FLOOR

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The poor and the land
Poverty, property, and planning

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Stories from the roadside

Here is a story from the roadside: A woman, accompanied by two children, is squatting down on the sidewalk of a busy Gulshan street in Dhaka, Bangladesh (Figure 1). One child is a toddler, the other a little boy. The woman, while cleaning up the toddler, makes the most of a lamppost's shadow to protect the children from glaring sunlight. The group crouches on a piece of cloth or paper spread out on the pavement in front of a painted wall. The wall marks the boundary between private land and the public street. Since the woman and the children are poor, the commons are essential for their land use practices, even if the roadside offers little comfort to them.

Figure 1: The spatiality of poverty (Dhaka, Bangladesh) © 2008 Benjamin Davy

The behavior of humans in deprived and desperate circumstances shapes the spatiality of poverty. Bangladesh, with a Human Development Index of 0.547, ranks 140 in a HDI country list of 177 (UNDP 2007: 231). In 2005, the HDI average for OECD countries was 0.916, for United Kingdom 0.946 (rank 16), for Germany 0.935 (rank 22), and for Sierra Leone 0.336 (rank 177). The HDI considers several indices to gauge human development: Life expectancy at birth, adult literacy rate, combined gross enrolment ratio for primary, secondary, and tertiary education, and gross domestic product per capita (UNDP 2007: 229–232). How do our skills to measure poverty actually improve the lives of the poor? Meanwhile, the unnoticed woman carries on with her business. In Bangladesh, the poor are considered invisible by the elite and do not demand profound political changes (Hossain & Moore 2005).

Here is another story from the roadside: Travelers, who have checked in at Vienna International Airport, can feast their eyes on a luxurious spectacle of caviar. Figure 2 shows four cases of caviar, resting on a layer of cloth or paper napkin. Each case displays a prominent price tag. The price of all four cases—

containing a little over 400 gram of caviar—exceeds the Bangladesh's GDP per capita (\$ 2.053 in 2005). Caviar boutiques invite high-end consumers. Renting space to retailers, who aim at passengers' impulsive shopping behavior, has grown into many an airport's main business. The behavior of humans in an affluent and already highly satiated state shapes the spatiality of wealth. International airports, once used for transition only, today have more shops and conference rooms than arrival and departure gates. To avoid the consequences of economic crisis, luxury brands seek for a 'new modesty' and 'sustainable luxury' (Kahn 2009: 12). It is still attractive for caviar retailers, however, to operate their boutiques among the flow of travelers, who, after all, are credit cards on feet.

Figure 2: The spatiality of wealth (Wien-Schwechat, Österreich) © 2008 Benjamin Davy

The spatiality of poverty and wealth is grounded in plural perceptions of land and the social production of land uses by the wealthy and the poor. Figures 1 and 2 help us perceive land, among other things, as territory, economic commodity, and environmental resource. The images invoke land rights, scarcity, value, purity and other qualities of land that planners must not replace by abstract notions of space. The captivating book *Southern Theory* criticizes social theory for

> 'its lack of interest in place, material context, and specifically the land. … Disregarding the land is not just one theoretical choice among others; it emerges as a feature of the ideology of neoliberal society' (Connell 2007: 196 and 208).

Although most spatial planners position themselves as promoters of social and ecological issues, they often neglect the relationship between the poor and the land. Does it suffice to provide space for social housing? Although housing is critical for the poor, the current global discourse on poverty and property is not confined to social housing, but includes the vulnerability of land uses by the poor, informal settlements, land rights of women, land reform, the contested spaces of urban commons, or new types of ownership for spaces of social exchange. This

discourse—including the discussion on sustainable development, poverty reduction, the Millennium Development Goals, or the World Bank's pro-poor land policy—contemplates the poor and the land comprehensively.

In this article, I shall discuss what lessons spatial planners can learn from the roadside stories (Figures 1 and 2) about poverty, property, and land. Poverty and property often do not exist in the same narrative. As poverty has many causes and effects, property in land also depends on a variety of factors, including differentiated legal systems and diverse property cultures (von Benda-Beckmann et al. 2006; Ingram & Yu-Hung 2009; Robbins 2008). Spatial planners, as T. H. Marshall observes (Marshall 1950: 61–62), have a great influence on designing spaces of poverty and wealth. This article focuses on one question: *What is the conceptual framework for dealing with poverty, property, and planning?*

The spatiality of poverty and wealth

Accusation, admiration, analysis

Figures 1 and 2 illustrate the spatiality of poverty and wealth. We can construe these images in different ways, say, in an accusing, admiring, or analyzing way:

- *Accusation:* Possibly we are ashamed of what we are seeing. How can anybody buy caviar in an airport lounge while millions of women, children, and men are starving all around the world? Citizens, who do not prevent or oppose wrong when they can, commit passive injustice (Shklar 1990: 40). Maybe enjoying the display of caviar, or even buying caviar, turns us into bad citizens. Yet, what exactly is wrong about caviar? Would we approve of Figure 2, if the caviar shoppers already gave generously to the poor or development aid agencies? The accusation of high-end consumers as bad citizens at least raises the suspicion of envy.

- *Admiration:* Maybe we admire the woman's calm while tending to the toddler's needs in bright daylight. How do the poor maintain their dignity in the face of overwhelmingly humiliating circumstances? Poverty makes women, men, and children particularly vulnerable to war, disease, famine, corruption, and environmental pollution. Poverty is restrictive and damaging, and it lowers standards: Poor people lack goods and choices, they suffer from deprivation, and they constantly have to compromise (Spicker 2007: 98). The worst impact of poverty probably is humiliation and the loss of dignity (Margalit 1996).

- *Analysis:* Yet, perhaps we simply analyze the pattern of spatial uses. Do the poor and the rich use space in entirely different ways? The poor, of course, cannot afford the same amount and quality of land uses the way wealthy people do. But essentially, the poor as well as the rich constantly use space for standing, sitting, walking, or putting things on the ground. Neither the poor nor the rich have the innate skill of hovering in the air. Even if a person is denied the right to put their feet on the ground, everybody does.

Through analyzing the spatiality of wealth and poverty, we learn in what ways people are putting their feet on the ground. Figures 1 and 2 demonstrate how im-

portant public and semi-public spaces are for everyday life (the woman, the children, the caviar boutique, and the travelers are all using land they do not own). Land uses depend on the admittance to or elimination from private and public spaces. From any individual's point of view, spatial inclusion and exclusion deals with two questions:

- Which spaces do I own and may I use exclusively?
- Which spaces do I have a right to use although I do not own them?

The use of private and public spaces depends on individual rights: The right to walk in the street and to sit underneath a lamppost, the right to protect privately owned land by walls, the right to rent space to high-end retailers, or the right to sell and buy goods in public are particular rights in question. Speaking generally, the spatiality of poverty and wealth constantly involves rights (Banik 2008; Madanipour 2003; UN Habitat & GLTN 2008).

Spatiality and rights

By taking rights into account, planners respond to property (or spatial exclusion) and social citizenship (or spatial inclusion). Planners shape the allocation of land uses and the distribution of the benefits and burdens of property. Planners define the citizens' right to the city (Lefebvre 1996; Mitchell 2003). Each time a binding land use plan is issued, a planning permission is granted or refused, or public spending is determined by a plan, planners are arranging spatial exclusion and inclusion. Henri Lefebvre contends that the

> 'right to the city is like a cry and a demand. … The *right to the city* cannot be conceived of as a simple visiting right or as a return to traditional cities. It can only be formulated as a transformed and renewed *right to urban life*' (Lefebvre 1996: 158).

Lefebvre frames the right to the city as a sketchy blueprint for city planners. But what do rights mean for the specific use of land for homes, public exchange, shopping, work. Obviously, land uses depend on property rights (von Benda-Beckmann et al. 2006; de Soto 2000; Ingram & Yu-Hung 2009; Jacobs & Paulsen 2009; Robbins 2008). Not only the farmers working their land, but scores of homeowners rely on private property to guard their land uses. Land use rights are not confined to private property and also include common property, i.e., the right to use spatial commons (Aiken et al. 2008; Fuys et al. 2008), or rights deriving from rental agreements and other contracts or familial relationships (Ellickson 2006). Apart from individuals, who own large estates or live entirely isolated, people spend much of their time on another's land: We drive or walk around on public streets, we enter shops we do not own, we work in an office building that our employer has leased from its owner.

The difference between spaces of wealth and spaces of poverty becomes visible, if we consider that poor people not merely lack resources, but find it difficult to pursue their equal rights or have less or weaker rights than wealthy people:

- *Spaces of home:* Housing rights of the poor may not derive from private property (e.g., registered freehold) or formal rental agreements, but from adverse posses-

sion, squatting, or customary ownership (UN Habitat & GLTN 2008: 8–11). Housing rights based on rental agreements or informal uses are more effective, if residents are protected from eviction (Everett 2001; Needham 2006: 66–67).

- *Spaces of public exchange:* Although the poor also enjoy the right of way in public spaces, their use of the commons is restricted in many OECD countries by anti-loitering regulation or a lack of free amenities (Madanipour 2003; Mitchell 2003; Low & Smith 2006), such as drinking fountains or park benches. In non-OECD countries, streets and other public spaces are often over-crowded by street vendors and the homeless (Brown 2006).

- *Spaces of shopping:* Retail managers, who wish to admit only potential buyers to their shops, restrict the poor from entering premises. The poor have to rely on the subsistence economy or shop in informal or street markets.

- *Spaces of work:* While entrepreneurs gain the right to use office space or shops from private property or rental agreements, the self-employed poor often use their homes or the commons for business purposes (e.g., street vendors). The unemployed poor also often miss out on services that are typically associated with a workplace (e.g., internet access).

Differences in legal rights shape the spatiality of poverty (with respect to homes, public exchange, shopping, work, or other uses). Spaces of poverty frequently are spaces of restricted uses, congestion and over-use, less opportunities, or simply the result of the poor being excluded from spaces of wealth. The absence of private property is the first thing that comes to mind:

> 'Abstractly, persons who are homeless have the same property rights as anyone else, with respect to whatever they might own. But it is unlikely, if a person is homeless, that she owns much' (Baron 2006: 1427).

We often assume that the poor have, or even deserve, no land rights at all. The assumption is incorrect. The property rights of the poor remain invisible due to a lack of formalization (de Soto 2000, 2008). The list of land use rights associated with homes, public exchange, shopping, or work ascertains that more rights than private property are involved in the spatiality of poverty. The rights-based approach explains how each individual, in the course of using land, exercises a variety of rights. An unequal distribution of land rights implies that the poor have less access to land uses. Yet, even if these rights were distributed equally, the inherent connection between wealth and poverty would result in different spaces.

One world, different spaces

In Figures 1 and 2, there may be no relationship between the Bangladesh woman and the caviar boutiques' customers (in the sense of Judith Shklar's passive injustice). However, there is only one world. Neither the wall with the flaking paint nor thousands of frequent flyer miles separate the rich from the poor. Adam Smith states the relation of poverty and wealth in terms of a bond:

> 'Whenever there is great property, there is great inequality. For one very rich man, there must be at least five hundred poor, and the affluence of the few supposes the indigence of the many' (Smith 1776: 408).

F L O O R

Describing wealth and poverty, Smith pronounces a bitter truth. Poverty and wealth exist in the same world, although in different spaces. If we think about 'development opportunities' in airport retail areas, we must be aware that most people will never shop there. If we think about urban slums, we must be aware that many slum dwellers—if employed at all—work for rich households in walking distance. Poverty cannot be understood without considering wealth. Yet, what do spaces of poverty and wealth have in common, in how far are these spaces dissimilar?

We may construe the spatial effects of 'great property' and 'great inequality' (Adam Smith) in terms of inclusion and exclusion. Spaces of wealth are spaces where the rich enjoy their 'great property.' Rich people are included in spaces of wealth in many ways. They could be landowners, but also members of the power elite, or know the access codes to valuable resources, or may be able to pay entrance fees. Spaces of poverty are residual spaces where the poor are exposed to 'great inequality.' As the poor have no access to spaces of wealth, they remain outside. The spatial quality of 'outside' sometimes is physical, but often 'the outside' refers to exclusion from economic, legal, social, ecological, or cultural spaces. The exclusion occurs as a result of the poor not owning land or not having adequate access rights, but perhaps the poor also belong to a minority group or cannot afford to pay for their land uses. As a consequence of exclusion from spaces of wealth, the poor are confined to undesirable spaces.

Inclusion and exclusion—social mechanisms to create different spaces—are not necessarily a problem. Not every kind of inclusion or exclusion creates 'great inequality' or significant differences. Only if spatial inclusions or exclusions accumulate, their impact on the poor becomes suspicious (Alcock 2006: 121–127; Lister 2004: 81–97). The images of a caviar boutique in Wien-Schwechat and an impoverished woman in the streets of Dhaka illustrate how inclusion and exclusion contribute to the spatiality of wealth and poverty. The caviar boutique (Figure 2) is located prominently within the airport, abundantly equipped, sanitized, and enjoys the full protection of the law. The woman and children on the other hand (Figure 1) exist in a marginal space with diminished infrastructure, they are exposed to air pollution from car traffic, and their land use is informal. Table 1 illustrates typical ingredients of spatial inclusion and exclusion.

	Spaces of wealth (inclusion)	**Spaces of poverty (exclusion)**
Location	*central* spaces close to the hub of economic and social activities	*marginal* spaces remote from economic and social activities
Infrastructure	*endowed* spaces in which technical and social infrastructure (e.g., transport, water, sewage, schools, hospitals) is available	*diminished* spaces which are not serviced at all or serviced at a low standard
Environment	*sanitized* spaces with high environmental quality or high levels of protection from environmental pollution	*polluted* spaces with substantial risks to human health caused by environmental degradation
Legal status	*formalized* spaces with clear boundaries and fully protected by law	*informal* spaces with uncertain boundaries, land uses are often illegal

Table 1: Typical ingredients of spatial inclusion and exclusion

Typically, spaces of wealth are central, well-endowed, sanitized, and formalized spaces, and spaces of poverty are marginal, diminished, polluted, and informal or illegal spaces. In reality, the ingredients of spatial inclusion and exclusion may be combined in several ways. Whether spaces of wealth and poverty exist and how unequal these spaces are in a certain situation, depends on a wide variety of factors. These factors include topography and climate, economic progress, the land market, the legal system, cultural practices, and—to some extent—fortune. Always, however, spaces of wealth and poverty exist simultaneously. This is possible because spatial planning helps produce the spatiality of wealth and poverty by arranging inclusion and exclusion.

The poor and the land in planning theory

Arranging exclusion and inclusion

Spatial planning assists policymakers and civil society in the arrangement of spatial exclusion and inclusion: By coordinating spatial policies, creating opportunities, or shaping the rights to use land. Land use plans designate land for residential or commercial uses, streets, open space. Even if planners do not think about arrangements of exclusion or inclusion, each plan affects the production and distribution of spatial good and burdens. The distributive effect of planning raises the question of justice: How should a planner, who is committed to justice, respond to the fact that wealth and poverty 'suppose' each other?

Adam Smith, one of the founding fathers of modern economics, suggests that the government should protect the wealthy:

> 'The affluence of the rich excites the indignation of the poor, who are often both driven by want, and prompted by envy, to invade his possessions. It is only under the shelter of the civil magistrate that the owner of that valuable property, which is acquired by the labour of many years, or perhaps of many successive generations, can sleep a single night in security. … Civil government, so far as it is instituted for the security of property, is in reality instituted for the rich against the poor, or of those who have some property against those who have none at all' (Smith 1776: 408 and 413).

Many governments have implemented the economist's advice, with results ranging from 18th century's oppressive poorhouses to the 'evil paradises' of today's real estate development (Davis & Monk 2007) or the 'creeping urban apartheid' (Yiftachel 2009: 93). But other governments have committed themselves to address the needs of the poor. The emergence of the welfare state in many Western European countries is a prominent example of not following Adam Smith's advice. The welfare state can be construed as normative expression of a just society: Helping the poor is a moral imperative (Pogge 2002 and 2007). The welfare state can also be construed as the pragmatic expression of a society with less potential of conflict: Helping the poor avoids conflict. Normatively as well as pragmatically, the wisdom of helping—not fighting—the poor derives from acknowledging the inevitable bond between the wretched and the affluent. If poverty and wealth coexist, the

affluent cannot win the war of 'the rich against the poor' (Adam Smith). Would we, if destiny had put us in the place of the woman in Figure 1, endorse harsh schemes against street people? Would we in such a situation approve of police protection for rich property holders? Presumably, we would not. In his theory of justice, John Rawls contended that a constitutional assembly behind a veil of ignorance—where nobody knows their personal situation once the veil is going to be lifted—would agree on fundamental rules of justice. These rules of justice would allow for inequalities only as long as they are in favor of the most disadvantaged members of society (Rawls 1971). In other words: Rawlsian justice demands that pain be minimized (Davy 1997: 264–266). This principle, applied to planning, invokes the vision of planners adopting a more democratic and liberal approach (Stein & Harper 2005).

Spatial planners position themselves constantly somewhere between an elitist concept of justice (e.g., Adam Smith) and a more utilitarian or social concept of justice (e.g., John Rawls). In arranging exclusion and inclusion, planners define and shape boundaries with a sense of opportunities (Davy 2008: 315–316). A theoretical approach to planning with a sense of opportunities and boundaries searches for legitimate cases of excluding the poor and for threshold limits when the poor must be included unless planning violates fundamental values. In the following, I limit my search to two fundamental concepts: Private property and social citizenship. As private property establishes the boundaries of legitimate exclusion, social citizenship defines the frontiers of minimal inclusion. Planners need to understand both concepts in order to balance spaces of wealth and poverty.

Spatial exclusion: Planning and property

Planners, who wish to investigate into the relationship between planning and property, quickly realize the variety of meaning associated with 'property,' 'land tenure,' or 'land rights.' Legal institutions like fee simple absolute in possession (common law), *Eigentum* (Germany, Austria, and Switzerland), *miri* and *mulk* ('private' property in Islamic tradition) or native title (land rights of indigenous people) are difficult to compare. Article 17 of the Universal Declaration of Human Rights, 1948 (Bruce et al. 2006: 14–17; Kälin et al. 2004: 523–551; Morsink 1999: 139–156), informs on the scope of property as a global norm:

> '1. Everyone has the right to own property alone as well as in association with others.
>
> 2. No one shall be arbitrarily deprived of his property.'

Private property, at least in Western thinking, is based on exclusion. Sir William Blackstone, whose *Commentaries* deeply influenced the dissemination of common law jurisprudence, defined private property particularly with a view to 'total exclusion of the right of any other individual:'

> 'There is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property; or that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.' (Blackstone 1766: 2 [Book II, Chapter 1]).

Private property is the strongest individual right in land: Property rights are rights *in rem*, empowering the owner of a parcel of land against any other person. Moreover, property encompasses the largest 'bundle of rights,' including the right to possess, use, convey, bequeath (Clarke & Kohler 2005; Gray & Gray 2005; Needham 2006; Webster & Lai 2003).

Exclusion is not the purpose of property. The power to exclude others is a prerequisite of the owner enjoying the liberating effects of property (Hayek 1976). From the most prominent contractarian narrative of property, we learn that according to natural reason 'men, being once born, have a right to their Preservation, and consequently to Meat and Drink, and such other things, as Nature affords for their Subsistence' (Locke 1698: 285 [Book II, § 25]). John Locke influenced Western ideas of private property. According to Locke, 'every Man has a *Property* in his own *Person*' (Locke 1698: 287 [Book II, § 27]). Through labor, men would transform common property into private property—always with a view to self-preservation and liberty. The root of property is self-determination and the freedom from want, not the exclusion of others. However, the more goods from the commons are appropriated, the more likely conflicts arise. Exclusion is the first step of conflict prevention (based on the concept of private property). The exclusionary powers of property protect the owner from interferences by others, who cannot 'without injury take from him' (Locke 1698: 291 [Book II, § 33]).

Property is not only a legal concept. Property theory—drawing also from political philosophy, economics, sociology, anthropology, planning—discusses property as society's most powerful tool for the distribution of goods. Property theory distinguishes several types of property rights: State property, private property, common property, non-property (Bromley 1991: 31; Needham 2006: 42). Although the common law tradition of private property emphasizes the landowner's right to exclude, other types of property are less exclusionary. Moreover, the scope and content of property rights are defined by public law. Spatial planning coordinates diverse property regimes, most notably private and common property. The 'total exclusion' that Blackstone ascribes to property holders always has been romanticized. Already in the 17th and 18th century, private property was reduced by the sovereign (eminent domain) and by common law (e.g., private nuisance). Today's private property hinges even more on its relational qualities:

> 'Just as no man or woman is an island, so no property can be owned in a vacuum, and all property rights, including those to personal property, are part of a larger economic system, whether that be capitalist, communist, or mixed' (Morsink 1999: 155).

Nevertheless, the relationship between spatial planning and private property is ambiguous. On the one hand, private property rights can impede ambitious planning (and landowners often are considered the opponents of planners). Although plans frequently increase the value of privately owned land, it is the plans' interference with property which mostly incites landowners' passions. Planners, who take property rights lightly, are prone to fail in court (Epstein 1985; Ellickson & Been 2005; Fischel 1995; Gray 2002; Jacobs & Paulsen 2009; Ploeger & Groetelaers 2007). On the other hand, planning is a prerequisite for the full use of private

property rights (and planners are a landowner's best friends). When planners determine the use rights of private landowners, they simultaneously determine the scope of exclusion of everybody else. But common property is also one of the most important instruments of public inclusion. When planners limit private property or create and preserve spatial commons, they define spatial inclusion.

The concept of property presents two obstacles to the land rights of the poor: First, the Lockean notion of legally protected appropriation, preserved by modern theories of property, makes a redistribution of land titles difficult. Second, the poor have no bargaining chip in the '*sic utere tuo*' approach to planning and property.

The appropriation problem. Locke's theory of property does not work for today's poor because land is a scarce resource, cannot be produced by capital and labor, and is nowhere open to appropriation by the poor. John Stuart Mill opposed the theory of appropriation because it imposes hardship on each new generation:

> 'No man made the land. It is the original inheritance of the whole species. Its appropriation is wholly a question of expediency. When private property in land is not expedient, it is unjust. It is no hardship to any one to be excluded from what others have produced … But it is some hardship to be born into the world and to find all nature's gifts previously engrossed, and no place left for the new-comer' (Mill 1848: 233).

Although many political philosophers—like Rousseau, Kant, Marx—shared Mill's sentiment, the poor would not necessarily profit from the abolition of private property in land. Other institutions would emerge to control the allocation of land uses and the distribution of their benefits and burdens. There is no reason to believe that these institutions would be egalitarian. Mill has a point, however, when he links private property—the 'right to the exclusive disposal' (Mill 1848: 218)—with intergenerational justice. Once property rights have been assigned to single individuals and their successors, it is virtually impossible to modify the distribution of land.

Private property excludes the poor from appropriation—from making the land their own—not only because it is an obstacle for the redistribution of land titles. There is also a paradoxical relationship between poverty and property: If a poor person obtains property in a parcel of land (e.g., through land reform), she is no longer as poor as before. Property rights give the owner legal access to the economic value of land which roughly equals the capitalized annual net gains from using the property ('ground rent' or 'land rent'). The next time this person is in need, she will sell her land or use it as security for a loan (and if she cannot pay back the loan, the bank will take the land from her). As long as land rights are a commodity, the land market makes it unlikely that people living in poverty and extreme poverty retain private property in land. Other kinds of land rights—e.g., from rental agreements or communal ownership—avoid the pressure that the land market puts on private property holders. Since rental agreements or common property only permit the use of the land, these rights withhold revenues from productive uses or increases in land value from the poor. Social policy, development aid, and, of course, planning and land policy have to balance the beneficial

and adverse effects of private property and other types of land rights.

Private property rights can also work in favor of the poor. 'Property is the realm where we identify and explore assets, combine them, link them into other assets,' contends Hernando de Soto, 'Any asset whose economic and social aspects are not fixed in a formal property system is extremely hard to move in the market' (de Soto 2000: 47). The formalization of the assets and use rights of poor people can enhance the economic impact of small property holdings. Formal property rights are important for the legal empowerment of the poor as a whole (Ingram & Yu-Hung 2009: 14–16; Robbins 2008) and can be used to change property cultures in favor of women (Chiweza 2008; Razavi 2003). As libertarians point out, private property strengthens individual liberty and lessens the dependency on government assistance (Hayek 1976). Land rights in particular are not merely legal or economic rights, but have a high symbolic, emotional, and territorial value for each landowner. Social policy in Western welfare states ignores these advantages because it does not encourage the poor to appropriate land. Planners, who wish to promote the least advantaged, must not dismiss private property as a typical instrument of oppression or neo-liberalism. Provided that the distribution of wealth and income has been modified first in favor of the poor (e.g. land reform, social cash transfer), their interests can be protected through formalized private property rights.

The moderation problem. As private property expands in political and social practice and theory, society increasingly needs a moderating force. Otherwise, property-based exclusion destroys social cohesion. John Locke recommended that property be moderated by the government. If a conflict between individual interests (comprised in the broad concept of 'property' which includes 'Lives, Liberties and Estates') occurs, the government has to define and arrange a conflict resolution that accounts for mutual cooperation. The government establishes 'Guards and Fences to the Properties of all the Members of the Society, to limit the Power and moderate the Dominion of every Part and Member of the Society' (Locke 1698: 412 [Book II, § 222]). This early expression of police power is enhanced by the notion that 'the increase of lands and the right imploying of them is the great art of government' (Locke 1698, 297–298 [Book II, § 42]). In other words, Locke's social contract is a framework for government intervention—presumably through spatial planning and land policy—in the realm of the use of property.

William Blackstone discovered the moderating factor in the traditional land use maxim *sic utere tuo ut alienum non laedas* (use your property not harmful to others):

> 'Nusance, *nocumentum,* or annoyance, signifies any thing that worketh hurt, inconvenience, or damage. [… I]f one's neighbour sets up and exercises any offensive trade; as a tanner's, a tallowchandler's, or the like: for though these are lawful and necessary trades, yet they should be exercised in remote places; for the rule is, "*sic utere tuo, ut alienum non laedas*:" this therefore is actionable nusance' (Blackstone 1768: 216–217).

Planners, who designate sites for 'offensive trades … in remote places,' apply the doctrine of *sic utere tuo*, not as agents of common law, but by exercising government powers. As the U.S. Supreme Court ruled in *Village of Euclid v. Ambler Realty*

Co.: 'A nuisance may be merely a right thing in the wrong place,—like a pig in the parlor instead of the barnyard' (272 U.S. 365 [388]). The 'pig' in question was industrial land use, and the 'parlor' a suburb of the City of Cleveland, Ohio (Wolf 2008). The village council had adopted a comprehensive zoning plan for regulating and restricting the location of trades, industries, apartment houses, and single-family houses. The appellee owned a tract of land and claimed that, due to the plan, the property value had been reduced. *Euclid* affirms the planning powers of local communities, but also mandates that zoning restrictions demonstrate a 'substantial relation to the public health, safety, morals, or general welfare.'

Both approaches moderate the exclusionary effects of property—Locke's 'Guards and Fences' as well as Blackwell's doctrine of *sic utere tuo*—with regard to conflicts between landowners or other property holders. However, they do not consider the poor and their expectation towards property. In many planning and property systems, individual interests are only protected if they are proprietary interests. Planning is supposed to control nuisances caused by inconvenient land uses, not to redress the wrongs of the market distribution of wealth and income. But planners, who merely resolve disputes between landowners, can neither reach out to the entire community nor address the needs of the poor. The moderation of the exclusionary effects of property may indirectly serve the public interest of the whole community, including the poor. If a land use plan preserves open spaces and makes room for public parks and affordable housing, it exceeds what could be achieved by private law. Ultimately, however, a limitation of planning to moderating the exclusionary effects of property just confirms the predominant role of private property rights. Planning as moderation of property neither facilitates social reform nor does it satisfy every member of the community's demand for full social citizenship.

Spatial inclusion: Planning and social citizenship

Intuitively, planners imagine societies without the poor or, once their plans have been implemented, without poverty. Being poor is not desirable. Why should planners make plans for an undesirable way of life? Planning theory offers many examples of the planners' helplessness towards poverty. Ebenezer Howard recognized poverty as a fundamental urban and rural problem. The vision of the Garden City—inspiring to town planning and land policy—employs the metaphor of three magnets: The town magnet and the country magnet both have disadvantages associated with poverty. The 'town-country-magnet' of the Garden City, however, combines all of the advantages of town and country; it renders the Garden City a perfect environment for a society without poverty (Howard 1898: 22–41). Spaces of poverty, however, cannot be eradicated without hurting the poor. *Cities Without Slums*, the name of an alliance of donors and megacities that shaped the land policy of the UN Millennium Development Goals (Cities Alliance 2008), is a dangerous misnomer. There always will be poor people living in slums, shanty towns, favelas, barrios, *gecekondular* of megacities (Davis 2007; UN Habitat 2003)—or just around the corner. The question is: What is their place and how can the poor use the land?

In his famous essay *Citizenship and social class*, Thomas Humphrey Marshall discusses what conclusion might be drawn if policy makers regard poverty as evidence of failure:

> 'In such circumstances it is natural that the more unpleasant features of inequality should be treated, rather irresponsibly, as a nuisance, like black smoke that used to pour unchecked from our factory chimneys' (Marshall 1950: 32).

Poverty as nuisance would result in removing the poor to 'remote places' (Blackstone 1768: 217). 'Class-abatement' works like 'smoke-abatement' (Marshall 1950: 32). If 'class-abatement' became a goal of land use control, planners would regard the poor as a type of locally unwanted land use (or LULU), just like a waste management facility. If planners consider the poor and the land in this fashion, the spaces of poverty are going to be treated like the proverbial Euclidean 'pig in the parlor' (272 U.S. 365 [388]). Since the poor never are 'a right thing,' however, they will be always 'in the wrong place.'

What is the right place for the poor? The answer lies in the *rights* of the poor, i.e., their claim to citizenship, and the relationship between these rights, social inequality, and planning. As an expression of consensus within the international community, Article 25, para. 1, of the Universal Declaration of Human Rights, 1948 (Morsink 1999: 192–199), recognizes social citizenship:

> 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.'

In 1976, Article 11, para. 1, of the International Covenant on Economic, Social and Cultural Rights came into force and transformed the global norm of Article 25 of the Universal Declaration into an obligation binding to the member states of the Covenant:

> 'The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.'

The right to an adequate standard of living calls for a modicum of social assistance and social security (Van Genugten & Perez-Bustillo 2001; Kälin et al. 2004: 187–309). Western social policy associates this right with the moral minimum of the welfare state (a model that provides for social security well beyond this minimum). The right to an adequate standard of living—the social citizenship of the poor—also has a spatial dimension (Carter 2003: 46–49; Deininger 2003: 51–73). The guidelines for a human rights approach to poverty reduction strategies emphasize this connection between human rights protection and land policy (OHCHR 2006: 32). Any state violates the human right to an adequate standard of

living, if, for example, minimal access to land is withheld from an individual or a group. From the perspective of universal human rights, no state has the duty to grant large property holdings in land to all citizens. But each state has to permit everyone minimal access to land with a view to 'a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing' (UN Habitat & GLTN 2008: 12).

Citing spatial planning, T. H. Marshall explains the *spatial* dimension of social rights and social citizenship. T. H. Marshall claims that 'town-planning is total planning': Town-planning not only treats 'the community as a whole, but it affects and must take account of all social activities, customs and interests' (Marshall 1950: 61). Marshall understands the planners' dilemma of wishing to create new spaces for 'new human societies,' but simultaneously cater to the needs of the present town population. Ultimately, planners 'try to provide for all the major diversities' contained in a society. Spatial plans designate certain areas as suitable for certain land uses and, by doing this, augment social inequality:

> 'Town-planners are fond of talking about a "balanced community" as their objective. This means a society that contains a proper mixture of all social classes, as well as of age and sex groups, occupations and so forth. They do not want to build working-class neighbourhoods and middle-class neighbourhoods, but they do propose to build working-class houses and middle-class houses. Their aim is not a classless society, but a society in which class differences are legitimate in terms of social justice, and in which, therefore, the classes cooperate more closely than at present to the common benefit of all' (Marshall 1950: 61–62).

In emphasizing the relationship between social rights and citizenship, T. H. Marshall develops a theory of inclusion and exclusion based on citizenship. Traditionally, citizenship had been associated with civil and political rights. T. H. Marshall adds a 'social element' to citizenship, ranging from 'the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society' (Marshall 1950: 11). Surprisingly, he mentions neither the debate on universal human social rights nor the global dimension of social citizenship. He was concerned with social legislation in the United Kingdom and skeptical that society, even in the face of abundant natural resources, could 'enable every man to be a gentleman' (Marshall 1950: 6). Although in favor of social rights, he claims that 'citizenship has itself become, in certain respects, the architect of legitimate social inequality' (Marshall 1950: 6 and 9). The remarkable conclusion is based on the interpretation of social class as 'by-product of other institutions:'

> 'Class differences are not established and defined by the laws and customs of the society (in the medieval sense of that phrase), but emerge from the interplay of a variety of factors related to the institutions of property and education and the structure of the national economy' (Marshall 1950: 31).

Planning, not only property, is among the institutions establishing inequality. By accepting the need for 'middle-class houses,' planners create the social spaces of 'middle-class neighbourhoods,' thus excluding the poor from certain urban areas:

'When a planning authority decides that it needs a larger middle-class element in its town (as it very often does) and makes designs to meet its needs and fit its standards, it is not, like a speculative builder, merely responding to a commercial demand. It must re-interpret the demand in harmony with its total plan and then give it the sanction of its authority as the responsible organ of a community of citizens. … This is one example of the way in which citizenship is itself becoming the architect of social inequality' (Marshall 1950: 62).

T. H. Marshall does not advocate a concept of citizenship 'aiming at absolute equality' (Marshall 1950: 77). Rather, he turns our attention to 'the impact of a rapidly developing concept of the rights of citizenship on the structure of social inequality' (Marshall 1950: 85). Inequalities are generated by rights because the increasing equality of opportunities leads to conflicts over resources (Runciman 1996: 61). The citizenship concept is fundamental to poverty research and social policy (Alcock 2006: 253–254). In particular, the 'assets agenda' of social policy examines well-being based on ownership (Prabhakar 2009). The notion of citizenship is not confined to nation-states, but also considered from the perspective of human rights (Lister 2004: 158–175), supranational citizenship (Deacon et al. 1997: 16–19), or even 'planning citizenship' (Yiftachel 2009: 97–98). Social citizenship means that the poor are treated as full members of society, not as 'the other.' However, social citizenship also means that the poor receive their right to a civic minimum in exchange for equality. Gated communities, luxurious real estate developments, or exclusionary zoning do not contradict social citizenship as long as everybody receives all goods and services required for an adequate standard of living.

Rearranging exclusion and inclusion

The discussion of private property and social citizenship sets up a framework for planning with a sense of opportunities and boundaries: Planners, defining the use rights of landowners by designating land uses for differentiated areas, arrange exclusion and inclusion. Typically, we associate property rights with exclusion and social citizenship with inclusion. However, a review of venerable theories—John Locke, William Blackstone, T. H. Marshall—demonstrates that neither is property merely an instrument of exclusion nor citizenship merely an instrument of inclusion:

- On the one hand, property rights can be instrumental in the inclusion of the poor: By designating land for social houses or public purposes, a land use plan promotes the interests of the poor. A spatial plan could also prepare and promote spatial commons (e.g., public streets and squares, public parks, community gardens, recreational areas) and organize their proper use. Finally, land use plans can designate plot sizes and land use qualities suitable for the creation of properties which the poor can possibly own. In each of the three cases, the inclusion of the poor hinges on property rights.

- On the other hand, social rights and social citizenship, to some extent, perpetuate the exclusion of the poor. The concept of social citizenship legitimizes and

even inspires unequal spaces of wealth and poverty. The right of everyone to an adequate standard of living demands less than a right to an equal share of society's wealth. Social citizenship takes no issue with the spatial segregation of the wealthy and the poor—as long as everyone enjoys their right to an adequate standard of living. The duty to provide for an adequate standard of living does not prevent inequality, but is an 'architect of legitimate social inequality' (Marshall 1950: 9).

Refining the premise of planning with a sense of opportunities and boundaries, we rearrange our conception of planning, exclusion, and inclusion (Table 2). Obviously, several combinations of property and social citizenship are possible in the establishing of a balance between spaces of wealth and spaces of poverty.

	Property	**Social citizenship**
Spatial Inclusion	Private property includes the owner and empowers her to exercise all land use rights not restricted through planning. Common property includes the public in the use of spatial commons (e.g., public streets, public parks).	Social citizenship entitles everyone to an adequate standard of living; it comprises the safe and legally protected access to land necessary 'to live the life of a civilised being according to the standards prevailing in the society' (Marshall 1950: 11).
Spatial Exclusion	Private property excludes everybody but the owner from entering and using private land. Common property excludes individual appropriation of public spaces and other spatial commons.	Social citizenship legitimizes spatial inequalities—e.g., exclusionary zoning—and encourages planners to foster spaces of wealth (provided everyone enjoys her 'civic minimum').

Table 2: Rearranging spatial inclusion and exclusion

The poor depend on indispensable land uses, but this does not mean property rights have to be abolished. On the contrary, private and common property may be beneficial in promoting social citizenship. Land ownership in a society where owners have the obligation to let the poor sleep on their property means something else than land ownership in a property system lacking a similar obligation (Singer 2000). Legislation protecting the rights of tenants from unjustified eviction by their landlords may have a distinct pro-poor distributive effect in a land law system based on private property (Needham 2006: 66–67).

As I have mentioned in the beginning, the current global discourse on the poor and the land contains fresh ideas about land policy, the link between spatial planning, poverty, and property. This discourse assumes that land policy can be a powerful instrument to help the poor. Also at the beginning, I have mentioned my interest in the conceptual framework for dealing with poverty, property, and planning, and I have explained how planners create spaces of wealth and spaces of poverty through arrangements of property and citizenship, exclusion and inclusion. But is such a framework really necessary? Is it not sufficient that planners provide for social housing? Why should the poor be empowered to claim rights to the land? After all, land has a substantial economic value, and being poor already means that a person does not own much. In the remainder of my article, I am examining the global discourse on the emerging socio-ecological land policy. This

discourse, although ramified and liquid as global discourses are, clearly shows a growing consensus within the international community: Poverty must not be used as an excuse to withhold minimal land rights from the poor. This consensus, inescapably, affects spatial planning.

Towards a new socio-ecological land policy

The global discourse on land for the poor

With respect to non-OECD countries, landlessness is widely recognized as a cause of deprivation and despair: 'Hunger tends to be concentrated among the landless or among farmers whose plots are too small to provide for their needs' (UN 2005: 8; see also UN 2008: 6). This is not a new observation. In his earlier work, Amartya Sen already claimed that poverty and famines do not result from a lack of food, but mostly from a lack of entitlement to food and from an uneven distribution of such entitlements (Sen 1981: 1 and 45–51).

The current debate on the land rights of the poor started with the United Nation's concern for sustainable development. Principle 5 of the Rio Declaration on Environment and Development emphasizes the 'essential task of eradicating poverty as an indispensable requirement for sustainable development' (UNCED 1993: 4). Chapter 3 ('Combating Poverty') and Chapter 10 ('Integrated Approach to the Planning and Management of Land Resources') of Agenda 21 do not yet connect poverty and property (UNCED 1993). In its early stages, the Rio approach does not yet individualize land policy, but carries on with earlier social, economic, and environmental policy patterns: An improved urban infrastructure and similar public investments are supposed to improve the situation of urban dwellers, and land is subjected to integrated planning with only the briefest reference to property issues. However, 15 years after the Rio conference, the Commission on Sustainable Development puts land rights of the poor firmly into the framework for sustainable development:

> 'Secure access to land and other natural resources is an essential part of local empowerment of marginalized individuals and groups and can be instrumental in poverty reduction. Access to land is often seen as a prerequisite to gaining access to other productive resources. Challenges that need to be addressed for sustainable and efficient land management include: providing secure land rights, strengthening capacities of communities, adapting land-use planning technologies, and improving the provisioning of data' (CSD 2008: 1).

The Commission on Sustainable Development mostly considers the rural poor and, quite in the vein of popular theories of the 'tragedy of the commons' (Hardin 1968), is critical of common property in land (CSD 2008: 16–20).

More recently than the debate on sustainable development, the UN Millennium Development Goals (MDG) are set to improve the land rights of the poor. The MDG were proclaimed in the United Nations Millennium Declaration (UN-GA 2000) and specified by an annex to the Secretary-General's 'road map' (UN-SG

2001: 55–58). In 2002, world leaders confirmed in the Monterrey Consensus — also called The Millennium Development Compact — their commitment to achieve the MDG (UN 2002: 1–17; UNDP 2003: 15). In particular, Goal 7, Target 11 of the MDG (in the following: MDG 7.11) addresses land use, poverty, and property: The UN and all member states have adopted as a goal 'by 2020 to have achieved a significant improvement in the lives of at least 100 million slum dwellers' (UN-SG 2001: 57). Planners should consider the MDG as 'a set of "global norms" that shape the ethical, and thereby practical, forms of planning' (Roy 2008: 251–252). The MDG help contextualize the many voices in the global discourses on land and the poor.

The international community chose MDG 7.11 to 'ensure environmental sustainability.' This classification reminds us of the fact that the new socio-ecological land policy has one of its roots in sustainable development. But new elements were added by MDG policies. MDG 7.11 addresses poverty, land, and property by emphasizing *individual rights*: Indicator 31 measures accomplishments with respect to MDG 7.11 as 'the proportion of people with access to secure tenure' (UN-SG 2001: 24 and 57). Indicator 31 does not grant the urban poor individual rights to certain parcels of land. However, the preceding and continuing global debate on 'access to land,' 'tenure security,' and 'land rights' critically reflects upon the significance of individual rights to vital land uses — particularly for the poor, not only for the rich or middle-class population. MDG 7.11 is just one of several goals committing the global community to facilitate secure land rights (others address, for example, rural populations, gender issues, or indigenous land rights). Socio-ecological land policy combines environmental policy, social policy, and development policy with regard to land uses by the poor. It recognizes individual needs to have access to basic land uses *and* acknowledges that access to land has to be granted to each person as a right, not as a generous gesture.

MDG 7.11 draws from ideas developed by *Cities Without Slums* (UN-SG 2001: 24; World Bank & UNCHS 2000; Cities Alliance 2008). Other global actors also shaped the emerging socio-ecological land policy:

- the Food and Agriculture Organization of the United Nations (FAO 2003, 2004, 2006; Carter 2003),
- the UN Human Settlements Programme (UN Habitat 2003; UN Habitat & GLTN 2008),
- the UN Development Programme (UNDP 2003: 18–20; UNDP 2006; Commission & UNDP 2008),
- the World Bank (Deininger 2003; Bruce et al. 2006),
- the Department for International Development (DFID 2007).

Improving the land rights of the poor is an objective of many quasi- and non-governmental organizations, like the Comparative Research Programme on Poverty (Van Genugten & Perez-Bustillo 2001), the International Food Policy Research Institute (Meinzen-Dick et al. 2007), the Land Research and Action Network (Leonard et al. 2007), the International Land Coalition (Fuys et al. 2008).

The new socio-ecological land policy also draws from a multitude of special interest debates on the poor and the land. Special interest debates consider property

issues of particularly disadvantaged poor. For example, the UN Development Programme concludes from the Monterrey Consensus that 'national strategies for the Millennium Development Goals must include commitment to women's rights to … property ownership [and] secure tenure' (UNDP 2003: 19). Magdalena Sepúlveda Carmona, the independent expert on the question of human rights and extreme poverty, emphasizes that the 'majority of people who live in poverty are women. This is because of gender discrimination which limits opportunities to access … land' (UN-GA 2008: 12):

> 'Through her work, the independent expert will pay particular attention to women's access to property and land rights, equality in inheritance rights and reproductive health. In this regard, the independent expert will seek to contribute to increasing awareness of the many legal obligations that States have assumed to realize gender equality' (UN-GA 2008: 13).

The Food and Agriculture Organization presents to the Permanent Forum on Indigenous Issues a statement saying that 'ancestral rights to land are a cornerstone of the livelihoods of indigenous people' (FAO 2008: 7).

The global discussion on poverty and property is also fuelled by the human rights approach to poverty eradication. Miloon Kothari, Special Rapporteur to the Commission on Human Rights, says in his report on adequate housing as an element of the right to an adequate standard of living:

> 'Homelessness is perhaps the most visible and most severe symptom of the lack of respect for the right to adequate housing. … United Nations estimates indicate that approximately 100 million people worldwide are without a place to live. … The Special Rapporteur notes with concern that urban "gentrification" processes accompanied by rising property values and rental rates are pushing low-income families into precarious situations, including homelessness. … [H]omelessness can be intimately linked to landlessness in some settings' (CHR 2005: 2).

For non-OECD countries, land policies in favor of the poor are called 'good social and economic policy' (Carter 2003: 45). In the light of the global discourse on socio-ecological land policy, the poor should not be excluded from access to land because land would be too expensive or the poor too unskilled for ownership. On the contrary, there are good reasons to believe that access to land helps the poor participate as citizens and provide for themselves. The debates on sustainable development, the UN Millennium Development Goals, women's land rights, indigenous land rights, or the human rights approach make one thing clear: We can no longer assume a global consensus that the poor be excluded from access to land.

Types of land policy for the poor

A global consensus on the goals of socio-ecological land policy does not mean that everybody agrees on the strategies, methods, or instruments required for strengthening the land rights for the poor. The literature shows a wide array of topics. A popular subject is land reform, the most comprehensive instrument of changing entitlements to property holdings (Bruce et al. 2006; Chigara 2004; El-Ghonemy 1990; Ghimire 2001). Agrarian or urban land reform ranges from the redistribution

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of large property holdings to the formalization of customary land titles or land taxation. The literature on land reform focuses on Africa (Chaumba et al. 2003; El-Ghonemy 2001; Hellum & Derman 2004; Kinsey 2004; Pule 2004; Rugege 2004) and Latin America (Ankersen & Ruppert 2006; Peñalver 2000). In Eastern Europe, the discussion of poverty and property focuses on the privatization of formerly state-owned land (Burger 2006; Frye 2004). In Asia, new land policies emerge in the face of extraordinary economic progress and growing social disparities, particularly in China (Cai 2003; Guo 2001; Ho 2001; Hsing 2006). The spatial exclusion of the poor, whose access to land is already restricted, is often exacerbated through land use conflicts (Bose 2007; Brown 2006; Wehrmann 2008). The literature also examines policies which are less invasive than land reform: Formal and informal land uses (Farfan 2004; Ikejiofor 2006; Mooya & Cloete 2007; Shatkin 2004), land tenure security (Deininger & Jin 2006; Everett 2001; Payne 2004; Porio & Crisol 2004; Robbins 2008), housing (Farfan 2004; Leckie 2003), land titling and land registration (Arruñada & Garoupa 2005; Ho & Spoor 2006; Miceli et al. 2002; Sikor 2006), land readjustment (Gould 2006; Niroula & Thapa 2005).

A typology of land policies for the poor illustrates the diversity of approaches to socio-ecological land policy. This typology, based on the Cultural Theory of Mary Douglas (see, e.g., Douglas & Ney 1998: 122–123), draws from rationalities — or 'cultures' — that frame specific policy suggestions:

> 'Cultures incorporate their implicit agendas by framing selected issues, setting agendas, labeling, and foregrounding, backgrounding, and fading out' (Douglas & Ney 1998: 124).

Policy analysis based on Cultural Theory looks for the 'implicit agenda' of hierarchists, individualists, egalitarians: Should we increase the powers of central planners to make more land available to the poor (hierarchist)? Or should we rely on private property and the land markets, once liberated from government control, to alleviate the exclusion of the poor (individualist)? Or would the poor profit from stronger social relationships between the community and the land (egalitarian)? Different approaches to land policy and disagreement on the best implementation strategies often come from fundamentally different ways to view poverty, property, and the land. In the literature on land policy for developing and transition countries, at least three different rationalities seem to be present:

- *Land policy and control.* In the wake of the 1992 Conference on Environment and Development in Rio de Janeiro and the 1996 HABITAT II conference in Istanbul, individual access to land was adopted as essential element of sustainable development and as part of the good governance of environmental, economic and social needs and activities (Chalifour et al. 2007; Nolon 2006). This kind of literature emphasizes 'land-use planning technologies' and 'improving the provisioning of data' (CSD 2008: 1) or state responsibilities to provide 'secure land rights for all' (UN Habitat & GLTN 2008).

- *Land policy and liberty.* Hernando de Soto, by suggesting that the land rights of the poor should be formalized in order to make capital investments more likely, triggered a controversy on poverty and property (de Soto 2000 and 2008). De Soto's approach mirrors market-based property theories which accentuate the

liberating effect of private property (see, e.g., Hayek 1976; Coase 1988; Cooter & Ulen 2004). The World Bank also emphasizes the relevance of tenure security for poverty reduction (Bruce et al. 2006; Deininger 2003), and so does the Commission on Legal Empowerment of the Poor, co-chaired by Madeleine K. Albright and Hernando de Soto (Commission & UNDP 2008: 64–68). However, some authors criticize privatization and private property formalization as ineffective (Bromley 2008; Sjaastad & Cousins 2008).

- *Land policy and community.* Several authors consider common property and traditional communal land rights the best choice for spatial inclusion. Considering land as a common pool resource (Ostrom 1990; Ostrom et al. 2002; Ostrom & Dolšak 2003), they suggest that access to land be facilitated best by local communities (Adhikari 2005; Pindell 2006; Kameri-Mbote 2006; Meinzen-Dick & Mwangi 2008; Shiva 2005; Taylor 2004) and the accumulation of social capital (Foster 2006; Samadhi & Tantayanusorn 2006). Other authors, however, criticize spatial commons as ineffective and wasteful (Kabubo-Mariara 2005; Mukhopadhyay 2005; Lesorogol 2005).

The three types of the emerging socio-ecological land policy are each quite narrow-minded or monorational: Each rationality is dominated by prevalent notions of how to frame problems and develop solutions (Davy 1997 and 2008).

Quality	Types of land policy for the poor		
cultural bias	hierarchist	individualist	egalitarian
rationality	control	liberty	community
land seen as	territorial resource necessary for security	commodity	common pool resource
the poor seen as	source of planning data, subjects of pro-poor land use plans, and beneficiaries of good governance	potential new landowners, market participants, active holders of economic citizenship	members of close-knit communities, neighbors, responsible holders of social citizenship
example	Commission on Sustainable Development (CSD 2008)	Hernando de Soto (2000 and 2008; Commission & UNDP 2008)	Elinor Ostrom (1990; Ostrom et al. 2002; Ostrom & Dolšak 2003)
preferred land policy	sustainable development through integrated planning and land management	land titling, formalization of individual property, accumulation of economic capital	common property regimes, trust, accumulation of social capital

Table 3: Types of land policy for the poor

Although each rationality (or type of land policy) deals with land, poverty, and property, there is little or no exchange between the monorational approaches—de Soto ignores Ostrom and *vice versa*. Maybe the authors prefer monorational positions because they pursue different concepts of access to land, land tenure, and property. Some think that property is something that the government has to bestow on citizens in order to promote sustainable development and good governance (hierarchist's bias). Others think that property is an extension of individual liberty and necessary to establish market competition (individualist's bias). And a third group looks at property as an accomplishment of close-knit communities

(egalitarian's bias). Each bias suggests a particular type of land policy for the poor, frequently very convincing for everybody who shares the underlying rationality.

The typology (Table 3) not only illustrates the diversity of approaches to socio-ecological land policy in non-OECD countries. It also calls attention to the fact that the poor and the land are hardly an issue in OECD countries.

Land policy and the welfare state

The European Union has designated the year 2010 as the European Year for Combating Poverty and Social Exclusion. Although the decision mentions 'housing' at one point (EP/EU Council 2008: 21, para. 13), it hardly matches the comprehensive global discourse on poverty and property in non-OECD countries. Is the year 2010 going to be the year when the European Union fully addresses the poor and the land? Probably not, and the curious abstinence fits with the scarcity of policy papers and literature on the land rights of the poor in OECD countries. In these countries, the poor and the land apparently have nothing in common.

We cannot explain this scarcity with ubiquitous land ownership of the poor in OECD countries. A recent report on poverty and inequality mentions that in OECD countries on average over '60% of households own their principal residence' (OECD 2008: 259). Access to land or secure tenure of the poor is of no concern to the report. In OECD countries, about 40% of households—presumably including people living in poverty and extreme poverty—do not own their residence. Do the poor have other rights of access outbalancing the lack of land rights? Are land rights of the poor not important in an OECD context because social policies and the welfare state compensate the poor for not owning land? The recent OECD report on poverty and inequality does not discuss these questions (OECD 2008).

The lack of interest in the land question is consistent with and typical of most current treatises on planning, land policy, and property in OECD countries. Many authors simply neglect the land rights of poor people and do not mention the poor very often or at all (see, e.g., Buitelaar 2007; Clarke & Kohler 2005; Evans 2004; Gray & Gray 2005; Needham 2006; Ratcliffe et al. 2004; Webster & Lai 2003). Exceptions from this rule often pertain to the United States (e.g., Baron 2004 and 2006; Ellickson & Been 2005: 760–788). If the government tries to improve the lives of the urban or rural poor, this attempt possibly interferes with private property rights. Any such interference—from land use planning to land reform—is meticulously scrutinized for violations of civil rights (Epstein 1985; Fischel 1995; Gray 2002; Ploeger & Groetelaers 2007). However, the literature on property in OECD countries hardly discusses the land rights of the poor, and neither does the poverty or welfare literature (Alcock 2006; Lister 2004).

How can we explain the current indifference of OECD policymakers and academics to the land rights of the poor? In the United States, the United Kingdom, or Germany, the poor and the land have not always been treated separately from each other. Neither were the poor invisible in early land policy nor was the land silent in early social policy. Each of the classic concepts of land reform spoke to social reform. In these days, land reform was a viable strategy to resolve poverty

and the 'social question.' Land reformers often thought of their ideas as a third way, avoiding the pitfalls of capitalism and communism (Damaschke 1902: 61–63). Henry George, one of the classic land reformers, denounced private ownership:

> 'If chattel slavery be unjust, then is private property in land unjust. For, let the circumstances be what they may, the ownership of land will always give the ownership of men, to a degree measured by the necessity (real or artificial) for the use of land. This is but a statement in different form of the law of rent. And when that necessity is absolute—when starvation is the alternative to the use of land, then does the ownership of men involved in the ownership of land become absolute' (George 1879: 268).

George not only thought that private property in land would be unjust, he even considered property the cause of poverty:

> 'The wide-spreading social evils which everywhere oppress men amid an advancing civilization spring from a great primary wrong—the appropriation, as the exclusive property of some men, of the land on which and from which all must live. … Vice and misery, poverty and pauperism … follow increase of population and industrial development because land is treated as private property' (George 1879: 263).

At the time George published his ideas on land reform, the welfare state did not yet exist. Social protection schemes like old-age pensions, health insurance, or the National Health Service were unheard of or incipient concepts. Access to land was a significant alternative to tax-based or contribution-based social security. Henry George, however, even added to the success of the budding welfare system by inhibiting the full impact of land reform with his own ideas:

> 'I do not propose either to purchase or to confiscate private property in land. The first would be unjust; the second needless. Let the individuals who now hold it still retain, if they want to, possession of what they are pleased to call *their* land. Let them continue to call it *their* land. Let them buy and sell, bequeath and devise it. We may safely leave them the shell, if we take the kernel. *It is not necessary to confiscate land; it is only necessary to confiscate rent*' (George 1879: 313).

Henry George recommended a single land tax, not the redistribution of private property holdings. Taxes, however, can be levied from different sources. The fiscal efficiency of taxing flows (like income or sales) is always greater than of the taxing of stocks (like land). The welfare state, based on tax powers, does not need land as a resource as long as other and more rewarding taxes (e.g., income tax, value-added tax) or contributions from employers and employees are available. Other early proponents of land reform—Ebenezer Howard in England, Adolf Damaschke in Germany, Hans Bernoulli in Switzerland—remained equally ineffective. Each proponent distrusted private property. Adolf Damaschke, for example, called for a re-appropriation of the land rent as 'social property' (*soziales Eigentum*). Each of the land reformers suggested a particular remedy: The ownership of the Garden City's land by a board of trustees (Howard 1898), the German version of a single land tax based on increments of land values (Damaschke 1902), or the

buying-back of private urban land by each municipality (Bernoulli 1946).

The failure of land reform ideas in many Western countries has several reasons. Although many land reformers did not condone communism, the communist land reforms deterred similar redistributions of land in the West. In most OECD countries, private property rights are regarded as virtually inviolable, and nowhere do private property holders easily give away their land to the poor. Also, the fiscal supremacy of tax-based or contribution-based social security turned the welfare state model into a successful prevention of land reform in most Western countries. But even in countries with a weak welfare state (e.g., United Kingdom) or no welfare state (most notably, the United States), land reform movements merely are footnotes in property textbooks. OECD countries seem to share the implicit assumption that land be unattainable to the poor and that the poor be compensated by social assistance or other aid mechanisms of the welfare state. The payment of housing benefits is supposed to satisfy the need for housing—either by the market or the social housing sector. In exchange, land policy and planning in Western countries take little notice of 'secure land rights for all' (UN Habitat & GLTN 2008) and effectively keep the poor from the ownership of land in most OECD countries.

How are the poor kept from ownership of land? A particularly effective strategy derives from the relationship between units of real estate (houses, apartments) and land values. In most OECD countries, land is not parceled out in units affordable to the poor. Property rights always are assets. A parcel of land, a house, or an apartment represents an economic value that its owner will contemplate in her economic choices. If the property is valuable, the owner is no longer poor (in terms of asset values). If the owner remains poor, however, she cannot afford access to land in the forms that are available to landowners in OECD countries. The value of units of land is kept out of reach for the poor: By setting costly standards of land use, by demanding expensive building quality, by zoning large plots of residential land, by limiting the conversion of open space into building land. Some of these practices are called 'exclusionary zoning' in the United States (Ellickson & Been 2005: 760–788), a planning procedure frequently tainted by racist motives (Freund 2007). Although European planners would not consider their activities as 'exclusionary zoning,' their plans have a similar effect: In many OECD cities and metropolitan areas, poor individuals cannot afford houses or apartments. Although social housing and other welfare policies mitigate the exclusion of the poor from private ownership in land, the OECD countries' approach to poverty and property is quite fatalistic: Hardly anybody discusses why the poor and the land are incompatible.

Conclusions for planning

A large group of inequalities—between individuals, groups, regions, countries—originates from poverty and disparities in income and wealth. Reducing poverty, to some extent, is about money (Alcock 2006: 70–74; Lister 2004: 5–8). But although leaders at the London G20 meeting expediently pledged $1.1 trillion for the struggle against the economic crisis (Landler & Sanger 2009), the same leaders find it

difficult to mitigate world poverty. One explanation for this phenomenon draws from the comfort of injustice:

> 'One of the reasons why there is no cure for injustice is that even reasonably upright citizens do not want one. This is not due to disagreements about what is unjust but to an unwillingness to give up the peace and quiet that injustice can and does offer' (Shklar 1990: 45).

Moreover, spatial inequality and injustice are essential. Considering the wide array of justice concepts, we have to expect that one person's spatial equality is another person's injustice (Davy 1997: 266–267). This does not mean that planners should resign from pro-poor planning, but it means that planners should be aware of the limited success that socio-ecological land policy can achieve. But if spatial planning may not end poverty, planners at least can avoid creating spaces of wealth at the cost of the poor. Also, planners can increase the opportunities of the poor to profit from rural or urban land uses. Planners, after all, arrange spatial exclusion and inclusion, and define the 'right to urban life' for the rich as well as the poor (Lefebvre 1996: 158). If planners sharpen their sensibility for everyone's adequate standard of living (Article 25 of the Universal Declaration of Human Rights, 1948; Article 11 of the International Covenant on Economic, Social and Cultural Rights, 1976), the spaces of poverty will be less unjust. Spatial planners, who respect human rights, have to manage the balance between exclusion and inclusion not in the spirit of alms or preservation of privileges, but of fairness and expediency: For 'human rights are not a gift but a task for all of us' (Kälin 2004: 37). Universal human rights emphasize the relevance of a pro-poor land policy. Moreover, human rights help planners contextualize MDG 7.11 (UN-SG 2001: 57; Roy 2008) or other global norms calling for land rights, tenure security, or access to land for the poor (Commission & UNDP 2008; CSD 2008; Deininger 2003; DFID 2007; FAO 2003; UN Habitat & GLTN 2008; World Bank & UNCHS 2000).

Spaces of poverty often are marginal, diminished, polluted, and either illegal or highly informal (Table 1). Spaces of poverty, however, are not merely the 'gray spaces' of urban apartheid (Yiftachel 2009: 89 and 93). Although the poor may be excluded from the spaces of wealth, they still can make the spaces of poverty their homes, workplaces, or playgrounds. Maybe discourses on land and the poor would benefit from introducing an element of polyrationality (Davy 2008: 316). Neither anger nor resignation helps recognize the unusual opportunities that different rationalities—the voices of socio-ecological land policy—offer. In closing, I want to mention such an opportunity: Planners could improve the access to land of the poor by establishing and promoting spatial commons.

Considering the distribution of wealth, we often expect poor people to own no or only little property. We would think it inconsistent, if a person is at the same time very poor and owns a lot. This spawns two misconceptions:

- Poverty only can be reduced by helping poor people get hold of *private* property.
- Addressing the need of poor people to have access to some property always entails confiscation and the redistribution of private property.

F L O O R
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The first mistake neglects that poverty can be alleviated in different ways. Free access to urban commons—such as access to public land, free water, public toilets, communication facilities, spaces of social and economic exchange—is more important to the poor than to the affluent (Aiken et al. 2008; Fuys et al. 2008). After all, the affluent can replace a lack of commons by buying spatial goods and services for a fee. The poor do not have this choice. Of course, the fate of poor people improves with social assistance or social cash transfers. But unless the poor are admitted to the use of spatial commons they are virtually excluded from most spatial uses. Public amenities and public spaces often are their only access to land: As spaces of social exchange, shopping, work.

Figure 3: The commons as spaces of work (Jerusalem) © 2009 Benjamin Davy

The maintenance and upgrading of rural and urban commons advances the poor, provided they have free and unlimited access to public amenities and public spaces. Access to private property does not work as quickly and decisively. By assuming that only the allocation of private property can help the poor, however, the first mistake turns our attention away from common property. But common property needs the full attention of planners. The urban commons of megacities are often congested, in disrepair, contested, and unsafe (Brown 2006; Cities Alliance Cities Without Slums 2008; Davis 2007; UN Habitat 2003). The lack of planning, governance, and mutual trust leads to a tragedy of the commons (Hardin 1968; Ostrom 1990). In OECD countries, the commons are increasingly reduced in an effort to keep unwanted individuals out of residential areas, public parks, or shopping malls.

Figure 4: The enclosure of the commons (Basel, Switzerland) © 2008 Benjamin Davy

The crowding out of poor people from many urban commons is probably much more painful than the fact that in all cities there are also very affluent people with large property holdings. Policing public spaces with the explicit purpose of controlling the homeless inflicts immediate and considerable pain. Replacing drinking water fountains with soft drink vending machines, removing park benches for fear of unwanted loitering, or separating private and public spaces by excessive obstacles is nothing but an enclosure of the urban commons (Madanipour 2003; Mitchell 2003; Low & Smith 2006).

The second mistake assumes that assisting the poor in obtaining an adequate standard of living requires private property be taken. Obviously, comprehensive land reforms favor the radical redistribution of private property (Ankersen & Ruppert 2006; Chigara 2004; El-Ghonemy 1990 and 2001; Ghimire 2001; Rugege 2004). Such sweeping government interventions are not only a massive interference with private property. A change of formal land titles, even on a large scale, changes very little. Many land reforms have failed in the past because they were not accompanied by collateral measures, such as micro credits, property education, or risk prevention schemes. The mere conveyance of title does not change a person's wealth, unless this person is able and willing to make the best use of the redistributed property. Although land reform can change the distribution of wealth and income in the long run, it demands a lot of patience and skills. The advantages expected from land reform might be exceeded by the political and economic costs and by litigation caused when large holdings of private property are taken. The restitution of urban commons is a much easier and proportional way to achieve access to land for the poor. Moreover, spatial commons can be an important source of social capital (Ostrom 1990: 183–184). Carol M. Rose even takes the need for commons one step further and claims:

'In the absence of the socializing activities that take place on "inherently pub-

lic property," the public is a shapeless mob, whose members neither trade nor converse nor play, but only fight, in a setting where life is, in Hobbes' all too famous phrase, solitary, poor, nasty, brutish, and short' (Rose 1986: 781).

Both views—one on common pool resources, the other on inherently public property—confirm that common property is as necessary as private property. There are not only private property rights, but there are also rights in public space (Carr et al. 1992: 137–186; Madanipour 2003; Mitchell 2003; Low & Smith 2006). As private property kindles individual liberty and the investment of economic capital, common property nurtures collective solidarity and the accumulation of social capital. Both types of property are necessary, but the poor frequently can only profit from common property.

Conceptualizing poverty, property, and planning benefits from polyrationality . The documents on an emerging socio-ecological land policy (Table 3) reflect at least three distinct rationalities: hierarchist, individualist, egalitarian. Each of the three types can contribute to viable solutions of providing the poor with better access to land. In fact, some elements borrowed from each of the three types have to be present to create viable solutions. Polyrationality helps us conceive property not as one single legal institution, but as a system of meshed rights and obligations. This system combines private property (individualist's bias) and common property (egalitarian's bias) with planning constantly arranging and rearranging spatial use rights (hierarchist's bias). If we consider the land rights of the poor within such a framework, we understand why 'secure land rights for all' does not necessarily refer to private property. We also understand that spatial planners have a huge responsibility for the quality of commons as spaces of poverty. Of course, not all social injustices can be redressed by restoring drinking water fountains, community gardens, and park benches. But planners, by paying more attention to spatial commons, can help the poor claim some of their citizenship rights to land.

Acknowledgment

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