



**Reimagining Property Rights
through Environmental Justice:
Toward Equitable Land
Distribution for a Sustainable
Future**

Research Series

Foreword

By

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About the Author

Alma Rocío Segoviano Basurto, PhD, is a legal expert specializing in environmental justice, land tenure, and property rights. With over 18 years of experience, Alma has collaborated with Afro-descendant, Indigenous, and diverse communities worldwide to promote equitable resource distribution and sustainable development. She is the founder of **KHaRMAlma KALEJ (Knowledge, Humanity, and Resources for Meaningful Advocacy)**, a project dedicated to advancing equity through consultancy, advocacy, and education. As part of this initiative, Alma leads the **KHaRMAlma Journal**, a platform that bridges research and community voices to inspire innovative solutions



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Reimagining Property Rights through Environmental Justice: Toward Equitable Land Distribution for a Sustainable Future

*Woah mercy, mercy me, yeah
Ah, things ain't what they used to be
Oil wasted on the ocean and upon our seas
Fish full of mercury [...]
Radiation underground and in the sky
Animals and birds who live nearby are dying
Hey, mercy, mercy me, oh
Hey, things ain't what they used to be
What about this overcrowded land?
How much more abuse from man can she stand?
Mercy Mercy Me (The Ecology) Song by Marvin Gaye*

Series Research Goal:

This research series seeks to bridge the gap between environmental justice and traditional territorial rights, proposing a transformative framework to rethink property systems and advance equitable land rights for Afro-descendant, Indigenous, migrant, and vulnerable populations.

Series Research Powerful Question:

How can environmental justice and traditional territorial visions synergize to redefine property rights, advancing equitable land access?

FOREWORD

In an era marked by environmental crises and deepening social inequalities, the limitations of current property rights systems have become undeniable. Marginalized communities—including Afro-descendant, Indigenous, and migrant populations—face systemic barriers to accessing and maintaining land and resources. These inequities perpetuate cycles of exclusion, environmental degradation, and social injustice.

This series of papers explores the interplay of historical legacies, cultural perspectives, and contemporary challenges to envision a future where land and resource distribution aligns with justice, equity, and sustainability. Drawing on the metaphor of the "Door of No Return," we reflect on the enduring impacts of

historical injustices, particularly colonization, and chart a path toward transformative change.

Present-day property systems often fail to protect marginalized communities, leaving their rights to land and belonging vulnerable. When rights frameworks no longer meet the needs of our global challenges, they must evolve. This requires revisiting traditional land tenure concepts and addressing the dominance of systems that have historically excluded vulnerable populations.

The series delves into the intersections of environmental justice, traditional territorial practices, and the deconstruction of entrenched legal frameworks. It argues for more flexible, inclusive systems that respond to the realities of marginalized communities. By weaving together theory and practical examples, this work envisions new doors to justice, equity, and sustainability—critical lessons for humanity’s future.

Series Structure

Paper 1: The Intersection of Environmental Justice and Traditional Land Tenure Systems: Shaping Belonging Beyond a Nation

This paper explores the relationship between environmental justice and historical land tenure practices, highlighting how environmental justice offers a framework to redefine property rights. The focus is on enhancing land rights for Afro-descendant, migrant, and Indigenous communities. Philosophical and legal theories illuminate power dynamics and the equitable distribution of resources, paving the way for a more inclusive and sustainable future.

Paper 2: Migration, Belonging, and Territorial Identity: Public Policies and Case Studies Shaping Land Governance and Property Rights

This paper analyzes how migration and displacement reshape territorial rights, belonging, and land governance, while critically examining the power relations that influence these dynamics. It argues that environmental and territorial justice can transform property systems to integrate migrant, Indigenous, and displaced communities, challenging entrenched hierarchies that marginalize these groups. Drawing on Indigenous perspectives and collective rights, the paper argues how migration not only disrupts but also enriches territorial identities. It highlights how historical and systemic power imbalances

perpetuate exclusion, while legal and policy reforms can serve as tools to address these inequities. Strategies to formalize land access, foster inclusion, and promote sustainability are explored through case studies mostly from Mexico, the U.S., and Canada. These examples underscore the importance of offering a cohesive framework for equitable and sustainable land governance.

Paper 3: Recommendations and Policy Implications: Conclusions & Innovative Approaches to Progress

This paper explores innovative strategies for redefining progress in land governance and environmental justice, using Bhutan as a case study and drawing inspiration from analogies like the Spirit of Haida Gwaii. These examples illustrate how fluidity, balance, and creativity can guide the transformation of legal and developmental frameworks. Revisiting the metaphor of the Door of No Return, the paper reflects on the lasting effects of historical injustices, such as colonization and forced migration, and highlights the urgent need for transformative changes that pave new pathways toward equity and sustainability. The argument emphasizes shifting away from rigid, traditional property systems toward legal theories that prioritize inclusivity, adaptability, and sustainability. By addressing historical legacies and integrating innovative concepts, the paper reimagines governance frameworks to position equitable land distribution and sustainable development as fundamental pillars of environmental justice, equipping systems to respond effectively to contemporary challenges. By promoting collective ownership and fostering robust community networks through established community norms, these examples provide a blueprint for actionable, sustainable policies. This section concludes with specific recommendations for policymakers, focusing on equitable, inclusive, and sustainable approaches to migration governance and land distribution. These measures aim to inspire progress that uplifts marginalized communities, ensuring that justice and sustainability remain at the core of developmental priorities

Connecting the Series

This series connects historical perspectives, migration dynamics, and innovative legal theories to reimagine property systems for a just and sustainable future. Each paper builds upon the last, weaving together philosophical insights, practical examples, and forward-thinking strategies to address the pressing

need for equitable land governance. As **Venerable Geshe Kelsang Gyatso** reflects, ***"The mind has the extraordinary quality of first creating objects through imagination and then transforming them into a reality of our daily life. In fact, everything originates in imagination. If no one had imagined our house, it would never have been built. The mind is the creator of everything we experience."*** This vision of the mind's transformative power underscores the necessity of imagining and creating equitable systems that address today's challenges and shape a sustainable future (Gyatso, 2017).

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Paper 1

**The Intersection of Environmental Justice and Traditional
Land Tenure Systems: Shaping Belonging Beyond a Nation
By Alma Rocio Segoviano Basurto**

Alma Rocío Segoviano Basurto, PhD, is a legal expert specializing in environmental justice, land tenure, and property rights. With over 18 years of experience, Alma has collaborated with Afro-descendant, Indigenous, and diverse communities worldwide to promote equitable resource distribution and sustainable development. She is the founder of **KHaRMAlma KALEJ (Knowledge, Humanity, and Resources for Meaningful Advocacy)**, a project dedicated to advancing equity through consultancy, advocacy, and education. As part of this initiative, Alma leads the **KHaRMAlma Journal**, a platform that bridges research and community voices to inspire innovative solutions



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Paper 1 The Intersection of Environmental Justice and Traditional Land Tenure Systems: Shaping Belonging Beyond a Nation

The mind has the extraordinary quality of first creating objects with the imagination and then turning them into a reality of our daily lives. In fact, everything has its origin in the imagination. If no one had imagined our house it would never have been built. The mind is the creator of everything we experience Gueshe Kelsang Gyatso (Gyatso, 2017)

Summary

This paper explores the relationship between environmental justice and historical land tenure practices, highlighting how environmental justice offers a framework to redefine property rights. The focus is on enhancing land rights for Afro-descendant, migrant, and Indigenous communities. Philosophical and legal theories will illuminate power dynamics and the equitable distribution of resources, paving the way for a more inclusive and sustainable future.

Key Themes:

1. Definition and evolution of environmental justice.
2. Restoring territorial rights and tenure systems: The visions and perspectives of Afro-descendant and Indigenous communities: Time and space perceptions as a different foundation for belonging.
3. Relevance in understanding power relations in the lenses of property.
4. Historical context: The Door of No Return.

Introduction

“Justice will not be served until those who are unaffected are as outraged as those who are.”–

Benjamin Franklin

In an era marked by environmental crises and deep-seated social inequities, the systems governing land tenure and property rights face increasing scrutiny. Marginalized communities—Afro-descendant, Indigenous, migrant, and others—encounter persistent barriers to accessing and securing rights to land and resources. These barriers perpetuate cycles of exclusion, inequality, and environmental degradation.

This paper embarks on a journey to reimagine these systems through the lens of environmental justice, exploring how traditional land tenure practices and inclusive governance can create pathways for equitable resource distribution. By revisiting historical legacies and integrating diverse cultural perspectives, it seeks to challenge entrenched power dynamics and advocate for a more just and sustainable future.

Anchored in the metaphor of the "Door of No Return," this work draws from the historical injustices of the transatlantic slave trade to illuminate the enduring consequences of dispossession and exclusion. Yet, this metaphor also inspires hope—a call to confront these legacies and forge new paradigms that prioritize equity, sustainability, and collective growth.

1. Definition and Evolution of Environmental Justice

"Before the Law stands a gatekeeper. To the law, everyone strives to reach, yet the gatekeeper forbids entry." – Franz Kafka, Before the Law (Kafka, 1971)

Jorge Riechmann asserts that recognizing evil as evil and accepting that "the other" will always be an enigma, rather than justifying our wrongs through hierarchical affinities, is crucial. Our humanity depends significantly on learning to see the suffering of others as our own (Riechmann, 2005). He further argues that transforming reality begins with adopting a new perspective and sharing it with others. For example, overcoming slavery required challenging Aristotle's dehumanizing characterization of the slave as a "speaking tool." The first step toward abolition and emancipation was recognizing equality in the gaze of the enslaved (Riechmann, 2005).

Similarly, addressing environmental, interpersonal, and intercultural issues begins by making problems visible to others. For instance, shifting focus from the social status associated with car ownership to its pollution and health consequences would mark significant progress toward recognizing reality and fostering a sustainable future (Segoviano Basurto, 2020; Riechmann, 2005).

In a related vein, progress should also be understood through the lens of our treatment of others. A true measure of human advancement is how we exercise power and treat those we consider weaker. Historically, the treatment of slaves was a benchmark for moral quality, and in the contemporary world, our approach to the so-called "third world" and the natural environment should serve a similar role, reflecting our ethical maturity. Thus, treating other sentient beings and the environment with respect and compassion is not just an ethical imperative but also a critical measure of genuine progress (Riechmann, 2005).

Indeed, human rights (HHRR) have evolved progressively alongside increased human power over nature and others, driven by technological advancements that enhance our ability to dominate both. This growing power has introduced new threats to individual freedom, life, and the planet. The evolution of human rights addresses these threats and seeks to create a balance of power to

safeguard against potential abuses and ensure that technological progress benefits humanity.

Likewise, from the perspective of Environmental Justice, our obligations also increase based on our power of transformation and the awareness we have of the harm caused by our actions. As our power, capacity for foresight, and knowledge of our impact on the Earth and its resources grow, so too does our responsibility. The notion of responsibility towards the biosphere, living beings, and future human generations plays a key role in articulating a response to the challenges of the contemporary environmental crisis. This is a task that is perceived with increasing clarity in a world where vulnerability and risk due to climate change encompass every being that inhabits it, not just a select few "others," as we often assume (Riechmann, 2003) (Segoviano Basurto, 2023).

Dr. Robert Bullard, often regarded as the father of Environmental Justice (EJ), describes EJ as a paradigm shift in which vulnerable, typically marginalized communities are given voice and visibility. What marked the EJ movement as a significant shift in power relations was its initial definition as a struggle against environmental racism. Highlighting EJ as a fight against racism underscores the deeper power struggles among social groups (Segoviano Basurto, 2020).

Recently, Jorge Riechmann defined EJ as “the fair distribution of benefits obtained from natural resources, as well as the equitable sharing of the negative impacts of human actions on the planet.” He outlines three key principles: a) the Principle of Sustainability or Intergenerational Justice, b) the Principle of Equal Parts or World Justice for the Right to Land, and c) the Principle of Interspecific Justice. Riechmann’s concept implies an expanded human responsibility toward nature and other species. For him, Environmental Justice is about advancing human rights and species welfare for the sake of life on Earth. His proposals call for a new ethical perspective, where possessing any advantage or privilege entails a responsibility to protect the more vulnerable. The Principle of Sustainability pertains to our obligations to future generations, the Principle of Equal Parts refers to the equitable distribution of goods and resources among humans, and the Principle of Interspecific Justice emphasizes the obligation of humans to share the planet with other species, respecting their lives and habitats (Riechmann, 2003).

Why is there discussion about distributing the negative impacts generated on the environment? It reflects the reality that all beings on the planet generate some impact on the environment. However, this impact should not be solely negative, nor should historically excluded and most vulnerable communities bear the brunt of these negative impacts, resulting in an inequitable burden (Riechmann, 2003) (Segoviano Basurto, 2023).

The idea of an untouched nature, where there is no impact, has proven to be flawed. Scholars such as Thomas R. Smith argue that this idea stems from an imposed cultural vision. The ideal of a “primitive” nature, where “development does not exist,” can lead to a disconnection between humans and the environment, as humans are not seen as integral parts of it. This suggests that nature exists independently “out there,” unaffected by human activity. When this connection is lost, the responsibility to care for nature and the beings that depend on it is also lost (Smith T. R., 2014).

Thus, discussing Environmental Justice involves addressing the fair and equitable distribution of natural resources and the benefits they provide. It also involves recognizing our responsibility towards nature and others to mitigate and balance the negative impacts we generate on the environment and natural resources, precisely because we acknowledge our connection as individuals and groups with our environment.

The increase in our capacity to intervene in nature, our knowledge, and our foresight brings with it increased responsibilities. Hans Jonas suggested that nature, as a human responsibility, is a novel concept that ethical theory must address. The notion of responsibility—toward the biosphere, non-human beings, vulnerable communities, and future human generations—is crucial for formulating an ethical response to the contemporary ecological crisis (Riechmann, 2005, pp. 21-23).

The environmental justice movement has redefined the concept of the environment to align with the realities of modern society, while also drawing upon traditional community perspectives. These perspectives demonstrate that ancestral knowledge and practices continue to offer valuable contributions to addressing contemporary challenges. The Principles of Environmental Justice, declared at the People of Color Environmental Leadership Summit in 1991, defined the environment as the space "where we live, work, play, learn, and pray."

This recognition broadens the concept of the environment to encompass all aspects of daily life, extending beyond mere conservation and preservation of natural resources. Rooted in culture and spirituality, this broader definition inspires a return to our roots and an embrace of diversity (Delegates to the First National People of Color Environmental Leadership Summit, 1991).

Understanding the environment as an integral part of our daily lives and culture leads us to renew our connection with nature from multiple perspectives. On one hand, there is the holistic vision that has characterized and continues to characterize most Indigenous and traditional cultures, where human beings are seen as connected with nature. On the other hand, there is the systemic vision that prompts us to reconnect from an individual perspective, focusing on our personal relationship with the environment. This approach results in a multiplicity of connections that, otherwise, would be segregated alternatives. Thus, we can view the planet as our home from many perspectives, taking responsibility for its impacts (Rose, 2012).

EJ's proposals are now extending into core legal theories, presenting an interesting challenge to current legal obligations. According to Riechmann, legal obligations should encompass three amplified dimensions: spatial, temporal, and social. In alignment with sustainable development principles, he advocates responsibility toward future generations, as well as obligations to present generations, particularly vulnerable communities affected by human exploitation. This emphasizes the need to prioritize equal access to land for poorer and historically marginalized communities, including Afro-American, native, indigenous peoples and migrant communities (Segoviano Basurto, 2020)

2. Restoring territorial rights and tenure systems: The visions and perspectives of Afro-descendant and Indigenous communities over land: Time and space perceptions as a different foundation for belonging.

*Remember the sky that you were born under,
know each of the star's stories.
Remember the moon, know who she is.
Remember the sun's birth at dawn, that is the strongest point of time.
Remember sundown and the giving away to night.
Remember your birth, how your mother struggled to give you form and
breath.
You are evidence of her life, and her mother's, and hers.
Remember your father. He is your life, also.
Remember the earth whose skin you are red earth, black earth, yellow
earth, white earth brown earth, we are earth.
Remember the plants, trees, animal life who all have their tribes, their
families, their histories, too.
Talk to them, listen to them. They are alive poems.
Remember the wind. Remember her voice. She knows the origin of this
universe.
Remember you are all people and all people are you.
Remember you are this universe and this universe is you.
Remember all is in motion, is growing, is you.
Remember language comes from this.
Remember the dance language is, that life is.
Remember by Joy Harjo (Harjo, 1983).*

Octavio Paz, Talia Boyd, and Kenneth Tafira present interconnected perspectives on the relationship between humans and land, challenging notions of property and progress rooted in a linear concept of time and an exclusively economic view of land as a commodity. Paz explains that, in the holistic Aztec cosmology, time and life are cyclic, fluid, and perpetual, inherently tied to the space of existence: the land. In this worldview, every human embarks on a transformative journey at birth, ultimately returning to the origin of life—the land, regarded as the foundation of all existence (Paz, 1972).

Boyd, from a Native American perspective, emphasizes that land is not an object to be "owned" but a sentient, life-giving entity with which humans coexist. Regenerative relationships with the land, shaped by cosmologies, ceremonies, and languages, require responsibility and reciprocity. This worldview highlights

respect for all forms of life, including prayers for the land's healing, reflecting an interconnectedness that transcends individual ownership (Boyd, 2021).

Tafira, from an African perspective, expands this understanding by rejecting the capitalist logic of land as a commodity for production or trade. Instead, land is seen as a divine gift belonging collectively to the living, the dead, and the unborn. This perspective integrates ecological, spiritual, cultural, and social dimensions, portraying land as a source of identity and community rather than mere economic output. African traditions emphasize mutuality and stewardship, where collective rights override individual claims, and norms protect natural resources (Tafira, 2015).

Together, these perspectives critique linear and economic-centric views of land, offering a holistic understanding where land is a communal, spiritual, and ecological foundation for identity and existence (Paz, 1972) (Boyd, 2021) (Tafira, 2015).

Following the approach of Patrick McAuslan, it can also be argued that revisiting the laws and land systems of traditional societies, is essential for developing a more inclusive and effective legal framework for land tenure. According to McAuslan, while traditional societies see land as integral to social relations, modern Western societies primarily view it as a commodity or a factor of production (McAuslan, 2003).


This divergence underscores a critical limitation of the current hegemonic legal system, which, as McAuslan points out, arises when statutory land laws are designed solely to facilitate market operations. By prioritizing the economic approach to land, these laws neglect the social dimensions intrinsic to traditional societies. As McAuslan observes, the systems of law in traditional societies “*cannot be abolished at the stroke of a pen.*” Yet, the imposition of statutory regimes that treat land as a commodity creates significant challenges for those attempting to navigate them. This economic-centric perspective contrasts sharply with traditional societies, where land is foundational to social organization, collective responsibility, and reciprocal relationships. It is through the lens of these traditional systems that a broader concept of “belonging” can emerge, challenging the Western notion of property as mere ownership (McAuslan, 2003) (Segoviano Basurto, 2015).

These perspectives collectively reframe property not as a means of exclusion but as a form of belonging deeply tied to shared histories, collective responsibilities, and reciprocal relationships with the land. By embracing these worldviews, the concept of property expands beyond legal frameworks and transactional relationships to encompass cultural, spiritual, and ecological dimensions of existence. Land ownership and belonging, in this context, are shaped by shared responsibility and reverence for the land as a sacred and communal foundation. Together, these perspectives critique individualistic and economic-centric conceptions of property, offering a holistic understanding where land is central to community and existence.

Belonging, in this framework, transcends boundaries of time and space. For Indigenous and Afro-descendant communities, the land connects past, present, and future generations, creating a temporal dimension of belonging. The dead are honored as custodians of the land, the living act as its stewards, and the unborn hold a rightful claim to its sustenance and care. Spatially, belonging is not confined to mapped territories but extends to the land's ecosystems, rhythms, and spirit. This holistic approach challenges the Western paradigm of property, which prioritizes individual ownership, market value, and economic productivity, exposing the limitations of transactional relationships with the land. It calls for a paradigm shift where land is seen not as a commodity but as a communal and sacred entity deserving of care and respect.

Finally, these ideas challenge traditional notions of belonging tied solely to birth in a specific territory by emphasizing a relationship with the land that transcends birthplace and nationality. Instead of viewing belonging as solely a matter of origin, this perspective redefines it as a dynamic and relational concept rooted in the connection and stewardship of the land where one lives or interacts.

By framing belonging as a dynamic relationship with the land, Afro-descendant and migrant communities can gain recognition—similar to Indigenous communities—for their contributions to and care for the territories they inhabit. This approach challenges exclusionary systems that tie rights to heritage or nationality and instead affirms the agency of these communities claim belonging through their reciprocal and sometimes historical interactions with the land. Recognizing belonging in this way opens pathways for more inclusive



policies and frameworks that respect the rights of displaced or marginalized populations while promoting sustainable and equitable land practices.

3. Relevance in understanding power relations in the lenses of property.

The first who, having encircled a piece of land, ventured to say; this is mine, and found people simple enough to believe it, was the true founder of civil society. What crimes, wars, murders, miseries, and horrors had not spared the human race, who, tearing out the stakes or filling the ditch, would have shouted to his fellow creatures. Do not listen to this impostor; you are lost, if you forget that the fruits are to all, and that the earth is to no one. (Luhmann, 2015, 6)

3.1. How did power relations and belonging to certain societies shape the law that protects property rights, and how was natural law a cultural creation?

In my doctoral thesis, *The Protection of Indigenous Peoples' Rights and the Conservation of Natural Resources*, I analyzed how historical and social dynamics shaped the law governing property rights. Similarly, in my article *Environmental Justice: A Way Forward – The Deconstruction of Property Rights*, I explored how environmental justice challenges existing property regimes, emphasizing the need to reconsider traditional property systems to address environmental and social inequities. These works argue that property rights are deeply intertwined with power relations, societal belonging, and cultural constructs. This paper builds upon those arguments by examining how various thinkers have contributed to understanding property through cultural, economic, and legal perspectives (Segoviano Basurto, 2015) (Segoviano Basurto, 2020).

Niklas Luhmann, in *The Origin of Property and its Legitimation*, argues that power relations and societal belonging were fundamental in shaping the laws that protect property rights. Historically, property was seen as a structural foundation of civilized society during the 17th and 18th centuries. However, this foundation excluded individuals who did not meet specific criteria, such as domestic dependents, reinforcing a political and economic system rooted in exclusion. Property ownership determined rights and duties, establishing a "society of property owners" that inherently marginalized those outside this framework (Luhmann, 2015).

Luhmann critiques the notion of natural law, highlighting how it was instrumental in justifying property systems as a “universal” truth. Rather than being an inherent or objective foundation, natural law served as a cultural construct that framed property rights as inevitable and unquestionable. The state of nature was historically invoked as a legal and philosophical origin of property, legitimizing hierarchical systems that distinguished between "legal" and "illegal." This framework aligned legal systems with the interests of dominant groups, reinforcing exclusionary power structures.

Importantly, Luhmann redefines property not just as a legal or political concept but as the central code of the economic system. According to Luhmann, modern society operates through functionally differentiated systems—such as the economy, politics, and law—each with its own distinct logic or "code." In the economic system, the binary code of "having" versus "not having" property is fundamental to all transactions. This coding determines ownership and resource allocation, forming the basis for economic activity.

By positioning property as the central code, Luhmann highlights its foundational role in structuring the economy. Unlike earlier frameworks that linked property to moral or natural law, this approach focuses on the functional necessity of property in a self-regulating economic system. It explains how property relations are organized to ensure the system's continuity and efficiency, regardless of broader moral or philosophical justifications. This functionalist perspective reveals how power structures embedded within the economic system shape societal norms, perpetuating patterns of inclusion and exclusion (Luhmann, 2015).

However, Luhmann’s theory also invites us to consider the paradoxical nature of this system. While property operates as a central code, ensuring the economy’s functionality and stability, it simultaneously creates and reinforces systemic inequalities. This paradox lies at the heart of Luhmann’s critique: the very structures designed to maintain order and facilitate economic transactions often generate exclusion, marginalization, and unintended consequences.

For Luhmann, the functionally differentiated systems of modern society—such as the economy, politics, and law—thrive on paradoxes. Each system operates independently, guided by its own internal logic, but also interacts with and

depends on other systems, creating tensions and interdependencies. For example, the economic system operates using the binary code of "property," which simplifies complex interactions into a basic distinction: "owned/not owned." This code allows the economic system to function efficiently, ensuring clarity in economic activities such as buying, selling, and producing. It also helps the system maintain stability by focusing solely on its primary purpose—facilitating exchange and production—while leaving moral or justice-related considerations to other systems, such as law or politics (Luhmann, 2015).

However, the economic system also relies on external systems to define and enforce ownership. It depends on the legal system to create rules about property and on the political system to legitimize those rules. This creates a dual dynamic: while the economic system preserves its internal coherence, it cannot entirely escape broader societal demands for equity and inclusion (Luhmann, 2015).

The paradox of property as a central code highlights the tension between stability and change. On the one hand, property ensures the smooth functioning of economic transactions. On the other, it reinforces power structures and patterns of exclusion, which call for systemic reforms. Luhmann's perspective suggests that the goal is not to completely resolve this paradox but to acknowledge it and manage it through adaptive strategies that **balance** competing priorities (Luhmann, 2015).

3.2. Property and Progress: Striving for Balance, Not Supremacy

Justice is not natural; it is the work of human beings. It requires effort and commitment, and it must be renewed every day." – Octavio Paz

As Luhmann explains, *"the structural conditions that characterize modern society, operating continuously and almost blindly, have led to a situation very different from the ideal of progress."* The vision of a modern society in constant positive transformation seems increasingly out of reach. Referring to the old English proverb, *"the proof of the pudding is in the eating,"* one only needs to

examine the environmental injustices caused by the concept of progress imposed by colonizers to see this dynamic at play (Luhmann, 2015, 2-3).

Marie-Benedicte Dembours, drawing on Peter Fitzpatrick's metaphor of the pendulum, suggests that humanity should strive also for a constant balance between opposing poles, where each constitutes and is constituted by the other. This metaphor resonates with the earlier discussion on the tension between common and private property regimes, a conflict that has contributed to the failure of property systems to serve all members of society equitably. To enhance property as a meaningful institution, it is necessary to recognize the interdependence among different property regimes. Natural resources, in particular, could be most effectively utilized and preserved if managed through a combination of individual ownership, communal stewardship, and public oversight (Segoviano Basurto, 2015). (Marie-Benedicte, 2001)

Property—as an economic tool entrenched in natural law and universal truths—reveal that, instead of imposing rigid frameworks, what we need is to create balance. This balance involves embracing stability and transformation simultaneously while above all harnessing the power of diversity. Humanity should not aim to attain fixed knowledge or a singular universal truth. Instead, the focus should be on a continuous effort toward self-improvement and adaptation, finding pathways that honor diversity and foster coexistence. This dynamic approach ensures that progress is no longer seen as a linear trajectory but as an evolving process that balances competing needs and perspectives.

James Tully and Octavio Paz criticize the prevailing concept of progress, which often erases ancient traditions to create a uniform modern ideal. Tully argues that this approach eliminates diversity, while Paz advocates for the "*interplay of differences*," asserting that life thrives on cultural diversity and dialogue. For these thinkers, progress should not be about assimilation but rather about fostering intercultural recognition and mutual adaptation (Tully, 2001) (Paz, 1972) (Segoviano Basurto, 2015) (Tully, 1995).

This reimagining of progress aligns closely with the struggles for land rights and environmental justice, concepts deeply intertwined with Foucault's notion of

power-knowledge. Foucault reveals how knowledge systems, shaped by power structures, marginalize alternative perspectives and validate dominant narratives. Colonial land systems epitomize this dynamic, as they imposed frameworks that disregarded Indigenous practices, prioritizing the interests of colonizers. These frameworks, rooted in dispossession and land grabbing, continue to shape environmental policies and property regimes, often to the detriment of marginalized communities (Foucault, 1977). Even as recognition of Indigenous land management and conservation grows, it is built upon the same legal foundations that perpetuated conquest and subjugation.

Drawing from Jacques Derrida's concept of "hospitality," this persistent reliance on colonial legal frameworks exemplifies paradoxical hospitality. Derrida argues that hospitality, as commonly understood, is inherently self-contradictory because it demands the host maintain authority over the conditions of welcome, thereby limiting the openness of the gesture. In the context of Indigenous rights, colonial laws were designed not to foster genuine autonomy or equity but to dominate and assimilate. By continuing to regulate Indigenous rights within these frameworks, modern states position themselves as "hosts" who impose conditions on Indigenous peoples, stripping them of the ability to fully reclaim their agency and sovereignty. This conditional "welcome" mirrors Derrida's notion of hospitality as a mechanism that simultaneously includes and subordinates the "other." Thus, the persistence of these legal systems perpetuates the very structures of conquest they purport to resolve, highlighting the urgent need to deconstruct and reimagine them in pursuit of genuine progress (Derrida, 2000).

Nevertheless, it is also worth considering Stewart-Harawira's arguments, which highlight the transformative potential of Indigenous knowledge in shaping a more equitable global order. Despite historical marginalization, Indigenous peoples are actively reshaping global paradigms of power by asserting their land and rights claims within international legal frameworks. These claims not only challenge Western notions of human and property rights but also strategically leverage the very legal systems created by colonial powers to advocate for justice and recognition. Stewart-Harawira envisions a future grounded in cultural coexistence and mutual recognition, where imperial models of cultural imposition give way to a new paradigm of respect and dialogue. This

transformative vision emphasizes the importance of Indigenous knowledge as a cornerstone for building a fairer, more inclusive global order (Stewart-Harawira, 2005) (Segoviano Basurto, 2015).

Complementing these arguments, Carol M. Rose frames property as a cultural narrative that shapes its meaning and application. Rose critiques the dominant Western narrative, which often portrays property systems as natural and self-evident, arguing instead that closer examination exposes arrangements rooted in dispossession and exclusion. She underscores the historical interdependence and hybridity of property regimes, challenging the notion of their homogeneity. Rose advocates for a balanced approach, where resources are managed through individual, communal, and public ownership to maximize their utility (M. Rose, 1994) (Segoviano Basurto, 2015).

Similarly, Margaret Jane Radin conceptualizes property as relational, emphasizing the ways in which ownership contributes to individual self-constitution while inherently involving collective responsibilities. Radin's perspective highlights the need to consider the broader social and cultural dimensions of property, illustrating how property regimes must balance personal identity with communal well-being (Jane Radin, 1994) (Segoviano Basurto, 2015).

Elinor Ostrom expands this discussion by challenging the negative perception of shared resources in her analysis of *The Tragedy of the Commons*. Ostrom demonstrates how rural communities sustainably manage natural resources through collective action, supported by identity, knowledge, and local engagement. This approach contrasts sharply with the individualistic assumptions embedded in modern property systems and highlights the potential of collective resource management to foster sustainable development. Ostrom's emphasis on the polycentric governance of resources further demonstrates that solutions to complex problems, such as climate change and land degradation, are most effective when they arise from multiple levels of decision-making—local, regional, and global—rather than relying solely on centralized or top-down governance structures (Ostrom E. , 2009) (Ostrom E. , 1990) (Segoviano Basurto, 2015).

Carol M. Rose complements Ostrom's work by framing property as a cultural narrative that is historically interdependent and dynamic. Rose critiques the dominant Western property narrative, which often invokes "natural law" origins to justify property systems, thereby obscuring the dispossession and exclusion that underpin their development. Instead, she advocates for a balanced approach combining individual, communal, and public ownership to maximize utility and inclusivity.

Similarly, Margaret Jane Radin's relational view of property underscores the necessity of balancing individual ownership with collective considerations, further reinforcing the idea that sustainable resource management requires a nuanced understanding of the social and cultural dimensions of property.

This resonates with Derrida's concept of "hospitality," which reveals the paradox of colonial legal frameworks that continue to regulate Indigenous rights. These systems superficially welcome Indigenous claims to land while simultaneously subordinating them, perpetuating structures of conquest. Indigenous communities, however, are not merely passive subjects of these systems. As Stewart-Harawira emphasizes, they are actively reshaping global paradigms of power by leveraging these very frameworks to advance justice, calling for cultural coexistence and mutual recognition.

Movements for environmental justice and land rights aim to rectify historical and ongoing injustices by advocating for traditional and communal land practices. These movements challenge dominant power structures and seek to transform knowledge systems, promoting equitable land management and environmental sustainability. Judge Christopher Weeramantry underscores the limitations of current legal systems, advocating for a multicultural legal foundation that incorporates Indigenous knowledge and cosmologies. Such a foundation, he argues, could address pressing global issues like poverty, climate change, and sustainable development (United Nations Environment Programme, 2024) (Segoviano Basurto, 2015). He also highlights the ancient and diverse roots of international law, noting: *"Tomorrow's world order will be based on active cooperation, seeking to fuse out of the world's different cooperation demands that the legal essence distilled from each culture be brought to the common*

service of the international order” (United Nations Environment Programme, 2024)

The creation of property as a legal and cultural institution is deeply connected to narratives of belonging, inclusion, and exclusion. Migration, as both a historical and contemporary phenomenon, disrupts these narratives by challenging fixed notions of who "belongs" to a place and who does not. Historically, property systems have been constructed to favor dominant groups, reinforcing myths of belonging tied to land ownership and creating barriers for migrants and displaced populations.

As Foucault asserts, knowledge linked to power not only assumes the authority of "truth" but also has the capacity to make itself true through its application. This dynamic illustrates the interplay between power and knowledge: *"There is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time, power relations"* (Foucault, 1977). Foucault highlights the deep interconnection between power and knowledge, where power defines what is considered valid knowledge, and knowledge, in turn, reinforces and legitimizes power relations. This creates systems that regulate and discipline society, such as property laws, which perpetuate hierarchies and exclusion by relying on knowledge constructed to serve dominant interests.

Racial knowledge, like other forms of constructed knowledge, actively shapes and is shaped by societal power structures. The environmental justice movement exemplifies this by addressing not only the tangible impacts of environmental hazards but also the broader power dynamics that produce and perpetuate these inequities (Riechmann, 2003; Segoviano Basurto, 2020). As explored in my doctoral thesis and article, property systems perpetuate exclusionary practices that deny migrants and displaced populations the legal and cultural recognition necessary for integration. The notion of "progress," often linked to property development and territorial control, further entrenches these myths by associating land ownership with modernity and legitimacy, marginalizing those perceived as outsiders (Segoviano Basurto, 2015).

Taken together, these perspectives present a powerful argument for reimagining property and resource management through collective action, cultural inclusivity, and polycentric governance. Moving beyond exclusionary and imperial models, they underscore the transformative potential of integrating Indigenous knowledge, local agency, and collective practices into global

frameworks to promote sustainable and equitable development. By critically examining these intersections, we can dismantle exclusionary structures and build inclusive systems that honor the diversity and complexity of human experiences.

Diversity—the rich tapestry of Life’s intricately interlaced phenomena, processes, and relationships—is being degraded by modern reductionist forces of homogenization. The fabric of interdependent and mutually reinforcing strands of biological, cultural, linguistic, and institutional diversities has frayed, as the world has become increasingly brittle and less resilient. At a time when the environmental and social consequences of human-induced changes have become increasingly severe, there is a growing recognition that humankind, as Albert Einstein observed, cannot solve problems in the same way of thinking that led to their creation. A new way of thinking, a paradigm shift, is required to sufficiently improve the nature of our relationship with the world. (Persic & Martin, 2008)

3.3. The politics of cultural recognition as the way forward

We do not inherit the earth
from our ancestors; we
borrow it from our
children.”
– Native American Proverb


Building on the discussion of Indigenous knowledge, land rights, and environmental justice, James Tully's *The Politics of Cultural Recognition* offers a critical framework for addressing the complexities of cultural diversity and justice. Tully argues that struggles for cultural recognition, often treated as distinct and isolated phenomena, should instead be analyzed as degrees of a shared challenge: the pursuit of justice through self-determination and mutual respect. He highlights the overlapping nature of these struggles, from national and supranational movements to the demands of Indigenous peoples and feminist activism, all of which challenge dominant systems of sovereignty and governance. These movements not only seek cultural recognition but also aim to dismantle exploitation, domination, and inequality within existing power structures (Segoviano Basurto, 2015).

Tully's critique of traditional nationalist frameworks aligns with Derrida's exploration of hospitality, where inclusion often comes at the cost of assimilation. Both thinkers underscore the tension between recognizing cultural diversity and maintaining hierarchical systems of power. Derrida's concept of the foreigner (*xénos*) as both included and excluded highlights the paradoxical nature of hospitality, where the act of welcoming often reaffirms the host's dominance. This dynamic resonates with Tully's call for constitutional "*mutual recognition*," emphasizing that justice requires moving beyond rigid nation-state models to embrace overlapping and pluralistic cultural identities (Derrida, 2000) (Penchaszadeh, 2012) (Tully, 1995) (Segoviano Basurto, 2015)

These perspectives echo Foucault's insight that knowledge and power are intertwined, shaping systems of regulation and exclusion. As discussed earlier, property laws and environmental policies exemplify this dynamic, where knowledge constructed to serve dominant interests perpetuates exclusionary frameworks. Tully and Derrida deepen this critique by demonstrating how cultural recognition and hospitality are similarly embedded in systems of power that enforce assimilation and marginalization. For Derrida, the foreigner's presence disrupts rigid notions of identity and belonging, offering an opportunity to redefine boundaries in ways that foster genuine, non-assimilative inclusion (Derrida, 2000) (Penchaszadeh, 2012) (Foucault, 1977) (Tully, 1995).

Tully's and Derrida's ideas also converge with Peter Fitzpatrick's observation that universality and specificity exist in a dynamic interplay. The universality of frameworks like the UN Declaration on Human Rights reflects specific cultural and historical contexts, revealing the ongoing negotiation required to balance particularities with shared aspirations. This tension underscores the need for continuous engagement, where cultural recognition and justice are not fixed endpoints but evolving processes of mutual learning and adaptation (Dembour, 2020).

Taken together, these perspectives enrich the argument for reimagining property and resource management through collective action, cultural inclusivity, and polycentric governance. They offer a framework to better address the complexities of justice and belonging for displaced individuals and migrant communities, including Afro-descendants—peoples forcibly removed from their places of origin. This approach challenges exclusionary and imperial models, emphasizing the transformative potential of diversity as a foundation for sustainable and equitable development. Future work will delve deeper into



these intersections, exploring how cultural recognition and hospitality can shape inclusive systems of property and tenure that honor the fluidity and complexity of human identities.

4. From the Door of No Return: Charting America's Multiracial and Multicultural Journey

"Even though you may not know the exact village you come from, the township you come from, the clan -- the family -- you come from, you can be assured that this is one of the last places that our ancestors touched before leaving these shores," (Smith, Soichet, Hopper, Riegle, & Lenthang, 2021).

Cape Coast Castle, situated on the shores of Ghana, embodies a striking contrast. Overlooking the vast Atlantic Ocean, this castle—once a notorious hub of the transatlantic slave trade—houses the historically significant "Door of No Return," through which millions of Africans were forcibly sent to slave ships bound for colonizing nations. Today, the castle's serene beauty starkly contrasts with the harrowing history it represents (Smith, Soichet, Hopper, Riegle, & Lenthang, 2021).

For some, the "Door of No Return" symbolizes the colonial powers' attempt to erase the origins of African descendants, believing they would never find their way back home. Yet the resiliency of the African spirit has prevailed. Hundreds of years after those fateful voyages, millions of descendants of enslaved Africans have returned to the castle, creating a full-circle moment (Smith, Soichet, Hopper, Riegle, & Lenthang, 2021).

Such returns are central to the Full Circle Festival in Ghana, which takes guests to places significant to the slave trade, including the Door of No Return, the Assin Manso Slave River site—where Africans from various parts of the continent had their "last bath" on their native land before being sold into servitude—and Jamestown, the oldest district in the nation's capital, Accra.

The Full Circle Festival honors the ancestry of African descendants and emphasizes the need to bridge the gap between the diaspora and the African continent. This initiative seeks to address the generational traumas suffered on both sides. A significant part of the festival involves acknowledging these traumas and examining the lingering emotional and economic effects of colonialism.

The historical disparities rooted in the legacy of the slave trade have endured for hundreds of years. The Full Circle Festival aims to confront this legacy by making these issues visible and fostering a collective acknowledgment of their impact.

Current generational wealth, for example, did not emerge by chance; it was systematically shaped by historical injustices. Mechanisms were intentionally established to advantage some groups while disadvantaging others, a reality reflected today in wealth disparities. In the United States, for instance, a 2019 Federal Reserve survey found that the median and mean wealth of Black families is just 15% of that of white families. Similarly, a 2020 report from the Brookings Institution revealed that the wealth gap has grown, with the ratio of white family wealth to Black family wealth higher now than at the start of the century, driven in part by the inheritance of wealth by white families. This historical context underscores why addressing these disparities remains a pressing issue (Bhutta, C. Chang, Dettling, Hsu, & Hewitt, 2020) (Smith, Soichet, Hopper, Riegle, & Lenthang, 2021) (McIntosh, Moss, Nunn, & Shambaugh, 2020).

Despite this history, the future of race relations remains uncertain. Without substantial structural reforms to dismantle white privilege and prioritize racial equity, systemic racism and growing racial tensions are likely to persist. While the increasing multiracial population itself is not inherently problematic, it is essential to approach the narrative that this demographic alone signifies racial progress with caution. Such narratives risk presenting a superficial image of harmony while masking the urgent need for genuine institutional change. By enabling leaders to sidestep foundational inequalities, these narratives may inadvertently exacerbate racial disparities rather than address them (Chandra D. L. Waring, 2024).

Research by Chandra Waring highlights that multiracial individuals often hold a more nuanced and somber outlook on race relations. Despite demographic diversity, the structural conditions that sustain racism and privilege remain largely unchallenged. Celebrating demographic shifts as markers of progress risks obscuring deeper systemic issues that require attention (Chandra D. L. Waring, 2024).

Navigating these complexities necessitates framing discussions through the lenses of multiculturalism and the politics of cultural recognition. This approach prioritizes integrating diverse cultural viewpoints into our understanding of progress and equity. Future analyses will explore how embracing the Spirit of Haida Gwaii and new concepts of development can offer meaningful ways forward. These approaches are grounded in recognizing and honoring the rich diversity and historical experiences of all communities (Segoviano Basurto, 2023).

The journey from the "Door of No Return" to a multicultural world—shaped by its multiracialism—serves as a powerful analogy for transformation. This door, symbolizing the irretrievable past of enslavement and suffering, also marks the beginning of a new era of hope and collective growth. Acknowledging both the painful history and the enduring strength of the communities that have emerged from it is vital as we look to the future.

Ultimately, the legacy of the "Door of No Return" challenges us not only to remember the past but also to actively shape a future where every voice is heard, and every individual contributes to a brighter, more equitable society. By embracing cultural recognition and building on the strength of our shared history, we pave the way for a future that honors both our past and potential. Through innovative solutions, meaningful progress, and a commitment to a multicultural vision, we can strive for equitable land distribution, environmental justice, and sustainable development. By fostering interconnectedness and mutual responsibility, we can reimagine a future that truly reflects the richness of our collective experiences (Chandra D. L. Waring, 2024).

“Thinking that we can live independently in our little world does not correspond to reality. It is more realistic to think that we are like a cell within the immense body of life, different from others but intimately related to them. We are completely dependent on all beings [...] the idea that it is possible to worry only about our own well-being and even seek it at the expense of others is absurd” (Gyatso, 2017).

Conclusion

The "Door of No Return," once a passage of despair and irrevocable loss, stands today as a powerful symbol of resilience, transformation, and the unyielding spirit of those who endured its harrowing journey. From this doorway, humanity can choose to embark on a new path—a path that embraces diversity, justice, and collective stewardship of our shared resources.

As Maya Angelou urges in her poem, *On the Pulse of Morning*: “Lift up your eyes upon / The day breaking for you. / Give birth again / To the dream” (Angelou, 1993). The legacy of the Door compels us to honor the past, act decisively in the present, and envision a future where equity and environmental justice guide our shared endeavors.

Let us reimagine the concept of property and belonging, moving beyond frameworks of exclusion and domination toward systems rooted in care, reciprocity, and mutual recognition. By fostering interconnectedness and embracing cultural recognition, we can open new doors—doors that lead to a more inclusive, sustainable, and equitable world.

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