

Harvey Jacobs: Property rights a simmering global issue

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From local commercial development to national political upheaval, issues of property rights are widespread and growing, according to **Harvey Jacobs**.

"We are in a period of history where this is one of the most talked about questions globally," says Jacobs. "There isn't a part of

the world, there isn't a country, there isn't a region and there isn't a political regime where this issue has not become front and center."



Harvey Jacobs, professor of urban and regional planning and environmental studies.

Jacobs, a University of Wisconsin-Madison professor of urban and regional planning and environmental studies and a widely recognized expert on property rights, says the issue is married to broader social and political discussions. He cites the recent popular uprisings in Egypt, Libya, Syria, and other countries in North Africa and the Middle East.

"The 'Arab Spring,' was about the question of what does it mean to have rights, what does it mean to be a citizen -- as soon as

people start exploring these issues, up pops the question of land and property," he says.

In most cases, however, property rights issues play out in bureaucratic offices and legal chambers rather than in the streets. One of the most common drivers of conflict involves government actions that displace property owners or occupants.

Government give and take

"There's tremendous hand-wringing by governments globally over this question of

expropriation -- we call it 'taking' -- the government wants to take land, everybody acknowledges government should have the right to do that, but the question is how much should they pay for it when they take it," he explains.

Jacobs recently helped run a training session at the [Lincoln Institute of Land Policy](#) for officials from the Ministry of Land and Resources of the People's Republic of China, where rapid urban development is clashing with small-scale farming.

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"One of the big economic trends in China is to very slowly but very carefully create private property. You can't get Coca-Cola to invest in China unless they are guaranteed that they own the land on which they are building a multi-million dollar factory," he says.

Cuba has also recently announced a new national experiment for private ownership of housing, says Jacobs, and countries such as Norway and France with long traditions of strong government control are now strengthening individual property rights relative to governmental authority.

Ironically, the trend in the United States has been toward government having more power over private property. For example, in the widely reported 2005 case, *Kelo v. City of New London*, the U.S. Supreme Court ruled

"It's the only thing they wanted to talk about," he says. "Under Chinese law, the national government owns the land, and yet as the cities expand, they feel morally obliged to give displaced farmers compensation, but the question is then, how much? This question of compensation is a global conversation. Nobody has a clear answer and everybody's formulation is different."

Jacobs says property rights are also a key to attracting outside investment in China's economy.

in favor of a property condemnation to make way for a new commercial development. The case was controversial because the condemnation was justified only on the basis of "economic development," not because of the property's blight (the standard since the 1950s) and not to acquire property for roads or other public infrastructure.

Jacobs says the Supreme Court action, taken on a 5-4 vote, was not as unexpected as many commentators had claimed.

"I was not shocked by the Supreme Court deciding in favor of New London, I was shocked that the case was so close," he says. "What they decided in *Kelo* was a natural expansion of what they decided in 1954 in *Berman vs. Parker*, which introduced urban renewal in the U.S. and which they have

developed over the years. So Kelo actually was not an out-of-line decision at all."

Historical development, environmental value

According to Jacobs, issues of private property have been around for thousands of

years but became increasingly important in the 1600s and 1700s with the invention of democracy and market economies; it was a central idea for both the American and French revolutions.



In March 2008, UW-Madison professors Harvey Jacobs, Caitlyn Allen and Donald Waller were awarded the L'Ordre des Palmes Académiques (Order of the Academic Palms) by the French government. From left, Jean-Pierre Toutant (then science attaché in the French Chicago Consulate); Allen; Jean-Baptiste de Boissière (Consul General of France in Chicago); Waller and Jacobs.

"The whole idea of what's mine, what can I do with what's mine, and what can society tell me about what I can do with what's mine really began to bubble," Jacobs says. This concept reemerged in the late 1980s and early 1990s with the fall of the Berlin Wall and the breakup of the Soviet Union.

"Countries that had been socialist turned to countries in the West and said, 'How do we become a democratic country and how do we become a market economy?' This was Thomas Jefferson reinvented in the 21st century," says Jacobs. "We were giving Jefferson's answer: If you want democracy, you have to have strong private property."

Still, those rights are in continual tension with the public interest. According to Jacobs, if a farmer has a piece of land, not only does it serve that individual, it provides value in other ways.

"The fact that it's really good farmland turns out to also be good for recharging groundwater, wildlife habitat and air quality," says Jacobs. If the farmer decides to sell, he can likely get a higher price from a developer rather than another farmer.

"The logical thing to do is to maximize private interest and sell it to a developer, even if the public loses all sorts of things," says Jacobs. "When someone owns a piece

of land, their view of the world is from the bottom up, it's about maximizing their own self-interest. The problem is, what's good for them may not be good for their neighbors or society as a whole."

These conflicts can be used to justify environmental rules and regulations, Jacobs explains. Whether it's clean water, clean air, endangered species or wetland protection, these laws are put in place to balance public and individual self-interest.

Lessons from the real world

Jacobs teaches both graduate and undergraduate courses that help students understand the tools the government uses to interact with private landowners.

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Jacobs says the widespread interest in property rights is unlikely to wane due to an ever-changing set of issues. For example, researchers, governments and the United Nations have been probing connections between global poverty and private property, particularly in the face of growing megacities.

"We were seeing lots of slums and illegal housing," Jacobs says. "The question emerged, How do we help poor people not be so poor?"

"Part of my role is to expose and sensitize science-based students as to why environmental management can be so contentious," Jacobs says. "I feel I'm here to help them understand, give them exposure to government, public policy and social theory. That way they can see how their science analysis fits into a more complex, real world."

Jacobs works to spread this message far beyond the UW-Madison campus, leading training sessions in numerous international settings. For the past 20 years, he has worked closely with a center in Taiwan that trains mid-level government officials from around the world. He was worked on a similar project with an institute in Rotterdam since 2006 and has helped other universities redesign their degree programs.

While the discussion over solutions intensified, some argue that the solution to poverty resides in private property ownership. According to Jacobs, this is an "overly simplistic 'solution.'"

Currently, Jacobs is involved in a project looking at these issues along with questions of globalized human rights.

"One of the questions I've grappled with is, What is the role of private property rights in a world in which most of us live in cities, and a world in which it's predicted that

between two and three billion people will be living in slums in global megacities?" Jacobs asks.

According to Jacobs, questions of who owns what and how that is determined will remain central to discussions of citizenship in the U.S., in Europe and throughout the countries of the transition and developing worlds for decades to come.

"What is really interesting is that private property is not a static thing," he says. "I

don't own what my grandfather owned, and he didn't own what his grandfather owned. Our ideas about property change as we change our ideas about whom and what has rights, most often as a result of changing technology and changing social values. We are just beginning to re-think what it means to 'own' nature. This, together with our becoming an urban world, means that we are in an unsettled period for thinking through this very foundational social and legal institution. And where we will emerge from this re-thinking is not at all clear."