On December 7-8, 2017, the Program on Human Rights and the Global Economy (PHRGE) will host its twelfth annual Human Rights Institute at Northeastern University School of Law (NUSL). PHRGE Institutes convene scholars, practitioners and advocates to explore a pressing social issue from a human rights perspective, and to consider appropriate human rights research directions and advocacy strategies. This issue focus of this year’s Institute will be land tenure and the central importance of secure land rights to rural livelihoods. We will pay special attention to the effectiveness and viability of a particular research and advocacy strategy advanced to address tenure insecurity, the creation of a Land Tenure Security Index. Alfred Lahai Brownell—Liberian human rights lawyer, founder of Green Advocates, Liberia and PHRGE Visiting Scholar—is host of the 2017 PHRGE Institute.

While the international human rights framework does not clearly define a specific human right to land, access to land is closely related to the realization of international standards in areas such as the right to food and the right to life, among many others. Without secure access to land, the human rights of the world’s landless rural population of over two billion people are in question. The ability to access land for shelter, food production and other activities is the most important single factor in the sustainability of rural livelihoods, and access to land for shelter is also an indispensable part of sustainable livelihoods in urban settings. Gender is a decisive factor in determining whether or not a community has secure access to land. Where women do not have access to land, land tenure is neither just nor secure, and human rights have not been realized.

Respect for the rights of community members—especially land rights, in rural settings—is a critical factor in the ability of communities to respond and adapt to natural disasters, destructive social conflict and other external shocks, such as those being driven by climate change in many parts of the world. Such community resilience greatly influences the sustainability of rural livelihoods. It is no surprise, therefore, that two major international agreements completed recently—the Sustainable Development Goals (SDGs) and the Paris Agreement on Climate Change—highlight the importance of land rights.

Land tenure is also related to climate change in other ways. The science of climate change shows that deforestation and the general degradation of rural environments are important drivers of increased carbon levels in the Earth’s atmosphere. This finding connects rural ecology directly to the phenomenon of climate change, and makes the debate about security of rural land tenure a topic of interest to policy makers far outside of the agricultural and forest sectors. Goal 15 of the SDGs asserts that sustainable forest management combats
both land degradation and biodiversity loss.

One body of academic literature asserts that traditional agricultural activities are a major contributor to the destruction of the world’s forest cover, while another line of analysis suggests that rates of deforestation are noticeably lower in areas where forests and other rural lands are under community management. From one perspective, the traditional, low-technology subsistence farmer is a villain in the drama of climate change. From another, the expansion and protection of community management of forest and other land resources is at the center of an adequate policy response to climate change.

Globally, billions of people attempt to survive in rural areas without access to land for food production or other agricultural activities. Millions more gain legally-tenuous access to land through customary arrangements that, in some cases, have survived for centuries. Despite their longevity, these arrangements often lack a clear foundation in the modern system of individual property rights, as defined by the possession of legal title to land. Since the state often retains formal ownership of land used communally through the exercise of customary rights, such land tenure is secure only insofar as those with political power respect it.

The livelihoods of the landless depend on seasonal agricultural labor, small-scale market activities and the mutual support of kinship networks. The precarious nature of such livelihoods is a primary driver of the global trend toward mass urbanization. Another path taken by the landless rural population is social organization. Throughout the world, landless laborers have organized to demand agrarian reform, a democratization of land ownership and control that would provide secure and sustainable access to land for all.

One important goal of this global effort is to decrease the number of rural landless people by providing landless people with the basis of a sustainable existence on the land. In countries like Brazil and Indonesia, these movements have made great strides, but all indications are that the number of rural landless people continues to grow.

The growth of the rural landless population has many causes. One of these has certainly been the trend toward large-scale acquisitions of land in rural areas, often by outside corporate actors and often for a commercial purpose (plantation agriculture, mining, power generation, tourism, etc.). Hailed by some as an engine of economic development in “backward” areas, from a human rights perspective these are “land grabs” that violate the rights of the people whose land is being “grabbed.” This is true whether or not the farmers using the land have “clear title” to it, or not.

Because it increases both landlessness and deforestation, land grabbing drives rural to urban migration. Such migration accelerates the formation of informal urban communities, which are flashpoints for social conflict in many areas. This process also feeds cross-border migration, thus contributing the current “migration crisis,” with its many attendant challenges, observed in Europe and elsewhere.

However it occurs, the transfer of land from community management to corporate control cannot help but increase the ranks of the landless in countries where this kind of transaction takes place. Equally important, if the analysts who see a connection between community land management and diminished deforestation are correct, then these land transfers promise higher rates of deforestation and accelerated changes in the world’s climate patterns. Much evidence gathered over the past few years makes a convincing case
that this, in fact, the case. Finally, given the attachment of communities to their land, land-grabbing generates intense social conflict. In countries like Liberia, people fear such social conflict for very good reasons.

Alfred Brownell understands the land-grabbing dynamic all too well. As a student, a lawyer and, eventually, Lead Campaigner at Green Advocates (GA), Liberia, Alfred lived through the country's two civil wars. As Liberia moved into the phase of post-conflict reconstruction, Alfred and Green Advocates became involved in a number of cases in which global corporations were found to be involved in practices that violated the rights of their workers, including children. As Liberia's first environmental law firm, Green Advocates also took on cases related to the protection of the Liberian section of the Upper Guinea Forest, which Alfred has dubbed, “the lungs of Northwest Africa.” Finally, GA defended local communities in which government land concessions had put customary land rights at risk. Liberian law provided some basis for defending those rights, but local law was not strong enough to overcome the economic power of investors and the government’s desire to pursue this long-questioned path to development.

This experience has led Mr. Brownell and his colleagues across the globe to look closely at strategies for securing land tenure in areas where it is under attack. On the ground in West Africa, these have included a combination of judicial and non-judicial mechanisms to protect customary rights, and sanction violators of those rights. These activists have pursued these strategies at the national and regional (West African) level, and in international forums.

Alfred’s international work has exposed him to the power of social indices, such as the World Development Index and the Corruption Perception Index, to influence national policy. Even superficial analysis of the effects of such indices suggests that they have contributed to important changes in government behavior. As a result, Alfred has taken advantage of his research time at Northeastern University School of Law to connect to those nongovernmental organizations and private researchers exploring the validity of a Land Tenure Security Index, a data-based tool that would allow for comparative analysis of the steps taken by governments to secure land tenure in their jurisdiction. A single statistical tool cannot solve a problem as complex as lack of access to land. Nevertheless, if carefully designed and implemented, and effectively disseminated, such an index could enable assessment of government policy related to land tenure, and provide the basis for advocating for positive changes in those policies.

Both days of this year’s Institute will be devoted to discussion of issues related to a Land Tenure Security Index. The first day will include two panels, networking time and a keynote address. One panel will address the creation of social indexes and their use in rights-related advocacy. The second will consider the challenges of implementing an effective index in the area of land tenure security. During the second day, participants will analyze and critique a specific proposal by Mr. Brownell, PHRGE and other Institute collaborators to create a Land Tenure Security Index. The input of Institute participants will serve as the basis of a revision of the proposal and a final decision regarding the viability of moving forward with the proposal.

The Institute web page (under construction) will contain complete information for participants, including suggested preparatory readings. For further information, contact PHRGE’s Assistant Director, Elizabeth Ennen at e.ennen@northeastern.edu or at 617-373-8194.