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can harness ecosystems for their livelihoods.*



THE ROLE OF GOVERNANCE



AN ABUNDANCE OF NATURAL RESOURCES DOES NOT

necessarily translate into wealth for the poor. To make nature a source of prosperity for poor communities requires supportive governance conditions: policies and laws that protect the rights of the poor, coupled with responsive institutions that promote their interests. Without these, the presence of high-value resources like timber, gold, diamonds, or oil can actually be detrimental to poor communities, providing a target for exploitation by outside business interests and politicians. Too often, the result is that most of the revenues are appropriated by others, leaving the community—and local ecosystems—worse off than they were prior to “development.”

Even where high-value resources are not present, the patterns and institutions of governance are usually the critical factor determining how effectively the poor can harness ecosystems for their livelihoods. Where laws are biased against the poor and government practices disenfranchise them, the potential for better management of ecosystems to alleviate poverty is greatly diminished.

This chapter examines key governance conditions that influence whether nature becomes a source of wealth and prosperity for many, or merely a select few. It focuses on the three governance factors with the most concrete impacts on the poor and their capacity to derive environmental income: *resource tenure and property rights*; *decentralization of resource management*; and *the rights to participation, information, and justice*.

These factors revolve around the rights of the poor to physically access and control natural resources, and their right to be heard in decisions about how to utilize these natural resources.

Resource Tenure and Property Rights: Access and Ownership

A person or community's rights to land and other natural resources defines their natural resource tenure. Legally, tenure is a bundle of both rights and obligations: the rights to own, hold, manage, transfer, or exploit resources and land, but also the obligation not to use these in a way that harms others (Bruce 1998a:1; FAO 2002:10). In other words, tenure defines *property* and what a person or group can do with it—their *property rights*.

However, tenure is not only a legal concept but a complex social institution, often involving traditional practices and customary authorities as much as formal laws. It governs ownership and access to natural resources, which is the gateway to use and benefit from these resources. As such, tenure is at the heart of the poor's ability to derive income and subsistence from ecosystems—to make them part of a sufficient and sustainable livelihood. (See Box 3.1.)

In many parts of the world today, resource tenure systems and property rights regimes are undergoing an important evolution. Fundamental shifts are occurring in the way that people and institutions think about the ownership of land, water, forests, fisheries, and other natural assets—about who controls these assets, who benefits from them, and where the power to make decisions about them is vested.

Two countervailing global trends in the evolution of resource tenure are evident. One trend stems from globalization. The growing economic integration of nations and societies has increased the sphere of private property and private responsibility, with government assuming a lesser role with respect to the private sector and civil society. This has important implications for how public lands and natural resources—often common pool resources—are managed, with more power over resources transferred to corporate interests through privatization or the granting of resource concessions (Johnson et al. 2001).

At the same time, there is a trend toward decentralization of natural resource management. Local and community-level institutions have become more assertive in the management of local resources, and this decentralized approach also has important implications for resource tenure. Indigenous groups have, for example, been more vigorous in pressing their ancestral claims to lands they inhabit but to which they lack formal title.

These two trends are shaping—and promise to profoundly transform—the capacity of the poor to earn environmental income from natural resources. For example, as illustrated in a study on the impact of globalization on the implementation of community-based natural resources management (CBNRM) in the Philippines, these global trends have the potential to both undermine and strengthen governance conditions that benefit

ENVIRONMENTAL INCOME AND THE POOR: CRITICAL GOVERNANCE QUESTIONS

Resource Tenure: How do property rights enhance or restrict the ability of poor people to derive environmental income? In particular, what is the role of resource tenure in enabling the poor to transform nature into an economic asset? How crucial is security of land tenure to the poor's ability to benefit from natural resources? How important to the poor are community-based forms of tenure?

Decentralization: What effect do institutions such as national forestry or fishery departments, district governments, or village councils have on the ability of the poor to access or sustain environmental income? What is the role of the state in natural resource management, and how does the transition to decentralized and community-level institutions (such as tribal structures, local levels of government, cooperatives, user groups, or watershed committees) affect the poor? When is decentralization the solution to poverty, and when does decentralization work against the poor?

Participation, Information, and Justice: How does political disenfranchisement prevent the poor from utilizing their natural endowments for more than mere subsistence livelihoods? Conversely, what is the role of democratic rights in ensuring that poor people benefit from natural resources? How can poor people use better access to information, public participation through their representatives, and access to the courts when their rights are violated to increase their capacity to earn environmental income? What are the challenges of providing appropriate information, participation opportunities, and real judicial or administrative access to poor communities?

the poor (La Viña 2002:24). Growing economic integration through increased trade and the emergence of multilateral environmental agreements, such those as on climate change and biodiversity, pose both threats and opportunities for poor communities worldwide.

The significance for the poor of changes in resource tenure systems and property rights systems is not limited to their economic impacts. For many rural communities, resource tenure is a central social institution that governs not only their relationship to the land and natural resources but also the relationships between families, between members of the community and those outside it, and between villages, communities, and peoples. Therefore, changes in tenure and property regimes have implications for the entire social fabric of rural communities. This is true for all tenure and property systems relevant to natural resources, but is particularly evident in the evolution of land tenure.

The Insecurity of the “Landed Poor”

Most of the rural poor in developing countries have some access to land on which they can collect forest products, graze animals, grow crops, gather medicinal plants, or in other ways benefit from nature. These “landed poor” typically remain poor not only because their land holdings are small, but because their rights to the land are weak, their tenure insecure (Bruce 2004:1).



Insecure tenure translates to a lack of assurance that one's land or resource rights will be respected over time (Meinzen-Dick et al. 2002:1). In many countries of Southeast Asia, for example, long-term forest dwellers such as indigenous peoples and local farmers often have *de facto* access to forests, but their tenurial control over trees, timber, and the right to manage forest uses is often limited in scope and unrecognized in law (Lynch and Talbott 1995:29). For instance, the traditional system of forest tenure (called *adat*) recognized by many forest dwellers in Indonesia has often been ignored by the government, which asserts legal ownership of all forest areas in spite of customary or historic uses (WRI et al. 2000:36-37).

In addition, the ability of the rural poor to participate in political decisions that affect their livelihoods often is limited by the power of other, more politically connected, parties with an interest in the same resources. Government agencies, corporations, large landowners, poor farmers, indigenous peoples, and different ethnic or cultural groups frequently make overlapping and conflicting claims on the same set of natural resources. Unfortunately, unless the tenure rights of the poor are secure, they usually lose out in these conflicts over competing claims (Alden Wily 2004:5).

While many forms of resource tenure are important, land tenure—rights over the land itself—is often the most fundamental building block of prosperity for the poor (Deininger et al. 2003:5). That is because land rights underpin most other resource rights, with the exception of offshore marine resources.

Without secure land tenure, it is difficult to conceive of the poor being able to generate wealth from nature.

Tenure Security and Environmental Investment

Security of tenure exerts tremendous influence on how land and resources are used. Secure tenure can be defined as the certainty that a person's rights to continuous use of land or resources will be recognized and protected against challenges from individuals or the state. This kind of certainty provides an incentive to make long-term investments in maintaining or enhancing the productivity of that property. For instance, a person with the right to use an agricultural field for decades or a lifetime may invest in an irrigation system whereas a farmer leasing a field for only a year will not (Bruce 1998a:2).

When insecurity of tenure acts as a disincentive to long-term investments in soil conservation, irrigation, and the like, land quality can deteriorate and agricultural productivity suffer. For this reason, tenure reform is frequently a component of development projects aimed at enhancing food security and sustainable livelihoods for the rural poor. Tenure reform is distinct from land reform in that it does not redistribute parcels of land per se, but rather makes adjustments in the rights to hold and use land. Examples of land tenure reforms include strengthening informal tenure rights by making them legally enforceable and transforming state-issued permits for specific land uses into leases that provide more protection for users of the land (FAO 2002:20).

BOX 3.1 UNDERSTANDING THE SCOPE OF RESOURCE TENURE

UNDERSTOOD BROADLY, “TENURIAL RIGHTS” over natural resources are synonymous with “property rights.” Tenure covers all the means by which individuals and communities gain legitimate access to and use of natural resources. To know who has tenure over a natural resource is to identify who owns the resource, who can use or extract it, who can exclude others from having access to it, and who benefits from exploiting it. As such, the details of how tenure is determined and recognized—particularly through national laws and policies—greatly affects the rural poor, whose lives depend on access to ecosystems.

Typical tenure rights and obligations include:

- The right to use the resource (the “usufruct” right) or control how it will be used
- The right to exclude others from unauthorized use
- The right to derive income from the resource
- The right to sell all or some of these rights to others, either permanently, or for a limited time (such as through a lease)
- The right to pass these rights down to one’s successors (the right of descendants to inherit land or resource rights)
- Protection from illegal expropriation of the resource
- An obligation not to use the land in a way that is harmful to others
- An obligation to surrender these rights through a lawful action, (e.g., in a case of insolvency, the rights are surrendered to creditors; in the case of default on tax payments, the rights are surrendered to the state) (FAO 2002:10)

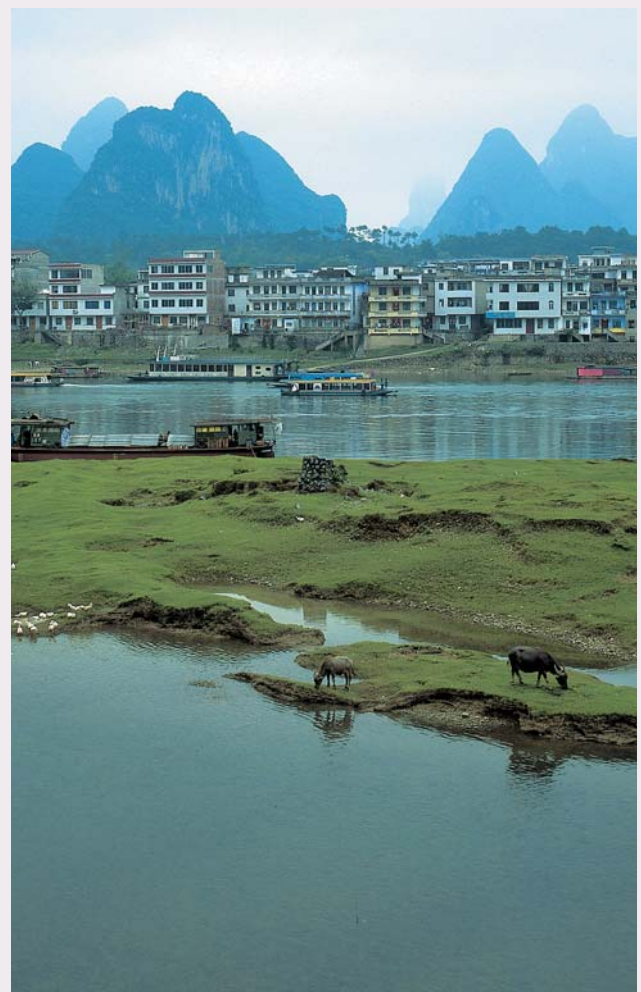
Resource tenure includes rights over land, but it encompasses other natural resources as well. Land tenure is the usual focus of public interest, but distinct tenure arrangements apply as well to forest resources (Lynch and Talbot 1995), fisheries (Kinch 2003; Pereira 2000), mangroves (Hue 2002), wetlands (Rahman et al. 1998), watersheds (Kumar et al. 2004; Ayudhaya and Ross 1998), wildlife (Alinon 2002; Hasler 2002), and other natural resources. In a forest, tenure might translate not just to the right to harvest timber but to the ability to harvest fruit from certain trees, to collect fallen branches for fire wood, or bamboo for building materials. In fisheries it might mean the right to fish certain waters, harvest certain species but not others, or fish at certain times of the year.

Resource tenure covers not only formal property rights recognized by the legal system and enforced by the government, such as land titles or forestry licenses. It also refers to traditional practices—often unwritten and informal—through which rural people secure access to natural resources. Official

documents issued by the government are not the only ways that tenure is recognized in rural areas. Evidence of long-term occupation or of observance of customary law are other recognized ways of establishing tenure. Experience shows that where states emphasize the use of formal processes and official documents to acknowledge resource tenure rights, it is likely that poor communities, particularly indigenous peoples, will be disenfranchised (Lynch and Talbot 1995:7).

Tenurial rights include but are not equivalent to ownership. The absence of full ownership over a natural resource does not preclude the possibility of other tenure rights over a natural resource (Schlager and Ostrom 1992:256). For example:

- The state may own the forests in its territory but recognize the right of occupants to utilize timber or non-timber resources through some kind of permitting system.
- Protected areas may be part of the public domain, but the right of indigenous peoples and other long-term occupants to inhabit these areas may be legally recognized.
- Coastal waters may be claimed by the state, but local fishers may be granted rights over customary, near-shore fisheries. 🐟



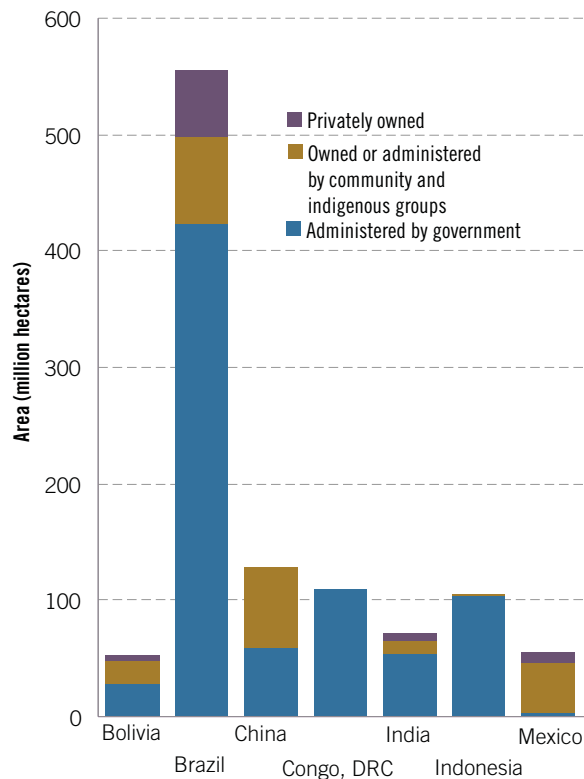
This is true as well for tenure rights over forests, fisheries, and other natural resources where the benefits of good stewardship can only be gained over time. For example, given their limited resources, it is unlikely that the poor would see a value in investing in sustainable forest management practices, including reforestation, if their tenure over forests is restricted and they can't count on reaping the benefits of such practices. Tenure reform, in this context, would require addressing these tenure insecurities by providing longer time-frames for forest management agreements, or by recognizing the communal ownership rights of groups who have long occupied forest lands. Thus, one study of joint forest management agreements in India—agreements between local communities and the state allowing limited local management and use rights on state forest lands—notes an urgent need to first resolve the issue of tenure security to give these community-state agreements a foundation for success (Reddy and Bandhii 2004:29).

Security of tenure is important for poverty reduction because it allows poor people to grow more food, harvest

products for consumption or trade, invest more in economically productive activities, or use property to obtain credit. Some studies report that investment doubles on land where tenure is strengthened (Feder 2002, cited in Deininger et al. 2003:8). Recent research also indicates that countries with equitable, efficient land tenure systems, ensuring property rights for both women and men, tend to achieve faster, more sustainable economic development with high levels of food security, health, and welfare (FAO 2002:5; Deininger 2003:17-20).

Case studies from Asia, Africa, and Latin America have also shown that tenure security affects people's long-term investments in modern management practices that can raise productivity, such as agroforestry techniques, livestock feeding practices, or integrated pest management (Meinzen-Dick et al. 2002:1). Failure to invest in agriculture, fisheries, and forest management due to tenure insecurity can greatly impede development goals. In Ethiopia, the nation's tenure regime changed radically in 1975 as the government nationalized all rural land with the intent to distribute land rights more equitably. Unfortunately, continued changes in tenure laws, a growing rural population, and insufficient land to meet demands, have led to markedly insecure land tenure for many. This has undermined investment in agriculture, worked against food security, and contributed to land degradation (Kebede 2002:138-140).

FIGURE 3.1 THE IMPORTANCE OF COMMUNITY-OWNED FORESTS



Communities own or manage a significant percentage of the world's forests, some 22 percent in developing countries. However, the fraction of forest under community management varies widely by country. In Mexico, over 80 percent of commercially harvested forests are controlled by the people who live in and around them.

Source: White and Martin 2002; Antinori et al. 2004

The Importance of Communal Tenure

Property rights can be held by private entities or by the state, and by an individual or a group. Property rights experts generally identify four basic kinds of tenure or ownership (FAO 2002:8):

- *Private*, or owned by an individual, corporation, or institution;
- *Communal*, or owned in common by a defined group of individuals, such as a village, tribe, or commune;
- *State*, or owned by the government;
- *Open access*, or owned by no one.

The term “communal” has been used to cover a plethora of ownership situations, ranging from resources that can be used by virtually anyone (more accurately described as open-access) to resources that are used simultaneously or serially by multiple users, such as land on which all community members have grazing rights or traditional fishing grounds where they can fish. It also applies to tenure arrangements in which ownership is vested in the community, which in turn allocates land or other resources among households for cultivation, resource extraction, and other uses. Communal tenure systems thus may encompass strong household and individual rights to use a particular resource or parcel of land, often passed down by inheritance through a family. In fact, holding exclusive use-rights in a traditional, community-based tenure system can be as secure as private, individually titled property rights in Western countries (Rukuni 1999:4). (See Figure 3.1.)

Property rights regimes involving significant communal control over land or resource use have been the prevailing land



tenure arrangements in Africa and Asia for centuries. More recently, however, European colonial powers introduced the western concept of private, individual property. In colonial Africa, both the British and the French created enclaves of individually owned property in urban areas as well as white settler farms, but only cautiously expanded the concept of individually titled property to selected Africans (Bruce 2000:17). Among West African countries, individualized tenure often appeared in tandem with the introduction of cash crops for export (Elbow et al. 1998:5).

Contrary to the belief of some Western observers, communally owned resources (which are a form of common pool resources) are not inevitably subject to overuse and destruction—the so-called “tragedy of the commons” popularized by Garrett Hardin in his scholarly article in 1968 (Hardin 1968). Hardin’s thesis—that natural resources held in common will inevitably be overused—more accurately pertains to open-access resources rather than to communally owned and managed resources. With open-access resources, such as ocean fisheries in international waters or state forests where the government presence is weak or absent, all potential users have equal access to the resource and none can be excluded. In contrast, in well-functioning communal tenure situations, the community itself is able to exclude outsiders from using the resource and to enforce norms of

behavior—such as fishing or grazing limits—for its own members’ resource use (Ostrom et al. 1999:278).

Recent research has shown that community-based tenure systems can be quite compatible with sustainable resource use under the right conditions. For instance, a study of two Guatemalan communities, Las Cebollas and Moran, found that when community members perceive a resource as both necessary and scarce, they invest in efforts to protect it from overuse (Jensen 2000:641). In Jordan, herder cooperatives with management rights on their traditional pastures are achieving higher range productivity than state-managed reserves, without requiring expensive fencing and guarding (Ngaido and McCarthy 2004:1).

The Duality of Emerging Tenure Systems

In practice, property rights in many developing countries reflect a diversity of tenure regimes. Customary regimes based on local traditions, institutions, and power structures such as chiefdoms and family lineages may exist alongside the formal legal tenure system sanctioned by the state. Customary tenure systems have evolved and adapted over time to meet the needs of community members, and they continue to do so in response to modern-day pressures (Elbow et al. 1998:10). This includes the introduction of more individualized property rights arrangements in traditional communal arrangements.

DESIGN PRINCIPLES FOR SUCCESSFUL COMMUNAL MANAGEMENT OF NATURAL RESOURCES

Why are some groups that use common pool resources able to prevent the “tragedy of the commons” while others are not? By examining thousands of case studies, researchers have identified the following conditions as crucial for successful community management of shared resources.

1. There is a clear definition of who has the right to use the resource and who does not, and clearly defined boundaries of the resource.
2. Users feel that their obligations for managing and maintaining the resource are fair in light of the benefits received.
3. Rules governing when and how the resource is used are adapted to local conditions.
4. Most individuals affected by the rules can participate in setting or changing them.
5. Use of the resource and compliance with rules is actively monitored by the users themselves or by parties accountable to the users.
6. People violating the rules are disciplined by the users or by parties accountable to them, with penalties imposed in accordance with the seriousness and context of the offense.
7. Local institutions are available to resolve conflicts quickly and at low cost.
8. Government authorities recognize users' rights to devise their own management institutions and plans.

Adapted from Ostrom 1990:90

A rural community's customary tenure system is often composed of several different kinds of tenure, each of which defines different rights and responsibilities for the use of diverse resources. Clear individual or household rights are generally allocated for more or less exclusive use of arable and residential land, while group rights may prevail for use of pastures, forests, mountain areas, waterways, and sacred areas (Rukuni 1999:2).

But customary tenure systems today do not exist independently. They inevitably live in relationship—often uneasily—with modern state-sanctioned tenure systems. The upshot is that in many parts of the developing world, land tenure systems exhibit a dual nature—that is, property rights that are partly individualized and formalized in legal statutes, and partly community-based and grounded in customary practices (Elbow et al. 1998:16).

For example, in many African countries—including the Republic of the Congo, Cote d'Ivoire, Ghana, Mali, and Togo—land markets based on individualized tenure have developed in response to a perceived commercial potential. For instance, in Cote d'Ivoire, immigrants to forest areas “buy” land from the local population in order to produce cash crops (Elbow et al. 1998:10).

Tenure systems are also evolving because of changing patterns in herding versus sedentary agriculture. In parts of Burkina Faso, Mali, Mauritania, and Niger, tenure systems traditionally have been based on overlapping rights to use land. For

example, herders might leave their animals on croplands during the dry season, effectively exchanging the soil nutrients in animal manure for the right to graze their animals on crop stubble, while sedentary farmers might grow crops on pasture land during the rainy season. Increasingly, however, cultivators are expanding into herding, and herders into sedentary agriculture. This has led to a breakdown in traditional tenure arrangements, growing tensions between competing groups, and an apparent shift from overlapping rights to exclusive rights over particular land parcels (Elbow et al. 1998:10).

The state frequently adds to these conflicts through changes in national land policies that weaken customary or community-based tenure practices. In Niger, tenure reforms in the 1960s and 1970s abolished the system of “tithes” payments that tenant farmers paid to local chiefs under customary tenure practice and asserted state ownership over all lands. The intent was to give greater land rights to tenant farmers. However, later reforms in the 1980s reasserted the right of traditional chiefs to control land use by allocating pasture and agricultural land. The confusion brought on by these land policies has created conflicts between farmers, pastoralists, and customary chiefs and landowners, and has weakened tenure security for all parties (Bruce et al. 1995:19-21.)

The dual nature of land tenure arrangements persists whether national policies explicitly recognize customary tenure systems, ignore them, or actively work to dismantle them. Attempts to completely overturn customary tenure systems and replace them with formalized systems of purely individual property rights have rarely been effective, prompting a shift in approach from replacement to adaptation (Bruce 1998b:81). For instance, in the case of forest land claimed by the state, the state may grant individuals from a community the right to collect medicinal plants or fallen branches for firewood, and local groups might have the right to plant trees, but the state might reserve the right to approve any felling of trees and to collect revenue from timber users (Meinzen-Dick et al. 2004:7). Joint forest management agreements between communities and state governments in India often follow this pattern, recognizing in law certain community use-rights but retaining for the state many of the other prerogatives of property ownership, including ultimate title.

The balance between the two components of dual tenure systems is dynamic and ever-shifting. In general, however, customary systems operate as the *de facto* allocators of land and natural resources in rural areas, with the rules of such allocation increasingly subject to modification by national policies and institutions and in response to changing economic conditions (Elbow et al. 1998:16-17).

Grassroots Pressure for Effective, Equitable Tenure Reform

Today there is mounting pressure for government tenure reform, a mark of the centrality and dynamism of the rural tenure issue. In part, rural populations themselves are responsible for this pressure, as land sits idle and grossly unequal land holdings

coexist uneasily with landlessness, poverty, and the hovering specter of hunger in many parts of the developing world.

Additional impetus comes from research showing that unequal access to land and other productive assets is a defining feature of persistent poverty (Riddell 2000). Peruvian economist Hernando de Soto argues that the lack of a well-defined system for recording, transferring, and enforcing the property rights of the poor is a major source of continued poverty, since it does not allow the poor to make use of their assets for collateral and credit, thus barring them from productive investments (de Soto 2000).

These and other findings have contributed to a growing consensus that establishing secure property rights and making rural land markets work for poor farmers and rural producers is one of the keys to effective poverty reduction. In fact, de Soto goes so far as to predict that the countries that achieve substantial economic progress over the next two decades will be those that have developed strong property rights institutions (Riddell 2000).

Against this backdrop, tenure reform has emerged as an essential component of a broader sociopolitical transition to greater democracy and decentralization in developing countries. Governments are starting to recognize that customary, community-based tenure systems are legal in their own right. They are beginning to put these systems on an equal legal footing with Western, individualized property rights (Alden Wily et al. 2000). Tenure reform movements are active in all regions of the developing world, including Sub-Saharan Africa, Asia, Latin America, and Central and Eastern Europe, with dozens of countries initiating major tenure-reform efforts in the

past decade. For example, Thailand has recently completed a major initiative to provide the country's rural population with access to modern land registration, deeds, and credit institutions (Riddell 2000). Mexico has undertaken reforms to strengthen land and credit markets and improve the access to land among poorer households (Carter 2003:52).

Whether tenure reforms positively or adversely affect the poor depends on who designs and ultimately implements them. The extent to which the interests of the poor are represented and promoted by national and local institutions—both critical players in enforcing tenure rights—is key to ensuring that tenure reforms do in fact assist the poor.

Decentralization: Can It Help the Poor?

Across diverse economic and policy sectors, from health care and education to parks and wildlife management, decentralization is one of the most frequently pursued institutional reforms in developing countries today.

Decentralization is a process by which a central government transfers some of its powers or functions to a lower level of government or to a local leader or institution. In the natural-resource sector, an example of decentralization might be transferring from central to local government the responsibility for managing a tract of forest land, including the right to collect some of the income from sales of timber harvests in that forest. Or the central government might give a farmers group responsibility for managing an irrigation system, or grant a village

TABLE 3.1 DECENTRALIZATION: WILL IT HELP THE POOR?

Pros	Cons
Promotes democracy because it provides better opportunities for local residents to participate in decision-making.	Undermines democracy by empowering local elites, beyond the reach or concern of central government.
Increases efficiency in delivery of public services; delegation of responsibility avoids bottlenecks and bureaucracy.	Worsens delivery of service in the absence of effective controls and oversight.
Provides a chance for poor households to participate in local institutions and have their concerns recognized.	Local institutions mirror the anti-poor biases present at the state level.
Leads to higher quality of public services because of local accountability and sensitivity to local needs.	Quality of services deteriorates due to lack of local capacity and insufficient resources.
Enhances social and economic development, which rely on local knowledge.	Gains arising from participation by local people offset by increased corruption and inequalities among regions.
Increases transparency, accountability, and the response-capacity of government institutions.	Promises too much and overloads capacity of local governments.
Allows greater political representation for diverse political, ethnic, religious, and economic groups in decision-making.	Creates new tensions or ignites dormant ethnic and religious rivalries.
Increases political stability and national unity by allowing citizens to better control public programs at the local level.	Weakens states because it can increase regional inequalities, lead to separatism, or undermine national financial governance.

Source: Adapted from ICHRP 2005

council the right to manage wildlife and run a commercial tourism operation in a national park (WRI et al. 2003:97).

Decentralization is being driven by powerful economic, political, and technological forces. International development agencies such as the World Bank have placed decentralization in a prominent position on their agendas, and nongovernmental organizations (NGOs) and governments alike have promoted the concept, although often for different reasons. Advocates of decentralization cite the potential for greater efficiency, equity, and accountability when decision-making is brought “closer to the people” (Ribot 2004:7; WRI et al. 2003:92-97). In theory, devolving power from central government means empowering local institutions that can better discern how to manage resources and deliver services to meet the needs of local people. Modern communication options like the Internet, television, and mobile phones help make local people and organizations more aware of their rights, more able to communicate and organize, and therefore more capable of asserting their rights.

But are central governments really so eager to give up some of the powers they have traditionally wielded? In the 1980s and early 1990s, decentralization emerged as a priority in an era of economic and budget crises. Shifting responsibility for health care, education, parks, and other planning and service functions to local governments offered opportunities to reduce central government budget deficits. Central governments are all too willing to pass on to local and community institutions the responsibility for managing resources and delivering services without providing them with necessary financial or technical support. They tend to be much more reluctant, however, to give up their powers to collect and allocate user fees, fines, or other revenues (WRI et al. 2003:98).

Areas with rich natural resource endowments tend to be geographically isolated and far from centers of political power where the most momentous development decisions are made. Furthermore, central governments are often run by and for elites, and people from poor rural communities or ethnic minority groups seldom occupy senior positions in the decision-making levels of bureaucracies (Sibanda 2000:3). (See Table 3.1.)

Not All Decentralization Is Created Equal

Some decentralization advocates—governments, donors, and NGOs—view the poor as particular beneficiaries of decentralization. They envision reforms that make policies more useful to the poor, and processes that encourage the involvement of the most socially disenfranchised people in natural resource decision-making—those people who have the greatest stake in the outcome of management decisions (Asante and Ayee 2004:3-6, 21-22). These advocates point out that effectively implementing poverty reduction strategies often requires specific local knowledge that is best found in local institutions, and that strengthening local delivery capacity for services requires genuine devolution of authority to these institutions (Asante and Ayee 2004:5).

Some countries have responded positively to these arguments. Bolivia, for example, made decentralization across



several sectors part of a package of anti-poverty reforms in the 1990s (Pacheco 2004:85, 90). Most West African countries have also declared local development a prime goal of their decentralization efforts (Ribot 2002:8).

Despite its theoretical potential, the record of decentralization has been decidedly mixed. This is true both in general and with respect to poverty reduction. In some instances, efforts to decentralize management of forests, land, water, and fisheries have shown positive outcomes: rural citizens conserving their natural resources; local councils that are increasing revenues from resource use; the poor more involved in local governance institutions and reaping more monetary benefits from local resources; and local governments providing better basic services. One of the longest-standing cases of decentralized environmental management with evident benefits to livelihoods is in Kumaon, India. Since the 1930s, elected forest councils, called van panchayats, have had the right to manage forest use, raising revenue from the sale of fodder and dead trees and enforcing regulations on forest use (Ribot 2004:22).

Similarly, some wildlife co-management schemes in Africa have yielded improved local infrastructure such as roads and schools, while community forest management in Mexico that has come about through decentralization has enabled communities to build water networks, schools, and clinics



(Shyamsundar et al. 2004:9). In Ghana, devolution of power to district assemblies has improved provision of basic services and infrastructure in rural areas through construction of more feeder roads, clinics, public toilets, classrooms, and the like (Asante and Ayee 2004:8).

Yet in most decentralization efforts to date, the intended benefits for local democracy and for the poor remain largely unrealized, due to flawed implementation of the reforms. The choice of which institutions to empower with new management or decision-making responsibilities, and the ways in which those institutions are held accountable to the people, have profound implications for the effectiveness of decentralization—and whether the benefits reach the poor (Ribot 2004:25).

How Decentralization Can Harm the Poor

Governance reforms that are truly empowering for the poor, responsive to their needs, and effective in reducing poverty are rare (Crook and Sverrisson 2001:iii). In a 2001 analysis of decentralization cases from about a dozen locations in Asia, Africa, and Latin America, only Brazil, Colombia, and the Indian states of West Bengal and Karnataka showed good results in terms of increasing policy responsiveness to the poor, or reducing poverty and inequality (Crook and Sverrisson 2001:14-15).

Most reforms in the name of decentralization come up short in two areas that are critical to bringing about benefits to

local populations and the poor: they don't create *accountable, representative local institutions*, nor do they *transfer meaningful powers* to them (Ribot 2004:15). Such incomplete or partial decentralization undermines the potential benefits of governance reforms, particularly for the poor.

Decentralization without Accountability

Often, powers over natural resources are handed over to a person or body not elected by the people, and thus not wholly accountable to them, such as a traditional chief, or to a civil-society organization such as a women's association, or to a "user group" such as a forestry cooperative, or a pastoralists' group. Such groups may help broaden grassroots participation in local decisions, but they speak for only a segment of the citizenry. For example, Cameroon's community forest law devolves power to local forest-management committees. While the law requires these groups to consult "representatives" of all segments of the community, it is unclear by whom these representatives are chosen, and the results of the consultation are not binding in forest management plans (Ribot 2004:35). Similarly, in Uganda, the wildlife authority created a committee of beekeepers, but its mandate was so narrow that only interested parties participated—and these beekeepers then excluded other forest users from the committee's deliberations (Namara and Nsabagsani 2003 in Ribot 2004:37).

Retention of Central Government Control

Another common implementation flaw is to empower a district office of the government or a local representative of the central government. Such an office or official is accountable only to central government authorities, not to the people in the town or municipality. Central governments frequently choose to transfer power to a local branch of the bureaucracy, rather than a locally elected body, as a means of maintaining central control over natural resources (Larson and Ribot 2004:6). In China, the central government devolved management of community forests in name, but in practice has shifted greater power to the provincial level, and has implemented national-level policies that override and often contradict local policies (He 2005).

Lack of Power to Generate Revenue

Even where local democratic institutions or bodies are charged with natural resource management, they are commonly entrusted with duties that are circumscribed in scope, and rarely with the power to generate revenue by setting fees or levying fines. The central government often retains the most lucrative powers—such as the right to assess wildlife hunting fees or allocate revenue from a logging or mining concessions—while granting rural communities or governments the less valuable rights to subsistence-scale harvesting, such as the collection of firewood or bamboo.

Elite Dominance of Elections, Participation, and Decisions

All too often, the fundamental differences in power between rich and poor warp the decentralization process, allowing members of elite, wealthier, more empowered groups to shape decentralization to their own ends and derive most of its benefits (Ribot 2004:41). Decentralization then becomes largely a transfer of power from national to local elites. In Indonesia, for example, many of the benefits of rural timber extraction during the Suharto era accrued to powerful business interests in Jakarta, the capital, and illegal logging was widespread. In the decentralization that followed the fall of the Suharto regime in 1998, a realignment of influence occurred, with district governments taking more control over managing timber extraction. Now the influence of local elites and business interests predominates. Rather than cracking down on illegal logging, this has tended to perpetuate the cycle, often with similar inequities and environmental damage (McCarthy 2002:879, 881-82; Djogo and Syaf 2003:9-13, 20-22).

Elites can also slant the electoral process, giving them the upper hand in local governance, and, accordingly, in the decisions made about natural resources by those institutions. Fair and competitive elections are a key means to make policies more responsive to the poor, and create a local government that is accountable to local people (Crook and Sverrisson 2001:50). But elites often have a disproportionate influence on which candidates will run for election—candidates that may then be beholden to their interests. Indeed, party politics are often dominated by local elites.

Parties, in turn, often run slates of party candidates, putting independent candidates at a disadvantage. When officials are elected from party slates rather than independently, research suggests that these officials have less accountability, in particular to the poorest citizens (Ribot 2004:27). In contrast, when independent candidates are given a fair shake, elections are more competitive, and the interests of the poor may be better served. Unfortunately, independent candidates are often barred from local elections. In a 2001 assessment of decentralization in 14 countries, only five (India, Mali, Mexico, Uganda, and Zimbabwe) permitted independent candidates in local elections (Ribot 2004:27).

Senegal shows the shortcomings, especially for poor populations, of electoral systems that do not admit independent candidates. In 1998 a new decentralized forestry law granted rural communities and their councils various rights over forests, including the right to authorize or deny commercial production of charcoal by the forest service and wealthy urban merchants—a forest use rural communities had long opposed. Yet years after the forestry law was enacted, the forest service continued charcoal production. Surprisingly, the forest service's charcoal extraction had the approval of rural council presidents, despite the fact that almost everyone in the communities in the region opposed it. Elected from a party slate, these council presidents were beholden to the party, rather than the local popular will (Ribot 2004:27-29).

Inadequate Participation by the Poor in Decentralized Bodies

Even when decisions and policy-making are devolved to a body made up of independently elected local people, there are inherent biases against equal participation by the poor. Because of their greater confidence, literacy, or other advantages, the better-off members of a community tend to assume positions of leadership in committees and councils. A study in West Bengal, India, showed that *panchayat* (village council) members from lower castes or tribes rarely spoke in meetings and, if they did, they tended to be ignored (Westergaard 1986 in Crook and Sverrisson 2001:16).

Moreover, the poorest members of the community are less able to shoulder the costs of participating in decentralized natural resource management, including membership fees, time spent in meetings or monitoring forests for poachers, and providing labor for maintenance of infrastructure such as irrigation systems (Shyamsundar et al. 2004:10). In addition, the earliest participants in projects often have more voice and opportunity to shape outcomes; the poor, joining in later stages, if at all, are less able to garner benefits (Ribot 2004:39).

Shortcomings of “User Committees”

Decentralized natural resource management often fosters the creation of user committees or user groups, which have proliferated in developing countries since the 1990s (Shyamsundar et al. 2004:5). Intended to give ordinary people a voice in local

BOX 3.2 HOW COMMUNITY-BASED RESOURCE MANAGEMENT CAN BENEFIT THE POOR

COMMUNITY-BASED NATURAL RESOURCE MANAGEMENT (CBNRM) is one of the most important manifestations of true decentralization as it relates to control of rural resources. CBNRM programs, if successful, can be models of local empowerment, imbuing communities with greater authority over the use of natural resources. Under the right circumstances, they can also bring important benefits to poor people and poor communities.

Improved Livelihoods

In many countries, community-based management of forests and other natural resources has improved livelihoods for the poor. The benefits of CBNRM can range from job creation to substantial management rights and long-term revenue-generation. For instance, in Nepal, community management of forests has created new jobs, including nursery staff and forest watchers, as well as wage labor for tree planting and weeding (Malla 2000:41). Community forestry concessions along the borders of the Mayan Biosphere reserve in Guatemala have generated more than 100,000 days of labor per year (Cortave 2004:26).

Where high-value resources such as timber are involved, CBNRM can generate significant revenues. A large forestry project in the Indian state of Madhya Pradesh earns an estimated \$125 million per year for the communities involved, through sales of sustainably harvested timber and non-timber forest products (Shilling and Osha 2003:13).

Improved Resource Condition

A crucial element of community-based management is its potential to improve the condition of the resources being managed. The Krui people of southwestern Sumatra have practiced a complex form of agroforestry for generations, planting a succession of crops that culminate in a full forest canopy. Their agroforests support about ten times more biodiversity than conventional palm plantations in the area, and have economic uses ranging from resin tapping to timber sales (ASB 2001:1-2).

In northeastern India, the Khasi School of Medicine and others are working to re-establish traditional laws and practices of forest management to safeguard sacred groves of medicinal plants, which had been depleted under centralized management of the resource since the 1950s (Varshney 2003:46). In 1996 the Guatemalan government began awarding forest management concessions to settler communities living on the borders of the two million-hectare Mayan biosphere reserve in the lowland Petén region. Satellite imagery indicates that the 388,000 hectares under community management show better forest cover than adjacent areas (Molnar et al. 2004:19).

Development of Village Infrastructure

In some communities, a portion of the revenues from community-based enterprises has been directed to investments in key infrastructure needs, such as the construction of schools and libraries, development of drinking water and irrigation systems, and extension of electricity service (Malla 2000:42). Community management of land and water use in Gandhigram, Gujarat, has increased both the area and yield of lands under cultivation, despite three successive years of drought. The increase in income has gone toward village improvements, including fencing to keep out wild animals, construction and maintenance of irrigation structures, tractor and equipment purchases, and to pay down village debt (Down to Earth 2002). In another example, the mountain village of Lazoor, Iran, was one of a number of villages granted substantial control over their land and water resources by the Iranian government in 1999. With technical support from outside experts, the community built an extensive irrigation and erosion-control infrastructure, increasing productivity and opening new lands to cultivation (WRI et al. 2003:183-184).

Representation in Decision-Making Roles

CBNRM is most successful at benefiting the poorest members of the community when it empowers them to play a full decision-making role in resource management. One example of a community-based enterprise featuring equitable participation comes from the village of Deulgaon in Maharashtra State in India, where the community's forest-management committee includes representation by one male and one female member from each household, and all decisions regarding forest use are made by the general membership at its monthly meeting, rather than by an executive committee (Ghate 2003:9). CBNRM in Tanzania has sometimes spurred significant social change within the community itself, such that villagers gradually become less deferential to existing leaders and eventually may replace underperforming managers who serve their own self-interest rather than the interests of the community as a whole (Alden Wily et al. 2000:44).

In Lazoor, Iran—mentioned above—the land management program gave women a direct voice in priority-setting, with a positive impact on their confidence and role in broader village decision-making (WRI et al. 2003:184-185). In the Mapelane Reserve on the northeast coast of South Africa, a partnership between the local Sokhulu people and the government Parks Board resulted in the regeneration of mussel beds that had been a source of bitter conflict. The co-management scheme that emerged altered the community's role from illegal harvesters to resource managers. The Joint Mussel Management Committee, consisting of elected community members, park representatives,

and university researchers, established management rules only after an extended process of experimentation and consultation with Sokhulu harvesters (WRI et al. 2003:176-179).

Reason for Caution

CBNRM can suffer from the same flaws that threaten all forms of decentralized management. Devolving decision-making power to the local level does not guarantee the poor a role in the process. An examination of Bolivia's effort to decentralize forest management found that the process did create new opportunities for marginalized groups to gain control of local resources and capture more of the economic benefits. However, only the better-organized groups have thus far been able to capitalize on the process; elsewhere, decentralization has simply strengthened the local elites (Kaimowitz et al. 1999:13-14).

Forest-user communities are often socially and politically diverse, with a range of different income levels represented (Malleon 2001:18). Unless these distinctions are taken into account, CBNRM will often end up favoring the more powerful. When the government of Laos introduced its land and forest allocation Policy in the early 1990s, it meant to foster local control over some of the country's agriculture and forest lands. However, the policy resulted in wealthier farmers reinforcing their rights to the best land, while small farmers and landless households found

their access to both agricultural land and forest resources greatly reduced (Fujita and Phanvilay 2004:12).

Gaps in access to information about resource rights can also cause community forestry programs to work against the people they should support. In a blatant manipulation of the system in Cameroon, local elites in one region used community forestry laws to gain management rights over forests in another region, taking advantage of communities that were not yet aware of how to use the forestry law to protect their rights (Smith 2005:14). Studies from Nepal, one of the first countries to make a serious attempt to devolve forest management, show that lack of access to information and elite capture of forest-user groups have cut many of the poor out of benefits from community forestry (Neupane 2003:55-56, 58).

Finally, high transaction costs and complicated application and management requirements can deter communities from participating in CBNRM, or make it financially unsustainable for them to do so. In Cameroon, the application procedure to gain legal recognition of a community forest is lengthy and centralized. The costs for communities are significant—even more so because management rights are granted for only a ten-year period. Due in large part to these difficulties, only seven official community forests were established from 1995 to 2001 (Alden Wily 2002:18).



resource management, user committees do draw citizens into the policy process and give them significant influence over some programs. However, these committees aren't usually democratically elected, and they don't always benefit the poorest members of society. They also tend to have a short life-span, which disadvantages poorer members of the community who need more time to develop the skills, confidence, and organizational capacities to participate on an equal footing. The only situations in which poor people are consistently able to wield influence in user committees is when the groups consist largely or entirely of poor people—for example, gatherers of non-timber forest products for subsistence use (Manor 2004:188 in Ribot and Larson 2004).

Project Bias Toward Wealthier Villages and Participants

Government agencies, donors, and nonprofit groups engaged in decentralization of natural resources management often have incentives to avoid poorer constituents and invest in wealthier groups or villages with better skills or higher-quality lands needed to make projects succeed. For example, managers of a state-funded watershed development program in the Indian state of Madhya Pradesh tended to work with more prosperous farmers in the valleys, where projects were more likely to gener-

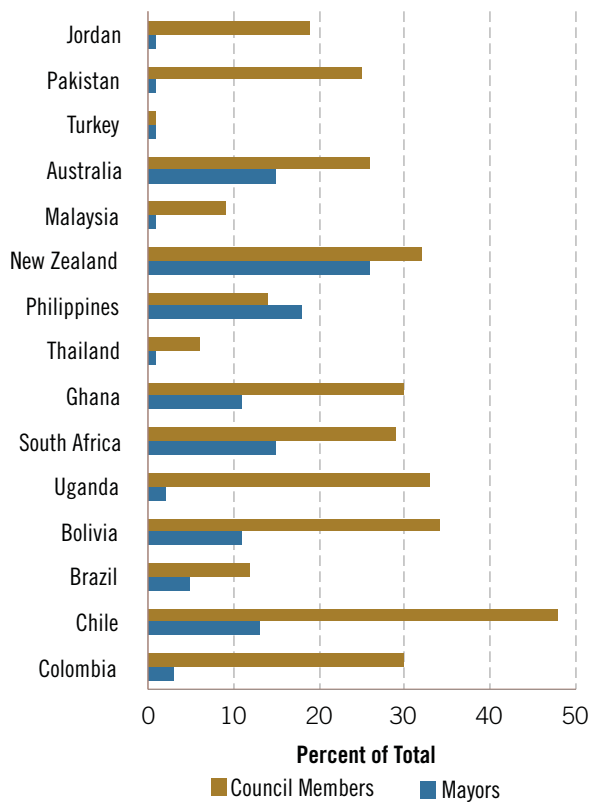
ate dramatic results, rather than engaging with poorer hill farmers (Baviskar 2004:30-31 in Ribot and Larson 2004). Similarly, selection for anti-poverty employment programs in the Indian state of Karnataka was based on information provided by village leaders—who tended to be wealthier than other participants—resulting in the inclusion of many better-off families (Sivanna 1990:200 in Crook and Sverrisson 2001:20).

Gender Inequalities in Decision-Making

Women are typically among the poorest and most disadvantaged groups in developing countries. It is no surprise that they tend to be under-represented in positions of authority in local governments, village committees, and other decentralized decision-making bodies to which powers over natural resources are increasingly being devolved. Husbands often do not like their wives to attend group activities, and traditional working patterns and government structures tend to favor men's dominance in public decision-making. For example, in state-approved village forest management groups in India and Nepal, women are likely to be relegated to a peripheral role (Shyamsundar et al. 2004:92-93).

In Bangladesh, an analysis of local elected governance bodies, known as Union Parishads, found that women tend to head committees related to community welfare with little



FIGURE 3.2 LOCAL GOVERNMENT OFFICES OCCUPIED BY WOMEN

Source: United Cities and Local Governments 2005

influence over disbursement of resources, while men typically ran and served on committees clearly related to resource allocation, like finance, agriculture, fisheries, livestock, and infrastructure (Mukhopadhyay 2003:59). Women also have a much smaller chance of becoming elected officials in local government. A study of over 15,000 municipalities in 42 countries found that only 8 percent of all local mayors are women (UCLG 2003). (See Figure 3.2.)

When women are absent from decision-making, issues that affect them are more likely to be overlooked. The inequity of this situation is all the more glaring in light of the fact that women are often charged with responsibility for collecting and using natural resources such as water, fuelwood, and other resources for the family's benefit.

New Demands on the Poor

Decentralization that transfers responsibility for managing services and projects to local institutions and communities without providing the financial resources needed to do so can end up creating extra burdens for the poor. For example, in Mongolia, local governments were given new responsibilities for winter preparedness and the cold-weather provisioning of livestock herds, but no new financial resources to meet this

responsibility. The result was massive livestock mortality during the brutal winters of 1999-2002, and loss of one-fifth of the nation's herd (Mearns 2004:137). In other cases, newly empowered local governments may enact new revenue-raising measures that hurt the poor. In Malawi, local governments with new decentralized responsibilities have established village-level enterprise taxes that could stifle fledgling efforts of the rural poor to build their assets and diversify their incomes by starting small businesses (Ellis et al. 2003:1507-1508).

Loss of Access to Natural Resources

Privatization—the transfer of public resources such as forests to private individuals and corporations—is often done in the name of decentralization. This transfer of management authority excludes the public from participation in decisions about the resource and often means the direct physical exclusion of people from the land or water as well, with the poor generally suffering most from such loss of access (Ribot 2004:52).

Devolving power over local resources to communities or groups within those communities can also bring problems of exclusion. For example, a community granted the power to manage a tract of public forest might decide to contract with a logging company in one area of the forest to raise revenue. In the process, it may limit local people's collection of non-timber forest products in that section of the forest. This can impose immediate costs on poor households who depend on fuelwood and other subsistence products gleaned from the forest (Shyamsundar et al. 2004:10, 95).

Making Decentralization Work for the Poor

Decentralization can be structured in ways that make it more effective and beneficial for the poor.

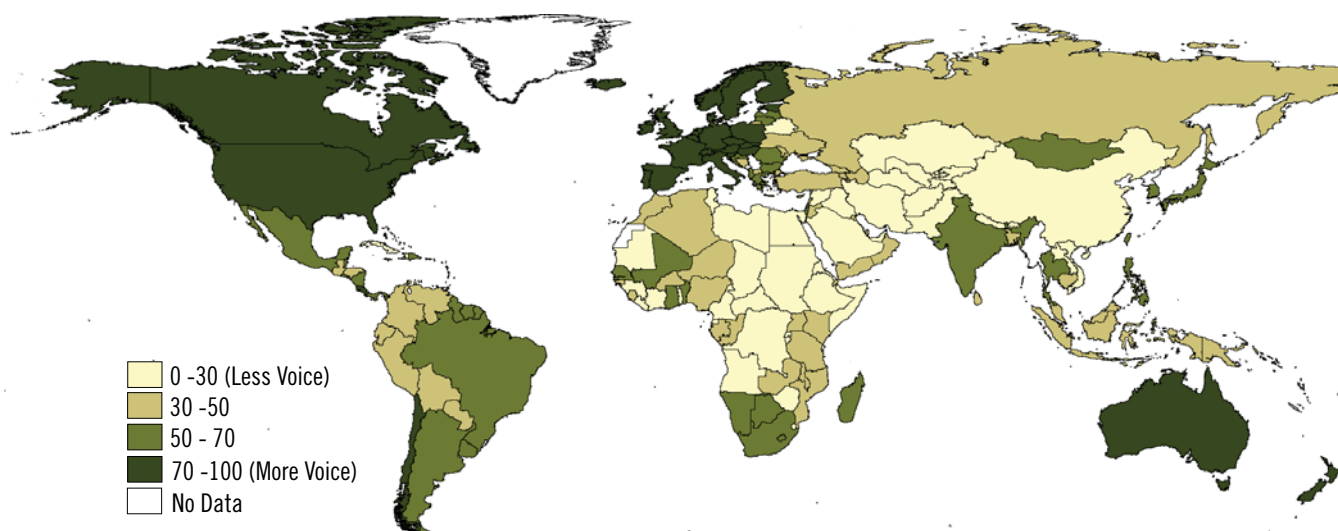
Ensuring Democratic Accountability

The best way to ensure that decision-makers are accountable to local people and decision-making reflects the interests of local people is to vest powers in elected authorities who are chosen through competitive local elections (Crook and Sverrisson 2001:50). While it is often difficult to rein in the political forces that stifle open elections, the benefits can be substantial. For example, competitive local elections in West Bengal, India helped make policy more responsive to the poor, and in Colombia, competitively elected mayors—challengers to the dominant party politics—brought about better education, roads, and water supply (Crook and Sverrisson 2001:15-16, 42).

Special Measures Promoting the Interests of the Poor

A central government can increase the chances of pro-poor decentralization by making an explicit commitment to promote the interests of the poor at the local level and to ensure that marginal groups get a voice in public decisions (Ribot 2004:41). Elected local governments tend to have a poor record of serving the interests of women, the poor, and other marginal-

FIGURE 3.3: VOICE AND ACCOUNTABILITY, 2004



The voice and accountability scores assigned here are based on indicators of political and civil liberties extended to a country's citizens, as well as the independence of the media, which plays an important role in monitoring governance performance. These scores reflect the extent to which citizens are able to participate in the political and decision-making processes, give voice to their concerns, and hold their government representatives accountable.

Source: Kaufmann et al. 2005

ized populations unless required to do so by the central government (Crook and Sverrisson 2001 in Ribot and Larson 2004: 6). Special measures are needed to ensure that decentralization benefits the poorest people and most vulnerable groups—women, indigenous people, the landless, migrants, and minority castes. In 1978, for example, the government of West Bengal specifically sought to increase the power of poor and landless peasants by devolving implementation of government programs to the village councils, and mobilizing poor peasants to participate. As a result, 44 percent of those on village councils in Birbhum District are now small farm owners, sharecroppers, or agricultural laborers, and the benefits of government development programs are increasingly going to the poorer members of the community (Crook and Sverrisson 2001:15-16). Kerala State's approach in 1996 was to give 35-40 percent of the state budget to local governance bodies for development planning, with detailed guidelines to make planning processes both participatory and equitable (Mukhopadhyay 2003:56).

Compensating the Poor for Short-Term Costs

Local institutions can find ways to compensate the poor for any rights they lose when a new management scheme restricts their access to a forest or other resource. For example, the community of San Antonio, Mexico, asked residents to forego cutting pine trees for use as roofing shingles so that they could be harvested as lumber. In return, the local logging business supplied free tin roofing materials and lumber to residents (Shyamsundar et al. 2004:96).

Community-Based Natural Resource Management

One specific approach to pro-poor decentralization of environmental resources is community-based natural resource management (CBNRM). Central governments in many parts of the developing world have begun to shift toward CBNRM in recognition of the limitations of centralized management and in response to the legitimate claims of indigenous groups and local communities to a share in the benefits of local resources. Worldwide, some 380 million hectares of forest land are now owned by or reserved for local communities—over half having been legally transferred to local control within the last 15 years (White and Martin 2002:11). This transformation in forest ownership and management began in Latin America in the late 1970s, moved through Africa in the late 1990s, and spread more recently to Asia. (See Box 3.2.)

The Rights to Information, Participation, and Justice: The Importance of a Voice

The democratic rights of the poor and their capacity to participate in environmental decisions affecting their livelihoods are central to their ability to escape poverty. Yet despite their greater reliance on natural resources to earn their livelihoods, the poor have less say than their richer counterparts in how environmental decisions are made.

In much of the developing world the policies, practices, and institutions of political life serve to exclude a majority of citizens

from full participation in public decision-making—especially the poor and socially marginalized. This is true even in many nations that are nominally democratic. Democratic governance is more than merely casting a ballot in periodic elections. It means having opportunities beyond the ballot box to make one’s voice heard, including participation in public hearings, review of official documents, and involvement in official processes, such as the preparation of environmental impact assessments. Full democratic engagement also means having opportunities not just to consult on projects already slated for implementation but also to play a role in shaping the design of public policies, in agenda-setting and establishing priorities for public policy, and in monitoring ongoing projects to ensure that they produce the benefits originally anticipated. (See Figure 3.3.)

These principles of democratic empowerment in the arena of environmental decisions were articulated over a decade ago at the 1992 Earth Summit in Rio de Janeiro. Principle 10 of the Rio Declaration, adopted by 178 nations at the close of the Earth Summit, put forth a ground-breaking proposition: that every person should have access to information about the environment, opportunities to participate in decision-making processes affecting the environment, and access to redress and remedy—that is, access to justice—to protect their rights to information and participation and to challenge decisions that do not take their interests into account. These three rights—the rights to information, participation, and redress—are often referred to as the *Access Principles*. (See Box 3.3.)

PRINCIPLE 10 OF THE RIO DECLARATION

“Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

Adopted by 178 nations at the United Nations Conference on Environment and Development, Rio de Janeiro, June 1992

In 2002, during the World Summit on Sustainable Development, governments reaffirmed their commitment to Principle 10 and the Access Principles. At the same time, a coalition of governments, civil society organizations, and international institutions formed the Partnership for Principle 10 to help implement these principles at the national and local levels. Unfortunately, the record of most nations in conferring these basic rights is still far from perfect. A 2001 assessment of nine nations—both rich and poor—found a variety of systemic

MEASURING ACCESS TO INFORMATION, PARTICIPATION, AND JUSTICE

How well are governments upholding the commitments they made at the 1992 Rio Earth Summit to strengthen public participation in environmental decision-making? Are they making sufficient effort to include the poor? Answering these questions requires assessing a nation’s governance performance so that it can be tracked over time and compared with good practices in other nations. Since 2000, *The Access Initiative (TAI)*, a global coalition of civil-society groups, has worked to insure this basic level of government accountability. Using a shared methodology, TAI coalition members conduct national-level assessments of laws and practices regarding public access to information, participation, and justice. For complete assessment results, visit <http://www.accessinitiative.org>.

weaknesses. For example, many nations have improved their laws granting public access to government data and analysis, but implementation of these laws is weak. Information on water or air quality that average citizens can understand and use is often hard to find, and documents about the environmental effects of development projects are frequently not made available in a timely manner (Petkova et al. 2002:1-8).

Even if information is made available, the public’s ability to participate in resource-related decisions such as timber harvesting or the siting of mines is still limited. Although the process of preparing and publicly airing environmental impact assessments has greatly increased in the last two decades, the public’s involvement still tends to be in the later stages, after many major decisions have already been made. And even when public comment is invited, many people do not have the capacity or time to take advantage of the opportunity. Performance on the Access Principles is weakest when it comes to access of ordinary citizens to redress. The ability of local people to appeal decisions they don’t agree with is often constrained by obstacles of cost, lack of clarity about procedures for appeal, and also the lack of “standing” as a legally recognized party with a legitimate interest in the case (WRI et al. 2003:48-61).

These access deficits are not restricted to the poor, but the poor tend to suffer them more acutely. Indeed, most of the world’s poor are excluded from interacting fully within the political processes of their country—and environmental decisions are decidedly political in many cases. They are held back by lack of education and literacy, by deficits of information and awareness, and by a lack of understanding of their rights and how to exercise them. Even where the poor are aware of their rights, other barriers may prevent them from becoming involved. People who are barely managing to eke out a subsistence livelihood often cannot afford the luxury of devoting time and resources to participation or even information-gathering. And they may be even less able to pursue a legal challenge to decisions with which they disagree, given the expense and time burden. (See Figure 3.4.)

BOX 3.3 EMPOWERING COMMUNITIES THROUGH FREE, PRIOR, AND INFORMED CONSENT

COMMUNITY-BASED NATURAL RESOURCE MANAGEMENT offers local people the chance to participate directly in decisions about local ecosystems and to benefit economically from their efforts. But in the real world, poor communities often do not initiate the large-scale resource development projects—such as mines, oil and gas development, or major forest concessions—that account for most natural resource wealth. More often, they are bystanders or second-class participants in these negotiations, inheriting the ecosystem costs of these projects with little gain.

The practice of “free, prior, and informed consent”—or FPIC—is designed as an antidote to this state of affairs. FPIC consists of giving local people a formal role—and some form of veto power—in the consultations and ultimate decisions about local development projects. It is intended to secure the rights of indigenous peoples and local communities: their rights to self-determination, to control access to their land and natural resources, and to share in the benefits when these are utilized by others. Many experts believe that without such informed consent on large projects, a community’s land and resource rights are compromised.

In fact, without the kind of substantive participation that FPIC mandates, the tenure security of rural communities is always at the mercy of decisions made by others. It is well documented that such insecurity perpetuates poverty. In contrast, with the bargaining power that FPIC provisions bring them, communities can demand direct compensation for damages or a continuing share of the profits of resource extraction. They can even require the backers of development to invest part of the profits from these ventures to meet community needs. In this respect, FPIC is a tool for greater equity and a natural pathway to a co-management role for local communities in large development projects (Permanent Forum on Indigenous Issues 2005).

FPIC is relevant when governments make regulatory decisions—for example, allowing logging in forests traditionally occupied by indigenous peoples, or displacing riverside communities in order to construct a large hydropower dam. It can also be incorporated into infrastructure planning—from the building of roads that traverse through ancestral domains, to tourism development decisions such as providing access to sites considered sacred by tribal peoples. It is equally important in making decisions about bioprospecting for genetic resources as it is for making choices about locating major energy projects, from power plants to pipelines. To date, however, FPIC has been most relevant and critical in cases involving mining projects in countries as diverse as Australia, Canada, Peru, and the Philippines (Bass et. al. 2003:vii; Tebtebba 2002:7).

The potential poverty impact of FPIC in decisions on extractive industries such as oil, gas, and mining is particularly relevant and contentious. In order for communities to reap greater

benefits from such development, their rights to sustainable livelihoods must be protected. Rules enforcing these rights will not only promote “cleaner” extraction, but also empower local communities to take the risks and share the benefits of future development. Without FPIC, these projects may further the economic marginalization of peoples and communities that are already poor and vulnerable.

These projects often require involuntary resettlement and all the negative economic consequences such as dislocation brings. An FPIC requirement would enable affected people to negotiate more favorable relocation terms, including legally binding provisions on compensation, support for new housing, and the necessary infrastructure not only for shelter, but for livelihoods and education as well. Requiring FPIC could even allow these people and communities to negotiate fair, equitable, and enforceable terms of revenue- and other benefit- sharing. The inclusion of FPIC as a legal condition for financing, investment, or regulatory decisions could become a critical means to make poverty alleviation programs more sustainable (Goodland 2004; Kamijyo 2004).

To date, countries like the Philippines (Congress of the Philippines 1997) and Australia (Commonwealth of Australia 1976: Sections 66-78) have enacted laws requiring that FPIC be obtained by the government for projects within the ancestral domains of indigenous peoples. Internationally, the World Commission on Dams (WCD 2000:xxxiv-xxxv,98-112) and the Extractive Industries Review (World Bank Group 2003 Executive Summary: 2-3, Volume 2:29-33, 47-50; MacKay 2004) of the World Bank have recommended the adoption of FPIC in making decisions about dams and oil, gas, and mining projects. In addition, FPIC as a principle has been acknowledged in the Convention on Biological Diversity, with regard to access to and benefit-sharing of genetic resources (Perrault 2004: 22; Casas 2004:2728).

Putting the principles of free, prior, informed consent into practice remains a challenge. Important questions remain:


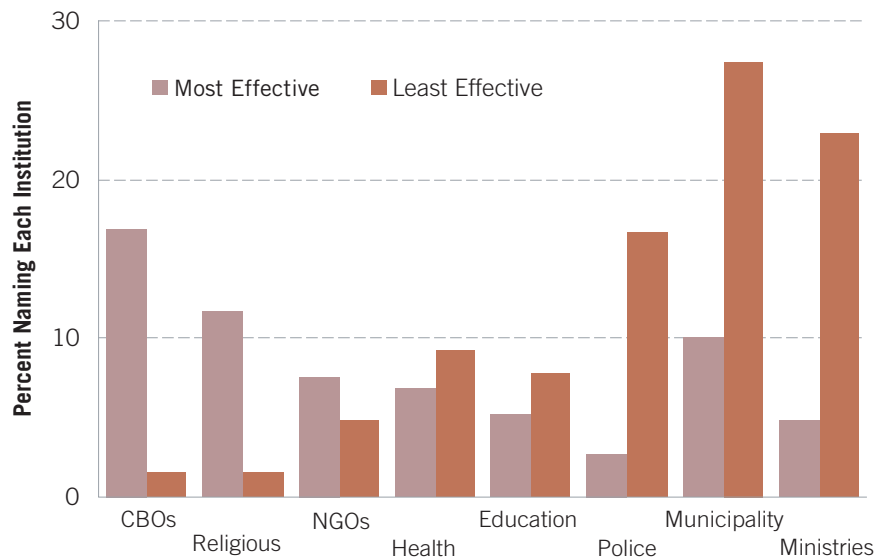
- How can we define “free” in practice? How far ahead does “prior” mean? What are the formal terms of “informed consent”?
- What is the role of customary law in FPIC? And what is the role of official processes, such as public hearings or referenda?
- In a diverse community, how is consent given and who gives the consent? Is a majority enough or is full consensus required? Is a written, legally binding agreement necessary?
- How is FPIC verified? Does the government verify it or is oversight by an independent party necessary?
- In implementing FPIC, how do we ensure a balance between the state, the general public interest, and affected community interests, particularly in the distribution of benefits? 

FIGURE 3.4 THE POOR'S PERCEPTION OF RURAL INSTITUTIONS

Poll: Name the Most Effective and Least Effective Institutions in your Community



In discussion groups held worldwide, poor people were asked to name the five institutions they considered most and least effective. The bars to the left show the most frequently named institutions. Religious and community-based organizations (CBOs) were considered the most effective. Local governments and state ministries were considered the least effective.

Source: Narayan 2002

The sections below detail some of the ways in which the poor are particularly affected by deficits in their rights to information, participation, and justice. Also discussed are some of the successful steps that have been taken to address these shortcomings.

Access to Information

Information for Livelihood Choices

The rural poor face a keen need for information directly relevant to their livelihoods—information such as market prices for their crops, alternative cropping or pest control options, the availability of government assistance or training programs, or opportunities for developing new products or markets for environmental goods, from local crafts to ecotourism. Agriculture-related information is often one of the most immediate needs, since small-scale agriculture is so important to household incomes in rural areas. Information on current crop prices, fertilizer and pesticide costs, and the availability of improved seeds and low-cost improvements in farm technology can help guide the purchases of farm inputs and equipment, or help farmers successfully obtain credit.

Without information of this type, poor families find it harder to take advantage of new opportunities for generating income and increasing their assets. Numerous organizations, from multilateral agencies to local NGOs, are trying to improve access to livelihood-related information. One such effort is the farmer field schools developed by the UN Food and Agriculture Organization (FAO) as part of an Integrated Pest Management project in Indonesia. Using a participatory learning approach aimed at incorporating local knowledge and experience, these

farmer field schools are yielding lessons that are being applied to information activities on sustainable livelihoods in other sectors, such as community forestry (Chapman et al. 2003:5).

Information for Public Accountability

Access to information on laws, mandated government services, and government expenses is fundamental for poor people to hold governments accountable for their performance. Unless citizens can find out what governments are doing and how they spend their funds, governments have little incentive to improve performance, deliver on their promises, or even provide basic services at adequate levels.

In Bangalore, India, citizen groups conducted surveys of municipal government performance and used the information to create “report cards” on the quality and efficiency of services such as water, transport, electricity, and police, and to press for reforms. In Rajasthan, India, citizen efforts to gain access to information on government spending and employment rolls led to exposure of local corruption, initiation of corrective action, and prompted consideration of a national right-to-information law. In Argentina, citizens can access a website—audited by a coalition of 15 NGOs—to find easily understandable information on public expenditures across a variety of government programs (Narayan 2002:32).

In Francophone Africa, cooperatively produced radio programming provides listeners of 48 rural radio stations in 10 countries with access to information on laws, legal systems, and justice. Developed during a workshop on law in Senegal, an initial radio program featured lawyers from six West African countries and provided information on land rights, women’s

rights in marriage, and other legal matters. Following enthusiastic listener response, the producers developed a series of subsequent broadcasts on related legal issues, such as divorce, inheritance, access to justice, and conflict resolution (Chapman et al. 2003:22).

Language Barriers to Information Access

In many developing countries, language is the most important vehicle for excluding the poor and socially marginalized groups from access to information (Sibanda 2000:9-10). For the mature democracies of Europe, Asia, North America, and Oceania, the language of government is an indigenous language or a language in which the vast majority of ordinary citizens are fluent. However, across the developing world, a significant proportion of the population typically does not use or understand the language of government, which often is a European language—French, English, or Spanish—imposed during the colonial era. It is expensive to produce multiple versions of official documents in indigenous as well as colonial languages, and the process of designating which indigenous languages are to be used in official documents can aggravate existing ethnic rivalries. But the alternative is continued high costs in social exclusion and political instability. (See Figure 3.5.)

Choice of Information Technologies

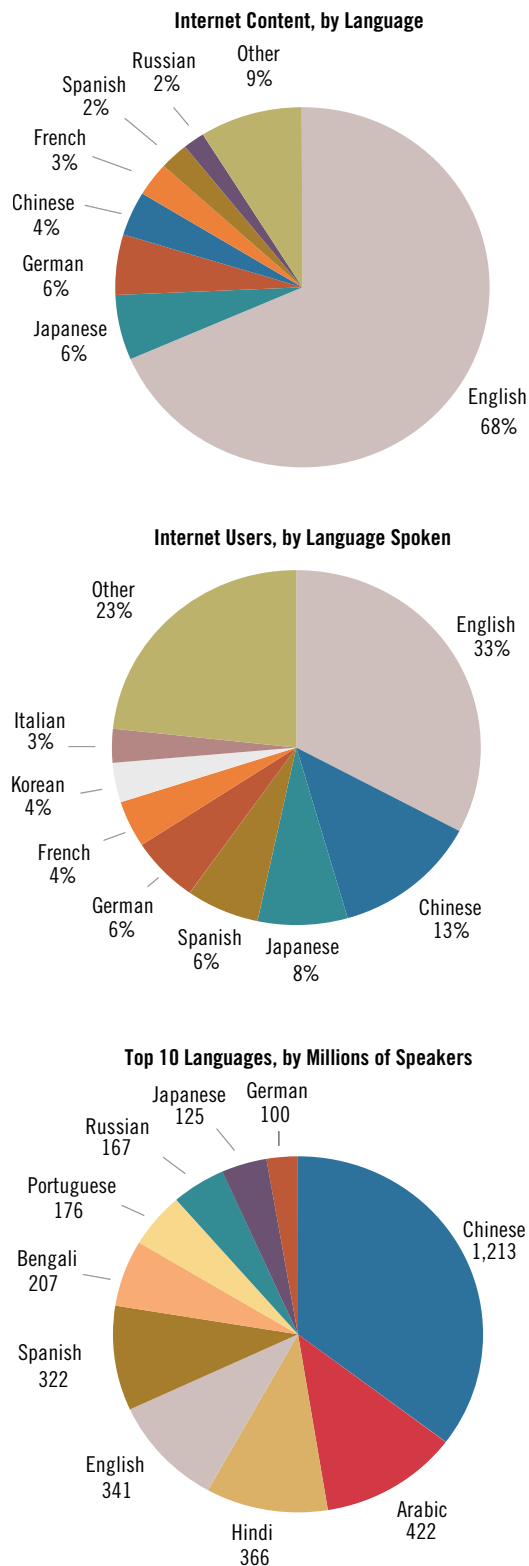
Whether the rural poor have adequate access to information for environmental decision-making is not only a function of the quality and quantity of information supplied. It also depends on whether the delivery technologies are appropriate for the target audience. Different groups may have different information needs and preferences for information delivery, and efforts to increase the poor’s information access are most effective when they involve these groups in decisions about the information technologies to be used. For instance, in most developing countries radio and television remain much more widely accessible than the Internet. Technologies such as the wind-up radio make information dissemination possible in communities without electricity or access to batteries (Chapman et al. 2003:19-20).

Nonetheless, experience with pilot efforts indicates that it is possible to reach large numbers of people in developing countries with electronic sources of information. In the Philippines, a pilot project in the *barangays* (townships) on the island of Mindanao is using modern communications technologies to improve local access to information on topics such as agriculture, rural enterprise development, education, and health. The project features multipurpose community telecenters with telephone and Internet access (Chapman et al. 2003:17-18). The challenge remains to apply these pilot approaches more widely in Africa, Asia, and Latin America as well.

Equitable Access to Information

Despite new technological capacity for broad-based information dissemination, evidence suggests that if access to information is not universal, growing supplies of information may simply serve

FIGURE 3.5 ENGLISH DOMINATES THE INTERNET



Despite the growing diversity of internet users, the majority of content on the Internet remains in English.

Source: Global Reach 2005; Internet World Stats 2005; Encarta 2005

to exacerbate existing social, economic, and political inequalities. Historically, information on agriculture-based livelihoods in developing countries was viewed as a global public good that should be made available at no charge to all interested parties. More recently, donor agencies have emphasized private-sector provision of agricultural extension information, which can involve cost recovery and user fees that the poorest farmers cannot afford to pay (Chapman et al. 2003:vii). Involving the poor in decisions about who should pay for information services and how the sustainability of information services can be ensured is vital to ensuring the poor have access to such information.

Demand-Driven, Location-Specific Information

Rural producers in developing countries value locally generated, locally specific information much more than general information. Because farmers and fishers are unlikely to adopt new practices without substantial discussion of local examples, improved access to information is most effective when the information is focused on local conditions and local processing and marketing systems. Modern communications technologies such as the Internet and teleconferencing can enable rural farmers and fishers to discuss specific local problems with technical specialists based outside their area.

In India, the M.S. Swaminathan Research Foundation is using innovative information technologies in community-managed “e-villages” to respond to the information needs of local groups. For example, weather forecasts and information on wave height are being routed to fishers in the village of Veerampattinam. Such initiatives can also stimulate two-way information flow between villages and researchers, so that farmers and fishers can contribute their specialized knowledge to enrich national and international information systems (Chapman et al. 2003:19).

Inclusion of Women and Socially Marginalized Groups

In Swaminathan’s e-villages, information centers are run mainly by semi-literate women and by students, with the aim of empowering them through their roles as information managers. By specifically targeting women and marginalized groups in knowledge management, initiatives to enhance the poor’s access to information can also promote social equity (Chapman et al. 2003:19).

Access to Participation

Decision-Making About Livelihood Choices

Direct involvement in institutional processes that affect their livelihoods, such as determining the course of agricultural research, is crucial for poor farmers. Often, there is no route for their input, but that does not have to be so. The West African Rice Development Agency uses participatory methods to involve farmers in selecting which new rice varieties should be developed, thus giving poor farmers an opportunity to share

information on their preferences and needs with rice breeders (Chapman et al. 2003:20).

Participation in Broader Policy Processes

In many poor countries, poor people have participated in broader development initiatives dealing with poverty and poverty reduction. Citizen participation has been part of the process of crafting national poverty-reduction strategies in several countries, such as Bolivia, Kenya, and Uganda. The poor have also participated in creating citywide strategies for poverty reduction in approximately 80 cities around the world, including Cali, Colombia; Johannesburg, South Africa; Kampala, Uganda; and Haiphong, Vietnam (Narayan 2002:46, 70).

Citizen involvement is a central element in so-called “participatory poverty assessments”—an important tool to inform national policies and budgets. In several countries, participatory approaches to poverty assessments provided insights that had not been obvious from official survey data. In Uganda, for example, citizen participation led to increased investment in water supply and more flexible budget allocations allowing districts to respond to local needs. In Vietnam, people’s participation led to the targeting of urban as well as rural poverty, steps to address the ethnic and gender dimensions of poverty, and the piloting of “citizen report cards” on the delivery of basic services (Narayan 2002:38).

Participation in Planning and Budgeting

Pioneered by the city of Porto Alegre, Brazil, participatory budgeting processes enable the poor to have more say in how government resources are distributed. In participatory budgeting, citizen meetings generate information about people’s priorities for government budget allocations, which are then aggregated into neighborhood-level priorities. In Brazil, more than \$260 million was allocated between 1996 and 1998 to projects selected by participants in citizen meetings, the vast majority of which addressed needs in poorer, underserved districts. As of 2003, some 180 municipalities in Brazil were engaged in some form of participatory budgeting processes (Serageldin et al. 2003:8-9).

Inclusion of Women and Marginalized Groups

In many countries, remedying deep, long-standing social inequality necessarily entails enacting laws requiring the inclusion of previously excluded groups. One example of such an initiative comes from Bolivia, where the Law on Popular Participation provides for the participation of indigenous people’s organizations in municipal decision-making. Under this law, which is meant to improve local governance and aid poverty-reduction efforts, “community vigilance committees” are empowered to investigate municipal decisions. These citizen committees even have the power to halt the distribution of central government funds to local governments if they determine that planning and expenditures are not in line with community demands (Narayan 2002:42-43). In India, it took a

constitutional amendment mandating that women must make up at least a third of the councilors in *panchayats* (village-level councils) to create real opportunities for women's voices to be heard in municipal leadership.

Access to Justice

Research shows that the poor are less likely to access the legal system to secure or enforce their rights to use natural resources. A study of seven countries in Africa and Asia found that poor communities are often reluctant to pursue legal claims based on their environmental grievances. In general, economically disadvantaged groups lacked familiarity with legal institutions as well as the necessary financial resources to use legal remedies effectively (Boyle and Anderson 1996, cited in ESRC/GECP 2001:18). Intimidation by local elites and government officials can also make the poor and others of low social status hesitant to assert their right to live in an environment adequate for their health and well-being. For the poor who lack formal, legally recognized tenure to their land and natural resources, the threat of retribution is especially chilling.

Securing and Enforcing Property Rights

Clearly defined property rights, and confidence that these rights can be efficiently defended against interlopers, are fundamental to governance systems built on the rule of law. As mentioned earlier, appropriate property rights regimes are also central to encouraging the poor to invest in their land or in resource management in ways that bring economic development and poverty reduction. However, in many developing economies, corruption, excessive regulation, and complicated property registration procedures significantly burden citizens, especially the poor.

In Guayaquil, Ecuador, for example, it has been three decades since the passage of land reform laws, and most households are aware of their property rights and the importance of securing title to land. But the majority of these poor households are incapable of navigating the legal labyrinth—including long delays and high costs—surrounding the land titling process. In theory, the process costs about \$350, or as much as three months of a typical worker's salary. In practice, the actual cost is closer to \$750—a prohibitive sum for most poor families (Moser 2004:42-44). A similar situation exists in Peru, where land registration processes to secure property rights requires land holders to engage with 14 different agencies involved in conferring a single title (Narayan 2002:54).

In several countries, poor people's associations and cooperatives are working with local authorities and financial institutions to address the need for secure land tenure rights and housing. In Mumbai, India, a slum-dwellers' organization has been able to acquire land, housing, and basic infrastructure services for its members. In the Philippines, a scavengers' association whose members live on a 15-hectare municipal dump in Quezon City has helped mobilize member savings to acquire legal rights to land through land purchase. And in

FIGURE 3.6 BARRIERS TO DOING BUSINESS



Source: World Bank 2005

Guatemala, 50,000 squatters have formed cooperatives, acquired land through legal means, and are now repaying long-term loans (Narayan 2002:66). Meanwhile, Ghana's land-registration law specifically provides for registration of customary land rights, and pilot projects are now underway to build capacity among traditional-land administrators to improve record-keeping and land registries (Bruce 2005).

Procedural Injustice

The poor typically are most affected by procedural injustices in the legal and court systems. For instance, the poor are least able to afford the costs imposed by long delays in court proceedings. Also, the poor are more likely to be disadvantaged by language barriers in the legal system, such as court documents or hearings in languages not widely spoken by the rural poor (Girishankar et al. 2002:289).

Mechanisms for Alternative Dispute Resolution

For poor people living in remote rural areas, the existence of decentralized local processes for resolving disputes may make the difference in their ability to secure or enforce their rights. However, if such decentralized alternatives are poorly executed, they can end up disadvantaging the poor by reinforcing the dominance of local elites and incorporating local norms that discriminate against women, children, and other socially marginalized groups (Girishankar et al. 2002:289).

Fair Permitting and Licensing

A key element of access to economic justice for the poor is the ability to obtain permits and licenses for small business enterprises via processes that are transparent, fair, and efficient. The state of affairs in many developing countries departs considerably from this norm. In Zimbabwe, for instance, red tape and expensive licensing fees constrain the ability of poor communities to launch small businesses based on wildlife tourism or other products and services. Registration of a tourist company in Zimbabwe takes more than a year and costs about US\$14,000 to obtain needed certificates and guarantees (Narayan 2002:55).

In Lima, Peru, registering a small garment workshop employing a single owner-operator takes on average 289 days and costs in excess of US\$1,200, or more than 30 times the monthly minimum wage. In Indonesia, the official license fees for registering a small business are about US\$400, but the actual costs often are typically triple that amount (Narayan 2002:54-55). (See Figure 3.6.)

Fortunately, some state and local governments are starting to make it easier for small entrepreneurs to secure their rights to operate. In Bali, one municipality introduced “one-stop shops” for business licenses and permits. This has not only helped businesses obtain licenses more efficiently but has also augmented government tax revenues by 75 percent. In India the government of the state of Gujarat removed the requirement that gum collectors—virtually all of them poor women—must sell gum at artificially low prices to a handful of government-selected buyers (Narayan 2002:56).

As the numerous examples cited above show, progress in empowering the poor in their rights to information, participation, and justice can be made. Such progress is central to giving the poor the political and business tools to take advantage of their nature-based assets and to participate in rural commerce that leads to sustainable economic progress—the route out of poverty. ↵

