



USAID
FROM THE AMERICAN PEOPLE

Understanding Vulnerability and Property Rights

Presenter: Kirk Talbott

**Property Rights and Resource Governance
Issues and Best Practices**

October, 2011

Objectives

1. Define vulnerability in the context of evolving property rights and resource governance issues
2. Provide a few snap shot examples of law and policy in action that point a way forward to address vulnerability
3. Explore best practices and promising interventions

Defining vulnerability

- Focus: understanding vulnerability related to property rights
- What, why, when, who, where, and how
- Social, political, economic conditions and trends
- Urban/rural
 - Example: Greater Mekong Sub-region and upland ethnic groups
- New threats: climate change, food security, disease vectors, etc.
- For property rights purposes: growing corporate agricultural interests, mining, forestry and watershed, and coastal resource issues increasingly important



Photo credit: Renee Giovarelli

Who are most vulnerable

- Group-based discrimination, marginalized, disenfranchised, displaced and often remote populations
- Wide range of vulnerability within groups (children, women, elderly, disabled, those with HIV/AIDS, and others)
- Vulnerability-ecosystem correlation: forest dwellers, pastoralists, fishing-based communities, indigenous peoples, upland ethnic groups
- Populations in conflict and post-conflict, environmental and communicable disease refugees, economic migrants
 - Examples: DRC, Somalia/Kenya, Burma/Thailand



Photo credit: Nancy K. Diamond

Governance and vulnerability

- “Who's the Mayor and who's the boss?”
- The political economy of property rights
- Legal relationships: people–'things'; people–people
- Thesis: NRM and property rights linked at the hip with good governance
- Good governance principles:
 - Representation
 - Accountability
 - Transparency
 - Equity

Without any of these, vulnerability increases

- Rule of Law: enforcement and compliance

Climate change and other new challenges

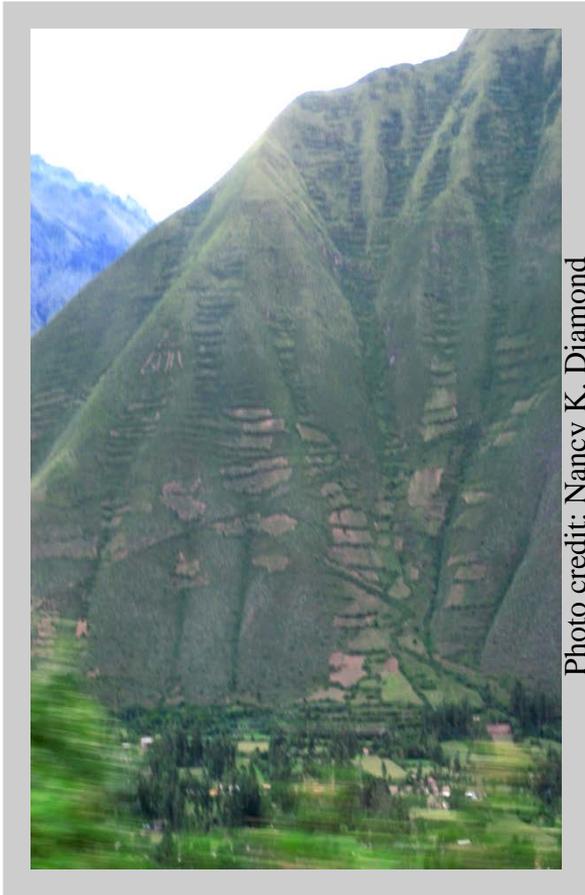


Photo credit: Nancy K. Diamond

- Sea levels and deltas/estuaries, mountain forests and watersheds, dry lands and their dependent communities
- Examples: REDD - Indonesian palm oil and HIV/AIDS and property in Sub-Saharan Africa
- Resilience and property rights:
 - Coping: creating or protecting rights, enforcement
 - Adapting: strengthening rights, responsibilities, compliance
 - Developing: clarifying rules, ensuring adjudication, capacity building

Comparing community forestry rights in five Asian countries

Nation Or State	Legal Personality	Direct Gain	Indirect Gain	Transfer	Residual Rights	Duration	Size
Thailand	Individual claim certificate	Yes	land – no Trees – some	No	Yes	5 year	24 hectares
Java, Indonesia	Household	Yes	land – no Trees – some	No	Yes	Open	Open
West Bengal, India	Community	Yes	land – no Trees – some	No	No	2 year intervals	1 hectare
Philippines	Individual and no-profit Corporation	Yes	land – no Trees – some	No	Yes	25 years and renewable once	7 hectares
Nepal	Individual and community	Yes		No	Yes	indefinite	

Two regional examples

- Philippines case study: Indigenous systems
 - Regalian doctrine and territorium nullius
 - Carino v. the Insular government case and ancestral domain
 - New Constitution and international law since Western Sahara case
- Forty years in the Sahel: Guesselbodi project in Niamey, Niger during 1980s and current Sahelian small farmer agro-forestry initiative



Co-management: Rights & responsibilities matrix

State	Product rights	Responsibilities	Legal personality	Tenure right
National	Community sharing	No grazing, stall feeding	Village user groups	No ownership or lease
Rajasthan	Grasses, fuelwood, 60% timber	50% reinvested reforestation	Group registration	50 hectares per group
West Bengal	25% of non-timber products	5 year protection required	Society registered w/ Forest Office	10 year rotation, extensions

Summary: Vulnerability and property rights.

Definitions and principles

- Property rights: ownership, use and allocation of property, legally and socially recognized, long-term and enforceable
- Understanding vulnerability within evolving contexts:
 - political economies in transition and the 'have and have nots',
 - group discrimination and sub-group vulnerabilities
 - resilience: coping, adapting, developing
- Modern property rights based on legal relationships between people (including governments and corporations)
- Vulnerability and change: customary and statutory law, common property and dwindling stocks, displacement from conflict and environmental stress
- Information access vs. knowledge gaining; demand-driven interventions supporting behavior change with health, literacy and economic results

Vulnerability and property rights: Best practices and interventions



- Effectively, efficiently and responsively address vulnerability and promote good governance:
 - Representation
 - Accountability
 - Transparency
 - Equity
 - Fair and efficient adjudication
 - Best possible enforcement and compliance...in all property rights and NRM
- Good governance advances NRM, strengthens property rights and supports vulnerable populations

Conclusion: Vulnerability, property rights and resource governance

- Clarify property rights / responsibilities: follow a logical framework for property-based agreements
- Negotiate public-private arrangements for sharing benefits / duties of land, forest and other natural resources
- define, agree, adaptively manage, monitor and achieve results
- Understand and adapt to local constraints and practicalities about vulnerable populations
- Expand business horizons for the remote and vulnerable: information access, ICTs and knowledge sharing (power of radio, cell phones, new media)
- No panacea: multi-layered, complex and often competing interests with vulnerable disadvantaged by definition



Photo credit: Keliang Zhu