

Mont Pelerin
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Property Rights and Natural
Resources

Comments B. Bouckaert

MPS LIMA 2015 Comments Bouckaert

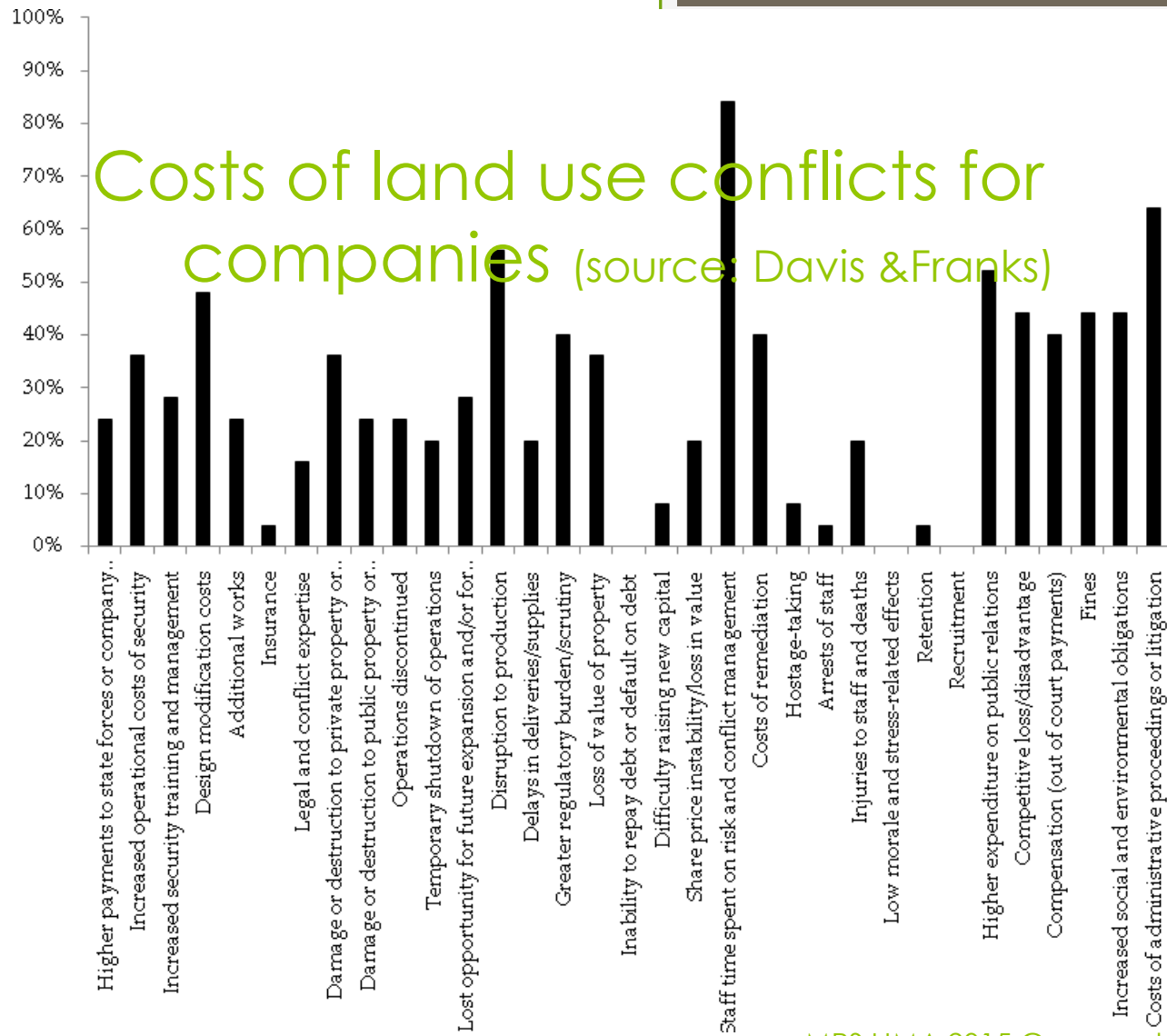
Property Rights and Natural Resources

- **Aristotle**'s argument against **Plato**'s guards communism= efficient use argument in favour of private property
- Influential: Adopted by **Thomas Aquinas**: catholic church embraced private property
- Efficient resource argument= threefold
 - Internalizes benefits of investment in resource
 - Maximizes NPV of resource by efficient levels of use and efficient timing of harvesting
 - Internalizes social costs of use (nuisance, trespass, tort, etc.)

Why problems around the world on property rights and natural resources?

- **Demsetz**' theory : PP when $B_i > C_i$
- Empirical evidence for this theory largely from European history (**North and Thomas** et alii)
- If PP so beneficial why multiple land use conflicts in non- and semi-urbanized in LDC?
 - conflicts forest communities with lumber companies, palm oil producing companies, oil companies
 - conflicts fishery communities with fishing companies using gigantic fishing vessels

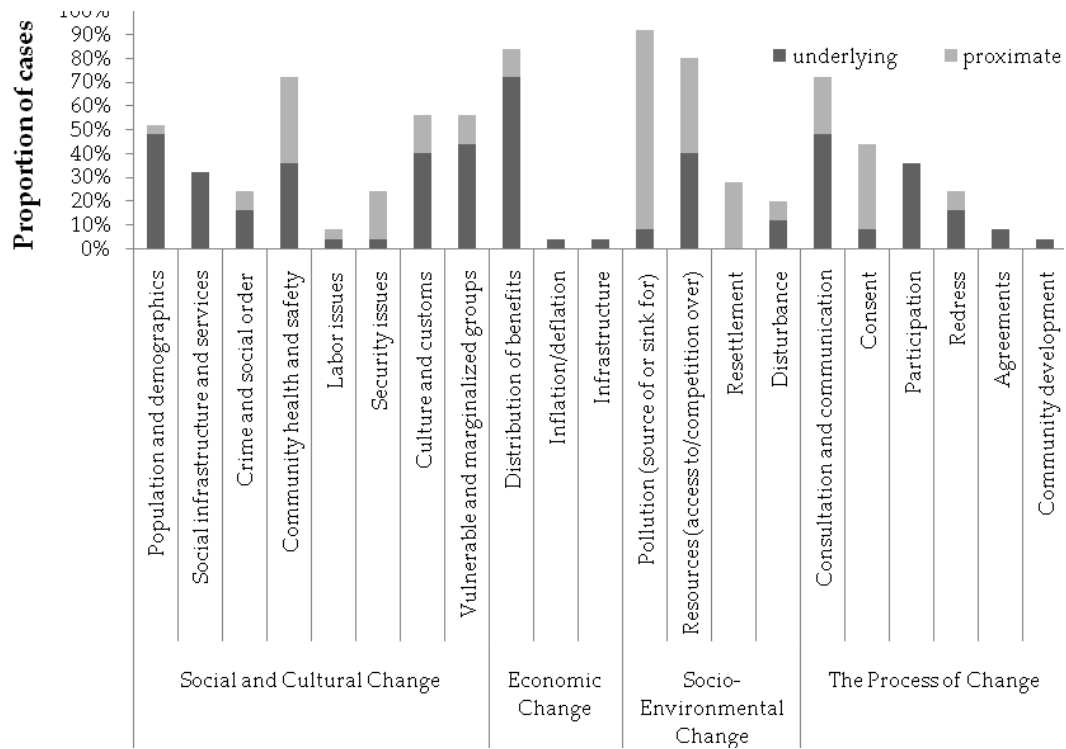
Proportion of Cases



Costs of land use conflicts for companies (source: Davis & Franks)

Costs of Land Use conflicts

Manifestations of the conflict (source Frank&Davis)



Institutional origins of land use conflicts= formal vs informal property orders

- Due to globalisation (world wide demand for natural resources) often combined with crony capitalism → clash 'official PR-system' with informal traditional PR-systems
- P.ex: land titling systems (**Ghersi-De Soto**-theory): fluid social relationships (families,subclan,clans,village):difficult to grasp in formalized institutions leads to institutional shopping

Institutional origins of land use conflicts= formal vs informal property orders

- P.ex. **Kenya** :titling program initially successful; lost accuracy due to high formal and informal registration costs and inconsistency between law and local inheritance and transfer practices
- P.ex. **Indonesia-Papua**: copper/gold mining: concession-holders in conflict with local community; army asks higher side protection payments; army instigator?

Ordering function of property

- **Carl Menger:** ‘...with this opposition of interest, it becomes necessary for society to protect the various individuals in the possession of goods subject to this relationship against all possible acts of force. In this way, then, we arrive at the economic origin of our present legal order, and especially of the so-called protection of ownership, the basis of property...Property, therefore, like human economy, is not an arbitrary invention but rather the only practically possible solution of the problem that is, in the nature of things, imposed upon us by the disparity between requirements for, and available quantities of, all economic goods.’(**Principles of Economics 1871**)

Ordering function of property

- Property rights too exclusively analysed from efficient use-perspective
- Recent law&econ literature (**Merril&Smith**): **in rem** -character of PR= right against whole world; PR is social rule to avoid permanent and costly conflict; needs social consent
- P.ex Europe: **Bartolian/Blackstonian** PR: it took centuries to become socially engrained (dominium directum/utile)

Solutions for land use conflicts

- Neither community elimination (=often hidden cronies 'agenda)nor company bashing(=leftist NGO's agenda)
- Through negotiation between communities and companies : stable and clear property arrangements
- P.ex: palm oil-industry Indonesia: programme of community mapping before plantation establishment; then negotiations; prevents conflict

Conclusion

- Only stable and socially sustained property order guarantees efficient and peaceful exploitation of natural resources
- This insight is gradually gaining ground world wide, even in the deep heart of forests
- Property = liberty '*Vous voulez être libre; or sans propriété point de liberté*' (**abbé Maury**, Assemblée Nationale, 1790)