

August 2006

Indicators of Secure Tenure over the Commons: Issues raised at June 2006 IASCP roundtable, Bali, Indonesia

As part of the June 2006 IASCP conference in Indonesia, CAPRI and ILC organized a roundtable discussion on developing indicators of secure access to common property. While there is growing interest among governments, civil society and international agencies) to monitor access to land, including through the use of indicators, most of efforts so far have focused on individual rights to land. In organizing this discussion, CAPRI and ILC sought to generate ideas and increase attention to how indicators might also assess security of tenure to the commons. Key questions and issues that arose during this discussion included;

- What is the justification or purpose of developing indicators?
- What are key criteria for considering how useful and relevant they could be?
- What are relevant concepts and key substantive considerations in developing indicators for the commons?
- What are technical or methodological issues?

The summary below reflects a number of points that roundtable participants raised during the discussion.

- I. What is the justification or purpose of developing indicators? What are key criteria for considering how useful and relevant they could be?

There was consensus in the roundtable that **secure tenure over the commons**, particularly for poor households and communities, is an important goal for broader campaigns of poverty reduction, environmental sustainability, social and political inclusion, etc. Thus, the utility of indicators, and efforts to develop consensus around their use, can be considered in the context of whether/how they would contribute to this goal in practice. This raises different considerations for criteria, depending on the level at which indicators would be developed and used:

- *Community level.* Indicators that are **useful to** and **usable by** community members to track security of rights to the commons – both by groups and individuals within groups – can play a role in empowering communities to claim and defend rights to the commons. Indicators can help community groups identify trends that affect their livelihood, and integrate this information into community organizing and local campaigns.

For use at the local level, indicators need to be readily understood by community members, and based on information that can be collected easily, frequently and inexpensively. There also needs to be a link between data collection and its use – change-oriented studies (e.g., action research).

- *National level.* Indicators that depict how tenure security is changing over time on a country-wide basis can link rights to the commons to other changes in the national context, such as policy or legal reforms. Focusing at this level may provide analysis that can support campaigns for national reform, improve the accuracy of existing administrative data on the commons, or increase the accountability of national governments in the implementation of laws or regulations related to the commons.

Ease of use may not be as important for national-level monitoring and indicators-based advocacy, depending on how national advocacy is linked with local community-based activities. Indicators that are effective and meaningful for local use (such as process standards, discussed further below), however, may lose significance when aggregated to a countrywide level. Small differences may become less apparent or less meaningful when aggregated at the national level.

- *Global level.* Indicators at the global level might be useful in making comparisons across countries, or to bolster analysis of the links between global policy trends and security of tenure over the commons. This could be valuable in terms of increasing visibility in international forums of the links between access to the commons and other global development priorities, such as the eradication of hunger and poverty or environmental sustainability.

Generally speaking, identifying simple proxies is the key, but designing indicators to measure them is an art, not a science. For this reason, it is important to pay attention to the trade-offs inherent in choosing some indicators over others.

II. What are relevant concepts and key substantive considerations?

Much of the discussion focused on considerations for assessing the security of rights to the commons. It was noted, though, that with rights also come responsibilities and that indicators that capture resource management practices and other factors may add valuable information in assessing tenure security more broadly.

A. Indicators of secure rights

As noted above, one basic issue that emerged in the discussion was the need for indicators to account for the security of rights to the commons, including several components:

- Are rights to the commons are recognized by the state, and in what ways?
- What is the extent to which people who use the commons are aware of their rights and able to act upon them?
- What are institutional processes through which rights to the commons are administered, and how effective a guarantee do they give to rights?
- What threats or counter-claims to these rights exist, and how are conflicts managed?

Recognition of rights

While legal recognition from the state does not guarantee tenure security, the discussion suggested that it is a key starting point for indication of how secure rights to the commons are.

- What is the extent to which security of rights is defined in a legal (de jure) context? Rather than a de facto context?

There may be other forms of “quasi-official” recognition of rights to the commons that exist, such as rights that are created through decentralization or devolution, state or donor projects, or that are tacitly acknowledged through tax collection. Monitoring and recording these forms of recognition can add to the assessment of tenure security. Some national legal frameworks do recognize customary or religious law, in which cases these norms and rules have to be taken into account

In some cases the state may not recognize the groups themselves that are making claims, which may be a prerequisite step for the recognition of group rights.

- Does the state recognize the existence of groups that are making group claims? E.g., cases of indigenous peoples that are not recognized by their governments. If not, this can be first obstacle toward increasing tenure security. On flipside, if existence is recognized, states are more pressed to also recognize indigenous peoples’ rights to territorial resources.

Understanding of rights

Having laws and policies in place does not equal implementation. As a first step, communities that manage and individuals that rely on the commons need be aware of their rights and have channels available to defend them.

Tracking and measuring whether people's **understanding of their rights** is becoming clearer.

- To what extent do community members know what their rights are under the state legal framework?
- Are they able to defend these rights in practice?

The rights of individuals within user groups or other associations that manage the commons are also relevant.

- Do all group members or people in a community share equal rights (i.e., rights of individuals within the group)?
- To what extent is there equality or discrimination, e.g., by gender, caste, etc.?

Put together, these sets of questions can point to security of rights both for groups vis-à-vis other external interests, and for individuals within those groups.

Administration of rights

Participants also discussed potential use of process standards as indicators for secure rights. These address the extent to which land rights administration – whether by state agencies or by community-management institutions -- is understandable and accessible (or, whether it is becoming more so) for the groups and individuals who rely on these processes to put their rights into practice. Some examples of what can be measured include:

- Recording
- Transfer
- Establishing use regulations
- Adjudication
- Dispute resolution

In using performance standards, there is the caveat that processes may still be manipulated in ways that, depending on the context, create winners and losers. Easier documentation, for example, may allow for individual capture of the commons, if it is subject to corruption or other forms of manipulation, or if certification processes simply do not account for collective forms of land and resource tenure.

Threats and conflicts

Participants suggested there are several components to assessing threats and conflicts over the commons (which can be internal or external): (a) identifying kinds of threats that exist, (b) whether these have evolved into actual disputes or conflicts, and (c) what are processes for redress or dispute resolution. This last point is related closely to institutions and process standards, as described in section above

Identifying kinds of threats:

- Extent to which the government can regulate or control people's exercise of rights legally (e.g., via bureaucratic requirements) or illegally (e.g., corruption)

- What are other counter-claims in the area?
 - Outside investments (e.g., mining, forestry, plantation farming) by state or private companies
 - Migrant farmers or fishers
 - Overlapping rights claims by indigenous peoples communities

Presence of threats, especially if there are overlapping of rights (*de jure* or *de facto*) can be sign of weak tenure security.

There may be cases where communities have rights but not *de facto* control – raising the question of how to assess the in which rights are administered, particularly if there are threats coming from within the predominating systems

- Are there powerful actors other than the state that can regulate or control people's exercise of rights?

Security of group members may be jeopardized by practices in land administration by the group. Examples are inheritance rights or rights to purchase land by women. These may also generate disputes or conflicts.

B. Indicators of other factors in tenure security

While the discussion emphasized the importance of assessing the security of **rights** to the commons, it suggested that there are other issues that could be addressed as well, in order to provide a fuller picture of tenure security.

Focus on dependence?

One issue is whether to focus use of indicators on the rights of households and communities that are “dependent” on common property for their livelihood.

- On the one hand, the IASCP conference reinforced the sense that dependency does matter, and that increasing security of tenure for poor and vulnerable groups is needed to eradicate poverty and increase sustainability of resource use. Indicators that can document and measure this dependence may strengthen the position of communities in advocating for secure rights.
- On the other hand, this raises questions of how to define “dependency”, how to value current versus future claims to resources, and whether indicators that focused on the rights of some populations could trigger conflicts with other less vulnerable groups.

Dependency can be thought of as a range, not a discrete definition. At one end, some households may use commons just a little and base their livelihoods on other resources, assets or incomes; at the other end, households may be fully reliant on access to commons for their livelihood.

- What percentage of consumption or income is generated by access/use of common property? (What percentage from commons, what percentage from privately owned land or customary land that is privately accessed and managed, what percentage from wage labor, etc.)
- Pay attention to time boundaries under assessment – so each HH is defining their dependency within the same time period (making this information more comparable).
- In many tenure systems, commons land is left unused for periods of time – if group not “dependent” on it at present, but may need access to it in future, this should also be captured.
- There are also non-economic factors of dependence – e.g., cultural significance of access to territorial resources. How to measure these or other things that are not easily monetized?

The distributive equity of benefits from the commons may also be an issue, particularly if there is concern of “elite capture”, i.e., use of the commons disproportionately benefiting better-off households within groups, or outside investors instead of local residents. For example:

- What percentage of total benefits from commons reaches the household level?
- How are these benefits distributed among households?
- What percentage of benefits is captured by external groups?

Sustainable management of the commons

How resources are managed – not only the rights to manage those resources - is also an element of land tenure security. Should indicators of secure tenure conceptually keep together rights and responsibilities, so that the quality of resource management activities can also be tracked and measured?

- Indicators to address governance or maintenance of/care for the resource(s)
- Security of tenure is not only relevant to the people living where common resources are located – but also to a broader audience, people living around or near the resources, or who are affected by their usage. (Indicators may reflect externalities)

III. What are technical or methodological issues?

Using only percentages as indicators can generate problems in interpreting the significance of findings

- e.g., an area where 80% of land is in conflict, but 20% in violent conflict. How meaningful is this breakdown?
- Percentages not always easy to compare across countries.

Alternatively, indicators could measure along scales or ranges:

- e.g., from “no importance” to “total importance” in terms of measuring the threat of land disputes to security of rights

Each resource type has its own distinct characteristics – indicators that are useful for pasture land may not be for forest resources or water. Participants suggested that it is more relevant to breakdown indicators based on specific resources, rather than look at indicators for “the commons” broadly.

Finally, we were reminded that for people who use the commons, tenure security is a sense or a feeling that cannot always be reflected by measuring physical things, and that making tenure more secure is a process and not a single event. Qualitative methods may be better suited not only to identify the level of tenure security that households or community groups perceive (and its direction, i.e., whether rights are becoming more or less secure), but also uncover the roots of these perceptions.

Capturing an assessment of relationships, management practices, decision-making processes → these lend themselves to qualitative rather than quantitative indicators.

It is possible to link the quantitative and qualitative indicators – not always a case of having to choose one or the other; rather, of using qualitative studies (e.g., focus groups) to flesh out the significance of quantitative findings (e.g., from HH survey data). For instance, link perceptions of conflicts and levels of intensity (assessed qualitatively) with their frequency or duration (assessed quantitatively)

Whether there needs to be emphasis on quantitative data, qualitative data or both – and whether these can realistically be collected – will likely depend on the purpose for and the scale at which these indicators are used, as discussed in section I of this summary.

Additional comments and recommendations are welcome and can be sent to ILC secretariat via email, to Andrew Fuys at a.fuys@ifad.org.