Global Trends in Forest Ownership and Governance: Changing Roles of the State and the Community

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Ownership and Governance One of Many Transitions Underway

Not only climate is changing:

- **Markets**: e.g. growing demand from PacRim, exploration around bioenergy, etc;

- **Roles, and relative power, of governments, communities, “civil society”**: 

- **Structure of the industry** (logs or lumber, or pulp, or NTFPs, or tourism etc – large or small) and who government privileges with support and subsidies

- **Conservation**: how, where, who does it, who pays for it – and how prominent a player it is in the forest sector

- **Ownership and governance** – who owns the land, the trees, the carbon, the water, etc. ; who has what power to “govern” - to decide the direction and set the rules,

* I will argue that shifts in ownership and governance are more than one of many transitions in this changing world, but a “game changer” driving many of these other transitions: ownership shifts power and political and market possibilities
1. Moral reasons: our acknowledgement of “rights holders”
   - Recognition of rights of “peoples”, “nations” – their property rights are part of their human rights – “indigenous” and “traditional” communities
   - Social/political values of cultural perpetuation, dignity
     * In most of developing world these rights not recognized – a historic contest, far from settled.

2. Legal reasons: our obligations as “duty bearers”
   - National law & policy
   - International law & policy

3. Instrumental reasons:
   - Secure tenure important for:
     • Conservation
     • Investment
     • Poverty reduction -
     • Reducing conflict

* In most of developing world forest ownership remains contested, insecure; poverty prevalent – about 1.2 billion of the world’s poorest live in forest areas – unmet demands for justice
1. Trends in forest ownership and governance
   - I’ll use the word “tenure” – larger set of rights over land, more than “ownership”
   - I’ll use a broad definition of “governance” – rules about representation and decision-making
   - I’ll focus on global patterns

2. Key implications of these changes

3. And, Together we will explore what it might mean for forest sector
Forest Tenure Distribution, 2008

**Sub-Saharan Africa**
- Administered by Government: 97.9%
- Owned by communities & indigenous peoples: 0.4%
- Designated for use by communities & indigenous peoples: 0.1%
- Owned by individuals & firms: 1.6%

**Asia**
- Administered by Government: 67.8%
- Owned by communities & indigenous peoples: 2.9%
- Designated for use by communities & indigenous peoples: 5.7%
- Owned by individuals & firms: 23.6%

**Latin America**
- Administered by Government: 36.1%
- Owned by communities & indigenous peoples: 7.3%
- Designated for use by communities & indigenous peoples: 31.9%
- Owned by individuals & firms: 24.6%

**Global**
- Administered by Government: 74.7%
- Owned by communities & indigenous peoples: 2.4%
- Designated for use by communities & indigenous peoples: 9.1%
- Owned by individuals & firms: 13.8%

**Sources:** Sunderlin et al. 2008; ITTO/RRI 2009. Data includes 36 of the world’s most forested countries, representing 85% of world forests.
Status of Forest Tenure – State Dominated but Changing


- Administered by government: 80% (2002) vs. 74% (2008)
- Designated for use by communities and indigenous peoples: 1.5% (2002) vs. 2.3% (2008)
- Owned by communities and indigenous peoples: 7.7% (2002) vs. 9.1% (2008)
- Owned by individuals and firms: 10% (2002) vs. 14% (2008)

Global Forest Tenure Transition

Historic shift from “statutory”, “state” ownership towards more ownership by indigenous peoples, forest communities, households, individuals:

– Originally “customary” prevailed, then under feudalism, colonialism, and imperialism - lands were claimed by centralized power - the “state”
– The “state” maintained its claims through statutory legal systems - “statutory” prevailing, and assumed optimal
– With “development”, revolution, democracy, growing respect for human and collective rights, growing appreciation for “legal pluralism,” and statutory recognition and respect for customary systems – a blending

*This is “sorting out the public domain” – combined with “the global political awakening”*

*Europe underwent these changes in 16*th* – 18*th* century; US West underwent a major shift in 18*th* – 19*th* century – the developing world undergoing these shifts today*
China – since 2008 - largest forest tenure reform in modern history – over 100 million hectares and 300 million people – in their “collective” sector, now beginning to reform their “public” sector: much more work on regulations;

Brazil – dramatic steps last 20 years, incrementally rationalizing public domain, 100 million hectares, new laws, regulations and agency, Indigenous People’s forest the cornerstone of forest protection and bulwark against deforestation;

Indonesia – almost 100% state owned; just beginning to devolve some land to households; just beginning to consider discussions with IP;

Russia – new code, no change in ownership, or recognition of indigenous people’s rights in far east,

Canada – treaty/court process to recognize IP rights; pragmatic IP, industry and agencies taking incremental steps;

USA – ownership mostly settled; some continued legal contests between USG and Native Americans, Spanish land grants; most of reform around management/access rights on federal lands, e.g. “Stewardship Contracting”, community collaboration;

DRC – still 100% state owned with LOTS of communities; just beginning to consider how to recognize rights
Trends in Governance Globally – Including Forestry

1. **Past-Present: National – level:**
   1. Increasing “democratization” – “global political awakening”
   2. Increasing decentralization (mostly rhetoric, but really happening in others – e.g. Indonesia)
   3. Rise of non-state regulation (certification, independent monitoring, etc)
   4. Trends away from “command and control” forest regulation
   5. More transparency, and mechanisms for accountability (e.g. telecom, video, etc)

2. **Past – Present: Global level:**
   1. Many of the same – but the rules and regimes increasingly shaped by IP and CSO, as well as the BRICs
   2. Increasing focus on “legality” - EU VPA and US Lacey act establishing legal/treaty-based trading regimes
   3. Increasing “contestation”, “pushback” by communities and govt, conservation and conventional industry
Weak governance common

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**Sources:**

Implications If Tenure Is not Clear

1. Conflicts
2. Poverty
3. Land-Grab
4. Deforestation
5. Climate
6. Rent-seeking
7. Corruption

LET US LOOK AT SOME EVIDENCE OF THESE IMPLICATIONS
In the past twenty years 30 countries in the tropical regions of the world have experienced significant conflict between armed groups in forest areas.
Poverty is highly rural

1.01 billion people of which 34% is extremely poor and 60% are poor (less than $2/day)

72% of the extreme poor (less than 1.25/day) live in rural areas /

80% of rural poor engage in some farm activities

IPs represent 5% of world population but 15% of the world’s poor. = poverty rates much higher for IPs than non IP. (IFAD 2009)

IFAD, 2011, Rural Poverty Report
- Recognition of IP and community forest rights:
  - doubled between 1985 and 2000
  - ↑5%/year 2000-2008
  - NO progress in 2010
  - miniscule compared to rate of ‘land grabbing’ ↑1000% between ‘08 and ‘09 (World Bank)

Did 2010 mark the end of progress on forest land rights, or just a stall?
The Future of Forest Governance?

Many “experts” predicting more:

- Much stronger local, political movements – demands for justice, expectations for jobs and citizenship
- More centralized control, as forest lands become more valuable, become “strategic” assets, to control resources enhance security (political, energy, food, resources)
- Conflict over scarcer land and water, risk of violence and political upheaval
- Uncertainty “the new normal” (Zoellick, 2011)

Not clear what effect BRICs will have on global governance – they are behind on “legality” and standards – but still moving in this direction
1. Conflict, contestation, poverty, land-grab is the object reality of life in rural tropical forest areas;
2. Deforestation, Climate change, economic slow-down is global reality;
3. Rent-seeking, Corruption, Oppression, characterize governance in many tropical countries;
4. Developed country governments and politics preventing effective global action, traditional international arrangements proving ineffective, emerging economies asserting but not providing global leadership.

WHERE SHOULD WE BEGIN TO BREAK THIS DEADLOCK?