Sheet (CRBS)** system has been developed to operationalize the area balance sheet concept. Initial work towards the development of the CRBS has been done by the faculty of the University of the Philippines College of Baguio.

## Development Philosophy of the CRBS

A key principle advocated by the CRBS is that *development* must be viewed as the advancement of people's capacity to collectively define their goals or aspirations, and to improve the means through which they can realize such aspirations. Development should also be regarded as a multidimensional process that involves changes to the economic, political, and other dimensions of social life.

At the community level, development involves empowerment, or raising people's capacity for self-organization, decision-making and for managing policies and programs relevant to them.

## Nature of the CRBS

The CRBS is a *community insiders' tool*. It is intended to be used by the community itself for its own development purposes. Outsiders may introduce it to the community, but community members must be enabled to use the tool themselves.

**Assets** encompass everything that can be found in the area, including but not limited to human and capital resources, monetary assets, physical infrastructure, and economic, social, religious, and political structures. Assets also include intangibles such as beautiful scenery, aesthetics, warmth, friendliness, and the like.

The CRBS relies on local research teams and on the conduct of participatory workshops. Participants are involved in the discussion, validation and enrichment of data, and in planning and decision-making based on the data.

## Features of the CRBS

1. The CRBS system maximizes people's participation in conceptualizing, constructing (including data gathering), and analyzing the area balance sheet. As a tool for assessing development in a geographic area, the area balance sheet should be based on the standing values of the area's residents, and assessed from the perspective of the people in the area.
2. In addition to listing all the assets and claimants of an area, the CRBS System identifies key accounts, *i.e.*, an area's most important assets. This facilitates the implementation of a

manageable and relevant system for monitoring, evaluating and planning development.

3. The people themselves should identify which accounts should be considered as key to a CRBS.
4. The CRBS system defines community net worth as the quality of life of the people in the area. It is concerned not only with the current growth and distribution of an area's assets but also with issues of spatial and intergenerational equity.
5. Community net worth is determined by the types, quality and abundance of community assets, as well as the status and profile of claims to the assets.
6. The CRBS recognizes that in the social world, assets cannot be absolutely equated to liability + net worth. This is because of competing claims in any community.
7. Several methods — including a self-assessment and monitoring tool — are used whenever and wherever these are appropriate to the level of organization, capacity, and logistics in a given community.

### IN SUMMARY, THE CRBS CAN BE DESCRIBED AS FOLLOWS:

- A multi-method participatory approach to the construction of a barangay or community-level area balance sheet;
- A multipurpose system for a holistic approach to formulating a community profile or organizing community baseline information; establishing development objectives; monitoring or measuring one or several dimensions of development or changes taking place in the area; and developing a model for program evaluation; and
- A community insiders' tool or system being developed for their own use.

Although the CRBS system equates *quality of life* with *community net worth*, it looks beyond present quality-of-life indicators and takes into account social, intergenerational, and spatial equity indicators. By adopting this concept of community net worth, the CRBS defines an area development manager's greatest task to be that of improving the quality of life of a community.



## Utilization of the CRBS

A community resource balance sheet statement is constructed from a listing of assets and their claimants. While the usual balance sheet is analyzed by an accountant, a CRBS statement is analyzed by the community members from whose point of view development is assessed.

*Vertical analysis* refers to the review of a single CRBS statement for the purpose of assessing any of the following:

- The composition of community assets;
- Claims or competing claims to the assets; and
- The quality of life or net worth of a community.

## STEPS TO ESTABLISHING A CRBS IN A COMMUNITY

**Step 1** Form a CRBS Preparations Committee among the initiators of the research. This Committee shall oversee the training of local interviewers, the actual data-gathering and processing, and preparations for the workshops to be conducted.

**Step 2** Plan for the data-gathering process. Review the variables in the pro-forma instruments, and decide on the appropriate scope and format for the community.

**Step 3** Identify and train local researchers in data-gathering and processing. Local researchers may be formed into teams for the various aspects of data-gathering and area assignments. Personnel for data-gathering/processing and workshop preparations may come from the NGOs, POs, or other members of the community: teachers, youth leaders, members of the barangay or community council, government extension workers, volunteer health workers, etc.

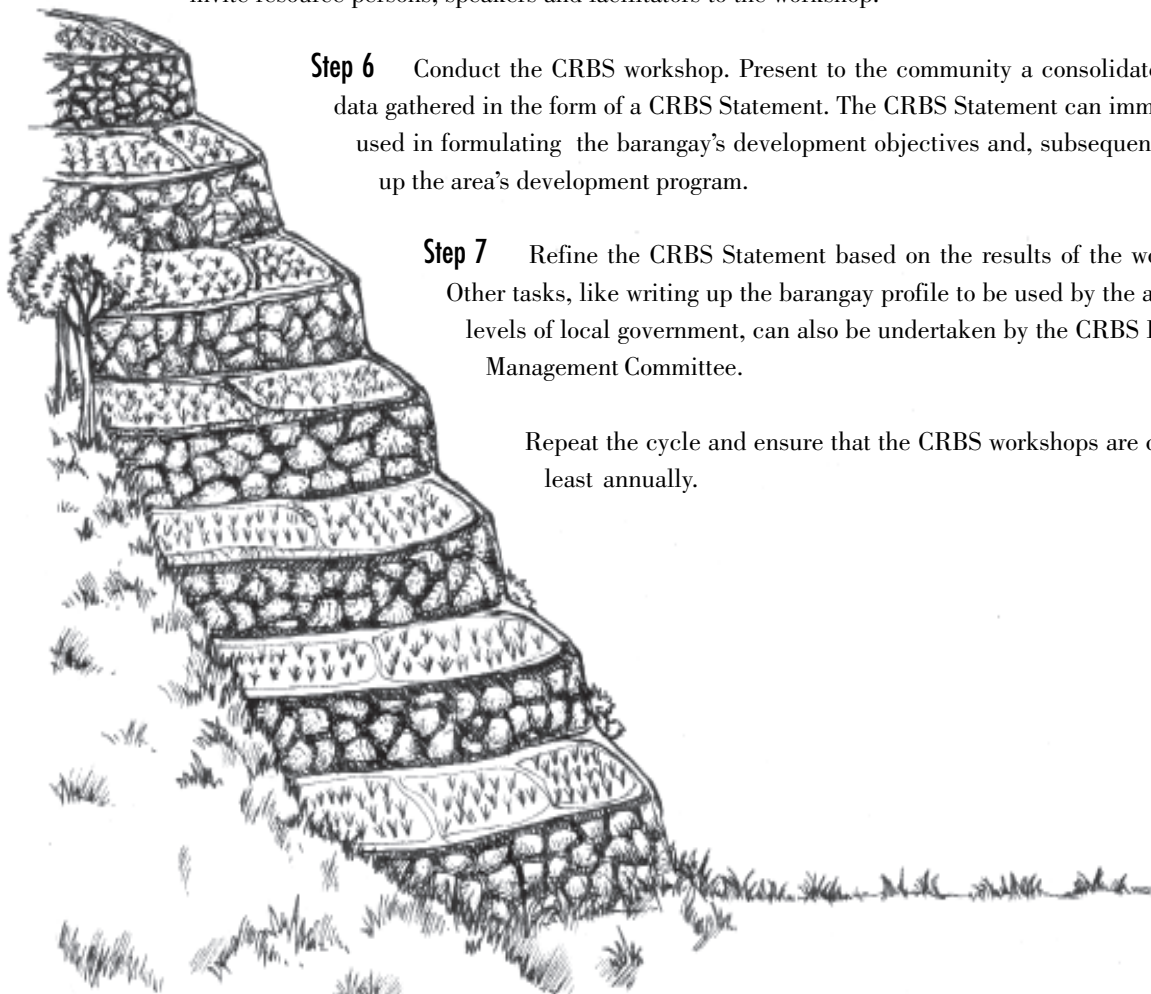
**Step 4** Prepare the initial CRBS statement of the village, as well as supplementary tools like maps.

**Step 5** Prepare for the CRBS workshop. Draw up a list of participants. In targeting participants, the Committee should make sure that at least two residents from each *sitio* are included, in addition to the key informants interviewed, and other data sources like government and NGO field workers. Identify and invite resource persons, speakers and facilitators to the workshop.

**Step 6** Conduct the CRBS workshop. Present to the community a consolidated report of data gathered in the form of a CRBS Statement. The CRBS Statement can immediately be used in formulating the barangay's development objectives and, subsequently, in drawing up the area's development program.

**Step 7** Refine the CRBS Statement based on the results of the workshop. Other tasks, like writing up the barangay profile to be used by the area or higher levels of local government, can also be undertaken by the CRBS Preparations/Management Committee.

Repeat the cycle and ensure that the CRBS workshops are conducted at least annually.



*Horizontal analysis* is the review and comparison of several CRBS statements for the purpose of identifying problems and trends that have emerged over time. More insights to problems and trends can be gained from analyzing more CRBS statements as different time periods are reflected therein.

Analyzed vertically and/or horizontally, CRBS statements are useful for:

- Situation analysis;
- Project identification and prioritization;
- Project feasibility studies;
- Economic analysis;
- Project monitoring and evaluation;
- Planning, monitoring and evaluation of the area's development; and
- Measuring development.

## **Utilization and Work in the CRBS**

The CRBS was first tested in Barangay Alno, La Trinidad, Benguet province, Philippines in 1993 to prepare a barangay profile and as a tool to identify key community problems. Based on these, the barangay formulated a development plan and identified project priorities. Local government units in other municipalities of Benguet took notice of the experience in 1994, and have since used the approach for baseline data construction.

The CRBS can be improved by making it more widely applicable, *i.e.*, to various types of communities in coastal and urban areas; improving its manner of presentation; and simplifying it and making it more gender-sensitive. The faculty of the UP College of Baguio that were involved in creating the CRBS are continually developing the approach and its tools.

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# Peasant Paralegals: A Means to Fast-track Agrarian Reform



**I**n the sugarlands of Western Batangas in the Philippines, thousands of farmers are tenants to landowners who have consistently evaded land reform. This is despite the passage of several laws, including the Agricultural Land Reform Code of 1963 (R.A. 3844) which abolished share tenancy (with some landholdings being exempt), and the later Comprehensive Agrarian Reform Law (CARL) of 1988 (R.A. 6657) which abolished share tenancy on *all* agricultural landholdings without exemption.

Under the CARL, agricultural leasehold was made a preliminary step to land ownership. Hence, all sharecrop tenants were automatically converted into agricultural lessees, whether or not a leasehold agreement had been executed. However, in actual practice, the enforcement of leasehold entailed arduous legal procedures which led to years of litigation.

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## A PROBLEM THAT WON'T GO AWAY

A number of land reform laws have been implemented in the Philippines, but all have fallen short of universally applying the land-to-the-tiller principle. As a result, many Filipino farmers continue to work under unfair land tenure arrangements, particularly share tenancy.

In exchange for being allowed to cultivate another person's land, the **share tenant** typically pays 70 per cent of farming costs while taking a mere 30 per cent of the profit. Moreover, because share tenancy arrangements are generally not covered by contracts, the landowner could eject tenants at will. Share tenants also tend to rely on landowners' patronage for loans and financial and material support, thus perpetrating a culture of dependency among them. So onerous were conditions under share tenancy that laws have been passed to convert all lands covered by share tenancy to leasehold.

**Lessees**, while still considered as tenants, have greater control of lands. They are free to sell their produce and to keep the proceeds of the sale, paying only a fixed annual rent to the landlord. They are also protected by a contract against arbitrary expulsion and other forms of landlord abuse.

Unfortunately, share tenancy arrangements persist to this day because of delays and deficiencies in the implementation of agrarian reform programs.

## Formation of KASAMA

This situation led to the formation in 1984 of a farmers organization called Katipunan ng Samahang Magsasaka (KASAMA). KASAMA's mission was to form "a strong and broad peasant federation that will advocate and implement a genuine agrarian reform and rural development program that will respond to our historical and present problems of poverty and injustice so that we may be able to fully participate in the act and process of social transformation."

The immediate challenge for KASAMA was to institute a legal and just sharing arrangement, given the opportunities that a leasehold law presented. "Land tenure improvement through legal assistance" became its centerpiece program. "Towards this end, KASAMA enlisted the assistance of volunteer lawyers to inform sugar tenants of their rights under the law; it managed to organize a significant number of barangay (village) chapters despite the prevailing culture of dependence and fear among tenant farmers. Members who filed legal petitions for leasehold were also supported through loans under a Social Credit Fund. This availability of credit enabled KASAMA members to gather enough courage to face the landowners in a legal battle.





## **Development of Farmer Paralegals**

The large number of land cases, alongside the high costs of litigation, led KASAMA to the need for paralegals.

The paralegals were themselves tenants and could therefore speak convincingly of what the law provides for small farmers like them. A typical KASAMA paralegal was at least a high school graduate, was exposed to other organizations, and had an inquisitive and logical mind, a high tolerance for frustration, and a genuine concern for fellow farmers.

To develop its paralegals, KASAMA sought legal advice and training from lawyers organizations. KASAMA tapped lawyers to speak on laws on agrarian reform and leasehold. As the farmers' awareness of their rights and benefits grew, they were trained to file petitions for leasehold. Members of the Legal Assistance Department of KASAMA helped the petitioners complete the documents needed. While cases were pending, regular legal clinics were conducted, especially for those who had pending petitions. With the guidance of lawyers, the paralegals became acquainted with the intricacies of the law, which they in turn explained to the farmer-petitioners.

Through this mentoring system, KASAMA was initially able to develop eight seasoned paralegals to represent petitioners before the Municipal Agrarian Reform Officer (MARO). These paralegals prepared petitions and pleadings with only minimal supervision from lawyers.

## **Resistance and Acceptance**

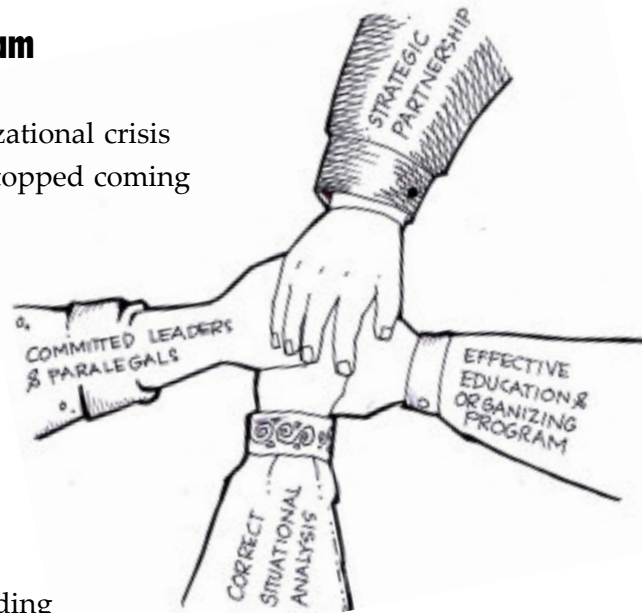
As expected, the landowners did not take too kindly to the KASAMA paralegals. Often during hearings and MARO mediation, they would either question the presence of the paralegals or ignore them completely. Other lawyers felt insulted at having to argue their case with a "mere" farmer. The judicial system at the local level was equally unprepared for farmer-paralegals. KASAMA's first batch of paralegals was either ignored or humiliated at mediation hearings. Lawyers were especially hostile towards "uneducated" farmers acting as legal counsel in agrarian courts.

Eventually, however, the KASAMA paralegals gained the respect of the lawyers – leading to the latter's acknowledgment of the validity of the farmers' claims and agreement to mediation rather than litigation. The MARO in the Batangas town of Balayan, too, came to consider the KASAMA paralegal as an ally in the implementation of agrarian laws, as he could facilitate negotiations between the landowner and the petitioner. The MARO also found it easier to talk to only one representative rather than to several petitioners; in some cases, even referring farmers to KASAMA to seek representation.

KASAMA's paralegal program reached its peak in the mid-1990s, when it assisted farmers in 20 barangays in four municipalities of Batangas. KASAMA's paralegals have handled cases involving land conversion, ejection of farmers from their tenanted lands, and cancellation of land transfer documents. Over the years, KASAMA had trained about 100 farmer paralegals, of whom 19 continue to practice to this day.

## Impact of the Farmer-Paralegal Program

In 2001 KASAMA went through an organizational crisis due to conflicts among its leaders. Funds stopped coming in and operations, including its paralegal program, were suspended. By then, however, some paralegals had become so skilled and had gained such reknown in their communities that they continued to "practice law," even if from their homes. A year later, remnants of KASAMA began to revive the organization. A few farmer paralegals have been reinstated and have begun to work on pending legal tenure cases.



While officially implemented only from 1984 to 2001, KASAMA's paralegal program has changed the landscape not only of agrarian reform but of development work in the Philippines. KASAMA's major contributions are as follows:

- 1. Key role in the accomplishment of agrarian reform in sugarlands in Batangas.** Agrarian reform in Batangas owes much to the pioneering grassroots legal assistance program of KASAMA. Table 1 shows that from 1984 to 2000, KASAMA's legal assistance program, in which the paralegals played a key role, helped 606 farmers occupy 4,116 hectares of lands by facilitating their acquisition of leasehold contracts or land transfer certificates.
- 2. People's participation in legal proceedings.** Since 1984, when KASAMA farmer-members began to provide legal services, farmer paralegals have become essential to agrarian reform work among civil society organizations (CSOs). Legal proceedings previously deemed to be too complex for laypersons have become accessible even to grassroots people.

The government has acknowledged farmers' legal services nationwide. Under revised rules, non-lawyers are now allowed to handle agrarian cases, especially if these non-lawyers are representatives of farmers organizations.

**TABLE 1. RESOLVED CASES, NUMBER OF AFFECTED FARMERS AND LANDOWNERS**

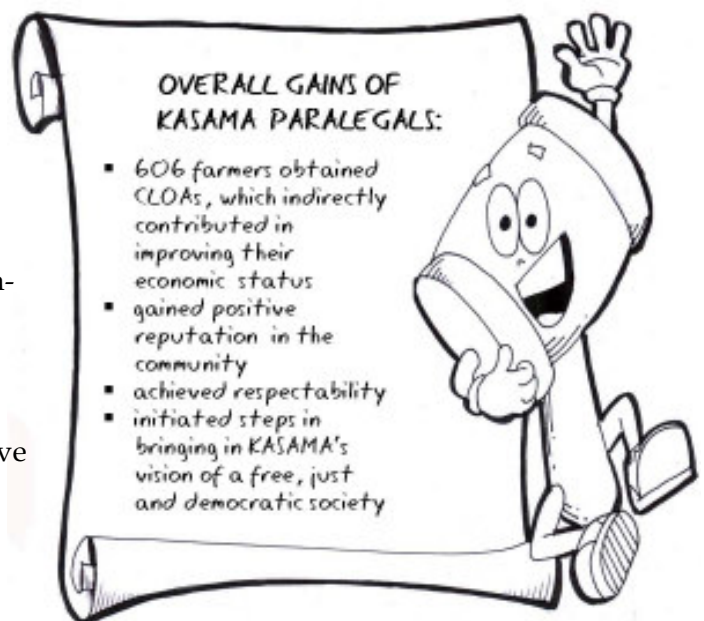
|                                | 1984–87 | 1988–98 | 1998–2000 | TOTAL  |
|--------------------------------|---------|---------|-----------|--------|
| Number of farmer–beneficiaries | 73      | 331     | 202       | 606    |
| Number of landowners           | 7       | 241     | 172       | 420    |
| Number of hectares             | 163     | 3, 615  | 338       | 4, 116 |
| % to total hectares            | 3.96    | 87.83   | 8.21      | 100    |

**3. Mediation and compromise, rather than litigation and confrontation.** Records show that over 95 per cent of the agrarian cases handled by KASAMA paralegals were resolved through mediation, thus avoiding long and costly court litigations for poor farmers. KASAMA paralegals have become widely recognized for their skills in facilitating mediation proceedings between landowners and farmers that even local government officials and landowners now routinely seek their advice and assistance in agrarian issues. Ka Oben, the oldest farmer paralegal with 16 years of experience, explained it thus:

“Being farmers ourselves, we know that the issues involved often go beyond the legal issues. Sometimes, a farmer will refuse to sign a good leasehold contract simply because he is angry with his landowner for something that happened between them in the past. It is our primary role to mediate, and it has been our biggest challenge to learn how to deal with different types of people.”

**4. Personal gains for farmer paralegals.** Recognition by the local community has led to empowerment among poor farmer paralegals. The farmer paralegals ascribe priceless value to the training they received. By ably representing farmers in legal cases, they have gained the respect not only of farmers but also that of opposing counsel and the judicial system.

KASAMA paralegals have provided an alternative source of legal services to poor people. Their practical skills have also proven to be useful in non-agrarian cases, such as in preparing affidavits to assist community members in civil and criminal cases.



However, many farmer paralegals have remained poor because of sporadic and inadequate compensation for their services. Being a paralegal meant being prepared to receive cases at untimely hours; handling heavy caseloads, for some as many as 120 cases per year or 30 concurrent cases; and sometimes spending one's own money on case documentation and litigation expenses. Nevertheless, paralegals have been partially compensated by their poor clients through small cash donations, gifts and by community recognition.

## **Prospects for Replicability**

KASAMA's Legal Assistance Program, specifically the training and development of paralegals, can be easily replicated by other organizations of the marginalized. The basic prerequisites are: (1) a firm belief in the ability of the marginalized to understand the intricacies of the legal process and (2) a readiness to engage in strategic partnerships.

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## **INTERVIEWS**

Focus Group Discussion (FGD) with eight KASAMA leaders and paralegals, including NAGKASAMA leaders Apolonio Mendoza, Chito Afafe, and Placido Bautista, paralegals Victor Barrientos and Roberto Panaligan, KASAMA leader Rolando Seralvo; and founding KASAMA secretary general "Ka Oca" Castillo, on December 27, 2002.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).

# Communal Titling for Cambodia's Indigenous Peoples



In 2001, a Land Law was passed in Cambodia which recognized communal titles issued to indigenous communities. Following this, the Ministry of Land Management Urban Planning and Construction (MLMUPC) decided in 2003 to pilot communal titling in three villages in the northeast of the country: one in Mondolkiri Province and two in Ratanakiri Province. These pilots were intended to guide the development of a Sub-Decree that would outline the process for communal titling.

## Source

Jeremy Ironside, "Securing Land Tenure Rights for Cambodia's Indigenous Communities."

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## Land Sales and Alienation

The dramatic increase in migration and settlement in several areas where indigenous people live is leading to a multitude of problems for the original inhabitants. Lowland immigrants are

## INDIGENOUS COMMUNITIES WITHIN CAMBODIA

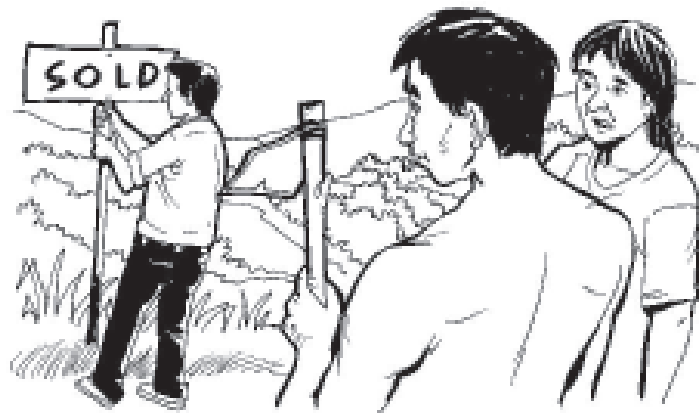
A 1998 census showed that there are 17 different indigenous groups in Cambodia, which number some 101,000 persons, or 0.9 per cent of the total population. This is probably an underestimate as many minority groups are likely to deny their ethnicity. The majority of indigenous people lives in the largely forested areas of the north and northeastern part of the country. Earlier, in 1997, the Interministerial Committee for Highland Peoples Development estimated the number of indigenous persons in the three northeastern provinces of Mondolkiri, Ratanakiri, and Stung Treng at 105,000. There are indications however that almost all of Cambodia's 24 provinces contain indigenous communities.

The sparsely populated northeastern provinces of Ratanakiri and Mondolkiri are the only provinces with majority (around 70 per cent) of indigenous peoples. A dramatic increase in the immigration of Khmers to the highlands is taking place, which started in Ratanakiri some years ago and now continues in Mondolkiri.

taking advantage of the vulnerable situation of indigenous people, and the absence of regulations, to lay claim to the people's traditional lands. Illegal land transactions are taking place at an alarming rate without thought of the problems that would result from widespread landlessness among indigenous peoples or the impact this is likely to have on the remaining forested areas.

At the heart of these trends is lack of enforcement of the Land Law, as indicated by the following:

- Individual members of indigenous communities are selling land without enough information, or as a result of coercion, threats and intimidation.
  - Local authorities are selling land without informing the indigenous community, and sometimes in contravention of village statutes banning land sales.
  - Village/commune land is being sold by members of a neighboring village or commune, using the confusion over boundaries as an excuse, or based on wrongful claims.
  - Powerful or well-connected people, both indigenous and not, are occupying or taking over land without the approval of majority of the indigenous community.
- Community members are making secret land deals with buyers without the community's knowledge, and often without written contracts. Old swiddens around towns and along roads are the first to be sold because the prices being offered for them are too tempting for the villagers to resist.
  - Forested areas are either being illegally cleared to claim possession, or else a villager is being bribed to authorize the clearing.



Areas of old swidden field are being sold and forest-land around the swidden is being illegally cleared to increase the area.

- Illegal land transaction documents are being back-dated prior to the 2001 Land Law in an attempt to take advantage of the possession rights conferred by the previous Land Law.
- Land is being borrowed or rented, in some cases by cash cropping companies, without written agreements and often with the intent to take over the land permanently.



All these practices contravene the Land Law. Article 23 of this law establishes the right of communities to continue managing their land in the traditional fashion, and seeks to prevent land being lost prior to the issuance of a communal title. Notwithstanding this legal protection, indigenous groups remain vulnerable in the face of the current land pressure. Land is being sold at ridiculously low prices of US\$50/hectare or less. Many young people are being induced to sell pieces of their community's land to buy things like motorbikes, etc. These illegal land transactions are posing a serious impediment to resolving conflicts — a prerequisite to communal titling.

In the communes of Ratanakiri and in other provinces, the majority of the land is no longer owned by the indigenous communities in the area. This trend has been observed in several other communes and has accelerated over the past few months following the start of activities to pilot communal land titling.

These practices contradict not just the intent of the Land Law but also the policy priorities identified in the National Poverty Reduction Strategy. Landlessness in Cambodia has been found to be inextricably linked to poverty, and land alienation partly explains why more and more indigenous communities, who are already vulnerable, are getting poorer.

## **Forest and Agricultural Concessions**

Newly built roads, land pressure in the lowlands, and the rapidly growing population have created a huge interest in upland resources among domestic and international investors. In fact, the government has awarded several “land concessions” to establish industrial agricultural plantations, tourist resorts, etc. In addition, some forest concessions that have been on hold in the past few years are due to resume operations soon. Forest concessionaires intimidate indigenous communities and cut their resin trees, which communities tap for income, depriving them of their own secure sustainable livelihood support. Illegal logging continues unabated in many areas, often with the collusion of the armed forces and provincial authorities.



## INDIGENOUS PEOPLES' TRADITIONAL LAND USE AND MANAGEMENT: THE SWIDDEN SYSTEM

Numerous studies have shown that indigenous people run a well-developed land allocation and land management system that relies on communal decision-making through traditional structures. Among Cambodia's indigenous groups, communal forms of land tenure are evident in the rotation of upland agriculture fields, and equitable distribution of land among the community members.

Swidden agriculture is based on the principles of rotation and soil fertility improvement through natural forest regeneration.

Two key principles of sustainable management have guided this form of land use by indigenous groups:

1. Minimizing impact and allowing sufficient time for forest regeneration by rotating over the village area and not farming one swidden plot for too long; and
2. Maintenance of evenly dispersed populations rather than concentrating settlements in one area.

The equidistant distribution of populations over the landscape was one of the practices of the hill tribe cultures in northeast Cambodia. This, combined with the fact that swidden farmers are driven to regenerate the forest in order to keep and replenish the fertility of the soil, has worked to maintain overall forest cover in much of the northeast at 80 per cent or higher for several centuries. The relatively low population density has also helped to preserve the forest.

Swidden fields are also allowed to lie fallow in order to promote their regeneration, and there were and still are strong taboos to ensure this. As a result, many indigenous farming people have a hard time accepting the call for them to continue production on single plots for many years. In their view, and based on their local ecological knowledge, such a strategy will lead to both ecological and social problems.

The swidden system is part of a balanced livelihood system that has developed over centuries. However, in many areas, swidden systems are breaking down because it has become increasingly harder to keep enough land fallow for a sufficient length of time. *Land security is needed to safeguard the livelihoods of many of the most vulnerable communities, while the traditional land use systems evolve and adapt to changing circumstances.*

## Enforcing the 2001 Land Law and Access to Information

Aside from poor enforcement of the Land Law, the other problem behind the land alienation which is affecting indigenous communities is the *lack of access to information*. Officials and land speculators looking to expedite illegal land sales are spreading lies, such as:

- ☞ Fallow agricultural lands belong to the State, and therefore communities should sell their lands as soon as possible before officials take it from them.



- Communities should sell their lands for “development” and for cash cropping because it is part of the national policy for poverty reduction.
- Villagers need privately owned land so they have something to sell when they need money for medical expenses.
- A tax on land will have to be paid so it is better to sell the land.
- Communal title is “the same as Pol Pot (Khmer Rouge) times”. This is a clear misinterpretation of the word communal in Khmer language. Actually, communal title aims at issuing one title to a community and allows that community to allocate individual or family rights to use that land.



Experience has shown that where communities have a better understanding of their legal rights, and where they are not so vulnerable to misinformation, the rate of land alienation tends to be lower.

## **Indigenous Land Rights Protection: Activities to Date**

### ***Land Use Mapping and Planning***

Provincial governments in Ratanakiri and other provinces have been working alongside NGOs to promote land security through community-based natural resource management. This has resulted in provincial recognition of many community natural resource management areas. Mapping and land use planning activities being carried out by different organizations have by now covered nearly half of the 49 communes in Ratanakiri Province. Various mapping and planning methods have been tried and confirmed that communes under the most severe land pressure, *i.e.*, those located along roads and near market towns, have been unable to deal with the intense land pressure in these areas, even with provincially recognized land use plans and maps.

### ***Consultative Groups and No Sales Agreements***

As of September 2004, indigenous peoples networks were being developed in Ratanakiri (the Highlanders Association and NRM Network) and other provinces. Regular consultative meetings and exchanges between indigenous representatives from different provinces are being initiated to develop strategies to prevent further land sales.

One such strategy is the enforcement of commune-level No Sales Agreements. Villagers were encouraged to agree that their community would stop selling land and members were asked to thumbprint a No Sales Agreement document. This document was then handed to the Commune Authorities for their recognition and approval. By late 2004, four No Sale Agreements had been developed and approved by communes in Ratanakiri.

### ***Pilot Communal Land Titling***

By the same period, the MLMUPC had begun implementing the Land Management and Administration Project (LMAP) in conjunction with the German Agency for Technical Cooperation (GTZ), the World Bank (WB) and other donors. As part of the LMAP, the General Secretariat of the Council of Land Policy (GSCLP) was charged with developing land policy and legal instruments for land management.



Earlier, in March 2004, the GSCLP had formed an inter-ministerial National Task Force (NTF) to coordinate pilot Indigenous Land Rights activities. The role of the NTF was to oversee the development of a sub-decree that would outline how communal land rights for indigenous communities would be enforced. A consultation forum was set up to enable indigenous peoples and civil society to get involved.

#### **FIRST-EVER NATIONAL FORUM OF INDIGENOUS PEOPLES**

On September 9-12, 2004, a meeting was held among indigenous representatives from 14 provinces throughout the country, representing 11 different groups. For some, this was the first time they had ever met people from another indigenous group. The meeting discussed how an indigenous person should be defined in Cambodia, how these different groups manage their lands and what common problems they are facing. Information gathered was intended to feed into the drafting of the Sub-Decree on Communal Land Titling. This Forum formed the basis of further consultations and meetings in the different regions and provinces to get input and feedback for the Sub-Decree and to develop a network of indigenous people throughout the country.

Under the NTF, the GSCLP formed Provincial Task Forces (PTFs) in Ratanakiri and Mondolkiri, under the chairmanship of the Provincial Governors and the Chief of the Provincial Departments of Land Management Urban Planning and Construction. The PTFs included NGO/IOs involved in the communal land titling activities, representatives of the respective pilot villages, and Community Networks. The MLMUPC/GSCLP aims to finish all land titling in Cambodia by 2007, including that of indigenous lands.

By September 2004, activities had started to slow down. Much time had gone into developing extension material to inform communities in the pilot villages about the Land Law and the options open to them (*i.e.*, communal or individual land ownership). Each adult member of the community attended two extension sessions, following which the Governor of Ratanakiri Province and the Chief of the Provincial Department of Land Management met with the villagers in the pilot sites to find out which land titling option (communal or individual) they preferred for their village. Once they had made their choice, the two villages submitted their land titling application.

By including a chapter on communal land titling in the 2001 Land Law, the National Assembly implicitly recognized that there is no single development model for the entire population of Cambodia and that the country's indigenous peoples have special requirements. The rapid socioeconomic and land use changes underway in many indigenous areas make land tenure security an urgent priority — to allow these communities and their farming systems time to adjust to these changes, to prevent large-scale land dispossession and to ensure that poverty

## RECOMMENDATIONS

### **Early results of the pilot project pointed to the following proposals:**

- The Royal Government of Cambodia should declare a moratorium on the registration of private land in areas eligible for communal title until the sub-decrees governing both indigenous communal title and economic concessions have been adopted. The donor community should encourage the government to do this.
- There is an urgent need to investigate the legality of all recent land sales, primarily those that had taken place after 2001 on land eligible for communal title. A conflict resolution process also needs to be implemented to rectify and gain some control over the situation. Otherwise, the anarchic land market will create more and more complex and potentially violent conflicts that would literally take years to resolve.
- The instigators of illegal land sales and land grabbing should be prosecuted in the courts.
- The Royal Government, with the support of its development partners and in collaboration with civil society, should urgently launch an information campaign on the Land Law, land rights and contract procedures at the provincial level in areas where indigenous communities live.
- The Royal Government should ratify a Declaration on access to public information that identifies the procedure to request such information. This should include complaint mechanisms when relevant authorities fail to deliver the requested information.
- Donors should continue to support training (extension) on land rights of indigenous peoples in local languages.
- Indigenous and independent legal representation in Land Cadastral Commissions (for resolving conflicts over non-titled land) and court processes is also required.
- Many areas of land that are part of the agricultural system, including forest areas, and especially spirit forests, burial forests and small areas of forest within agricultural land, need to be included in communal land titling if indigenous land management and culture are to be protected.
- Community forestry agreements and land titling activities should be developed together. Community forest areas also need to be bigger than the three-hectare-per-family allocation being promoted by the Forest Administration.

within these communities is reduced rather than increased. The long-term health of the indigenous cultures of this area is very strongly linked to their land use systems.

In most of the areas where Cambodia's indigenous people live, the issues of land and forest tenure security are inextricably linked. There are a number of possible ways to give indigenous communities rights of communal ownership to agricultural areas and to develop community forestry agreements for



areas outside of these. In future, communal lands could act as a buffer between cash cropping areas and forested areas, with the swidden areas being a mix of cropping, agroforestry and fallows. Swidden systems and upland farming could evolve into agroforestry-type options, in place of monoculture plantations or cash cropping.

However, in many areas where indigenous people live, there is a crisis of land use policy. While the Government talks of opening up these areas to cash cropping, economic concessions, etc., it lacks the capacity to make sure that these changes will not impact severely on the people and the natural resources of the area. Furthermore, much needs to be done to assist indigenous communities to protect their land before and after land titling.

For all these reasons, communal titling methods that are simple and can be efficiently implemented are required. Otherwise, the promise of land security through communal titling will not be realized. Indigenous communities have a significant contribution to make in the sustainable management of their traditional areas and they need the tenure security of their communal lands to develop models that combine economic development with social and environmental considerations.

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# Enhancing Access of the Poor to Urban and Peri-urban Land for Food Production



**I**ncreasingly, urban and peri-urban agriculture is being recognized as an effective strategy to reduce urban poverty and to enhance the food security, health and nutrition of disadvantaged groups. Studies have also shown that urban households involved in farming have a better nutritional status compared to non-farming households. Moreover, creating better conditions for poor urban families to grow and market vegetables, livestock, fish, etc., positively affects the access of other non-farming urban poor groups to fresh and nutritious food at affordable prices.

## Source

Proceedings of the E-conference on "Optimizing Agricultural Land Use in the City Area (Access to Land, Water, Adequate Norms and Regulations, Integration in Land Use Planning)," Nov. 3-22, 2003 organized by the UNDP/ UNHABITAT and the Resource Center on Urban Agriculture and Forestry (RUAF) (ETC Foundation). The report of proceedings can be found in [http://www.ruaf.org/conferences\\_fr.html](http://www.ruaf.org/conferences_fr.html)

The following insights into urban and peri-urban agriculture were excerpted from the proceedings of an E-Conference on Urban and Peri-urban Agriculture organized by the Urban Management Programme, Regional Coordination for Latin America and the Caribbean

(UNDP/UNHABITAT) and ETC-RUAF held on November 3 to 22, 2003. The objective of the E-conference was to share and discuss local experience in:

- Strategies to enhance the urban poor's access to land and thus help them engage in food production; and
- Examples of the development and application of municipal by-laws, norms and regulations regarding access to land for urban agriculture.



**Urban farming** provides a source of employment not only for the producers involved, but also for hired laborers and people operating related micro-enterprises (production of compost, herding, collection and selling of grass or manure, processing of agricultural produce, and street vending of food).

It is also a viable alternative to wage labor for women who lack access to formal employment due to limited education and training. It allows them to work closer to their homes, thus enabling them to combine multiple tasks during the day. Ownership of animals and/or earning of independent cash income may strengthen women's social position within the household and the community.

Nearly 400 participants from 82 countries registered and many more followed the discussions by visiting the RUAF website. More than 450 relevant contributions were received for discussion and some 30 papers were added to the conference website.

### How do the urban poor seek access to land?

The experience presented in the E-conference illustrated the many ways through which the urban poor seek to secure access to land (and water):

- Investments in social relations (marriage, participation in local organizations and churches);
- Development of strategic partnerships between households or by linking up with people with access to land;
- Individual lobbying with caretakers of land or joint lobbying with private institutional land owners or the local government;
- Occupation of "vacant" land; and
- Tapping of wastewater disposal lines.

### Constraints Encountered

The E-conference reported several factors that limit access to urban land for agriculture, (1) for *actual farmers* and (2) for *poor rural and urban newcomers*:

*Actual farmers* in peri-urban areas have no legal standing and their right to agricultural land use is not protected. Competition for land among urban estate developers, recent migrants and the urban poor, is undermining social cohesion. Formal ownership rights are overlapping with the

customary and are in fact becoming the norm. At the same time, customary mechanisms to distribute and manage communal lands are no longer being observed, leading to land fragmentation and sale of communal lands to resource-rich “citizens”.

The problem of landgrabbing by politicians who use the urban poor as proxies to occupy “vacant” land and thereafter claim occupancy rights to it is widespread. Corrupt chiefs and non-cooperative “absent” landowners (private, institutional, or public) abound.

Meanwhile, rules for access and procedures for land registration are often highly complex and bureaucratic, making it difficult for the urban poor to file land applications. Farmers also face difficulties stemming from their short duration of stay in the village, their low socio-economic status, youth, gender (female), or ethnicity (low caste, minority group). In addition, land rents continue to increase while irrigation water and soils are progressively becoming contaminated, leading to diminishing quality of the agricultural land available and the devaluation of the land.

#### *Poor rural and urban newcomers*

to urban areas seeking access to land lack the type of social relations through which access to land and water can be gained and secured. The high prices of land and lack of resources to lease or buy it are serious constraints. The low quality of available “vacant” land (low fertility, debris, regular flooding, contamination, vulnerability to erosion), tenure insecurity, risk of theft, and high transport costs, especially in locations that are far from roads and markets, are other problems. Uncooperative owners of idle land and eviction by local authorities (to maintain the law or for personal gain) are forces to reckon with.



## **Strategies to Enhance Access to Land**

The E-conference showed that various municipalities, NGOs, and other local stakeholders have already developed a number of promising strategies to enhance access of the urban poor to land and water for agriculture:

## **1. Provision of access to public or semi-public land for temporary agricultural use**

A good starting point is to make an *inventory of available vacant open land* in the city (through participatory methods and GIS) and analyze its suitability for use in agriculture. Furthermore, the *creation of a Municipal Agricultural Land Bank* can bring landowners in need of temporary or permanent users in contact with those in need of agricultural land. In addition, *the formulation of a City Ordinance that regulates the temporary use of vacant land* in the city is important.

The *development of safer and more productive urban agricultural systems* is often constrained by the present informal or illegal status of urban agriculture, resulting in highly insecure land use rights in many cities.

The *provision of temporary occupancy licenses* to land users farming on fairly suitable land is essential in providing some legality and security to the temporary users, aside from reducing the probability of harassment and improving access to credit.

Another lesson is the important role that *institutional landowners and parastatals* can play in *leasing out temporarily idle land* to the urban poor and disadvantaged; as well as *independent organizations playing a mediating role* to create an acceptable win-win situation for both parties. *Farmer training in adequate management practices* that are acceptable to the institutional owner is also crucial.

*Access to water of acceptable quality is equally essential.* With urban farmers relying on urban wastewater, adequate norms and guidelines regarding the safe use of wastewater, rainwater harvesting, and local treatment have to be promoted. Local experiments and the development of models based on “model farms” can serve as examples.

## **2. Allotment gardening on privately owned land**

Before the participants to allotment gardening are selected and groups are formed, it is important to ensure that everyone understands *the local social relations*. The active involvement of the municipality as well as the availability of an *entity (municipal department or NGO or project) that can play a facilitating and coordinating role* is likewise crucial. It is also necessary to define *clear land management conditions* (e.g., the type of crops that can be grown, restrictions against the building of structures on the land, methods of waste management) and to assist the allotment gardeners to learn and apply the required practices.

One way to encourage private land owners to make vacant land available to urban poor groups interested in farming is to *raise municipal taxes on idle urban land* or to *reduce the taxes to be paid by land owners who make idle land available for (temporary) farming*.





### **3. Demarcation of permanent urban agriculture zones as a form of permanent land use and its integration into city land use planning**

The legalization of urban agriculture and demarcation of special zones for urban agriculture is strongly advocated by many practitioners. Legal protection for urban agriculture — in certain parts of the city — will make it more sustainable and ensure the maintenance of green zones in the city. However, it is recognized that the maintenance of these zones greatly depends on the *political will of the local authorities* and the *practical, technical and financial capacity of the municipality*.

Another lesson is the *location of zones designated for agriculture in areas that are not well-suited for construction or where construction is not desirable*, as on flood plains, under power lines, in parks or in nature conservation areas.

### **4. Support Programs**

Another requirement is the provision of adequate services to urban farmers, preferably through the *development of multi-stakeholder support programs*, in order to:

- Educate urban and peri-urban farmers in safe and hygienic food production;
- Make urban agriculture more productive and competitive (*e.g.*, shift to short-cycle production of vegetables, herbs, etc.; shift from free-roaming cattle to confined smaller animals);
- Enable the combination of urban food production with other desired functions such as greening, park management and recreation, safe composting and reuse of urban organic wastes, water drainage and storage.

## **Other Strategies Used**

Exploring the role urban agriculture can play in the realization of broader urban policy goals and multi-functional land use is of key importance. The experiences shared in the E-conference indicate that to enable the development of adequate by-laws, ordinances, norms and regulations regarding urban agriculture, it is important to:

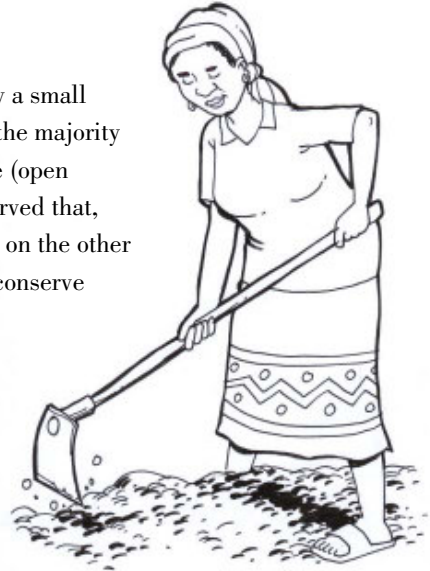
- Make examples of such norms and regulations available to municipalities;
- Develop a thorough understanding of customary and formal land rights and the local ways in which poor and powerful people create and secure access to land; and
- Develop effective guidelines regarding management practices to be adopted by each type of urban agriculture in different locations with active farmer participation.

Other strategies shared by the E-conference participants were the establishment of *one central coordinating municipal office*, as well as the involvement and collaboration of various municipal departments. They also noted the importance of *assisting urban and peri-urban gardeners and*

## Case Study: Harare, Zimbabwe

E-conference participants related the case of Harare, Zimbabwe where only a small percentage of the urban farmers acquired land through formal means, and the majority (estimated at 80 per cent) simply occupied land they considered to be idle (open spaces, river banks, underdeveloped private and public land). It was observed that, where tenure is insecure, little or no investment was made in conservation; on the other hand, farmers who were formally allocated land had a greater tendency to conserve “their” land.

It was likewise observed that *lobbying and advocacy by urban farmers and other organizations works*, resulting — as in the case of Harare — in the acceptance of urban agriculture. In the 1970s, the Harare Council *zoned 50 hectares of land in a low-income suburb for agricultural use by urban poor*. In the 1980s, the City Council *formally identified and demarcated allotment gardens and allocated land to the cooperatives managing the allotment gardens*. In keeping with the objectives of the Master Plan for Harare, *agricultural zones were included in land use plans at lower levels*, but initially included only privately owned land which provided little room for the urban poor.



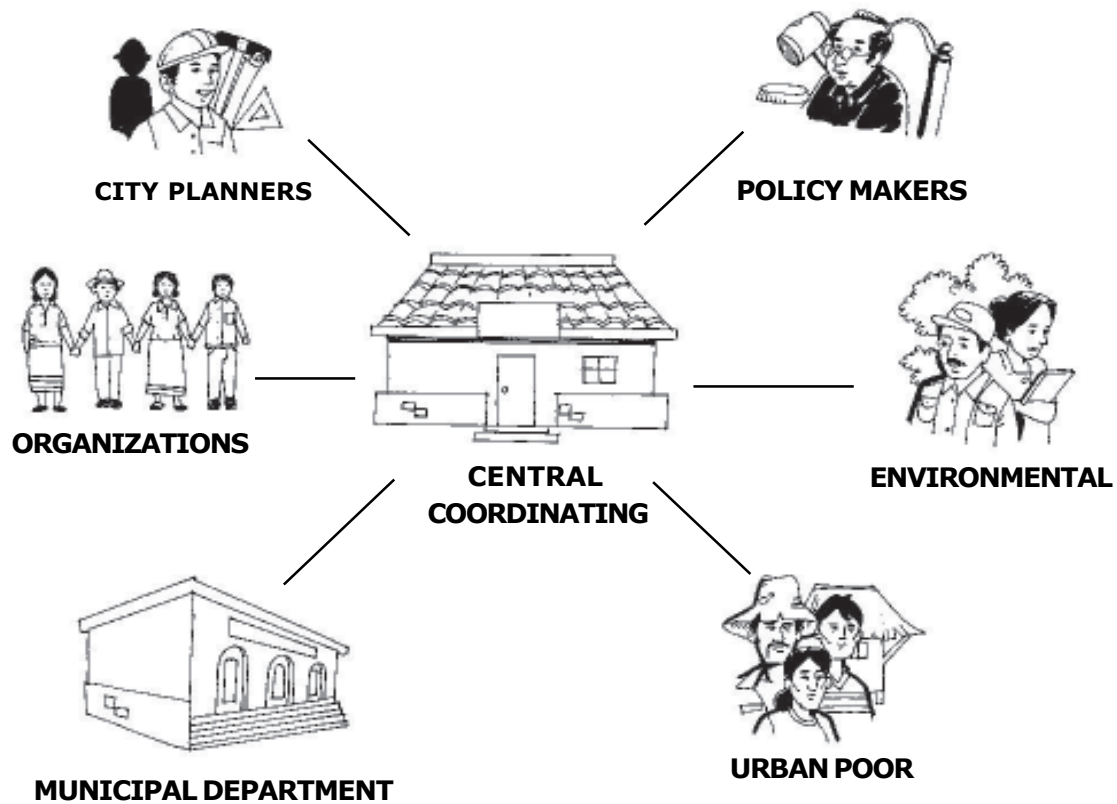
Due to the crisis in the 1990s, competition for agricultural land in the city became very intense and households started to farm on ecologically fragile lands. Throughout these years, legislation had been ad-hoc and inconsistent, and its implementation strongly dependent on the opinions of the sitting magistrates. Recently, *urban agriculture has been formally recognized at the local and national level as a legitimate land use form and an important strategy for urban poverty alleviation*.

It was also mentioned that the *involvement of the Association of Urban Planners in a Forum on Urban Agriculture and the sharing of experiences, research data, site visits, discussion of good practices, etc.* substantially lowered the resistance of urban planners. There is, however, still a *need for legislation to be accompanied by relevant regulations* so that there is no subjectivity based on officers’ perceptions of urban agriculture. There is likewise a need to *educate the Mayor and most technocrats* on the benefits and risks of urban agriculture and the measures to be taken to ensure its sustainability. The *types of urban agriculture to be practiced (e.g., agroforestry and bee-keeping, as opposed to the misconception that urban agriculture entails cutting of trees)* also have a bearing on acceptance. The integration of urban agriculture into *waste management* will also help.

Participants indicated that *entering into lease agreements with private and institutional land owners* (schools, churches, hospitals, the army, etc.) has worked quite well in Harare. Leasing is advantageous to both the owners (well-maintained, green, and secure grounds) and the farmers (known lease duration so they can manage accordingly). It is recommended that *the focus be placed on land use rather than ownership* and to involve urban farmers groups in land use planning.

Another important option is the *integration of home gardens in new settlement schemes*, since home gardens are not a contentious issue with local authorities and are not restricted. Planting of fruit trees along streets and growing of vegetables and fruits in parks were mentioned as promising options — although there is the problem of theft and the restriction on erecting fences for aesthetic reasons.

One final point was that the legislative framework for urban agriculture is important, but that *the political will to implement the framework* is even more crucial — something that was lacking in Harare for a long time.



farmers to get themselves organized and to voice their interests in dialogue with policymakers, city planners, health and environmental authorities, agricultural support organizations and other stakeholders. Organizations of urban farmers can also play an important role in farmer education on appropriate land use and management practices, and ensuring compliance with related municipal norms and regulations.

Another crucial lesson is the provision of more insights to municipal planners on the risks and benefits of each type of urban agriculture. *Effective guidelines on the management practices to be adapted by each type of urban agriculture and the conditions under which such types are acceptable in certain locations* need to be developed.

Several participants pointed out the *need for adaptations in national laws* in order to enable new developments at the local level.

## Difficulties Encountered

The E-conference participants discussed several problems encountered by municipalities in optimizing the agricultural use of urban and peri-urban areas. Among these were the need for:

1. Greater access to credit and finance;
2. Urban agriculture projects specifically targeting women;
3. Assistance to female-headed households to access land close to their homes;
4. Special attention to the selling and processing of products; and
5. More research on gender differentiation of access to productive resources in urban agriculture.

## Case Study: Rosario, Argentina

The E-conference participants from Argentina shared their experience involving the *participatory inventory of vacant open land in urban and peri-urban areas, its actual use and the classification of its suitability for certain types of urban agriculture*. This information served as the basis for the development of land use plans, and their integration into municipal land use policies.

**Consultative workshops were held** in existing agricultural areas, involving farmers as technicians, municipal officers, and NGOs/CBOs to arrive at agreements on required improvements in the management of the farms in relation to improvements in the legal status of agricultural land use. As a result of these participatory approaches, urban agriculture is now officially recognized as a form of urban land use, and is integrated in the city land use and urban development plans.

**Community gardens were developed on suitable vacant public land made available by the municipality.** This approach seeks to make use of under-utilized resources (vacant lots, unemployed labor, urban waste, abandoned infrastructure). The municipality signed agreements with groups of urban poor interested in farming in community gardens granting them temporary user rights. Such community gardens are not only for food production, but for multifunctional land use (e.g., combining production with recreation). Problems encountered: part of the vacant lots may be degraded and careful analysis of the risks and limitations of their use is needed; the legal status of many vacant lots is unclear.

An important lesson learned was that the **municipality accepted urban agriculture as a legal form of land use and integrated it in urban land use planning and development programs due to various factors:**

- The mobilization of the urban poor or farmers expressing their needs and proposing urban agriculture as a development strategy;
- The involvement of local NGOs and universities presenting data on land availability, actual presence and impacts of urban agriculture;
- The political recognition of the issue by an outside agent, such as the United Nations; and
- The collaboration among different municipal departments (strategic planning, housing, parks and gardens).

**Overall strategies for facilitating access to land for agriculture should include:**

- Setting up of a city committee and a program for urban agriculture;
- Incorporation of urban agriculture in land use plans and city development plans (at neighborhood or city level);
- Development of a facilitating legal framework (temporary user rights, fiscal incentives)
- Use of specific instruments, like an urban agriculture land bank, GIS, participatory diagnosis and action planning, multi-actor budgeting.



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# Internet Resources on Land and Common Property Resources

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This is a basic compilation of resources on Land and Common Property found on the Internet. The publishers are not responsible for the content of these sites listed in this section. Please e-mail us at [angoc@angoc.ngo.ph](mailto:angoc@angoc.ngo.ph) for suggested links, changes or corrections.

## **AGRITERRA**

[www.agriterra.org](http://www.agriterra.org)

Promote, facilitate and support cooperation linkages between rural people's organizations in the Netherlands and in developing countries.

## **Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)**

[www.angoc.ngo.ph](http://www.angoc.ngo.ph)

ANGOC is a regional NGO association of 21 national and regional NGO networks from 11 Asian countries actively engaged in food security, agrarian reform, sustainable agriculture and rural development activities. Its member-networks have an effective reach of some 3,000 NGOs throughout the region. The site contains some of ANGOC's papers and reports on the issues of food sovereignty, agrarian reform, sustainable agriculture and participatory local governance.

## **CAPRI – The System-Wide Program on Collective Action and Property Rights (CAPRI)**

[www.capri.cgiar.org](http://www.capri.cgiar.org)

This is one of several intercenter initiatives of the Consultative Group on International Agricultural Research (CGIAR). The program fosters research and promotes collaboration on institutional aspects of natural resource management between Future Harvest Centers and National Agricultural Research Institutes.

**Center for International Environmental Law (CIEL) Law and Communities program**  
[www.ciel.org/Lac/programlac.html](http://www.ciel.org/Lac/programlac.html)

**Common Property Resources Institutions**

[www.sristi.org/cpr/index.php3](http://www.sristi.org/cpr/index.php3)

A database consisting 87 cases of indigenous resource institutions from across the world.

**The Community-Based Natural Resource Management Network**

[www.cbnrm.net](http://www.cbnrm.net)

**Deutsche Welthungerhilfe/ German Agro Action**

[www.welthungerhilfe.de/440.html](http://www.welthungerhilfe.de/440.html)

**Digital Library of the Commons**

[dlc.dlib.indiana.edu/](http://dlc.dlib.indiana.edu/)

A gateway to the international literature on the commons.

**FAO Glossary**

[www.fao.org/landandwater/glossary/lwglos.jsp](http://www.fao.org/landandwater/glossary/lwglos.jsp)

A database with information resources, land and water terms, on-line documents, publications, and land and water links.

**FAO legal service**

[www.fao.org/Legal/index\\_en.htm](http://www.fao.org/Legal/index_en.htm)

**FAO SD Dimensions**

[www.fao.org/sd/LTdirect/landrf.htm](http://www.fao.org/sd/LTdirect/landrf.htm)

**FIAN International**

[www.fian.org](http://www.fian.org)

**Deutsche Gesellschaft for Technische Zusammenarbeit/German Technical Cooperation (GTZ)**

[www.gtz.de/en](http://www.gtz.de/en)

## **IASCP – International Association for the Study of Common Property**

[www.iascp.org](http://www.iascp.org)

The International Association for the Study of Common Property (IASCP) has a Digital Library on the Commons - open access research materials on common property resources.

## **id21: Communicating Development Research**

[www.id21.org](http://www.id21.org)

## **IDRC's Environment and Natural Resource program**

[http://www.idrc.org/en/ev-61732-201-1-DO\\_TOPIC.html](http://www.idrc.org/en/ev-61732-201-1-DO_TOPIC.html)

## **IDRC's Virtual Resource Centre website on Community-Based Natural Resource Management in Asia**

<http://www.cbnrmasia.org>

## **International Land Coalition (ILC)**

[www.landcoalition.org](http://www.landcoalition.org)

A global alliance of intergovernmental, governmental and civil-society organizations working on the issues of the poor's access to land.

## **International NGO/CSO Planning Committee on Food Sovereignty**

[www.foodsovereignty.org](http://www.foodsovereignty.org)

A global network of NGOs/CSOs and social movements concerned with food sovereignty issues and programs.

## **Landnet America**

[www.landnetamericas.org](http://www.landnetamericas.org)

Links a growing community of practice whose efforts contribute to progress toward the Summit of the Americas goals relating to property rights systems.

## **Land Tenure Info - BELTS Basic Elements of Land Tenure Systems**

[www.landtenure.info/webview/belts/index.jsp?](http://www.landtenure.info/webview/belts/index.jsp?)

The aim of the project is to regroup and present dispersed public information on land tenure systems in an integrated and accessible format, making land tenure information available to a

wide audience. This tool presents country land tenure information relevant for planning, coordination, and harmonization of activities associated with agrarian reform and sustainable rural development.

### **Land Research Action Network (LRAN)**

[www.landaction.org](http://www.landaction.org)

### **Land Tenure Center (LTC)**

[www.ies.wisc.edu/ltc](http://www.ies.wisc.edu/ltc)

### **OXFAM Great Britain**

[www.oxfam.org.uk/what\\_we\\_do/issues/livelihoods/landrights/index.htm](http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/index.htm)

OXFAM Great Britain's page on Land Rights in Africa contains downloadable reports, conference papers on various land issues in the region.

### **United Nations Development Programme: Drylands Development Centre**

[www.undp.org/drylands](http://www.undp.org/drylands)

### **UNESCO: Register of Best Practices on Indigenous Knowledge**

[www.unesco.org/most/bpikreg.htm](http://www.unesco.org/most/bpikreg.htm)

### **WISARD Organisation**

[www.wisard.org/wisard/home.asp](http://www.wisard.org/wisard/home.asp)

Web based Information System for Agricultural Development.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) [angoc@angoc.ph](mailto:angoc@angoc.ngo.ph) and the International Land Coalition (ILC) [coalition@ifad.org](mailto:coalition@ifad.org).



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