

The tenure gap and its influence on socio-ecological conditions

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Improving land tenure security often relies on reconciling discrepancies between statutory and socially-defined land tenure rights¹. Insecurity can persist when there is no formal/statutory recognition of socially-defined tenure rights that exist at the local level (RRI, 2016). There also may be a gap between legal “on-paper” tenure rights and their actual recognition, implementation, or defense “on-the-ground.” We can describe these discrepancies as a *tenure gap*, where there is incongruence between “on-the-ground” rules and rights used to manage land, and the land rights as seen in the eyes of the state. These two main components of the tenure gap² may vary in severity and location, and be influenced by historic and political forces, making it elusive to measure and one of the outstanding challenges in securing land tenure. Our study investigates and systematically characterizes the tenure gap within a set of ten developing countries by asking local land tenure experts to assess local situations where they work through their knowledge, experience, and perceptions. We see this research as advancing the growing literature on land tenure security, human well-being, and conservation by filling a challenging but important knowledge gap.

Land tenure security is recognized across disciplines and fields for its effect on land use and investment decisions. Improved land tenure security can help landholders feel more confident about investing in land uses with longer-term payoffs, potentially improving human well-being and conservation outcomes (Mendelsohn, 1994). In this sense, it is becoming a priority consideration among development and conservation practitioners, particularly those advancing land-based programs, such as agricultural intensification or payments for ecosystem services (Bruce et al., 2010).

Rights and Resources Initiative and Landmark (WRI) have advanced national-level assessments of the legal security of indigenous and community lands across countries (Alden Wily et al., 2015; RRI, 2012, 2014, 2015; White & Martin, 2002). These research programs focus primarily on one side of the tenure gap: the status of legal recognition of community and customary land tenure at the national level. A recent review of the literature on land tenure security interventions and their effects on development outcomes carefully defines the effort to narrow the tenure gap as “fostering compliance with legitimate land tenure rights” (Payne et al., 2015). The review finds that the most common tenure security intervention in their sample, land titling, was successful broadly at both fostering compliance

¹ We rely on definitions of tenure developed for the FAO’s voluntary guidelines on the responsible governance of tenure (guidelines). The guidelines recognize “[tenure] systems may be based on written policies and laws, as well as on unwritten customs and practices” and define ‘legitimate’ land tenure rights to include rights that may or may not be formally recorded (FAO, 2012).

² A third component exists when, regardless of the actual *de jure* or *de facto* tenure security status, landholders’ perception of his or her status may be at odds with written policies and laws (van Gelder, 2010). Education and outreach interventions are being studied to address this gap (Naughton-Treves & Day, 2012; Odong, 2016; Santos, Fletschner, & Daconto, 2012); we focus on the other two components of the tenure gap.

and achieving development goals, although there was some evidence to the contrary. Other literature has cautioned against considering tenure formalization a uniformly successful intervention to improve tenure security, highlighting the need to analyze the specific policy, social, and environmental settings (Deininger & Feder, 2009; Knox et al., 2007; Sunderlin et al., 2008). Similarly, clarifying tenure does not necessarily guarantee certain improvements related to conservation and human well-being (Robinson et al., 2014). Importantly for our work, this recent literature expresses the need for additional research on the tenure gap (Lawry et al., 2014; Payne et al., 2015).

Specifically, our research explores the following:

- a. How do land tenure experts define tenure security in the context of their work?
- b. Relatedly, are the two types of tenure gaps described above key elements in the tenure insecurity they have witnessed?
- c. Is addressing these gaps therefore a priority in their work?
- d. Where and how severe are the tenure gaps (both formal/statutory vs. socially-defined and “on-paper” and “on-the-ground” components of tenure gaps), and how are they evaluated?

Additional survey questions explore whether experts consider tenure gaps as associated with changes in ecological conditions, whether tenure gaps influence changes in human well-being (e.g., household income, empowerment, agricultural productivity, community resilience, etc.), and the factors experts think drive the tenure gaps. We use in-depth structured surveys (n=70) and interactive on-line mapping to characterize the tenure gap in locations (n=130) with which the experts are intimately familiar by asking them to specify the spatial extent and resolution of the gap to the best of their ability.

Our main objective has been to gather qualitative, quantitative, and spatial data to characterize, identify, and assess the characteristics and impacts of tenure gaps in the places where they occur. Here we present preliminary insights from this systematic survey across all countries, and offer case study illustrations of both components of the tenure gap in case examples from Colombia, Guatemala, India, and Indonesia. This research study builds from the proposition that socioeconomic and environmental outcomes will be improved if existing pro-community and pro-poor laws and regulations related to tenure are upheld, enforced, and defended, and if socially-defined rights are recognized and formalized. We see the results from this study as offering critical information to conservation and development organizations about one of the major obstacles to strengthening and clarifying land tenure for local stakeholders.

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