

Committee: Special Conference on Breaking Barriers (SPECON)

Issue: Tackling the lack of property rights as economic barriers

Student Officer: George Boboridis

Position: Deputy President

PERSONAL INTRODUCTION

Dear Delegates,

My name is George Boboridis and I am honored to welcome you to the 6th annual session of the American College of Greece Model United Nations. I am an IB1 student at Anatolia College and I will be serving as one of the Deputy Presidents of this year's Special Conference on Breaking Barriers.

First of all, I would like to congratulate you on choosing to attend this year's conference and specifically this committee. Whether you are an experienced delegate or this is your first time attending a conference, ACGMUN welcomes all students from around the world and brings them together because they all have a passion for diplomacy and debating. We intend to provide you with a great MUN experience over the course of these two days, giving you the chance to interact with delegates from various institutions, participate in a productive discussion, and learn about and discuss current global concerns. Thus, during the debate feel free to entertain speeches, points of information or amendments in order to both have fun but also contribute to a fruitful debate. As my MUN director says, "it is not about the quantity of conferences you have attended, but about what you have gained from each one of them".

During this session, we will be discussing and debating upon very important topics: property rights, the Andaman refugee crisis and the issue of personal identity as all of them relate to all types of boundaries. This document is here as a useful guide and should help you understand the topic better, however it should not be your only piece of research.

The report might not be understood by everyone so in case you have any questions feel free to contact me on my email. I mean it when I say I am here to answer any of your questions, so don't hesitate to contact me. (20184031@student.anatolia.edu.gr)

I am looking forward to meeting and getting to know you all in April.

George Boboridis

TOPIC INTRODUCTION

Every right we have, including the right to be free, is founded on property. Every right claim, after all, is a claim to something, whether it be an aggressive claim to something someone else is holding or a defensive claim to keep what one already has. The philosopher John Locke, who is credited with inspiring Thomas Jefferson to write the Declaration of Independence, succinctly described the problem: “Lives, Liberties, and Estates, which I call by the general name, Property.” And James Madison, the principal author of the Constitution, echoed those thoughts when he wrote, “as a man is said to have a right to his property, he may be equally said to have a property in his rights.” People’s different places within the economic distribution, including their income, wages, and wealth, are the most evident indicators of economic inequality. However, in addition to these factors, such as gender, ethnicity, and whether or not a person is disabled, people’s economic situations are also influenced by other traits.

Property rights formalization has historically resulted in greater economic success, security, societal resilience, and environmental protection. Property rights formalization can support human prosperity in many ways, even though it is not a solution to all development problems. Millions of people in the developing countries currently live in cities without having official property rights. This poses a serious obstacle to the poor’s ability to convert any wealth into capital. If others can profit from an individual’s investments, the individual underinvests. Proper titling can enable the underprivileged to transfer or use their invested land as collateral. Furthermore, legal titles offer low-income families the chance to use them as a useful insurance and savings tool for protection in difficult times and retirement. Many organizations have tried to tackle the issue of property rights, like the ASEAN and the Arab League. Universal actions taken are the international conventions of civil-political and socioeconomic rights and by the Universal Declaration of Human Rights.

DEFINITION OF KEY TERMS

Property Right

According to article 17 of the “Universal Declaration of Human Rights” and the “EU Charter of Fundamental Rights” property right is the ability of everyone to be able own, use, dispose of and bequeath their lawfully acquired possessions. No one may be deprived of their possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss.¹

¹ “The Right to Property.” Icelandic Human Rights Centre, <https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/substantive-human-rights/the-right-to-property>

Economic Barriers

Barriers to entry is an economics and business term describing factors that can prevent or impede newcomers into a market or industry sector, and so limit competition. These can include high start-up costs, regulatory hurdles, or other obstacles that prevent new competitors from easily entering a business sector.²

Economic Inequality

The unequal distribution of economic variables among individuals in a group, among populations, or between nations is referred to as economic inequality. The majority of development theory's focus has been on disparities in living standards, including disparities in wealth, education, health, and nutrition.³

Underinvestment

The underinvestment problem is a shared agency issue between shareholders and debt holders that causes leveraged companies to pass up worthwhile investment opportunities because the debt holders would receive a portion of the project's benefits, leaving the equity shareholders with insufficient returns.

Expropriation

Expropriation is when a government seizes privately owned property against the owners' will, presumably so that it can be used for the general welfare of the populace.⁴

Housing, land and property (HLP) rights

In accordance with their HLP rights, displaced individuals are entitled to a safe place to reside, be free from the threat of being forcibly evicted, and have the freedom to look for work opportunities. Socioeconomic inclusion depends on having access to HLP rights, and it is a necessary first step for persons who have been displaced to begin rebuilding their lives.⁵

Freehold land ownership

Freehold property is defined as any estate that is "free from hold" of any entity other than the owner. As a result, the owner of such an estate has unrestricted ownership

² Hayes, Adam. "Barriers to Entry: Understanding What Limits Competition." Investopedia, Investopedia, 27 Jan. 2023, <https://www.investopedia.com/terms/b/barrierstoentry.asp>

³ "How Is Economic Inequality Defined?" The Equality Trust, <https://equalitytrust.org.uk/how-economic-inequality-defined>

⁴ Kenton, Will. "Expropriation: Definition, Purposes, Compensation Concerns." Investopedia, Investopedia, 21 Nov. 2022, <https://www.investopedia.com/terms/e/expropriation.asp>

⁵ "Housing, Land and Property (HLP) Rights." NRC, <https://www.nrc.no/what-we-do/speaking-up-for-rights/housing-land-and-property-rights/>

in perpetuity and is free to use the land as they see fit, subject to any applicable local laws.⁶

Intellectual Property Rights

Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time.⁷

BACKGROUND INFORMATION

Property Rights Under International Law

Declaration of Human Rights

The right to property is protected under Article 17 of the Universal Declaration of Human Rights (UDHR). According to it “Everyone has the right to own property alone as well as in association with others.” No one shall be arbitrarily deprived of his property. Another right added as a response to the events of the Holocaust, in which property was taken from Jews and others and frequently used to benefit Nazi leaders, is this one. Jews throughout Europe lost possession of money, art, homes, enterprises, and personal items worth billions of dollars. One author claims, “Hitler's Final Solution was not just an act of genocide; it was also a campaign of organized theft.” Despite this motive, the Cold War's ideological camps of democratic, capitalist nations on the one side and non-democratic, communist governments on the other were dividing the world when the UDHR was being negotiated between 1946 and 1948. The right to private property is not expressly expanded in later human rights accords, in contrast to many other rights in the UDHR that are expanded in other UN documents. None of them have an explicit right to private property, although some do not tolerate discrimination based on property (or other criteria). The United Nations Declaration on the Rights of Indigenous Peoples does, however, acknowledge the rights of indigenous peoples in relation to their lands, territories, and resources.⁸

⁶ “What Is Freehold Property? Definition of Freehold Property, Freehold Property Meaning.” The Economic Times, <https://economictimes.indiatimes.com/definition/freehold-property>

⁷ “>WTO: Intellectual Property (TRIPS) - Gateway.” WTO, https://www.wto.org/english/tratop_e/trips_e/trips_e.htm

⁸ “Universal Declaration of Human Rights at 70: 30 Articles on 30 Articles - Article 17.” OHCHR, 26 Nov. 2018, <https://www.ohchr.org/en/press-releases/2018/11/universal-declaration-human-rights-70-30-articles-30-articles-article-17>

EU Charter of Fundamental Rights

According to the charter “Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law in so far as is necessary for the general interest. Intellectual property shall be protected.” This Article is based on Article 1 of the Protocol to the European Convention on Human Rights, which states that “Every natural or legal person has the right to the peaceful enjoyment of his property.” No one's possessions may be taken away from them unless it is in the public interest, under certain circumstances, and in accordance with the general rules of international law. A component of the property right, the protection of intellectual property is specifically highlighted in paragraph 2 because of its expanding significance and Community secondary law. Not only does intellectual property include literary and creative works, but also patent, trademark, and related rights. The guarantees outlined in paragraph 1 shall apply to intellectual property as necessary.⁹

Property Rights and Different Past Regimes

South African Apartheid

The "land question" has its roots in the 1913 Natives Land Act, which gave a dispossession process that had been going on since colonial times' legal shape. The apartheid regime forcefully dispossessed hundreds of black families from their land under the 1913 Natives Land Act. The Native Trust and Land Act of South Africa of 1936 increased African land ownership to 13 percent after the Act's 19 June 1913 passage. The Act made it illegal for black people to own or occupy land. Black people were being systematically relocated by the apartheid authorities to underdeveloped townships and their ancestral homes. People were compelled to search for jobs distant from their homes since they could no longer support themselves and their families. This signaled the start of the socioeconomic problems the nation is currently dealing with, including homelessness, poverty, and inequality. When the Abolition of Racially Based Land Measures Act, 1991 (Act No. 108 of 1991) went into effect on June 30, 1991, the Land Act was ultimately repealed.¹⁰

⁹ “Right to Property - Impact of the European Convention on Human Rights - Publi.coe.int.” Impact of the European Convention on Human Rights, <https://www.coe.int/en/web/impact-convention-human-rights/right-to-property>

¹⁰ “Land Reform.” South African Government, <https://www.gov.za/issues/land-reform>

Soviet Union

Marx and Engels, in contrast to Proudhon, did not believe that eliminating the state would also eliminate the right to private property. Marx and Engels, on the other hand, argued that the state was required to make sure that the resources were owned collectively. The right to private property will be abolished under a socialist society since everything would be held by the state. The only entity with the legal right to possess property will be the state, and whatever an individual creates, the fruits of his labor belong to the state apparatus rather than to him. Marx and Engels contend that it is thus impossible to bring about economic disparity. This is what happened when Lenin became the head of Soviet Russia. One important aspect that set Soviet law apart from the laws of the majority of previous totalitarian police governments was the public ownership of the means of production. The law made a distinction between privately held and personally owned property. State property and communal, or cooperative, property were two subcategories of socialist property that were both governed by essentially the same systems of centralized economic planning. Consumer items, cars, homes, and agricultural equipment for the very little permitted private farming were all included in the system of private property. The existing property system served as the foundation for propaganda that claimed Marx's socialist ideas had been achieved. The government's control over property prevented the emergence of private institutions to overthrow the system. All places of worship were taken over by the government, which restricted access to them to religious groups that did not constitute a danger to the government. All media outlets were also owned by the government.¹¹

Property Rights and Economic Barriers

Why do they matter?

Property rights, which clearly define who has what rights to what property, are essential to the success of any society. Property rights formalization has historically resulted in greater economic success, security, societal resilience, and environmental protection. Property rights formalization may support human prosperity in many ways, even if it is not a solution to all development problems. An individual or family does not need to physically preserve their land if they have a legitimate claim to it that is upheld by the law. While returning home to discover it destroyed or occupied may seem unthinkable, it happens frequently to the 70 percent of people throughout the world who live

¹¹ "Property." Encyclopædia Britannica, Encyclopædia Britannica, Inc., <https://www.britannica.com/topic/Soviet-law/Property>

in homes to which they have no legal title. Being tied to property means that the owner must make a living close to the property, which leaves little room for them to participate in the formal economy. Secure property rights enable landowners to go away from their property for job purposes and to let their property generate income. It seems logical that formalizing property rights is frequently associated with economic development. One can gain economically in three ways by having a formal claim to their property, whether it be land or a house. They can first sell the asset to monetize it. Second, rather than being reliant on an illegitimate asset, she or he might relocate in order to explore work prospects. Third, by possessing collateral, she or he may raise funds at fair rates. The owner is encouraged to invest in the property when they have a formal claim to it since they are sure they will be able to recoup their investment through a sale or rental. The influence of property rights on agriculture and food security is clear. Subsistence farmers are more inclined to make labor-intensive improvements to their property, such as putting in irrigation systems and utilizing higher-quality crops, when they have a formal claim to it. The average income in the decile of nations with the best property rights is over \$55,457. This number is 125 percent greater than in the second-most property-friendly decile of countries. The yearly income of the nations with the greatest property rights is 31.8 times higher than that of the countries with the lowest property rights.

Finland, New Zealand, Norway, Switzerland, Iceland, Luxembourg, Singapore, the Netherlands, and Denmark have the strongest property rights, in that order. Unsurprisingly, Venezuela, which is ranked in the bottom decile—just above the Central African Republic—has the poorest property rights.

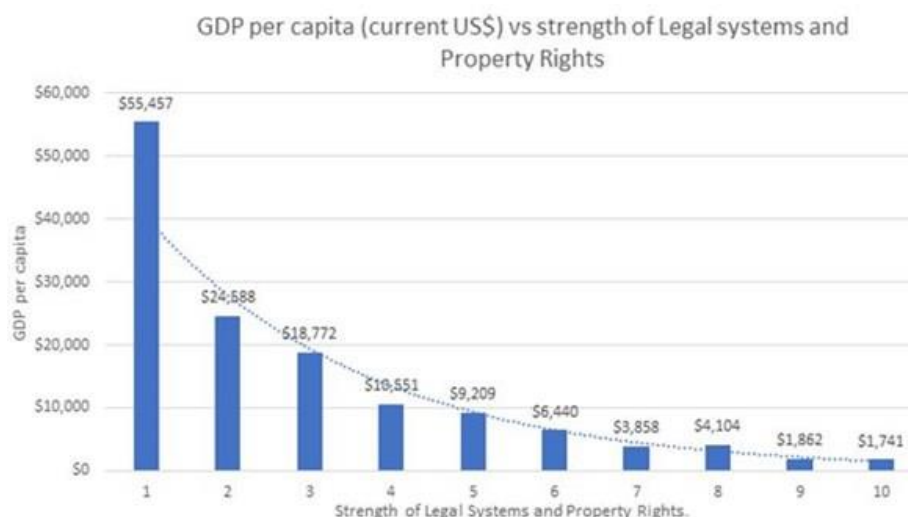


Figure 1: GDP per capita depending on strengthened property rights law¹²

An increasing amount of research has shown that land rights have a direct positive influence on food security. Notable findings include the observation that "in Ethiopia, land certification led to production improvements of 40-45 percent in the Tigray Region." It is easier to understand that we are on the right road when local farmers show that they value land formalization by spending limited resources in it. In Ghana, where formalization services are offered for a reasonable charge and cocoa growers have paid to formalize their plots, this is exactly what was observed. However, farmers frequently use the "slash and burn" method when ownership of the land is in doubt, which has led to extensive deforestation and pollution.¹³

Intellectual Property Right and Trade

The rights that people are granted over their creative works are known as intellectual property rights. Typically, they grant the inventor a time-limited, exclusive right to utilize his or her invention. Although the fundamental social goals of intellectual property protection are as stated above, it should be noted that the exclusive rights granted are typically subject to a number of restrictions and exceptions, intended to fine-tune the equilibrium that must be struck between the legitimate interests of right holders and users. The two fundamental categories of intellectual property rights are traditionally:

¹² Hammond, Alexander C.R. "Venezuela's Tragedy Shows Why Property Rights Matter: Alexander Hammond." FEE Freeman Article, Foundation for Economic Education, 4 Feb. 2019, <https://fee.org/articles/venezuelas-tragedy-shows-why-property-rights-matter/>

¹³ "Why Property Rights Matter." New America, 10 Mar. 2017, <https://www.newamerica.org/future-land-housing/blog/why-property-rights-matter/>

Copyright and rights associated with copyright.

A minimum of 50 years after the author's passing, copyright safeguards the rights of writers of literary and creative works. The rights of artists, phonogram manufacturers, and media companies are also safeguarded by copyright and associated rights. The primary societal goal of copyright and associated rights protection is to support and honor creative effort.

Industrial property

One aspect is the protection of unique signs, particularly trademarks (which set one business's goods and services apart from those of competitors) and geographical indicators (which identify a good as originating in a place where a given characteristic of the good is essentially attributable to its geographical origin). By allowing customers to make educated decisions about diverse products and services, the protection of such distinguishing indicators seeks to encourage and promote fair competition as well as to safeguard consumers. As long as the symbol in question remains unique, the protection may extend indefinitely. The main purpose of protecting other kinds of industrial property is to promote invention, design, and technological development. Patent-protected inventions, commercial designs, and trade secrets all come under this category. In order to encourage and give the resources to support research and development activities, the societal goal is to protect the outcomes of investments in the creation of new technologies. Technology transfer through foreign direct investment, joint ventures, and licensing should all be made easier by an effective intellectual property law. Usually, the protection is provided for a specific period of time (typically 20 years in the case of patents).¹⁴

Property Rights and Women

UN Women and the Office of the High Commissioner for Human Rights jointly published *Realizing Women's Rights to Land and Other Productive Resources* (OHCHR). This revised edition's goal is to offer guidance to legislators, policymakers, civil society organizations, and other interested parties in order to support the adoption and successful implementation of laws, policies, and programs that respect, protect, and uphold women's rights to land and other productive resources. The information in this edition has been updated through the middle of 2019. The second edition, in particular, makes clear how women's rights to land and other productive resources are important for achieving the 2030 Agenda for Sustainable Development, which was endorsed

¹⁴ “>WTO: Intellectual Property (TRIPS) - Gateway.” WTO, https://www.wto.org/english/tratop_e/trips_e/trips_e.htm

by the UN General Assembly in 2015. The Universal Declaration of Human Rights and international human rights norms derived from the Declaration and other international human rights treaties serve as the foundation for the 2030 Agenda. The Sustainable Development Goals (SDG) initiatives provide significant chances to increase women's access to land and other productive resources.

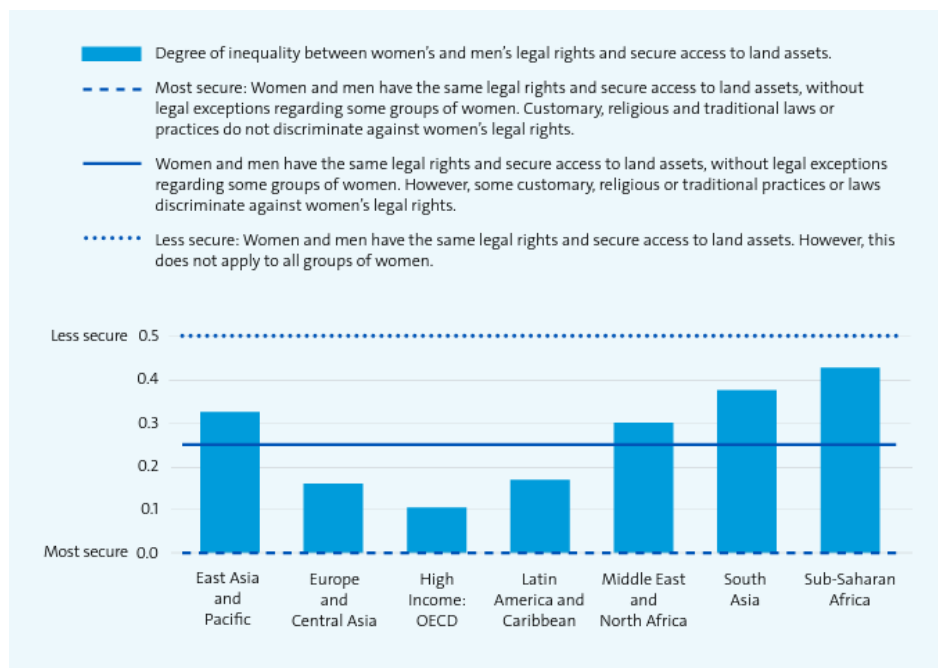


Figure 1: Insecurities of Property Rights (UN Women)

For women to be able to exercise their right to equality and a sufficient standard of life, their access to land and other productive resources must be protected. These tools encourage women's autonomy and independence, cater to their daily needs and those of their families, and enable them to overcome some of life's most challenging obstacles. Land rights have a significant impact on a woman's ability to exercise her rights to equality, property, food, health, shelter, water, employment, and education, among other things, whether she lives in an urban or rural environment. By considering land and its many uses as the foundation for the enjoyment of human rights rather than only as a commodity, it is possible to create an atmosphere where women may exercise their land rights. "The dominant discourse around land rights has taken the form of individuating and commoditizing rights to land, where access and ownership are conceptualized in liberal market terms and land is narrowly viewed as property," said the report. The goal of this strategy is to create successful land markets and, through them, efficient land allocation and economic growth, as well as to reduce poverty and increase food security. It links security of tenancy to integration in the land markets, including land registration and titling, which

are supported by international financial institutions as part of structural adjustment programs.¹⁵

MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

United States of America

Through the Fifth and Fourteenth Amendments' Due Process Clauses¹⁶ and, more specifically, the Fifth Amendment's Takings Clause, which states that "nor will private property be seized for public use without reasonable compensation," the Constitution safeguards property rights. Government can seize property in two ways: (1) directly by condemning the land and seizing the title; and (2) indirectly through rules that take uses while retaining the title – takings that are known as regulatory takings. In the first instance, the title is all too frequently stolen not for public use but for private use, and the owner is rarely fairly compensated. In the second scenario, the owner frequently receives insufficient or no recompense at all for his losses. Unfortunately, the U.S. Supreme Court authorized the government to seize private property from one private individual and transfer it to another private citizen for economic development objectives in the infamous *Kelo v. City of New London* decision from 2005.¹⁷

South Africa

The apartheid regime forcefully dispossessed hundreds of black families from their land under the 1913 Natives Land Act¹⁸. The South African government has been working to safeguard property rights for a century now. According to the National Development Plan (NDP), land reform would enable the development of a vibrant, expanding, and job-generating agricultural industry. The following ideas serve as the NDP's foundation for land reform. Increase the speed at which agricultural land is transferred to Black Beneficiaries without affecting the real estate market or the confidence of businesses in the agribusiness industry. By ensuring that people capacities exist prior to land transfer through incubators, learnerships, mentorship, apprenticeships, and accelerated training in agricultural sciences, you may ensure sustainable production on transferred land. Create oversight organizations to guard land markets from exploitation, fraud, and speculation. To guarantee that land is

¹⁵ <https://www.ohchr.org/sites/default/files/Documents/Publications/RealizingWomensRightstoLand2ndedition.pdf>

¹⁶ "Due Process." Legal Information Institute, Legal Information Institute, https://www.law.cornell.edu/wex/due_process

¹⁷ Cato.org, <https://www.cato.org/cato-handbook-policymakers/cato-handbook-policy-makers-8th-edition-2017/property-rights-constitution#>

¹⁸ "Native Lands Act." Encyclopædia Britannica, Encyclopædia Britannica, Inc., <https://www.britannica.com/topic/Native-Lands-Act>

effectively transferred, align land-transfer goals with the financial and economic conditions that exist. Give white commercial farmers, organized industry groups, and mentoring programs the chance to make a substantial difference in the prosperity of black farmers through preferential purchasing, chain integration, and skill development. In 1995, Nelson Mandela remarked that the return of the right to land came together with freedom and democracy. And with it, the chance to deal with the consequences of centuries of eviction and denial. Finally, as a nation, we are able to declare to our forefathers, "Your sacrifices were not in vain."

China

Private "freehold" land ownership does not exist in China. State-owned land is a term used to describe all urban land in China, which is held by the Chinese government. The term "collective land" refers to all rural and suburban land that is held by rural collectives, or regional organizations of farmers. For public interest objectives, the government is authorized by law to expropriate land and structures, but it is also required by law to compensate the owners. The land-use right is a "usufructuary right," according to the Property Rights Law¹⁹, which enables the right-holder, the usufructuary, to lawfully own, use, and profit from property that belongs to someone else.²⁰

Democratic People's Republic of Korea (DPRK)

It is forbidden to buy, sell, or rent out residences in North Korea, according to the country's laws. Although it is technically conceivable to trade residences inside a single country, doing so is nonetheless prohibited if either party seeks to benefit financially from the transaction. But like many other North Korean laws, this one has been violated during the past 15 to 20 years. Around 1990, the first signs of the North Korean real estate market started to emerge. However, the North Koreans started buying and selling homes much more easily starting around the year 2000.²¹

Eritrea

In the highlands, family or village systems of land ownership predominated the customary land tenure system; in the lowlands, tribe systems and government ownership predominated. The Land Proclamation of 1994²² brought all land under

¹⁹ Laws, http://www.npc.gov.cn/zgrdw/englishnpc/Law/2009-02/20/content_1471118.htm

²⁰ "Real Estate Law: China: Global Corporate Real Estate Guide: Baker Mckenzie Resource Hub." Home, <https://resourcehub.bakermckenzie.com/en/resources/global-corporate-real-estate-guide/asia-pacific/china/topics/real-estate-law>

²¹ York, Rob. "'Owning' a Home in North Korea: NK News." NK News - North Korea News, 2 June 2018, <https://www.nknews.org/2016/05/owning-a-home-in-north-korea/>

²² "Land Proclamation (No. 58/1994)." Land Proclamation (No. 58/1994). | UNEP Law and Environment Assistance Platform, <https://leap.unep.org/countries/er/national-legislation/land-proclamation-no-581994>

state control in 1994. A lifetime right of usufruct over currently owned farmland, dwelling land in rural regions (tiesa), and leasehold is granted by the Eritrean government under the new law. All rights are ephemeral by nature since they are derived from state property. Even though the State now really owns the land, the traditional form of land tenure is still frequently used (particularly in highland farms).²³

Venezuela

Early in 2001, ex-President Hugo Chavez issued a decree for the seizure of private Venezuelan farms, which marked the beginning of his attack on the property rights of his constituents. "This land is not yours, those who possess it. The land is not private; it is national property, Chavez said with pride. By 2005, Chavez's rampant nationalization had also harmed a large number of privately owned businesses, stores, and agricultural supply companies.²⁴

European Union

People have the right to own property that is rightfully theirs, according to the European Convention on Human Rights²⁵. Both governments and other persons are prohibited from taking property without justification. For instance, the former owner of the property must be fairly paid if the government takes it away for public use. People have been able to reclaim homes and money that had been wrongfully taken away thanks to Strasbourg court judgements. Additionally, they have inspired nations to establish laws to safeguard property rights. All Member States of the EU have adopted this principle in their legislations.

Property Rights Alliance (PRA)

"PRA stands as an advocacy organization dedicated to the protection of innovation, intellectual property rights, and physical property rights around the world. PRA's efforts to protect property rights are all-encompassing and include issues such as the federal and state law for "takings" and the use of eminent domain, federal government land and building ownership, U.S. environmental policy and its effect on private property ownership, piracy and counterfeiting of intellectual property in domestic and international arenas, property law and land ownership in developing

²³ N., Samuel. "Who Actually Owns the Land?-Land Tenure Systems of Eritrea." Dissident Diaries, 27 June 2015, <https://dissidentdiaries.wordpress.com/2014/07/18/land-tenure-eritrea/>

²⁴ Hammond, Alexander C.R. "Venezuela's Tragedy Shows Why Property Rights Matter: Alexander Hammond." FEE Freeman Article, Foundation for Economic Education, 4 Feb. 2019, <https://fee.org/articles/venezuelas-tragedy-shows-why-property-rights-matter/>

²⁵ https://www.echr.coe.int/documents/convention_eng.pdf

countries in order to foster economic growth and democracy and strong intellectual and physical property safeguards for all trade agreements with the United States.”²⁶

TIMELINE OF EVENTS

Date	Description of event
19 June 1913	The Land Reform Act became law and limited African land ownership to 7 percent and later 13 percent through the 1936 Native Trust and Land Act of South Africa. The Act restricted black people from buying or occupying land.
10 December 1948	The Universal Declaration of Human Rights was proclaimed by the General Assembly in Paris
15 April 1994	The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was signed Marrakesh, Morocco
2007	International Property Rights Index was created
2009	The Property Rights Alliance (PRA) was formed in Washington, and has described itself as an “advocacy organization dedicated to the protection of physical and intellectual property rights, both domestically and internationally”.
1 December 2009	The Charter of Fundamental Rights of the European Union was proclaimed in the Treaty of Lisbon

²⁶ “About Property Rights Alliance.” Property Rights Alliance, <https://www.propertyrightsalliance.org/about/>

RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

The Universal Declaration of Human Rights²⁷

The right to property is protected under Article 17 of the Universal Declaration of Human Rights (UDHR). According to it “Everyone has the right to own property alone as well as in association with others.” No one shall be arbitrarily deprived of his property. Another right added as a response to the events of the Holocaust, in which property was taken from Jews and others and frequently used to benefit Nazi leaders, is this one. Jews throughout Europe lost possession of money, art, homes, enterprises, and personal items worth billions of dollars. One author claims, “Hitler's Final Solution was not just an act of genocide; it was also a campaign of organized theft.” Despite this motive, the Cold War's ideological camps of democratic, capitalist nations on the one side and non-democratic, communist governments on the other were dividing the world when the UDHR was being negotiated between 1946 and 1948. The right to private property is not expressly expanded in later human rights accords, in contrast to many other rights in the UDHR that are expanded in other UN documents. None of them have an explicit right to private property, although some do not tolerate discrimination based on property (or other criteria). The United Nations Declaration on the Rights of Indigenous Peoples does, however, acknowledge the rights of indigenous peoples in relation to their lands, territories, and resources.

Realizing women’s rights to land and other productive resources (2020)²⁸

UN Women and the Office of the High Commissioner for Human Rights jointly published Realizing Women's Rights to Land and Other Productive Resources (OHCHR). This revised edition's goal is to offer guidance to legislators, policymakers, civil society organizations, and other interested parties in order to support the adoption and successful implementation of laws, policies, and programs that respect, protect, and uphold women's rights to land and other productive resources. The information in this edition has been updated through the middle of 2019. The second edition, in particular, makes clear how women's rights to land and other productive resources are important for achieving the 2030 Agenda for Sustainable Development, which was endorsed by the UN General Assembly in 2015. The Universal Declaration of Human Rights and international human rights norms derived from the Declaration and other international human rights treaties serve as the foundation for the 2030 Agenda. The Sustainable Development Goals (SDG) initiatives provide significant chances to increase women's access to land and other productive resources.

²⁷ “Universal Declaration of Human Rights.” United Nations, United Nations, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

²⁸ <https://www.ohchr.org/sites/default/files/Documents/Publications/RealizingWomensRightstoLand2ndedition.pdf>

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)²⁹

the most comprehensive multilateral agreement on intellectual property (IP). It plays a central role in facilitating trade in knowledge and creativity, in resolving trade disputes over IP, and in assuring WTO members the latitude to achieve their domestic policy objectives. It frames the IP system in terms of innovation, technology transfer and public welfare. The size, diversity, and form of cross-border commercial knowledge exchanges, as well as the licensing and trading of intellectual property, have fundamentally changed since the WTO TRIPS Agreement entered into force in 1995. A brand-new portal offers information targeted at assisting policymakers and others in staying current with changes in the knowledge trade, comprehending the shifting patterns of knowledge flows across borders, and taking the legal, economic, and regulatory aspects of these developments into consideration.

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

The Efforts of the League of Arab States Aimed at Reducing the Infringement of Intellectual Property Rights and Combating Commercial Fraud

Arab countries have long been interested in combating commercial fraud and protecting Intellectual Property Rights (IPRs). Some of them have even contributed to the international efforts for the protection of intellectual property and ratified a number of international conventions since the 19th century, more specifically during the colonial era. The governments of Arab countries have continued to make great efforts to combat piracy, counterfeiting and commercial fraud, and one of the most important governmental policies has been the adoption of a legal framework to combat piracy and counterfeiting. A survey of the legal frameworks shows that most of the Arab countries have enacted legislation in the field of intellectual property. With a view to disseminating a culture of respect for IPRs and to raising public awareness of IPRs, the Arab countries are also organizing a campaign through different media mediums on the negative impacts of counterfeiting and piracy. Many Arab countries have developed their legal systems and clearly defined the role of customs authorities, and the custom procedures to be applied in the event of suspension of custom clearance as well as the judicial procedures to be applied after the suspension of custom clearance. Most customs administrations in Arab countries cooperate with the Regional Intelligence Liaison Office in Riyadh affiliated with the World Customs Organization (WCO /RILO) and cooperate with other countries regarding the exchange of information related to commercial fraud in order to adopt the custom procedures needed to seize trademark infringing goods.

²⁹ “>WTO: Intellectual Property (TRIPS) - Gateway.” WTO, https://www.wto.org/english/tratop_e/trips_e/trips_e.htm

Judicial attempts to settle section 25's balancing act re restitution and expropriation

The "property clause" in Section 25 of the South African Constitution³⁰ has lately come under fire from the general public for impeding efforts at socio-economic development. Property rights were unquestionably one of the most contentious issues during the historic discussions leading up to South Africa's democratic transition in 1994, and they continue to be a hotly debated topic today. Section 25 regulates two potentially transformative processes that pit private property ownership rights against the state's right to seize property for a public purpose or in the public interest, in an effort to strike a balance between the interests of existing (largely white) property owners, on the one hand, and the interests of displaced individuals and communities, as well as the state's public interest, on the other. The first is that Section 25 offers a framework for the project of land restitution. Second, section 25 states the criteria for expropriation after 1994. We explore judicial attempts to decide both land restitution and expropriation issues, notably at the Constitutional Court level and in relation to the decisions of Moseneke DCJ, by engaging in a doctrinal study of the degree to which the courts have adopted a transformational interpretation.³¹

ASEAN Framework Agreement on INTELLECTUAL PROPERTY COOPERATION, BANGKOK, 15 DECEMBER 1995.³²

IPR cooperation in ASEAN is spearheaded by the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC), which was established in 1996 to formulate the details and modalities to implement the cooperative activities. Several sub-committees have since been set up under the AWGIPC, namely the Task Force on Trademarks, the ASEAN Task Force on Patent Examination Cooperation, the ASEAN Network of IP Enforcement Experts (ANIEE) and the Intellectual Property Academy Working Group (IPAWG) to support the work of the AWGIPC.

This Agreement recognises the crucial role that intellectual property rights play in trade and investment flows among ASEAN Member States and the significance of regional intellectual property cooperation. It also expresses a desire to promote closer cooperation in the area of intellectual property and related fields in order to provide a solid foundation for economic growth, the realization of the ASEAN Free Trade Area, and prosperity among the ASEAN Member States. In order to support regional dynamism, synergy, and growth, the Agreement also acknowledged the need to foster

³⁰ Hub, Author LawGlobal. "Section 25 Constitution of South Africa 1996." LawGlobal Hub, 6 Dec. 2021, <https://www.lawglobalhub.com/section-25-constitution-of-south-africa-1996/>

³¹ Additional informationNotes on contributorsJackie DugardJackie Dugard Associate Professor. "Property Rights in Court: An Examination of Judicial Attempts to Settle Section 25's Balancing Act Re Restitution and Expropriation." Taylor & Francis, <https://www.tandfonline.com/doi/abs/10.1080/02587203.2018.1432103>

³² <https://asean.org/wp-content/uploads/2021/01/ASEAN-FRAMEWORK-AGREEMENT-ON-INTELLECTUAL-PROPERTY-COOPERATION-BANGKOK-15-DECEMBER-1995..pdf>

deeper collaboration and understanding among the nations in the area in the field of intellectual property and related disciplines.³³

POSSIBLE SOLUTIONS

Supporting displaced people with no property rights – Providing Housing, land and Property (HLP) rights

HLP rights, which are derived from international humanitarian and human rights legislation, grant displaced individuals the right to a safe house, freedom from the threat of forcible eviction, a location that provides protection, and the capacity to look for chances for employment. Socioeconomic inclusion depends on having access to HLP rights, and it is a necessary first step for persons who have been displaced to begin rebuilding their lives.³⁴

Global reform of property rights regimes

For the official acknowledgement of indigenous land rights, there must be a global reform of property rights systems. Understanding trends and contextualizing provisions are necessary for the logical extension of property rights. Though legal measures may exist, it is nevertheless crucial to address ingrained cultural norms that continue to support inequality. A reform plan for strong property laws that support the poor should:

Encourage public discussion of property rights, increase the exchange of knowledge about these problems, and enhance legitimacy by making property information accessible to the general public. Support complementary organizations, such as those that make it easier to access markets, financing, and technology. Land banks and land-for-credit programs are two examples. By defining the conditions for private sector investment, you can encourage it. Additionally, you can make sure that land taxes and farming subsidies don't hurt the poor. Encourage the use of property rights through private and public ownership. For small enterprises and impoverished people's corporate organizations, the property law should provide clear and straightforward choices for corporate ownership and legal identity. Encouraging communal ownership and control of natural resources will increase the poor's asset base.³⁵

Patent Protection: A response to the Protection of Property rights

³³ You Are Being Redirected..., <https://asean.org/our-communities/economic-community/competitive-innovative-and-inclusive-economic-region/intellectual-property-rights/>

³⁴ "Housing, Land and Property (HLP) Rights." NRC, <https://www.nrc.no/what-we-do/speaking-up-for-rights/housing-land-and-property-rights/>

³⁵ Commission on Legal Empowerment of the Poor. "Empowering the Poor through Property Rights." GSDRC, 4 Sept. 2015, <https://gsdrc.org/document-library/empowering-the-poor-through-property-rights/>

According to the TRIPS Agreement, patent protection must be accessible for novel, innovative, and capable of industrial application innovations in all technological domains. Both items and methods are considered eligible innovations. For at least two decades, they must be safeguarded. Governments have the right to refuse to grant a patent for an innovation, nevertheless, if doing so would compromise morals or public order. Also, they have the authority to deny patent protection to techniques for diagnosis, treatment, and surgery, as well as to plants, animals, and biological processes used to produce them (apart from microorganisms). The TRIPS Agreement outlines the fundamental rights that patent owners must possess and specifies the circumstances under which these rights might be waived. The Agreement allows governments to grant "compulsory licences," which let a rival use a licenced technique or product without the owner's permission. But, the TRIPS Agreement's precise requirements for doing so must be followed in order to protect the rights of the patent holder.

BIBLIOGRAPHY

Cato.org, <https://www.cato.org/policy-report/may/june-2011/right-property-global-human-rights-law>

"Article 17 - Right to Property." European Union Agency for Fundamental Rights, 23 Jan. 2023, <https://fra.europa.eu/en/eu-charter/article/17-right-property>

Hayes, Adam. "Barriers to Entry: Understanding What Limits Competition." Investopedia, Investopedia, 27 Jan. 2023, <https://www.investopedia.com/terms/b/barrierstoentry.asp>

"How Is Economic Inequality Defined?" The Equality Trust, <https://equalitytrust.org.uk/how-economic-inequality-defined>

"Introduction to Inequality." IMF, <https://www.imf.org/en/Topics/Inequality/introduction-to-inequality>

">WTO: Intellectual Property (TRIPS) - Gateway." WTO, https://www.wto.org/english/tratop_e/trips_e/trips_e.htm

Cato.org, <https://www.cato.org/cato-handbook-policymakers/cato-handbook-policy-makers-8th-edition-2017/property-rights-constitution#>

"The Right to Property." Icelandic Human Rights Centre, <https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/substantive-human-rights/the-right-to-property>

Hammond, Alexander C.R. "Venezuela's Tragedy Shows Why Property Rights Matter: Alexander Hammond." FEE Freeman Article, Foundation for Economic Education, 4 Feb. 2019, <https://fee.org/articles/venezuelas-tragedy-shows-why-property-rights-matter/>

Additional informationNotes on contributorsJackie DugardJackie Dugard Associate Professor. "Property Rights in Court: An Examination of Judicial Attempts to Settle Section 25's Balancing Act Re Restitution and Expropriation." Taylor & Francis, <https://www.tandfonline.com/doi/abs/10.1080/02587203.2018.1432103>

You Are Being Redirected..., <https://asean.org/our-communities/economic-community/competitive-innovative-and-inclusive-economic-region/intellectual-property-rights/>

efaidnbmnnnibpcajpcgicfindmkaj/https://www.ohchr.org/sites/default/files/Documents/Publications/RealizingWomensRightstoLand_2ndedition.pdf

Bakst, Daren. "Protecting Property Rights Now and in a Post-Pandemic Economy." The Heritage Foundation, <https://www.heritage.org/economic-and-property-rights/commentary/protecting-property-rights-now-and-post-pandemic-economy>

"Absence of Property Rights - a Constraint on Development." tutor2u, <https://www.tutor2u.net/economics/blog/absence-a-property-rights-a-constraint-on-development>

"Why Property Rights Matter." New America, 10 Mar. 2017, <https://www.newamerica.org/future-land-housing/blog/why-property-rights-matter/>

"Universal Declaration of Human Rights at 70: 30 Articles on 30 Articles - Article 17." OHCHR, 26 Nov. 2018, <https://www.ohchr.org/en/press-releases/2018/11/universal-declaration-human-rights-70-30-articles-30-articles-article-17>

"Property." Encyclopædia Britannica, Encyclopædia Britannica, Inc., <https://www.britannica.com/topic/Soviet-law/Property>

"Land Reform." South African Government, <https://www.gov.za/issues/land-reform>

"Right to Property - Impact of the European Convention on Human Rights - Publi.coe.int." Impact of the European Convention on Human Rights, <https://www.coe.int/en/web/impact-convention-human-rights/right-to-property>

"Real Estate Law: China: Global Corporate Real Estate Guide: Baker Mckenzie Resource Hub." Home, <https://resourcehub.bakermckenzie.com/en/resources/global-corporate-real-estate-guide/asia-pacific/china/topics/real-estate-law>

N., Samuel. "Who Actually Owns the Land?-Land Tenure Systems of Eritrea." Dissident Diaries, 27 June 2015, <https://dissidentdiaries.wordpress.com/2014/07/18/land-tenure-eritrea/>

"Housing, Land and Property (HLP) Rights." NRC, <https://www.nrc.no/what-we-do/speaking-up-for-rights/housing-land-and-property-rights/>

Commission on Legal Empowerment of the Poor. "Empowering the Poor through Property Rights." GSDRC, 4 Sept. 2015, <https://gsdrc.org/document-library/empowering-the-poor-through-property-rights/>