



Who Owns the Forests of Asia? An introduction to the forest tenure transition in Asia, 2002-2008

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KEY FINDINGS

- A survey of statutory forest tenure distribution in Asia shows that in 9 of the most-forested countries, government claims ownership of 67% of the forest area surveyed.
- A comparison among Asia, Africa and Latin America shows that Asia is in the middle position between Latin America and Africa. Based on similar surveys of forest tenure distribution, government claims ownership over 98% of the forest area surveyed in Africa, while in Latin America government claims only 36%.
- What stands in the way of further tenure reform? In many cases, there is limited political will and momentum to recognize local and indigenous rights. Inadequate implementation and enforcement of reforms is also a challenge, even in places where the legal rights of indigenous peoples and forest communities are recognized.
- Government preference for industrial concessions and conservation over community rights and livelihoods has also hindered effective reforms. The lack of clarity in tenure systems has permitted governments to promote large concessions for logging, oil and mineral extraction, biofuels and other crops at the expense of forest peoples.
- There is an urgent need to expand and accelerate forest tenure reform. Governments of Asian countries have an opportunity to make better progress by creating a vision and a plan for reforms; investing to accelerate reforms; defining, clarifying and strengthening property rights to ecosystem services; and strengthening knowledge and information about forest tenure.



- Tenure is complicated and diverse and undertaking tenure reforms is a complex social and political task. In many countries there is a need for greater social and political dialogue to enable consensus and commitments to reform.

The world forest tenure transition in 2002-2008

In recent decades there has been a shift away from government control of forest land towards increasing access and ownership for Indigenous Peoples, communities, individuals and firms. This transition in statutory forest tenure (see box on page 5) was first described in a 2002 publication titled *Who Owns the World's Forests?*¹ A 2008 study titled *From Exclusion to Ownership?*² updated this analysis and measured the change in world statutory forest tenure from 2002 to 2008 on the basis of data from 25 of the world's 30 most forested countries, encompassing 80% of the global forest estate. A 2009 report by RRI and the International Tropical Timber Organization, *Tropical Forest Tenure Assessment*³, provided data on forest tenure in 11 additional tropical countries.

1. See White, Andy and Alejandra Martin. 2002. "Who Owns the World's Forests?: Forest tenure and public forests in transition." Washington, DC: Forest Trends and Center for International Environmental Law.
2. See Sunderlin, William D., Jeffrey Hatcher, and Megan Liddle. 2008. "From Exclusion to Ownership?: Challenges and Opportunities in Advancing Forest Tenure Reform." Washington D.C.: Rights and Resources Initiative.
3. Rights and Resources Initiative and International Tropical Timber Organization. 2009. *Tropical Forest Tenure Assessment: Trends, Challenges and Opportunities*. Paper prepared for the conference "Forest Tenure, Governance and Enterprise: New Opportunities for Central & West Africa," May 25–29 2009, Yaoundé, Cameroon. Washington D.C.: Rights and Resources Initiative.

PARTNERS



From Exclusion to Ownership showed that the forest tenure transition continued during the period studied, with government control diminishing while local ownership and use rights increased:

- The area of public forest land administered by government in 25 of the 30 most-forested countries has decreased from 2,583 million hectares (Mha) to 2,408 Mha (-7%).
- The area of forest designated for use by communities and indigenous groups in these countries has increased from 49 Mha to 76 Mha (55%).
- The area of private community and indigenous land in these countries has increased from 246 Mha to 296 Mha (20%).
- The area of forest land owned by individuals and firms in these countries has increased from 339 Mha to 461 Mha (36%).

Combining data from *From Exclusion to Ownership* and *Tropical Forest Tenure Assessment* on the 31 most forested developing countries where tenure can be accurately measured, the area of forest designated for use or owned by communities and

indigenous groups increased from 17% to 22% of the total forest estate in the period studied.

Note that in this brief we focus on forest *land* tenure, but tenure over other forest resources (timber, non-timber forest products, carbon, sub-soil mineral ores, etc.) is often just as important. Moreover, although we focus only on tenure in this brief, the regulatory framework is also critically important because it specifies the rules of access to, use of and benefitting from forest resources.

Asia's forest tenure transition in 2002-2008

Data on the Asian component of the world forest tenure transition is shown in the following table.

Trends of special note shown in this table:

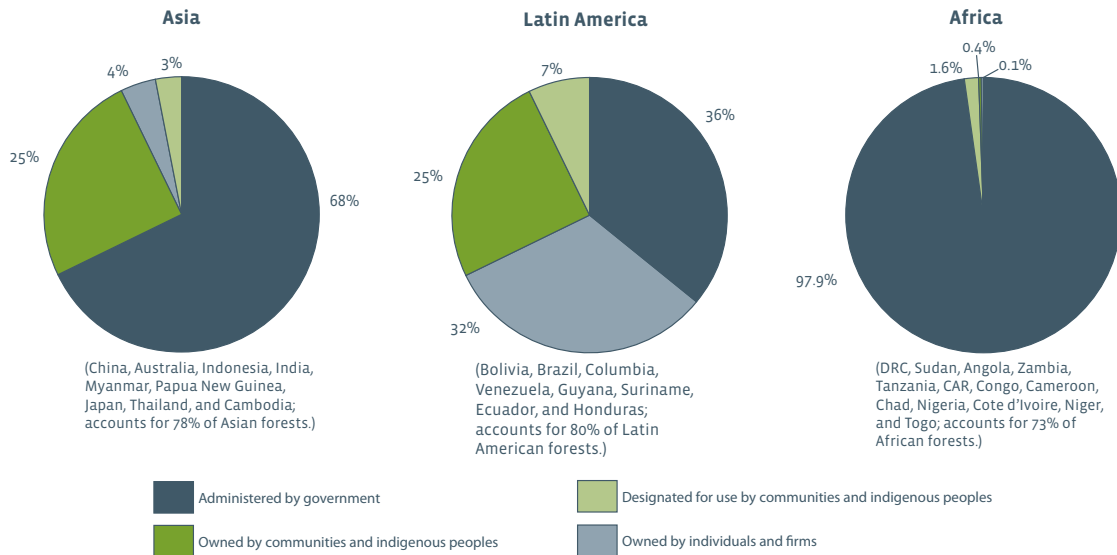
- Community and household forest ownership is substantial in China, Australia, Japan and Papua New Guinea
- In Indonesia, India, Myanmar, Cambodia and Thailand, there has been limited progress on the transition and the almost all forests remain in the public domain.

TABLE 1: STATUTORY FOREST TENURE DISTRIBUTION IN SEVEN OF ASIA'S MOST FORESTED COUNTRIES, 2002-2008

Country (by descending forest cover)	Public				Private			
	Administered by government		Designated for use by communities & indigenous groups		Owned by communities & indigenous groups		Owned by individuals & firms	
	2002	2008	2002	2008	2002	2008	2002	2008
China	76.06	72.85	0.00	0.00	103.50	99.94	0.00	0.00
Australia	114.57	109.30	0.00	0.00	13.63	20.85	28.68	17.24
Indonesia	104.00	121.89	0.60	0.23	0.00	0.00	0.00	1.71
India	53.60	49.48	11.60	17.00	0.00	0.00	5.20	1.07
Myanmar	34.55	32.18	0.00	0.04	0.00	0.00	0.00	0.00
Papua New Guinea	0.80	0.26	0.00	0.00	25.90	25.51	0.00	0.00
Japan	10.50	10.24	0.00	0.00	0.00	0.29	14.60	14.44
Thailand	15.04	14.57	0.00	0.25	0.00	0.00	1.96	1.05
Cambodia	11.48	10.76	0.06	0.30	0.00	0.00	0.00	0.00
Total (all cases)	420.60	421.53	12.26	17.82	143.03	146.59	50.44	35.51

Note: All figures expressed in millions of hectares (Mha); numbers have been rounded. Citations for individual figures are available in the source document, Sunderlin et al. 2008, with the exception of Thailand and Cambodia, which can be found in RRI and ITTO 2009.

FIGURE 1: STATUTORY FOREST TENURE DISTRIBUTION AMONG THREE REGIONS, 2008



Sources: Sunderlin et al. 2008, RRI and ITTO 2009.

- The area of forest administered by government has remained essentially stable in spite of variations within particular countries.
- The area of forest designated for use by communities and indigenous groups is nearly 18 Mha, an increase of 45% on 2002 levels.
- The area owned by communities and indigenous peoples is about 147 Mha, an increase of only 2.5% since 2002.
- The area owned by individuals and firms has decreased.

Comparison of forest tenure transitions in Asia, Latin America & Africa

The Asia pie chart in Figure 1 above shows the forest tenure distribution in the nine Asian countries as listed in Table 1, accounting for 80% of the forest estate in Asia.⁴ The Latin American pie chart depicts the same data for Bolivia, Brazil, Colombia, Venezuela, Guyana, Suriname, Ecuador and

Honduras, which compose 74% of the forest estate in Latin America. The African pie chart gives the forest tenure distribution for Democratic Republic of Congo, Sudan, Angola, Zambia, Tanzania, Central African Republic, Congo, Gabon, Cameroon, Chad, Nigeria, Cote d'Ivoire, Niger and Togo. These fourteen countries hold 73% of the forest estate in Africa.

Asia is in the middle position between Latin America and Africa in the forest tenure transition. Sixty-seven percent of the area of Asia's forests is administered by government, whereas the percentage in Latin America is 36% and 98% in Africa. In Asia 3% of the area of forests is designated for use by communities and indigenous groups, while the percentage in Latin America is 7% and in Africa it is 0.4%. In Asia 24% of forest area is owned by communities and indigenous groups, comparable to Latin America, where the proportion is 25%. By contrast there is little to no ownership of forests by communities and indigenous groups in Africa. In Asia 6% of the area of forests is owned by individuals and firms, these figures are 32% and 0.1% for Latin America and Africa respectively.

4. Shares of regional forest estates based on 2005 forest cover as reported in Table 4 of FAO. "Global Forest Resource Assessment 2005." FAO Forestry Paper no. 147. Rome: FAO. pp. 196-200.



Community members in Cambodia discuss a remote sensed map image. Credit: John Vogler

Challenges in conducting forest tenure reform

Six of the main obstacles that stand in the way of realizing effective tenure reform are described below.

Limited government political will and momentum to recognize local and indigenous rights: The process of tenure reform and devolving land rights to local people is often politically contentious; forest agencies used to controlling forest lands are often reluctant to relinquish control. Governments are much more susceptible to the influence of the formal business sector than of marginalized forest peoples, particularly when decentralization and devolution have not been effective at mitigating the power disparity between local peoples on the one hand, and central government and business on the other. The governments of China and Nepal have taken bold steps in transferring power and demonstrated that forest tenure reform can improve livelihoods and forest restoration.

Inadequate implementation and enforcement of reforms: Although the rights of indigenous peoples

and communities in some forest areas have been recognized, the legalization of rights sometimes fails to achieve what was intended. In principle, endowing communities and individuals with ownership of forests provides confidence that their lands cannot be taken away without due process and helps to overcome the sense of exclusion resulting from centuries of imposed control. Nevertheless, even formal ownership does not always safeguard newly-recognized rights.

For example, although Papua New Guinea’s constitution officially endows forest people with property rights over the forests they live in, these rights are routinely disrespected by industrial logging companies. Forest entrepreneurs frequently fail to obtain consent from communities before logging on their land, refuse to deliver financial benefits as promised and violate human rights when opposed by forest owners. With corrupt politicians and police colluding with the entrepreneurs, the communities have little to no *de facto* control of their forests.

Lack of progress on complementary rights: Non-tenure rights are also essential for forest peoples’ wellbeing. Many forest people lack citizenship and thus have no legal personality, which undermines formal recognition of their property rights and resolution of contested claims under the rule of law. Human rights and gender rights are important. Indigenous peoples often suffer racial and ethnic prejudice. Women in forest communities are often deprived of rights, with men tending to dominate decision-making, control household income and exclude women from tenure systems.

Government preference for industrial concessions and conservation over communities: Despite trends to support community titling and management, many governments have shown a persistent preference for industrial-scale over

Statutory tenure: What it is, and why we focus on it in this brief

Forest tenure systems determine who can hold and use forest lands and resources, for how long, and under what conditions. *Statutory tenure* is that which has been determined by the state and codified in law. Through the perspective of statutory tenure, most of the world's forests are owned by the state. Statutory tenure is contrasted to *customary tenure*, determined in most cases by local people. Through the perspective of customary tenure, people who live in and near forests own them, and the government does not. There has been a long history of contestation between these two tenure systems. In this brief we focus on statutory tenure not because it is most important, but rather because it is given more legal and political power and because it is more easily measured.

community-scale forest tenure and enterprises. Lack of clarity on tenure has permitted governments to promote large concessions for logging, oil and mineral extraction, biofuels and other crops at the expense of forest peoples. The conventional approach to forest conservation compounds these pressures by creating public protected areas that restrict human access; millions of people excluded in this way suffer negative impacts on their livelihoods, culture and health.

Many areas in Cambodia have been subjected to a swath of coercive land acquisitions by private companies acting in collusion with the government, despite the 2003 Land Law that recognizes community land rights. In response to rising property values, commercial developers and speculators have evicted thousands of people from their homes, including those in forest areas, without fair compensation, often violently seizing the land with the support of military police.⁵

In Australia, Indonesia, India and Papua New Guinea, the total area of forest lands under industrial concession is 155.04 Mha, whereas the area of forest lands designated for or owned by

communities and indigenous groups is 63.59 Mha, 59% less than the concessions.

Competition within and among forest

communities: Conflicts over forest lands and resources result not just from the effects of outsiders, but also from resource competition within communities. Among the factors that propel this problem are growth of the market economy and commodification of local resources, the introduction of consumer culture, local population growth, slowed rural to urban migration, and deterioration of the quantity and quality of local resources. The dynamics may involve local elites laying claim to a disproportionate share of resources, but conflicts may also emerge among households of equal standing or among villages.

Limited capacity in advancing reforms: Difficulties in the pursuit of forest tenure reform can also be attributed to the limited capacity of the state to pursue them, including poor coordination among government branches, budget constraints, lack of expertise, and burdensome regulatory arrangements.

Signs of progress

Although there are daunting obstacles to the realization of improved statutory forest tenure reform, there are some visible signs of progress:

Recent policy changes: Between 2002 and 2008, policy and law developments in China, India,

5. "Land Grab Cambodia." Assignment. BBC World Service. First broadcast: July 9 2009. Accessed online July 10 2009 <<http://www.bbc.co.uk/programmes/p003jk8w>>. "World Bank warns about Cambodian evictions." Reuters India July 17 2009. Accessed online July 22 2009 <<http://in.reuters.com/article/worldNews/idINIndia-41113920090717>>

Indonesia, and Thailand have made it possible to strengthen household and community forest tenure. For example, in China “collective forest reform” since 2006 has encouraged collective forest owners to reassess and reallocate their forest use rights to households or to voluntary partnerships among households. Also, India passed the 2006 Forest Rights Act, which provides a series of rights to certain traditional forest-dwelling communities, including more decision-making power over natural resource management. The area to be transferred to communities and households is not yet determined, but may be as high as 40 Mha.

Research results demonstrate potential

advantages: Recent findings in various countries suggest that tenure reform can, and often does, improve wellbeing, provide the means to exclude outside claimants and improve forest management and conservation. For instance, research conducted in China in 2006-2007 on the effects of the reform found that: (1) collectives made marginal shifts toward individual tenure; and (2) in areas where there was significant reallocation of tenure, timber harvests increased dramatically, forest incomes increased at a higher rate, and afforestation increased greatly. A study found that a 1998 decree by the Indonesian government enabled farmers in Sumatra to register their rights to lands they farmed within state forests; this was instrumental in stopping outsiders’ attempts to appropriate local forests.

Climate change as a possible lever for change: The emergence of financial mechanisms to encourage reforestation and mitigate carbon emissions from deforestation presents a possible opportunity for forest peoples. Those with ownership rights may have greater bargaining power to secure payments for their role in protecting forests and the ecosystem services they provide. The high visibility of forests in the climate change agenda gives an

opening to call for tenure reform and for fair compensation for those without secure forest tenure.

The emergence of grassroots mobilization for forest tenure reform: Another encouraging sign is the recent growth of organizations and networks supporting forest peoples, and an increasing degree of integration, inter-communication, and visibility that reflects the scale of both the threats experienced by forest peoples and the opportunities. In Asia, Nepal provides a particularly encouraging example, where a “strong, organized social movement of community foresters...have been able to resist pressure from the forestry department to reassert control over forests,” even playing a wider role in “maintaining a democratic, national political process.”⁶

Opportunities for making better progress

How can we work to ensure that the positive trends and opportunities prevail over the many challenges described above? Here is a list of the main opportunities for moving the forest tenure reform forward:

Create a vision, share knowledge and improve

understanding: It is imperative that countries in which the transition is slow or not yet underway develop a vision and plan for forest tenure reform. Experience shows that people living in and around forests should be fully informed about and engaged in the process in order for forest tenure reform to succeed. All stakeholders must understand the changes proposed and have confidence to fully participate in the reform process.

6. Colchester, Marcus. 2007. “Listening and Sharing in Mainland South and South East Asia: Summary Report.” Kasetsart University, Bangkok, 9-10 May 2007, consultation. Report of the Listening, Learning and Sharing Launch of RRI. Washington D.C.: Rights and Resources Initiative. p3.

Invest to accelerate reforms: Developing countries may need to enlist the help of multi- and bilateral agencies to support and finance forest reform, particularly large-scale projects such as tenure demarcation. Other activities that can speed up reform include improving data collection, clarifying existing tenure arrangements, building civic participation of forest peoples, and strengthening systems of governance in forest areas. China, for example, has made major investments in mapping and registering local tenure.

Define, clarify and strengthen property rights to ecosystem services: Beyond ownership of land and resources, it is also important to clarify the rights to ecosystem services provided by forest lands, including carbon sequestration, watersheds, biodiversity and ecotourism. These systems must be defined in a participatory process that recognizes customary systems of ownership and management rights to ecosystem services. The emergence of climate change as a

major global issue underscores the importance of clarifying property rights to carbon not just locally, but also on a national scale.

The need for expanded and accelerated forest tenure reform

Although some Asian governments have made strides in forest tenure reform, progress toward ownership of forests by communities and indigenous peoples has been slow since 2002. The area of forest land designated for use by indigenous groups and communities has increased by almost half, but the area of community ownership has remained essentially the same. It is urgent that these reforms accelerate and expand in scope. It is important that governments place a priority on ownership rights, as compared to mere use rights. Ownership rights are stronger and provide more secure benefits to forest peoples and a more solid basis for conservation and investment. Among these potential benefits is a stronger legal basis for excluding claimants.

Clarifying and strengthening forest tenure, including the recognition of customary claims, is also an urgent ethical priority. Over the centuries, colonial powers and governments imposed control over forests; thereby challenging local populations' customary rights and making them feel like strangers in their own home. Government control limited people's participation in the benefits that forests provide. Most forest peoples still experience the exclusion imposed centuries ago. It is time for this era of injustice to end. The forest tenure transition should signify not just a change from government to non-government administration of forests, but also a shift from exclusion to ownership by forest people.

Strengthen knowledge and information about forest tenure: To address the lack of information on tenure claims in the forest areas of most countries, statutory tenure



Demonstration of community forestry users in Nepal. Credit: Ghan Shyam Pandey

Forest tenure reform is also a practical priority. Addressing land and resource disputes and creating tenure security for all stakeholders can resolve violent conflicts, lay the foundation for stable and predictable investment by households, the government and the private sector, and contribute to national and regional economic growth. Resolving ambiguity in forest property rights is a key first step towards protecting and increasing the capacity of the global forest estate to sequester carbon, and thereby addressing one of the key causes of climate change. Forest tenure reform will benefit *all* of society, not just forest communities.

LEARN MORE

The full document upon which this brief is primarily based, including the definition of terms, methods and analysis, is:

Sunderlin, William D., Jeffrey Hatcher and Megan Liddle. 2008. "From Exclusion to Ownership?: Challenges and Opportunities in Advancing Forest Tenure Reform." Washington D.C.: Rights and Resources Initiative.

The report is available online at http://www.rightsandresources.org/publication_details.php?publicationID=736.

Rights and Resources Initiative. *Who Owns the Forests of Asia?: An introduction to the forest tenure transition in Asia, 2002-2008*. Washington: Rights and Resources Initiative, 2009.

The Rights and Resources Initiative is a global coalition to advance forest tenure, policy, and market reforms. RRI is composed of international, regional, and community organizations engaged in conservation, research, and development. For more information, visit www.rightsandresources.org.

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