

Beyond Tenure: Rights-Based Approaches to Peoples and Forests Summary

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Over much of the developing world, the human, civil and political rights of forest-dependent peoples are denied or insecure. In some countries forest peoples lack even the most basic recognition. The hill tribes of Thailand and the pygmies of Central Africa, for example, lack citizenship papers and are unable to secure rights to land. Typically, forest agencies ignore the rights of local people, concentrating instead on delivering financial revenues, environmental services and sustainable yields of timber. Programs to reform tenure in forests need to be based on a broader understanding of the basis for asserting rights and take into account a far wider range of human rights than are generally considered in forest policy debates. An effective rights-based approach to forestry reform to ensure justice and poverty alleviation requires attention to a much wider spectrum of rights than just the assertion of the right to property. Tenures must be appropriate to the culture and context of the communities concerned. Systems of representation require effective recognition. Communities need to be able to control their lands and resources. Cultural heritage should be protected. Basic rights to health, life and to civil and political rights and freedoms need to be secured and social, cultural and economic rights respected. Although such rights are often recognized in countries' constitutions, in international customary law and in nationally ratified human rights treaties, they are rarely taken into account in narrow sectoral decision-making about forests. Forest governance systems need to secure this broader spectrum of rights if forest peoples are to benefit from forestry reforms.

Nevertheless, there has been some progress over recent years. Approximately a quarter of the world's forests are now owned or managed by local communities and indigenous people. However, this figure masks a great range of different tenurial arrangements. For example, indigenous and Afro-Colombian communities in Columbia now have secure ownership and self-governance over some 24 million hectares of land, but they are not allowed to commercialize the forests, control of which rests with the state. A similar situation prevails elsewhere.

If governments continue to ignore the rights of forest-dwelling communities, hundreds of millions of people will be unable to lift themselves out of poverty. Without secure access to land, many more people will be forced to act "illegally" – for example, by cutting timber and hunting on state land – simply to survive. A failure to acknowledge the rights of forest-dwelling communities will increase the chance of violent conflict. Already, indigenous people suffer disproportionately from large-scale development and conservation projects. The failure to recognize their right to free, prior and informed consent will inevitably bring more communities into conflict with the state and big business.

The effective recognition of forest peoples' rights needs to go beyond establishing rights of tenure. The wider set of rights which must be recognized include the rights of citizenship; the rights to ownership of territory and ancestral domains; the rights to control their lands and forests as self-governing communities; the rights to market and commercialize forest products; the rights to give or withhold free, prior and informed consent to activities that affect their lands; and the elimination of all forms of discrimination, not least against women.

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