

A-B-C's of Land Tenure and Property Rights: Definitions are Important!

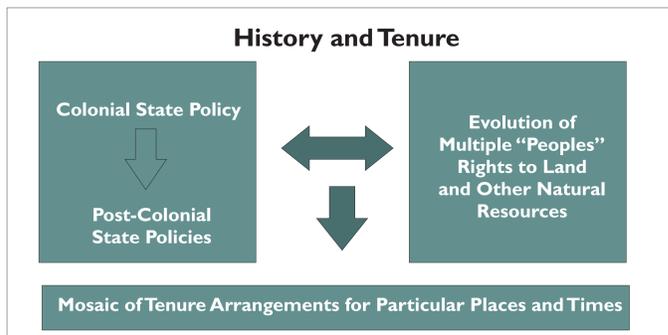
I. Key Concepts and Terms

Learning about Property Rights: To define what property exactly means in a particular context, one needs to ask the questions “who, what, where, when, and how.” Who defines property rights? And who enforces them? Defining and enforcing those rights and obligations is up to the community, or, when property rights become more formalized and legislated, the state. How is the property right acquired? Was it through sale or inheritance; was it by virtue of being a member of a certain group or community; through first or “good faith” occupation; because certain investments were made, or through land reform? What benefits and income streams are included? How precisely are these defined? Where and when can these rights be exercised? What is the defined time period for the right to undertake a certain activity and reap its rewards, or incur the liability? In other words, what exactly is in the “bundle of property rights” we are talking about?



Legal Pluralism: The existence of multiple legal systems within one geographic area - a common feature of tenure relations in many developing countries.

Land Tenure: The FAO has defined the term as: “the relationship, whether legally or customarily defined between people, as individuals or groups, with respect to land.”



Interface between Customary and Statutory Tenure: Customary tenure is a set of rules and norms that govern community allocation, use, access, and transfer of land and other natural resources. The term “customary tenure” invokes the idea of “traditional” rights to land and other natural resources—“the tenure usually associated with indigenous communities and administered in accordance with their customs, as opposed to statutory tenure usually introduced during the colonial period” (FAO 2002). Customary tenure systems are not static: they evolve over time in response to changes in the institutional, economic, and physical environment.

Property - Property is a social relation. It is about rights and duties; defines what an individual, a community, or the state can and cannot do with a certain commodity and; what needs to be respected by others—think of property as a “bundle” of “my” rights and “your” obligations.

Private Property: The emergence of formalized private property is often directly linked to the value of the resource. The more valuable the resource becomes, the higher is the need, and the ability, of a property regime to sustain increasing transactions costs, the monitoring of its use, and the legal protection necessary to defend it. **Private property** is right of persons and firms to obtain, own, employ, dispose of, and bequeath land, capital, and other forms of property. Private property is distinguished from public property which refers to assets owned by the state, community, or government.

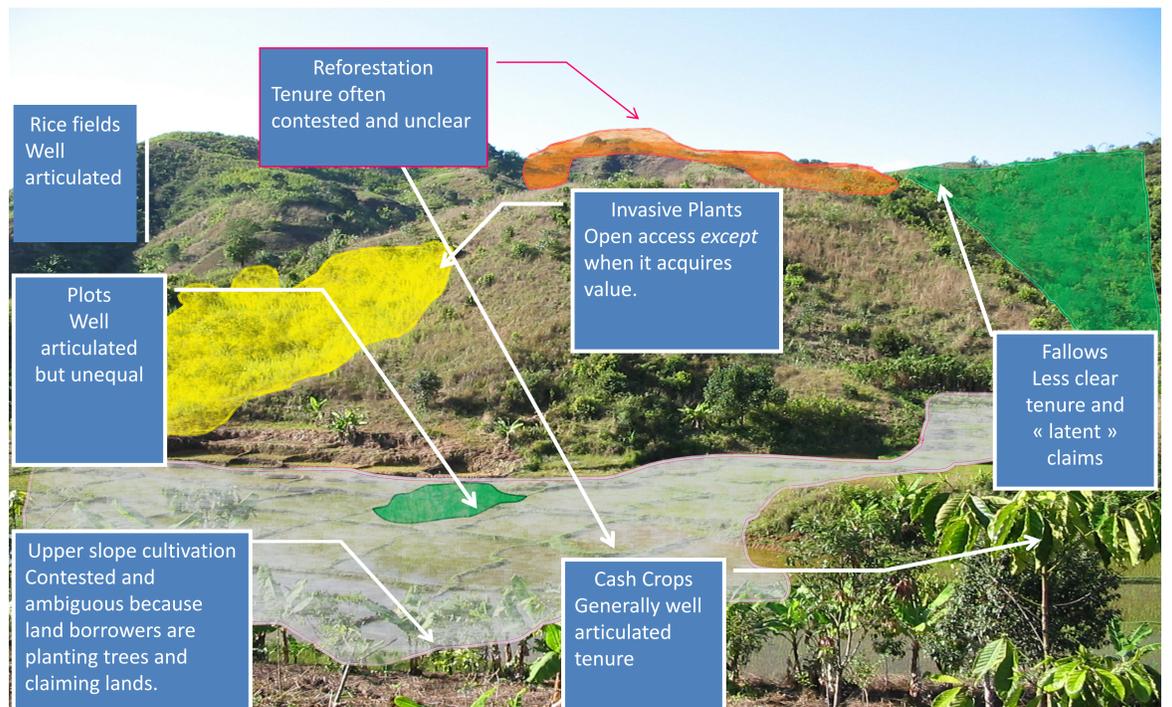
Common Pool: Common pool resources are characterized by the difficulty of excluding actors from using them and whose size or characteristics makes it costly, but not impossible, to exclude potential beneficiaries from obtaining benefits from its use.

Tenure Niches: Landscapes consist of different ecological niches. Property rights regimes often emerge around these niches.

Common Property: Common property” is often used to specify a *managed* commons, used simultaneously or sequentially by members of the group that owns the land, in contrast to the free-for-all on open access land. Common property is simply the property of a group. A logical extension of common property is *public* property or *state* property.

Land tenure reform: The establishment of secure and formalized property rights in land—and **land redistribution**—the transfer of land from large to small farmers.

Ecological Niches = Tenure Niches



Tenure Security: A secure expectation that land rights will be respected. Property rights should be defined by the community (or the state), accepted and understood by all, and be able to be enforced. When a community, or the state, is able to enforce what it decides, property rights acquire a very desirable characteristic. They become certain—and tenure, the holding of the right, becomes *secure*. Security matters for investment.

Land Formalization: Titling is when the state confers a title on an individual, either by grant or by recognition of a pre-existing right; land registration is when the state makes an official record of the right or the document creating the right. Registration may be sporadic (a parcel or transfer of a parcel is registered at the request of the holder or those involved in the transfer) or systematic - the state takes the initiative to register for the first time all rights in the land parcels in a designated area

Websites specialized on land tenure

- **CGIAR System wide Program on Collective Action and Property Rights:** www.capri.cgiar.org
- **FAO :** www.fao.org/nr/tenure/lt-home/en
- **Global Land Tools Network:** www.glttn.net
- **GRET:** www.gret.org/activites/foncier.htm
- **Hub Rural:** www.hubrural.org

- **Institute de Recherche pour le Développement:** www.foncier-developpement.org
- **International Land Coalition:**
- **Landesa:** www.landesa.org
- **Rights and Resources:** www.rightsandresources.org
- **USAID:** www.usaidlandtenure.net
- **WRI:** www.wri.org/property-rights-africa