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TRANSCRIPT

"FUELING ECONOMIC ADVANCEMENT THROUGH LAND RIGHTS"

A conversation with Tim Hanstad and Chris Jochnick

Moderator: Sean Hinton

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ANNOUNCER:

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BLAIR SIROLLI:

Thank you so much for coming. We're really excited to host Landesa for the brown bag entitled "Fueling Economic Advancement and Empowerment Through Land Rights." I'm going to turn it over to the CEO of-- Soros Economic Development Fund and director of the Economic Advancement Program, Sean Hinton, who's going to give us an introduction.

SEAN HINTON:

Wow. Thank you, Blair. That was some-- (LAUGH) gets more formal every time, right? Blair's my assistant. She always-- (LAUGH) we know each other very well, but-- (LAUGH) anyway, it's-- it's-- it's-- it's really a great pleasure. We are-- doing more and more of these-- brown bags, and I-- I'm-- finding them, just for my own thinking and my own-- work here-- so stimulating to have the opportunity to engage with and to really hear-- the discussions that come out from these brown bags.

The best thing for me is to-- is to sit back and listen to you all having a dialogue with-- the various people that have been able to join us. And I'm thrilled-- to have Tim and Chris here from Landesa. I think everybody knows that as we've been developing the-

- EAP strategy we are defining economic advancement as distinct from just economic development as a focus on the intersection between-- economic activity and (RUSTLING) social justice outcomes that we care about at the Open Society.

What is the interaction between, you know, equality of-- of political voice and economic equality or inequality. What are the intersections between various aspects of rights and the role of the private sector? How do we deal with rights and responsibilities across-- across the social justice and economic development-- sort of-- that divide. And increasingly looking to-- to focus our work not purely on-- the-- the-- the more generic measures of economic (CLUNKING) development, but to look at this meeting point, at this intersection.

Now, what Landesa do-- in-- in their work with land rights-- has huge consequences for economic outcomes for, you know-- I don't know, the majority of people on the planet. And I-- I have known of and-- and have been tracking the work that Landesa have done for-- for many years.

I-- I'm not gonna try and introduce Tim and Chris-- or really the work of Landesa in any more detail. I wanna give them the sort of maximum time (THROAT CLEARING) possible. And so I'll hand over. But just to say I'm really thrilled that we can have this.

We haven't got any practical-- collaboration yet with Landesa, with our own program. We haven't figured out where that will be. Today is part of that exploration. And we're very interested in hearing the-- you know, the response and the-- and the-- and the sort of-- engagement that you all have with-- with them and with the work that they've done.

And you may-- many of you may know and be working with them already, ma-- more than we are. But-- I thought we'd, you know, steal this opportunity to-- to sort of start that conversation. And thank you-- thank you for taking the time and coming.

CHRIS JOCHNICK:

Great. Well, first, thanks for having us. Wonderful to be here. I've had a chance to talk to a lot of different folks inside OSF, but it's nice to have-- a group of people around the table to discuss these issues. And-- we will try to be fairly quick, although we do ramble a little bit-- because it really would be helpful to hear from others and create a little bit of a discussion.

But-- I'm gonna start with a little bit of an overview and then Tim's gonna do the substantive stuff, because Tim knows this-- having worked at Landesa long before I even knew about Landesa. My own background, which is somewhat relevant to the conversation, is I'm a lawyer. I got into this area of-- development and human rights early on.

I was very interested in poverty. Had worked in Africa before law school. And tried to combine development with human rights and discovered in the early '90s that there was really nothing going on in that area. You had the development folks that didn't

talk about human rights and the human rights groups that didn't care about poverty.

And-- my friends and I tried to start a little-- well, we did actually start a little operation called The Center for Economic and Social Rights to fill this-- gap in the-- in a small way in the human rights field. And so I worked for 10 years on economic and social rights issues. A lot of time in Latin America, and with a specific focus for much of that on indigenous peoples and extractive industries.

And I quickly discovered that my hu-- human rights training was not well suited to the kind of work I was doing, which was-- targeting these large economic actors-- both private and world bank and IFI (PH) and the rest. And really with no understanding of what was going on inside those institutions.

So I went to Wall Street and worked for four years trying to get to understand them, and-- then decided that the real action in the development space was gonna be on private sector engagement. So I joined Oxfam just as they were starting a private sector team and helped them build that up.

That's were John and I worked for many years together-- building up the private sector work of Oxfam, which was a fascinating effort, because Oxfam also had-- taken a similar journey. First development, then realized it needed to touch on human rights and advocacy. And then realized economic actors were-- front and center and they needed a strategy to deal with these actors. So-- Oxfam has been-- over the last 10 years or so trying to figure out how do we engage markets in a way that-- leads to better outcomes for people living in poverty. And the-- and-- I got a big dose of that.

And towards the end of that work-- I came to see land as sort of central to almost everything that I had been doin' over the prior 25 years. It was certainly a big issue with indigenous peoples. It's big with all our humanitar-- or-- all of Oxfam's work on human issues. It was big of the development front with farmers and-- and others.

And then in the final-- campaign that we worked on behind the brands, which John and I worked very closely on-- it-- it-- a lot of that campaigning also focused on land grabs. And s-- I came to know Landesa and I realized that land has been sort of central to what I've been doing. And there was an opportunity there. So I jumped over to Landesa.

Now, Landesa. I thought I knew somethin' about land rights when I joined Landesa, because I had been working, as I say, for about 25 years. But really there was a whole set of issues-- that Landesa had been working on that I was completely unfamiliar with.

And it struck me that there's almost two worlds out there-- that both consider themselves working around land rights. There's the land grab crowd that-- works on conflict and raising alarms around people getting removed from their land and-- expropriations and the like. And that's where Oxfam and Human Rights Watch and Global Witness and Earth Rights and all of the others tend to work.

And then there's this whole other community of folks that work upstream and are thinking about those millions of people that live in a perpetuate state of insecurity.

And what-- how that impacts their lives. And that's where Landesa has been for the last 50 years. And-- so I've had to really sort of ramp up around this whole other set of issues that has to do with-- land rights outside of the spotlight of land grabs, but really more about how do we bring more security to folks on land as a gateway to everything else that we're tryin' to do on development.

And I quickly came to realize (CHUCKLE) just how central land is to almost everything. To women's rights. To the environment. To conflict. To economic growth. To livelihoods. And I've really-- in my first year at Landesa it has been a steep learning curve. And that-- one of the things I've been struck with has-- been that, the fact that there is still this-- somewhat of a siloed world out there between the land grabbers or folks working on that and the folks working more on the-- land insecurity generally.

And it's also been an education on another way of working. So I come out of a human rights perspective. We always treat governments cynically as-- part of the problem. And-- we're out to really build (CLUNKING) countervailing power (LAUGH) and try to take them on.

At Landesa it's been just the opposite. It's really been trying to find the low hanging fruit. All of those governments that are actually-- or all of those champions inside governments who actually have a very good reason to do the right thing, but don't have the tools or the experience or the capacity. And Landesa has found working with now over 50 governments that there are a lot of governments that really do wanna do the right thing on land. And that we can actually effect huge transformation at scale by working with those governments-- to try to steer them in the right direction around land rights. And this is what Tim will talk a bit about.

But then alongside that we've also come to see that-- that's just the first step. That really the implementation side of it is so much, in many ways, messier and more challenging. You can get a great law passed, but if it's not being implemented-- it doesn't do much good for the people. And often these laws face all kinds of challenges once they're on the books.

And so Landesa's sort of-- you could group our work into two spheres. One is the legal reform and the other is all of this innovative work on the ground with partners. Sometimes those are civil society groups. Sometimes they are communities themselves. Paralegals. Sometimes they're-- universities. And sometimes they are local government officials on the ground who are also just struggling to do the right thing and-- Landesa tries to provide tools for them as well. And-- that-- those implementation challenges I think is where we may see-- ourselves working with many of the same groups (CLUNKING) that OS-- OSF has been funding and-- and working with.

And then finally I'll say my last-- (CLUNKING) insight has just been the centrality of land, as I said, to almost everything. And that if you get land right a lot of other things can-- build themselves out of that. And if you don't get it right, so many of our efforts on the humanitarian side, on the development side, on the legal

empowerment and women's rights side and-- and human rights side are bound to fail.

And-- and-- and I have really come to see land as that gateway or building block-- for almost everything else we do. And-- so it's really-- I-- I feel like I've-- I've lucked in-- in some ways to the perfect position at the perfect time when-- many of these other communities, the human rights crowd, the housing rights, the climate change are sort of coming around to land also.

And so it's a really interesting time in some ways to be-- in a land rights outfit like Landesa. Okay, with that I'm gonna turn it over to Tim who will-- show you a little bit more about the substance side of what we actually do at Landesa.

TIM HANSTAD:

Thanks Chris. Great to be here. A quick introduction of myself first. I'm also a lawyer. Been doing land rights work now for 30 years. I started doing it-- as a faculty member at the University of Washington Law School where I joined a professor who had been doing this work for 20 years previously. And-- a few years later, about 25 years ago then, took the work outside of the university framework and-- into this NGO, which now is Landesa.

Was a CEO for some time-- and as the organization grew from two people to over 100 realized that-- well, actually, I realized it long before then. That-- I'd never really aspired to lead an organization and I was really wanting to get back more into the-- deep into the program work. And particularly living overseas doing that.

And-- that led to a process which eventually had us hiring Chris. And I-- it's been-- it's been great working with him over the last year. And a little bit more than that, plus, actually, before he came on board. I'm now based in India, at least temporarily. Yeah, so that's a little bit about myself.

So to get into land rights-- and-- Landesa didn't-- its origins were really about working on the issues of poverty and conflict around the planet. And it was actually trying to figure out a way in which we could address issues of poverty and conflict from a more structural perspective that led us to the issue of land.

Just go-- so 3/4 of the world's poorest people live in rural areas. So if we're gonna look at the issue of poverty-- that led us to the issue of-- of rural areas. And then why to land is because in rural areas land is the most important asset. Land is the-- is the more-- most important source of income, of food, of wealth, of power, of status, of access to government entitlements.

And if you were to sum it up, I think it's fair to say that-- one's access to social and economic opportunity for the rural poor is largely connected to one's relationship to land. Access and rights to land. Now, if we look around the world we can see that more than a billion rural poor people who rely on land for their livelihoods actually lack secure legal rights to land. It's a very large number.

And it-- it-- it falls into three broad categories. The-- the first category are families, men and women-- and their children, who are absolutely (COUGH) landless. So these are people who if you ask them, "Do you have land of your own?" they would tell you, "No." And-- including house site land-- farm land, forest land, grass land, other so-- other categories of ag-- rural land.

That category of three categories tends to be the poorest. (COUGH) They end to-- most of them tend to-- get their primary source of income from agricultural wage labor. Many of them stuck in feudal or semi-feudal relationships-- with the people (CLUNKING) they-- they work for.

The second category are families that actually possess land but lack secure legal rights to that land. That's a larger category. And if you look at that category, again you can-- you can further divide it into-- house-- house sites, into agricultural land, into forest land and grass land. And that land you could also divide into two broad categories of either private land or-- or publicly owned land.

There's yet a third category, and these are-- in both the first category and the second category there are men and women in both categories. And the third catery-- category is exclusively women. Women living in families where males in those families have secure legal rights to land, but they don't share in those legal rights.

So Landesa-- and as we look at those-- categories of people that we-- ultimately want to provide opportunity to, we have to think about them differently because the problems, and thus then the solutions, are different for those three-- three categories. And also because of that we have a particular focus on women. And it's not just because of the-- that third category. It's also because even in the first two categories-- we have found over time that if you don't have-- a very-- specific focus on making sure that when a household gets rights to land that women share in those rights, if you miss that opportunity when rights are first granted it's very, very-- it's much more difficult to then change that later.

So what-- what happens when people in those categories who have been landless get-- secure legal rights to land? And there is a growing body of literature that-- looks at the impacts, at the household or-- at the micro level, I would say, of what those-- those-- (CLUNKING) impacts are.

And-- and this is an infographic that-- that actually each one of these points is captured by at least one specific study that they cited at the bottom of that. And we'll of course share this-- this-- short deck with you. But just to-- to provide an overview-- there are studies showing that agricultural production goes up by 60%. (BACKGROUND VOICES) That incomes go up. Studies showing that by 150%.

Land values themselves-- and this is something often I think that we miss in the development space. We tend to, even in the economic-- even in looking at the economic side of the equation we tend to focus, I think, more on income than on wealth. And wealth often is, many times, I would say, more important than-- than income. But-- land that has-- clar-- clarified, secure legal rights to it is-- is worth much more than, (CLUNKING) you know, when that is absent.

There are studies showing that secure legal land rights lead to-- higher high school graduation rates for children. Up to two times higher. Increases in numbers of hours worked because you don't have to defend your rights by staying on the land. Teenage pregnancy-- in-- in households that have secure legal rights goes-- going down by-- by half.

There-- so a lot of good things potentially can happen when-- and-- and typically do happen when ho-- when households get secure legal rights to land. When women share in those secure legal rights to land even more good things happen. So, again-- even a faster growing body of literature around-- around this-- showing that women-- one study showing that women earned-- more, 3.8 times more, when they share in legal rights to land.

That when women share in legal rights to land they then get more voice over how the income that the family gained is spent. And when women have more voice in that income, as you're all probably aware, more of that income does go into investing in the children's education and nutrition. And-- in documented ways.

That-- domestic violence for women, when they share in-- in the rights to the-- the homes, in particular the house sites. There's a study in India showing that's eight-- what-- women who share in those rights are eight times less likely to experience domestic violence. Women's savings rates go up.

So all kinds of great, documented impacts at the micro level. We don't have an-- an infographic on this, but it's also-- I think important to mention that there's lots of studies now looking at the macro level. That-- what happens at a societal level.

Or-- on-- on these, the-- they-- the studies are not-- they can't show causal relationships. They show-- associative relationships. But you do see-- very clear relationships between-- economic growth rates. You see clear-- relationships between the growth of democratic institutions.

You see associations between the growth-- or-- levels of conflict and crime-- that is essentially, as a predictor, if land rights in a given society are-- both more egalitarianly spread and more secure, you find better outcomes.

So that then might lead to the question, "Oh-- okay, why? Why-- why-- if-- if we see all of these great-- relationships why don't-- more-- of these more than one billion people have secure legal rights to land?"

And in looking at that, as we look at it broadly, we say there's two categories of barriers. The first category is law and policy gaps. And this is the area where Landesa in its early years largely focused. Is how do we close those. What are those law and policy gaps? How do we identify those through initially research? Both desk research and a lot of field research.

And then developing recommendations for governments and advocating for those governments in the way that Chris talked about that off-- a big part of that is creating-- positive working relationships with government. Coming to them not in a public-- naming and shaming kind of way, but in a, "Here's what the research shows.

Here's the benefits that you might accrue if you actually were able to make these changes. And here are some specific areas that we've identified of laws that can be changed or new laws that can be added or-- or policies or large scale government programs.

And for our first-- about-- well, number of decades, this was the primary area of focus for Landesa. Over the last 10 years-- 10 to 15 years we've gotten more into this second area. And that is-- recognizing that changes in law and policy are almost never-- are almost always necessary, but almost never sufficient.

And so what are the barriers on the implementation side? And what can Landesa and other-- civil society actors do to help address those-- barriers? And those-- there is a subset of-- of constraints there, and-- lack of awareness of both right (NOISE) holders-- so both on the demand side, and then on the supply side of the government in terms of those who are charged with administering or-- or giving the rights in the first place.

There's often a lack of government capacity, lack of political will and then-- particularly around-- that-- the area of women's land rights, these patriarchal social norms are a huge, huge obstacle. And so over the last 10 to 15 years we've gotten more involved in how can we work with both government partners but also civil society partners in addressing these implementation obstacles.

This slide tries to capture the approach, generally, that we use. Landesa-- uses-- in our work at the country level. And by the way, I-- I haven't mentioned also where we work. Chris mentioned I think earlier that we have worked--

CHRIS JOCHNICK:

Yeah, it's on the next slide.

TIM HANSTAD:

Oh okay. That's coming. Thanks Chris. (LAUGHTER) So we-- we start with-- (CLEARS THROAT) we start with research. We then go to design that is using the research findings. And a lot of this research, often we're working with-- with-- host country national research organizations and individuals-- to-- identify what are those policy constraints. And using the-- the findings then to-- to design and review-- changes needed at the policy and legislative level.

We then take those recommendations and work in-- kind of a multi-stakeholder approach by trying to get the governments to-- look at them. And often try-- and framing them in-- framing our advocacy in ways-- which align with government's existing incentives.

And as Chris mentioned, the-- the-- governments often want to do the right thing, for a variety of reasons. Often it's because (SNEEZING) other-- the-- the organizations

that have-- that come more with a stick approach, with a naming and blaming approach, actually create that political will.

Often that's-- often-- governments will be under threat (SNEEZING) from (BACKGROUND VOICES) rural insurgencies. And that creates a political well. And they're-- they-- there's a variety of reasons why they may wanna change these things. To attract foreign direction investment may be another reason. (BEEPING)

And then if we are able to-- get policy changes made-- or if-- of if recent policy changes have been made maybe that we weren't involved with, we often then go in and look at what are the implementation obstacles and work with government. Now, what does that look like? It-- it-- it-- it is things like-- promoting legal awareness. Actually working hand-in-hand with governments around pilot-- piloting things. Setting up-- monitoring systems with often the government. So there's a variety of things (COUGH) within the implementation side.

So where do we work? Our-- our work now at the country level is largely confined to Asia and Africa. Within Asia, India, China and Myanmar. Within-- Africa we are currently working in Ghana and Tanzania. We have project-level work, or recently had project-level work in Rwanda, Ethiopia, Uganda, Kenya, Liberia, Malawi. I may have missed-- a couple of others. But-- the work is not all the same across all of these places. In some places, like in China, it's much more focused at the-- at the policy level. How-- working closely with-- with the government. Doing a lot of research on the ground and-- and feeding them that information up.

In India there's some of that policy-level work. Actually, there's quite a bit of it, but there's also even more implementation work. Working with the government. As a result, we-- we have a lot more people in-- in India. Also in India the land is largely a state subject, so it varies-- I mean you really have to be working at the state level to make this-- this work well.

In Myanmar, where our work is fairly new, just over the last-- recent few years, we are working closely-- had been working closely earlier with both the government and the opposition on the-- on the national land policy. And in building capacity at-- at the-- at the senior-most government-- levels, actually including things like taking-- ministers to other countries to do, like-- learning visits. And-- just a lot of training of-- of government officials.

And then in Africa it's mostly been project-level work. Some of it policy-related. Some of it implementation of policy-related. And we haven't yet-- it's only in very recent years that we are focusing in on-- particularly initially Ghana and Tanzania and setting up country offices there to take a kind of more long-term bet or creating those boots on the ground.

FEMALE VOICE:

What make you choose Ghana and Tanzania over the 48 odd ones other? (LAUGH)

TIM HANSTAD:

Yeah. It's-- (SIRENS) there-- there's a long answer-- to that, but the short answer is we've actually developed a set of criteria that helps us decide-- where-- what countries to focus in. And-- the criteria look at a number of issues, including what is the potential si-- the-- the size of the potential beneficiary universe.

We look at certain-- are there certain pre-conditions present in terms of level of rule of law. Kind of lack of (CLICKING) conflict. Is it a weak or failed state? We're less likely to go in. To what extent are there-- will our-- value add-- be more significant? That is we're--

FEMALE VOICE:

Okay.

TIM HANSTAD:

--what we can bring is-- yeah.

FEMALE VOICE:

Okay.

TIM HANSTAD:

And also in terms of when we put boots on the ground to what extent is-- what is the attitude or the environment in terms of setting up a non-profit presence in that country.

FEMALE VOICE:

Oh, Tanzania, I have to say, it's a big surprising. Ghana and-- I guess more because the government there is very, very protective. Very socialist. And I've tried to do a lot of projects-- in my previous life in Tanzania and I have to say, I never managed. So (LAUGH) it's quite--

TIM HANSTAD:

Well--

FEMALE VOICE:

--frustrating.

TIM HANSTAD:

Well, we should talk. It's early days for us, so we'll-- we'll see if it's-- it ends up being the right bet on that-- on that-- on that front.

SEAN HINTON:

But you're working in India and China, neither of which are renowned to be easy places to-- operate.

TIM HANSTAD:

Yeah.

MALE VOICE:

And Ethiopia.

TIM HANSTAD:

And Ethiopia.

FEMALE VOICE:

Very (UNINTEL) is also--

TIM HANSTAD:

I-- I tell you, our-- in our early work in these countries, for ax-- actually in China and India, has been-- very-- entrepreneurial. And we were working in-- certainly in legal grey space, to put it-- kindly, (CHUCKLE) for a long time in those places.

So-- and-- and-- and when we were younger and kind of smaller there was also more appetite for that. You know, as you grow larger and develop a larger brand and all of that, it becomes a bit more difficult. So these are things we're grappling with now.

MALE VOICE:

Thanks.

FEMALE VOICE:

Do you have field (UNINTEL)? (UNINTEL) change (UNINTEL PHRASE).

CHRIS JOCHNICK:

So Ethiopia also includes work with the African Union, which has also been a big part of what we've been doing.

TIM HANSTAD:

Right. The African Union has-- whoops. Has a land policy--

MALE VOICE:

Land.

TIM HANSTAD:

--initiative that we are working closely with. That-- that's working with African Union member states to actually help them develop-- better land policies.

CHRIS JOCHNICK:

So final slide, and then we'll go to a question and answer. So this is just--

FEMALE VOICE:

Before--

CHRIS JOCHNICK:

--to give you a sense of where we're headed. All-- much of what Tim has been talking about-- we have four pillars in our five year strategic plan. Much of what Tim has been talking about is that first one, the policy reform and implementation.

Alongside that we have a women's land rights center-- which is very active. It helps

inform all of our work, but also does trainings. It does research. We have-- a program we-- where we bring government and civil society leaders for six weeks-- a year to train them on-- on land rights and build capacity.

Now, the third bucket is-- trying to-- engage more at the global level with new constituencies-- who we believe will be champions for land. So we're increasingly seeing the development community come around the land. The women's rights community. Human rights folks. We-- we're just comin' from Human Rights Watch now. The housing rights folks.

So there's-- we sense that there is movement around land. Land made its way into the SDGs. Three different-- goals now include land rights. And that's totally new. The U.N. has come around in many ways and has set up new norms. So what-- we see a lot of energy at the global movement and we wanna increase and engage with that.

And then the fourth category where we also see a lot of opportunity is with-- the private sector. The large ag companies. The extractives. The investors. The banks. There's-- a real hunger for guidance around land rights. And we are working with a number of companies, but we are also developing-- guidance documents for companies and for investors-- which we hope will-- will be a contribution to that space.

So those are the four pillars of our work. And I think across all of it-- just as a closer and to open up a discussion, I see so much potential for collaborating with OSF. I have to-- every time I get to know a little bit more about OSF I see land as a potential-- point of-- of collaboration for us. And-- just the s-- the name Open Society, open societies, as Tim was saying, are based, in many cases, on people feeling secure about their land rights. It was only the land holders that have the right to vote in many countries. Still in many communities, if you don't have secure land rights you're not a member of the-- tribal council or the political body that governs.

So land is central on the political side. It's also so central on all of these different economic and social issues. So I'm really hopeful that we will find ways to-- collaborate with you folks. And thanks for the chance. So with that, let's just-- open it up a little and see if-- what people are-- where-- where you guys are seeing--

MALE VOICE:

I have-- I have a question. So you-- well, two questions. One on-- on collaboration. Are you working in any of these countries with other organizations that are involved with-- with land rights? So first. And second is-- how do you see technology-- playing a role in-- in the land rights issues in-- in the countries where you're working now?

CHRIS JOCHNICK:

So Tim, maybe you go for both of those. One thing Tim-- (CLUNKING) (UNINTEL) a little bit, but it was a (UNINTEL) is we do increasing work around legal

empowerment, so-- we know that it-- Namati, for example, we're collaborating with in-- Myanmar-- and we work with groups-- on the implementation side in particular we work with-- our work depends entirely on working with partners in both civil society and government. So we have quite a bit of-- collaboration with partners. And I'm sure beyond Namadi there-- there must be other OSF-- grantees or partners. But Tim, if you wanna answer both of those?

TIM HANSTAD:

Yeah, well, on the first one the answer is yes. And in-- in-- it-- it-- we-- we work with local research organizations or think tanks. We work with local-- NGOs or federations of NGOs. In many of the countries where we're workin' there already is an-- some existing almost federation that all-- sometimes devoted specifically to land rights.

MALE VOICE:

Uh-huh (AFFIRM). Correct.

TIM HANSTAD:

You know, land rights alliances. We-- (CLUNKING) so yes, very much so. We-- we find ourselves sometimes, though-- in working with those local partners it-- it can be a bit tricky because we-- our-- our approach-- requires-- for-- for us to be effective we have to-- have very close relationships with the government. And-- and sometimes the-- our NGO partners there have a very different relationship with the government. And so kind of working with them and managing that is-- is a challenge, but I-- I think we've-- in most places we've found a very good way to do it.

On the technology question, it's-- it's a great question. And we are-- we are not-- we-- we don't have high technology competency I would say within-- (CHUCKLE) within Landesa, but we-- increasingly are-- are tra-- are exploring that. And we have a couple of projects, one with Google.org and-- in-- in India. And we're exploring also with-- an NGO called Pedasta.

There-- there are lots of-- I'll-- I'll just point to one specific area. So one of the reas-- reasons why-- people are sitting on land that they don't have secure legal rights to is that that land is claimed by the government just broadly, you know, in the law. And they-- the government has never actually-- taken the step to go in and to document who's sitting on that and-- and essentially formalize what are socially legitimate rights.

And that process of formalization-- is something that we're trying to give tools to the government to-- a way that they can do it and do it in a way that's community-led and that protects the marginalized groups within that community. Because that

formalization, I would argue, actually needs to happen everywhere. Eventually. And-- but there's alls-- it has massive benefits, but also has massive risks if it's not done well, because-- massive risks around elite capture.

So-- using technology in doing that, there's-- there is-- is-- can help speed up that process, both in gathering the information-- geo-referencing the information, analyzing the information and then integrating it into the government records.

MALE VOICE:

Thank you.

CHRIS JOCHNICK:

I will also say that block chain now is becoming-- sort of a hot topic amongst the land rights community. We haven't started working with it, but some others are pushing it. And the use of drones, as-- as Tim was suggesting, is also another big one where we've just, you know, been-- we're s-- we're sort of on the margins tryin' to figure out where-- where we can find something helpful to our work.

FEMALE VOICE:

I have a question about actually-- like, customary law and, like, plural legal systems. Do you see a lot of places where, you know, women's inheritance rights, for example, are very limited by certain customary laws? And often these are not really documented in the same way. So you were talking about working a lot on sort of national-level or state-level policy. Like, do you encounter these kind of systems? And if so, you know, what is your approach? How do you address that?

CHRIS JOCHNICK:

Go for it.

TIM HANSTAD:

Absolutely. Do we encounter (LAUGH) them? Absolutely we encounter them, because I would argue they (COUGH) exist everywhere. I mean they're-- I think looking at systems as a binary between customary and formal actually is-- is-- leads us in the wrong direction. Every system is some combination of formal and customary. I could go to the legal property rights sitting in this room right here. There are customary rights here.

So-- so-- a lot of the-- a lot of the issues, though, of framing it, it's not that looking at

customary as different than formal is a wrong way of looking at it, but often times the formal-- or the-- the-- yeah, the-- the formal statutory rights, there's a big gap between what's statutory and what's customary.

And then is how do you close that gap. And-- that takes both changes sometimes in statutory but also changes in social norms that impacts the customary. It-- I-- I'm not-- I realize I'm not providing specifics, 'cause the specifics are-- are different in every setting. But closing that gap between-- between those two is really important.

And one way of thinking about it is that in order for land rights to be truly secure they have to be both socially and legally legitimate. And in some-- and you can frame a two by two where you'd say, "Socially legitimate. Not socially legitimate. Legally legitimate. Not legally legitimate." And you could-- every land tenure system you could put somewhere in there. And you wanna move the systems to that box where they're both formally and-- statutorily or legally and socially legitimate.

CHRIS JOCHNICK:

But to add a little bit of specifics, we do work on a challenge. And where we have had a little bit of luck-- I mean that's a challenge that confronts all kinds of work, not just land, right? I mean that's a challenge for everybody that works on some kind of legal piece.

In some cases we have found that-- bringing-- that this be-- constitutional reforms bring the traditional systems within the formal system, at least by law. So it recognizes these tribal authorities. And at the same time imposes certain more progressive rights, like women's rights.

And so Landesa has, in-- in certain pilots, worked with communities, women's groups and tribal authorities to identify those kind of gaps that Tim mentions, where the tribal authorities have new-- have been empowered by the constitution or by the statutory regime, but that also means that they now have to start recognizing women's rights in particular.

And that-- those pilots actually have been quite successful. We've done that work in Kenya in particular. I'm not sure if we did some of that in Rwanda. But at least in Kenya. And-- I think it's gonna be-- it-- it at least (RUSTLING) points to one direction to a challenge that confronts people across the world. And it's been-- we hope to be able to expand on that work in-- in other places. So that's been one effort to try to do it. But it is that bridging of the two systems, as Tim mentions.

MALE VOICE:

I'm wondering how your work, if at all, has intersected with-- rural farmers of crops declared illicit. So in our own-- program, the Global Drug Policy program, we-- our portfolio-- in what we're sort of calling the supply side development side, has grown. And one of the issues we're quite interested in is the nexus between land and drugs.

Because particularly for the most-- poor-- rural producers of illicit crops, they end to be land poor or-- or landless. And then it's sort of-- there are compounding problems with, say, eradication that then-- the crops they're growing on land that's not theirs is eradicated, pushing them further into virgin forest and becoming more dependent on illicit crops, et cetera, et cetera.

So there's a big cycle there. And the drug policy community has sort of been interested in this space, but I think for the land-- our experience a bit, is that for the land rights community or the development community they've got their hands full with so many other problems that you add illicit drugs production on top of that and it's kind of like, "Look, that's-- that's--" and government dialogue to say that, like, producers of illicit crops should also have land rights as a pre-condition (LAUGHTER) for assistance to help them move from dependence on illicit cultivation to licit cul--

So I'm just curious, in your work where are you at with that? And-- are you seeing a conversation here developing in the land rights community? And is this a place where perhaps our interests and your interests could-- particularly I think about Myanmar-- but we also face this in Afghanistan or Columbia or Mexico.

TIM HANSTAD:

That's a fascinating question. We have not looked at it or worked at it, and-- so it would be really interesting to follow this is up in an offline conversation, because our-- or at least my, I would say-- working hypothesis, which I've seen some evidence for out in the field, is that-- people with insecure legal rights are-- have a higher incentive, or at least less of a threat, in growing illicit crops because they have less to lose if they get caught. (CHUCKLE) But we-- you know, we haven't looked at it systematically and it would be a fascinating area to look at it.

CHRIS JOCHNICK:

Yeah, I would love that also. And we do-- of course as you said, we're-- we're heavy into Myanmar right now. And so there it's very relevant. And we were doing some work in Columbia, so there it could also be relevant. So we'd love to explore that.

And, as Tim says, you know-- one of the arguments that we make, both to governments and civil society, is that if you-- if you give communities their secure rights that will help on the (RUSTLING) deforestation front. They become less prone to sort of short time scavenging or whatever it is.

By the same token, I would imagine there's a very strong argument you can make to governments that if you secure their rights (CLICKING) they're gonna be less prone to these other things. I haven't seen that argument. Maybe you have, but-- that would be something that we'd be very interested in exploring.

MALE VOICE:

Yeah, I'd be happy to chat more. So--

MALE VOICE:

Very interesting.

FEMALE VOICE:

Okay. Cool. I'm actually very interested in looking at the link of-- economic empowerment of communities and securing their land rights, because-- just-- late last month (CLUNKING) we went to Kenya and we had, like, all these groups from Asia and Africa discussing litigation of indigenous peoples' land rights. And in the process we-- yes, as she mentioned, a very good-- some of the challenges that we had was-- documentation and evidence gathering in proving that a community and a customary ownership actually should be entitled to particular land.

And we noticed also that most states were reluctant to use, for instance, corollary articles of Western scholars. So they would say, "Oh yeah. That is good. We could-- we could pay attention to it, but no, that is not a native. That's not a Kenyan who has produced that particular report." So those were some of the challenges.

Then we dis-- we also-- some conclusions were drawn, for instance, that-- communities-- it is better for communities to be at the forefront for advocating for their land rights. So-- and then we discovered also that-- communities whereby-- communities that were economically empowered had their own financial base and were able to push for litigation, and also receive successful results.

Because they didn't have to re-- because governments would say, "Oh, it's a Western organization pushing for a Western agenda," if they're funding actually litigation for a particular group of people. So that's why I was-- I'm very interested in knowing about that. Have you also experienced that-- that economically empowered communities were in a better position to advocate for their own rights?

TIM HANSTAD:

Yes. Yes, we have. Your question actually-- it's-- it's a fascinating question and it-- points to a number of really important issues. Including the-- the issue between group rights or community rights and individual rights. Between kind of international actors and local actors.

So-- but yes, more economically empowered communities are often in a better (NOISE) position. I'm-- the-- the-- the problem in many places is that if the net-- at least the-- the broad legal framework doesn't create some direction or framework for

communities to gain their-- their group rights, and it's just kind of on a community by community basis, it's really challenging. I mean you'll have some that do it well and others who-- who don't. So I-- creating that at least broad legal framework I think is-- at the national level or sub-national level is really important.

And although you didn't ask the question of, you know-- which is often asked-- in these types of situations, it-- is a group right-- do you push for individual rights or do you push for group rights? It's-- that-- that also is-- kind of a false choice. In every situation I think it has to be both. It's-- it's never completely either/or and it has to be some combination.

And often when-- a community's rights, whether it's an indigenous group or s-- or-- or just a local community that's not indigenous, it's often sequential that you'll want to at least protect-- that is put a legal fence around the community's rights. And then allow the-- the community itself or create a framework of rules where the community can-- dictate, allocate-- allocation and youth rights within the community.

So-- I-- I didn't specifically answer your question, but yeah, (SLAPPING) definitely-- communities that are more economic empowered have-- have a better chance to do it. And the-- the key is-- actually to try to create a legal and the capacity frame-- or institutional framework where it doesn't necessarily (CLUNKING) depend on just the-- the community's economic power.

SEAN HINTON:

Blair, can I suggest we just open up the phone--

BLAIR SIROLLI:

Yes. Thank you. That was my next--

SEAN HINTON:

--to-- to the U.K. or-- or Dakar, in case it is under the EIP team? We've-- we're gonna have a little bit more time with you guys afterwards, but-- did it-- did anyone on the phone want to come in with a question?

TIM WISE:

Yeah, this is Tim Wise. I'm a former-- fellow working in the food security and the climate change program, and currently doing some consulting with Open Society in Africa. And-- and I-- I was really curious if you had-- you know, the debate that-- (CLUNKING) that you guys seem to be in the center of-- in some of these countries and-- and-- and societies and governments is over where-- sort of a timeline between

privatizing land that facilitates its-- it's alienation in the worst case scenarios-- with those situations where documenting land rights-- facilitates community empowerment. And I wondered if you had kind of best practice-- recommendations about how-- how to dance that fine line? Like, where it becomes dangerous to just document-- (BACKGROUND VOICES) individual land rights.

(OFF-MIC CONVERSATION)

TIM HANSTAD:

So-- it's about-- transferability. That-- to-- to what extent-- when people talk about privatization they're often at least talking about to what extent people get-- full ability to transfer their rights to anyone they-- they want to, and in-- and in different ways that they want to.

It's-- how to say it. It-- we-- we talk about appropriate transferability. That actually you want to move to some levels of-- of transferability, (CLUNKING) you have to do it-- you have to look at what are the objectives within a given-- system, and what are the-- the dangers and kind of design it that way. Design it to-- to meet the needs of it. And-- and that maybe different also for different types of land. For environmentally fragile land it may be (RUSTLING) very different than for house site land. In fact it's likely to be very different.

So-- it's-- it's rather complex, but-- but-- it-- again, it's not a binary. You-- it shouldn't be either. That they shouldn't-- land shouldn't be transferable or that all land should be fully transferrable. And it actually almost never is. But gradually as-- as economies develop, I would argue that you need to move towards greater transferability and in different ways, while at the same time protecting the-- the-- the marginalized who might have their rights taken advantage of them if you go-- go there too quickly.

That's a very broad way of-- of framing it, but it's-- I mean if-- if you ask the question, for example, in-- in a society if you can't transfer (CLUNKING) the rights, when-- when countries are developing you can all-- almost be sure that you will have over time a movement of the labor force and population out of agriculture into other sectors. Out of rural areas into urban areas.

And if they don't have a way to transfer their rights how is that gonna happen? It-- you essentially are-- the government has to go in and do it, as they are doing it in China, which-- with disastrous results. It actually gives the government more power. So-- you have (COUGH) to allow for that, I think, private transfer of rights. It's-- it's how you do it and how quickly is the key question.

BLAIR SIROLLI:

Great. Sorry. I do think that we have to cut it off there-- but-- Tim and Chris will be around for a little while today, so maybe we can-- connect you afterwards. Thank you all so much for coming. Those on the phone, thank you so much for dialing in.

I think we can all say that this is a very enlightening-- and educational conversation and-- your work sounds fascinating, so thank you so much for joining us. And we have the pleasure of speaking to you further after this, so that's very exciting.

SEAN HINTON:

And thank you Blair for--

BLAIR SIROLLI:

Thank you all so very much.

SEAN HINTON:

--thank you, Blair, (APPLAUSE) for coordinating.

(OFF-MIC CONVERSATION)

* * *END OF TRANSCRIPT* * *