

Private Property Rights

“What is common to many is taken least care of, for all men have greater regard for what is their own than what they possess in common with others”.

Aristotle (384–322 BC) [cited after Gwartney, 1991, p. 67]

“Property is surely the right of mankind as real as liberty. . . . The moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence”.

D. Hume (1786/1965), Book II:2, para. 2.

The institutional system which has, to date, most effectively addressed the fundamental traits of human nature, generated the most sustained rise in population, in material living standards, and facilitated the most advanced—although far from perfect—degree of individual freedom, is capitalism. Capitalism, in its pure form, is a rule system, which assigns most assets to specific private owners—individuals, families, clubs or firms—and which guarantees the autonomous, self-responsible use of private property (freedom of contract). It functions best without political discrimination, ie. when it is based on the rule of law.

On Private Property Rights

Private property rights form an open-ended bundle of rights to possess, to use, to benefit from and to dispose of valuable and scarce assets (freedom of contract). These rights must not be confused with the assets themselves. They are attached to assets, not only to physical assets—such as land, buildings and equipment—but also to one’s own body and labour. When people are denied autonomy over the use of their body and labour, they are slaves. Property rights can also be attached to intellectual creations (intellectual property rights).

Property rights establish protected and widely respected rights of ownership. They allow, in the first instance, “passive use”, namely the right to exclude others from access to and possession of the assets, unless the

owner consents to grant them such rights. Secondly, they encompass rights of autonomous “active use”—to combine the asset with the property of others in pursuit of expected gains and to appropriate the gains that accrue. This is done through voluntary private contracts, which are concluded only when both parties expect mutual benefits from the transaction. In a world full of risks, not all expected gains materialise. Expected profits may indeed turn out to be losses that lessen the value of the property. Private autonomy therefore includes the responsibility to bear the losses from property use, should they occur. It precludes the devolution of losses on to others or the community at large. Finally, private property rights include the right to dispose of assets, either by an outright sale contract, or by ceding some specific rights from the “property-rights bundle” to others temporarily under a voluntary contract. Thus, we may loan an asset to others for a certain time or allow someone a specific property use, such as the right of way across our land.

The passive holding of property—mere possession—is not cost-free. Even with the best institutional safeguards, passive property use is likely to inflict exclusion costs. Fences, locks, security alarm systems and computer encoding are examples of devices that help to exclude illegitimate property uses. The better the internal and external institutional protection of property in a community, the lower are the exclusion costs and, consequently, the higher is the value of a given property. Property owners therefore have a direct interest in effective institutions. When respect for private property is low, the private exclusion costs can be considerable. It then makes sense for property owners to pay some collective agent who helps in excluding unwanted property uses. This may be a private protection agency, or a government organisation that sets up formal, external rules and enforces them through the police, the judiciary, prisons and similar forms of legitimated force. Property owners in most countries rely on both, with private security services often employing people several times more than the police do.

Active uses of property have other costs. The owners of different rights to physical and intellectual property have to be coordinated. Firstly, they need to search for potential contract partners and find out their characteristics, to engage in research and development so as to identify new, but needed intellectual property or resources, negotiate and execute contracts, and monitor and enforce contract fulfilment. We call these coordination costs, “transaction costs,” when property is used through market contracts. They are called “organisation costs” when property is used within an organisation, such as a firm or a government department. The levels of these coordination costs depend greatly on the internal institutions of society—such as spontaneous honesty and a spontaneous disapproval of rule violations—as well as the external institutions, namely the universal quality of law regulations, and the reliability of the judiciary. Effective institutions, therefore, not only determine the value of property in a society, but also the ease of active property uses. In today’s open economies, property owners often go

to where the rule system is most conducive to using private property and where the exclusion and coordination costs are low. Fuzzy, complex rule systems thus lead to low competitiveness and the flight (exit) of financial, physical and intellectual capital.

Historically, the state has had an important role in protecting private property. Indeed the government probably came about soon after the emergence of property rights in the full, modern sense of the word in the “neolithic revolution” some 10,000 years ago. Humans then engaged in agriculture and domestication of animals. This revolution occurred in a number of different regions, such as the Middle East, northern Thailand and the Americas. It is not imaginable without the discovery of respected property rights. Who would dig the soil and sow crops, capture and care for animals, if possession was constantly threatened and the fruit of these efforts could not be appropriated? Without respected property rights, the exclusion costs could have been so high that agriculture would have been impossible and people would have remained paleolithic hunter-gatherers.

In this context it should be noted that the mere possession of a useful asset, for example a dog or a chimpanzee, does not constitute property; what matters is the social recognition of property rights. It can be compared to a social truce, a multilateral agreement that people will not steal or trespass, because then everyone will be better off than in an anarchic “war of all against all”. When property rights were invented, community leaders with a reputation for impartiality became elders, judges and kings who offered external adjudication in conflicts over property. They promulgated and enforced rules on property ownership. Since this activity cost resources (agency costs), the rulers and judges had to collect fees or impose taxes (Benson, 1995, 1997).

The invention of private property had an important consequence for mankind’s progress. As long as the prevalent form of economic activity was the mere exploitation of nature (hunting, fishing, gathering), assets were not combined in a major way with human skills and knowledge to create valued goods and services and to supply them to others. Only when the exploitative tribal mentality gave way to cooperative, creative efforts, were a great variety of goods and services produced for the enjoyment of others (see Insert below). Only then does the mistrust of strangers give way to exchange and curiosity about what outsiders have to offer (Jacobs, 1992). Although most of our forebears have lived with private property and creative enterprise for many generations, we are nonetheless still prone to fall back instinctually onto the atavistic, tribal mentality of the palaeolithic age (Hayek, 1988, pp. 11–28; 48–65).

To sum up the argument so far, the defining characteristic of private property rights is excludability, namely that the benefits from and the costs of a particular asset are specifically assigned to one person, group or organisation, and that others are excluded. When private property is used actively, all the benefits and costs should ideally impact on the owner (They should be “internalised”,

as economists would say). Only then will private people make the choices which lead to the best-possible attainment of prosperity. Only then will profits and losses be a good guide to find and use resources. Where it is not possible to attach private property rights to assets (i.e. where externalities exist), complicated interventions by political action have to be contemplated (see Glossary on “Externalities”).

Ownership of Oneself

Without a doubt the most important asset an individual owns is her or his body and the inherited and learnt skills. Self-ownership played a big role in the historic discussion of property rights and was a part of the attack on the traditions of serfdom in Europe. Early liberal economists in Spain, Britain and France were among the most vehement opponents of slavery, pointing out—correctly—that slaves were not very productive, apart from slavery being an outrage against fundamental human decency. Similar sentiments inspire discussions on labour-market deregulation in many advanced countries: it is a fundamental right of workers to sell their labour and talents in conditions where they negotiate freely and not at the bidding of union officials.

In many third world countries, one of the priority tasks of government is the protection of life and limb. In some cultures, for example in East Asia, the internal institutions of society mitigate against violations of personal safety; in others the concept of the spontaneous protection of life and limb are less deeply entrenched. This poses serious and very fundamental problems for economic development, too. Where the incidence of murder and rape is as high as in Soweto in South Africa or in Rio de Janeiro in Brazil or say, the Bihar-Uttar Pradesh belt in India many ordinary people cannot act with confidence to better their material lives. In highly insecure areas, other types of property like material objects are seen to be less important than personal security and are therefore not used to best advantage. Moreover, the mere protection of one's safety takes up so much time and resources that the return for one's work and risk taking is very low—in other words economic growth is very difficult and people remain locked in poverty traps.

Sometimes, informal networks and organisations protect people and their meagre property from murder, beatings and theft, for example the *mafia* in southern Italy, gangs of thugs in many shantytowns around the world, or protection racketeers in the back streets of Moscow or say the underworld in Mumbai. The safety they provide tends to be costly and unreliable, but is preferred by those who are able to pay to the brutish conditions that prevail without. Sometimes, such gangs establish a truce on brutality and offer more formal protection. And sometimes in history such ‘violence professionals’ have established themselves as political power brokers, seeking some legitimisation and formal limits on their use of power. They then become princes and kings who enforce a monopoly over the use of force and bind

the uses of force by subjecting themselves to clearly understood laws. If this is exercised without favouritism and with constraint, the rule of law emerges and economic development can take place (Benson, 1997).

The eternal task in any society is, however, to protect the people from the protectors by orderly and just ways. Law and order and the control of government officials are therefore important pursuits in developed countries. In many third-world countries, they have to be the tasks of the highest priority if ordinary people are to make the most of their energies, their talents, and their intellectual and material property. Economic development starts with this most basic form of institutional guarantee.

Free Goods, Club Goods, and Public Goods

When early humans roamed in nature, no property rights were needed. Hunters and gatherers found free goods, i.e. goods that were not scarce because the few humans hardly competed with each other for resources. In the Garden of Eden, there was no need for private property. The spread of the human species across the globe was no doubt driven to a considerable extent by the search for new free goods. But as human numbers rose, demand for certain assets became rivalrous. Humanity began to be confronted with scarcity—or was expelled from Paradise, as the Bible put it. Groups and tribes began to defend their patch against outsiders, but allowed insiders unconstrained use. This created what economists call “the commons” or “club goods”. Where scarcities arose within such clubs, more or less elaborate informal and formal rationing devices were invented (Graph 6).

Small groups that possessed such “commons” rationed individual uses by internal, informal institutions, for example by mutual reprimand or taboos against overuse. When people know each other and meet frequently, informal institutions work cheaply and effectively. The anthropological literature on different civilisations shows that informal policing of commonly owned resources such as fields, forests, fishing grounds and tennis courts works reasonably well in groups not exceeding five or six dozen participants. Once the group exceeds this limit, informal institutional mechanisms break down. This leads to over-exploitation and internal conflicts (Hardin, 1993). Therefore, internal institutions have to be enforced more formally. Probably, they have to be backed up by external institutions—a king or chief may allocate land uses or hunting rights, which are formally enforced. Thus, people are allowed to collect oysters, lobsters and abalone in coastal areas or hunt for wild game, but the bag size is limited under the law.

Where such rationing mechanisms are not invented and enforced, the “commons” deteriorates, as each member appropriates “common wealth” without constraint. Everett Hardin described a telling case of this “tragedy of the commons”. When the first satellite images of the Sahel region in Africa were made during a major, catastrophic drought, patches of well-grassed

Graph 6: Private, Club and Common Property

		Demand rivalous?		
		Yes	No	
Supply exclusive?	Yes	Private goods: Private choice e.g. bread, hair cuts, electricity uptake, passage on trains, congested toll road	Natural monopolies: e.g. fire protection, cable TV, access to electricity grid	
	No for group, yes for outsiders	Rationed club goods: Group-collective choice to supply e.g. access to tennis courts on weekends, access to local hospital, allotment of farmland in traditional villages, shared knowhow	Unrationed club goods: e.g. access to tennis courts during the week; local environmental amenities	
	No			Free goods: Supplied by nature e.g. fish from the ocean, food for hunter-gatherers
		Common goods: Supply by collective choice e.g. crowded public hospitals, busy public roads, some environmental amenities	Pure public goods: e.g. street lighting, some information, uncongested public roads, shared institutions, law and order, national defence	
		Direct financial control required?		
		No	Yes	
		Contract out & quality control	Socialised property	

land were discovered amid overgrazed, durably damaged land. Ground investigation revealed the consequences of good and bad institutions. The grassed areas belonged to private owners who had fenced their land and conserved their own resources during the drought, whereas the commonly

owned land was overgrazed by herdsmen who could only appropriate benefits from the land by intensive grazing. The institutions that secured private property thus limited the damage of the drought—an instructive illustration of the fundamental effect of universal institutions on resource conservation (Hardin, 1993). With the increasing numbers of people on earth, property rights can thus often be used to encourage careful stewardship of natural resources.

When common property uses cannot be policed adequately, one way to secure the most highly valued uses of the scarce assets is to introduce the rules that establish exclusive private property title to specific parts of the commons. Property rights can then be exchanged in markets on the basis of voluntary, bilateral contracts (Graph 6). This happened in post-Medieval England when village commons were fenced off, and in many parts of the world when free goods or commonly held club goods were assigned to specific owners (see Insert below). The privatisation process still goes on, not only in the third world, but also in developed countries, for example when local councils introduce parking fees in the Central business district or previously free commercial fishing access is auctioned off to exclusive license holders. These are steps towards a more effective, less conflict-ridden way of allocating scarce goods.

The observed problems with the tragedy of common ownership and the political conflicts which arise within large groups of joint owners and users, can be observed in “ownership clubs” which the Canadian or Australian governments have established for Aborigines. If human experience is anything to go by, common ownership by large groups whose members rarely meet, inevitably leads either to excessive use or to the diversion of the benefits to influential insider groups who *de facto* control the asset. The institutional arrangements necessary to police large “club properties” may well be more complicated and require more administrative control than the alternative of assigning smaller properties to different private individuals, families or clans. Private property of land in the hands of families and clans would have the advantage of inducing some individual Aboriginal owners to seek more creative uses of their land. This would give Aboriginal families the chance to test alternative ideas as to how to make use of the newly reconfirmed property titles to their own best advantage, rather than to the advantage of their bureaucratic elite. It may also be learnt in these cases that the move from free goods and traditional, informal club ownership to private property is inevitable.

In practice, it is not always feasible to exclude non-owners from enjoying some of the benefits or costs of certain assets. Certain property uses create effects, which cannot be measured or clearly attributed to the owner. Economists speak of “externalities” when property uses create costs and benefits that cannot be confined to the owner and that impact on the society at large (see Glossary).

We speak of “external costs” when non-owners and non users have to bear some of the costs of property uses. For example, the emission of noise or pollution from an industrial activity has an impact on the community at large. We speak of “external benefits”, when others than the owners gain benefits from certain property uses, for which they do not or cannot compensate the owners. For example, when I create a beautiful front garden or light the street, my neighbours may enjoy the amenity for (free riding). Such externalities are due to the fact that not all costs and benefits from property usage can be assigned, because they cannot be measured or the assignment would create inordinately high costs. Advances in measurement and information technology (computers) have, however, often permitted the internalisation of what were previously considered externalities. Thus, we can now often determine who pollutes the air and who suffers. Then, we can make sure that the polluter pays, compensating the sufferer. This is, for example, being done with noise pollution around major airports. Property owners receive compensation out of airport-user charges. For a long time, street use by cars could not be easily measured, so that streets had to be provided by governments. Recent advances in transponder and computer technology now make it possible for private owners to build public-access roads and to charge individuals for measured road usage.

In instances where measurement is not possible or economical, the private production of goods and services may not be privately rewarding to individuals. As long as positive externalities impact in close proximity, neighbours can form an association to internalise all the benefits. Local governments often capture such neighbourhood benefits. Recent land developments in the United States and Australia, which offer owners shared amenities such as sporting facilities or a high degree of security, are based on capturing all benefits within self-administering associations. A similar case occurs in clubs when one individual cannot capture the full benefits of a sports field or a social club, but an association of individuals can. Then, members have to decide how to distribute the costs and the benefits amongst themselves. Often, so-called “club goods” can be rationed at low transaction costs, because the information on usage and controls of over-usage can be monitored informally and relatively easily among a small community, as was originally the case with the commons in Medieval Europe. Outsiders are of course excluded from access to such “club goods”. The rules that ration use and the costs of provision are shaped by the fact that disaffected club members can exit from such open, voluntary associations. The decisions over the supply of and demand for club goods are therefore a mixture of collective and private choices (Graph 6).

When external costs and benefits cannot be internalised because they are widely scattered or when the measurement or compensation costs escalate, then reliance on private property will fail to induce owners to make the allocational decisions that are most highly valued in the community. Activities

where private owners are able to avoid bearing a part of the total costs which they cause, will be over-expanded. These activities appear more beneficial to private property owners than they do to the community. And property uses, where not all the benefits can be captured and appropriated by the owners, will be under-supplied because the incentives to do so are weakened. Externalities thus cause the profit-loss motive to be a poor guide on the valuation of goods and services and their consequent supply or demand. A case can then be made for public policy interventions, although—as we shall see in Chapter 6—this raises complications as compared to private property uses through voluntary, bilateral contracts.

While many externalities of property use impact on neighbours, there are some externalities that even transcend the reach of national jurisdictions. For example, if an up-river country, such as Turkey, uses irrigation water, it causes external costs to down-river countries, such as Syria and Iraq. Likewise, greenhouse emissions by high-energy users affect the global climate, imposing external costs (and, possibly, benefits) on people in distant places. Since there is no supra-national authority, which might police the pollution of the “global commons” and enforce appropriate rules internationally, this poses difficult problems for international politics. In the case of greenhouse emissions, the current trend—if a trend it is—tends towards uniform, centrally planned and hard-to-enforce targets for the reduction of emissions. The alternative to this “one size fits all!” approach is to take a page from institutional economics and to think of globally tradable emission rights. Such rights could be transferred from the importers of energy-intensive products, such as aluminium, to the exporters who, after all, alleviate the importers’ pollution burden. Such an arrangement would allow those who make the most valued use of rationed CO₂ emissions to do so up to a certain safe level. It would ensure that the cleanest producers would reap a benefit, creating a material incentive to economise on activities that burden the atmosphere. However, such an arrangement will have to cover all countries on earth and will be complicated by intractable monitoring and enforcement problems. This is why many nations are reluctant to endorse the Kyoto Protocol, which the European Union has been promoting.

There are some cases where exclusion by private property rights is not necessary because private users do not rival with each other. Economists call these “pure public goods” (see Glossary). Their demand is similar to free goods, but—different from free goods which are provided by Nature—the supply of pure public goods costs resources and effort. Provision of such goods have to be decided upon and provided by collective choice (Graph 6). A classical example is the case of street lighting. If one citizen provides street lighting, all street users benefit, and they do not diminish each others’ enjoyment of the light. It would therefore not be practical to collect fees from the passing traffic to compensate the provider for incurring the cost of the streetlights. Instead, government should fund street lighting through taxes.

More important cases of pure public goods are the provision of defence against external aggressors and of internal protection from thuggery by providing and enforcing law and order

It makes sense for governments to finance general access to these public goods and to raise funds through politically determined taxes. Governments may also get involved in providing widely useful information, for which individual citizens would incur disproportionately high costs. The preparation of maps, the provision of weather or health information, the conduct of geological surveys and legislation against fraud and deception fall into the category of such public goods. It also seems appropriate for government agencies to provide reliable information on the effects of pharmaceuticals or the minimum capabilities of surgeons, because individuals who are suddenly confronted with a need for medication or surgery would find it extremely difficult to obtain reliable information on such a vital matter. A similar argument can be made for the public provision of money, i.e. a national currency. Government money reduces the information costs of the public as compared to a payments system based on diverse private moneys.

The conditions that make for pure public goods are rarely given. Governments nevertheless engage in providing goods and services. In this case, supply is determined by collective choice, and there is rivalry between users. Some collective decision has to be made about rationing the demand—by charging a fee or a price, by queuing, by political favouritism, or by lottery. Different from the case of clubs which people are free to join or leave, membership is compulsory. All residents have to pay for the provision of these common goods, and are subject to the collectively determined forms of rationing. Disaffected members have no exit option, only an option to raise their “voice” by voting, demonstrating, lobbying etc. (Hirschman, 1980).

The Private Production of Public Domain Goods

The terms “public good” and “common good” do not necessarily imply that the means of production of such goods should be publicly owned, nor that the production process has to be managed by government administrations (Demsetz, 1970). What matters is access—providing these goods and services in the public domain (Graph 6). Thus, a good case can be made for financing street lighting and roads from taxation, yet to have these services produced by private, competing producers. Many public domain goods, such as electric power, rail services, telephone connections or school education, can be made accessible to everyone without having to be produced by state-owned enterprises. Private trains can run on publicly owned tracks. Telephone companies can be broken up and privatised. Access to private schools can be made possible by tax-financed vouchers. With competing providers, the community is better protected from abuses, which are common in monopolies. The rivalry of contending producers is likely to empower the citizen, promote

the better use of knowledge (innovation) and offer a richer variety of goods and services to choose from. This has been demonstrated since the time privatisation became a worldwide phenomenon.

A government has two roles in the competitive, private provision of public-domain goods. One is to ensure quality standards. The other is to ensure that less affluent citizens have access to these goods e.g. through vouchers (Kasper, 1996). Thus, poor kids in Puerto Rico and many States of the USA were recently given the option to access private schools through government-endowed school vouchers.

There is a case for direct public ownership of certain assets, but it rests on a completely different consideration. Sometimes, there is a need for the complete control of certain asset uses because competition might be too costly for the citizens or because asset owners cannot be trusted to act in the public interest. Thus, military forces, police officers and other “violence professionals” normally come under the direct financial control of government. This is part of an arrangement whereby they are controlled by non-violent means. The alternative might be that they use weapons and other assets against the citizenry or that they compete privately by using force. The competition between hired mercenaries (as occurred, for example, during the 1990s in the Congo) and competitive police protection rackets are decidedly unattractive forms of competition! In a similar vein, most law courts are nowadays run by governments, because private judges are seen to be too exposed to temptations of influence peddling and bribery. The case for political control through the collective ownership of the means of production is, however, not always clear-cut. Public officials may act opportunistically. Police and judges, who favour members of certain ethnic groups, come to mind as examples of the failure of political controls. Some observers therefore make a case for private policing and competing private jurisdictions.

In modern economies, many more ventures are publicly owned than is justified by externalities or the need for direct collective control. Governments have expanded socialised ownership as an easy way to raise revenues, to redistribute incomes, to expand political influence, and to respond to ideological criticism of private property. Public ownership is more attractive to parliamentarians and bureaucrats when publicly owned firms can be turned into a monopoly. Then, monopoly rents accrue to the government and those who work for it. However, economic theory teaches us that monopolies sell at a higher price, offer less quantity and poorer quality and innovate less than competing privately owned producers. The state’s gain is therefore typically the private citizens’ loss and an impediment to long-term economic growth. The history of the USSR provides many textbook examples of this analysis.

Divisibility and Tradability of Property Rights

The private property rights system hinges—as we saw—on excludability.

But two other important features of private property rights are needed to make them fully productive: divisibility and tradability.

The property rights which are attached to a specific asset do not form a monolithic bloc. They are a potentially open-ended bundle of specific rights. The value of an asset can therefore often be greatly enhanced by making institutional provision for the separation of the various rights. Thus, a landowner may lease the land to someone for farming, to someone else for cutting timber or mining, to yet another for fishing in the stream through the property, and to yet others for recreational uses or various rights of way. Such divisibility of the property rights bundle means that different people with different knowledge and motivations can make use of the same asset, deriving much more valued outputs from it than a single owner-user ever could. Divisibility is based on institutions. The Ancient Romans, for example, refined existing property laws to allow loans and partial uses of assets, giving people who could not afford outright property ownership access to those parts of properties which they valued highly. Roman law secured relevant contracts and reduced uncertainties and transaction costs of divisibility.

A related, valuable characteristic of property rights is their tradability. If property rights cannot be traded (in other words, the property is inalienable), they can only be used by whoever happens to own them. Other people with more enterprise and possibly better knowledge about what to do with a specific asset can often not acquire the asset in exchange for money or other assets.

If a property is inalienable, for example by an inheritance clause or by custom, it loses much of its value. This is often resented. Where land is made inalienable and held collectively on behalf of traditional native owners, new ideas and opportunities cannot be readily discovered and exploited. The non-tradability of land blocks many of these opportunities. Maybe, one area of a national park would, if sold or exchanged for another, contribute more to the conservation of an endangered species. Maybe, the (voluntary) sale of some land by traditional owners would enhance their life opportunities. The lesson of human history certainly is that inalienability reduces the value of property and discourages its creative uses.

Secure Private Property Rights and Economic Development

The crucial role of secure private property rights for all—not just a well-connected, rich *privilegensia*, but the poor and the young—is nowhere more evident than in developing countries. Peruvian economist Hernando de Soto has shown

- that the poor in third-world cities own considerable assets and save quite a lot, often more than third-world governments manage to borrow from overseas sources,
- that their property rights are not protected from private and public

fraudsters and arbitrary political regulators (de Soto, 2000).

Insecure property rights over land are the root cause of many social problems in developing countries, both in farming areas and on the fringes of the rapidly growing urban areas (see Insert below). Governments often fail to set up cheap and citizen-friendly arrangements that allow squatters to register a title to their shacks and houses, to conduct their businesses under the protection of the law and to enforce simple rules that reduce the transaction costs of being an entrepreneur and trader. Officials and law courts in many countries do not side with enterprising poor citizens, but with the rich elites to whom they belong. The consequence of uncertain titles of property in land and enterprises is that the poor cannot use these assets to raise loans for growing their businesses and have to incur great costs in defending their uncertain possessions (e.g. by paying corrupt policemen, *mafia* bosses or local government controllers). Once property rights are secured and reliably protected, investments tend to burgeon spontaneously and entrepreneurs succeed in markets. Growth takes off, even without much foreign aid and foreign borrowing, as one East Asian country after the other has demonstrated. Poor Mexican immigrants began to grow affluent, once they were in the United States and could play by American property rules.

The lesson is not only that expropriation—for example of productive white farmers under the Mugabe regime in Zimbabwe—harms development, but that broad-based prosperity depends on the protection of private property of all citizens by governments and social *mores*. Secure and cheaply defended property rights are crucial to equitable economic development, starting at the local level in shanty towns and street markets.

Insert

Land Titles and Development

The transition from traditional village or regional economies to modern national and global economies nowhere requires more institutional innovation and enforcement than in the field of property rights in land. Alas, third-world governments often fail massively in this task.

In traditional agricultural settings around the world, people recognise property rights of sorts, often in the form of a connection between a more or less defined plot of land and a clan or family. Sometimes, the entire village owns the surrounding land in common; the village elders may allot specific plots to young couples so that they can build their houses or establish gardens, whereas the remainder of the village land is used as a 'commons'. The right of each family to graze cattle, to collect timber, or to fish in a stream tends to be regulated by traditional institutions. Conflicts are resolved by village elders or a traditional ruler. Frequently, different types of informal property rights overlap, with someone having the grazing rights, and someone else being able to collect wood in the same area, or enjoying a right of passage for his flocks.

When modern development takes off and people are motivated to make more intensive use of the land, frequent conflicts arise between different land uses. This was, for example, the case in Europe, when traditional landowners began to claim exclusive rights to their land and eliminated other, hitherto tolerated users. The traditional rights of weaker members of society are then frequently brushed aside. Thus, the 'Enclosures' in Britain and Spain in the 17th and 18th centuries permitted more intensive agriculture, but all of a sudden made the life of traditional herders impossible. In Scotland, the lairds reclaimed their traditional land to build up big sheep runs and evicted the crofters, who became homeless, although they had lived on the land for centuries. In many new colonies outside Europe, similar land seizures occurred and were protected by the colonial governments. The result of clearly enforced property titles was often not only a more productive agriculture, but also a landless under-class, many of whom drifted to the cities. In other jurisdictions, a more differentiated treatment of different property rights in the same land enabled different groups to co-exist and develop together, but such cases were more the exception than the rule.

To the present day, unclear land titles create serious development problems in many third world countries. Young villagers with motivation and ideas on how to modernise farming may be hampered by the fact that common village land cannot be appropriated or is not ceded to them by traditional village councils. Colonial and post-colonial governments have frequently implemented institutional arrangements that inhibit the allocation of land to individuals. Where schemes are implemented to encourage a more intensive communal use of the land and natural resources, we frequently observe a 'tragedy of the commons' (overgrazing, exhaustion of the ground water). No one invests in soil conservation and improvement. Population pressures aggravate the problem. Dividing up the land and allotting it to individuals or small families on the basis of a clear, long-term title is then often the best solution, but one that may clash with powerful traditions. Governments can do much to establish mechanisms for well-defined and reliably enforced property titles, for example by instituting a conveyance service and land registries.

Particular problems arise where land is made inalienable by government decree to protect traditional inhabitants. Thus, Fijian clans and aboriginal Australians have formal land title, but cannot separate out parcels, which individuals can use or sell. Instead, the real land title is vested in a distant overweening bureaucracy, and for all practical purposes the land has been socialised in perpetuity. This not only gives rise to the usual waste of resources, when the asset belongs to no-one in particular, but also angers many young people who have no control over their families' most valuable assets and see their life opportunities artificially diminished (Kasper, 2000a).

Property titles in natural assets can—as we saw—frequently assist in their preservation. One much-reported example was the awarding of property rights in wild elephants to local villages in East Africa. The elephants are a menace to

fruit gardens and hence the livelihood of villagers. They were hunted and poached, despite formal prohibitions. In the end, some governments and wildlife authorities allotted property titles in elephant herds to villagers and encouraged them to exploit the herds by showing them off to foreign tourists. All of a sudden, the occasional garden raid of the elephants became tolerable, because the elephants were the basis of lucrative eco tourism. What had been a socialised liability, became a privately owned asset. The communal purpose of nature conservation was served by private property (Kasper-Streit, 1998, 209–10; also Anderson-Leal, 1997).

Property titles are also a major problem in third-world cities. Many poor people come to the cities for a better life, but cannot gain control of the land on which they squat. Insecurity about land tenure mitigate against investment in improving shanties and often encourage criminal protection rackets. While many of these migrants are able to create wealth and capital with their own labour, they cannot mortgage what they own even to raise micro credits, because governments fail to ensure property titles (de Soto, 2000; Kasper, 2000a). Much can be done by governments to eradicate poverty in the big cities of the third world: They can set up cheap and reliably enforced land title offices, so that the poor are able to raise some money towards educating their children, improving their livelihood or their dwellings. However, powerful interests—for example, absentee land lords or big landowners, who fear they will not be properly compensated—often lobby governments against such a low-level and effective ‘social policy’.

Leaders, who understand the importance of property rights and institutions, will make land acquisition easy—as was, for example, the case in 19th century America or Australia, when millions of poor people could get land titles and lift themselves out of poverty.