

Forest tenure in Asia



Panelists from left: Leif John Fosse, Iwan Taruna Isa, Boen Purnama, Hadi Daryanto, Nonette Royo, Mahendra Joshi. Photo: Tetra Yanuariadi

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by Ganga Ram Dahal

RECOFTC—The Centre for People and Forests

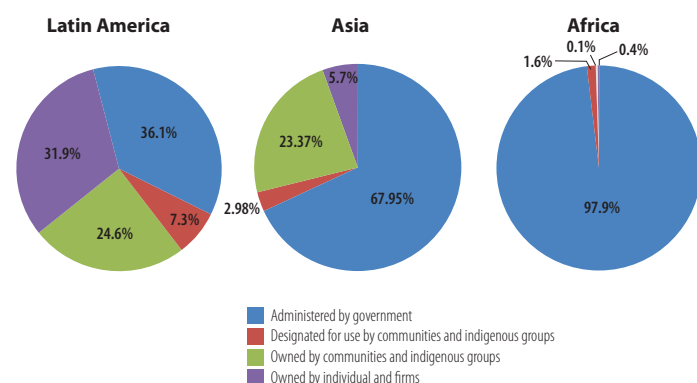
Before presenting data on forest tenure in Asia I should first clarify some key terms. My co-authors¹ and I consider tenure to be a bundle of rights that includes access, use, management, exclusion and alienation. Ownership refers to a particular type of tenure involving exclusive and permanent rights; forest or tree ownership may be state, private or community, and forestland ownership may be public or private. Public ownership can be further divided into two subcategories—administered by government, or designated for use by communities and indigenous groups. Private forest may be owned by individuals and firms, or by communities.

In Latin America, 36% of the forest is owned by the state. In Asia, 68% is under government administration and in Africa the figure is almost 98% (see figure).

In Asia and the Pacific we have data for eleven countries² for 2002, 2008 and 2010 (although 2010 data were not available for all countries). The eleven countries account for more than 80% of the region's forests.

Overall, the area of public forest designated for use by communities and indigenous groups increased from about 13.4 million hectares in 2002 to 19.1 million hectares in 2008. The area of forest owned privately by communities and indigenous groups increased from 146 million to 150 million hectares.

Forest tenure, three regions



¹ Ganga Ram Dahal, James Bampton and Julian Atkinson, with contributions by Yurdi Yasmi and Nguyen Q. Tan.

² Australia, Cambodia, China, India, Indonesia, Japan, Myanmar, Nepal, Papua New Guinea, Thailand and Vietnam.

In India, about 73% of the forest is administered by government; in China, 42% of forests are administered by government and 58% are owned by communities. In Indonesia, 98.4% of forests are administered and controlled by government. The area of government-administered forest has decreased in Nepal and Cambodia, and indigenous and community ownership has increased in both.

Why is forest tenure changing?

We think a number of factors are behind changes in forest tenure, as follows:

- Greater organization, connectivity and movement among forest peoples are increasing pressure for change.
- Increasing incidents of conflict over forest ownership are prompting action from government. In the past 20 years, 30 countries have experienced violent conflict in forests.
- Change in forest tenure is, in some countries, an indicator of an increase in the responsiveness of governments, which are becoming more democratic and transparent and are devolving land and forest ownership.
- There is a realization that clarity of tenure is a precondition for long-term investment.
- Clear tenure enables responses to major challenges such as climate change, commodity demand and food security.

Tenure reform is not the be all and end all of all problems, but it is a key condition for dealing with emerging and imminent challenges in Asia.

Forest tenure in Indonesia

by Bambang Soepijanto

Director General of Forest Planning

Indonesian Ministry of Forestry

Indonesia has 133 million hectares of state forestland, which is about two-thirds of the country. Forest management is based on the national Forest Law (41/1999). There is a national forest agency, and also provincial and district forest offices.

The Ministry of Forestry has set, as an initial target, the establishment of 500 000 hectares of community forests, and this is projected to increase to 2 million hectares. About 500 000 hectares of forestland is designated as village forests. In addition, more than 600 000 hectares have been designated for the establishment of community plantation forest, with the aim of increasing this to 3 million hectares.

By 2030, 18.34 million hectares of the forest estate will be allocated for non-forest development with the aim of fulfilling development needs, and 5.57 million hectares will be allocated for community-based forest management. This latter area will comprise 1.44 million hectares of protection forest (HL), 2.98 million hectares of permanent production forest (HP), and 1.15 million hectares of 'limited' production forest (HPT). A total of 43.2 million hectares will be allocated for large-scale forest concessions, but this will be subject to wide community involvement. By 2030 the total area of rehabilitated forest will be 11.55 million hectares, including 3.6 million hectares of conservation areas. Under this plan there will be more of a focus on improving community rights to use the forest estate rather than on ownership rights. Local communities will have more access to resources in the forest estate.

Tenure first, management second by Martua Sirait

ICRAF–World Agroforestry Centre

In Indonesia, 10.2 million forest-dependent people are living below the poverty line. As we heard earlier, an estimated 33 000 villages are located entirely or partially in the forest estate; this conflict needs to be addressed.

A number of new laws have been introduced to increase transparency and address inequality. They include:

- Free Access of Public Information Law (14/2008).
- Information Commission Regulation 1/2010 on Standard for Public Information Services.
- Person in Charge of Public Information Service, Ministry of Forestry Decree 50/2011.
- Ministry of Forestry Regulation P.7/2011.
- The Spatial Planning Law (26/2007), which provides a category of rural strategic areas at the district level (Article 48) aimed at empowering rural communities to maintain the environment, conserve natural resources and ensure food security, etc.
- Environmental Protection Law (32/2009), which introduces strategic environmental analysis (articles 15 and 17) to calculate the environmental limit for all large-scale use.

To date, only 14 million hectares of the forest estate have been delineated. In 2009 the Ministry of Forestry set a target of delineating the entire forest estate by 2015, but at the current rate it will fall a very long way short of that. Creative thinking is needed to speed up the process.

In the Manupeu-Tanadaru National Park on Sumba Island, for example, the use of participatory forest delineation has helped to resolve a conflict over land between local communities and the national park authority. Local communities have obtained tenurial security to continue managing their resources and improving their livelihoods, while the national park has secured its own tenurial claim for the protection of biodiversity. An atmosphere of mutual trust has been created, and this collaboration has strengthened the management of the national park. Participatory forest delineation has the added advantage of being more durable than top-down approaches because stakeholders have ownership of the outcomes.

At present there are four kinds of community tenure in Indonesia:

- agreements (*perjanjian*)
 - village conservation agreements (*kesepakatan konservasi*)
 - partnerships with the private sector (*PHBM*)
- permits (*perijinan*)
 - community-based forest stewardship (*HKM*)
 - village forest (*HD*) and *HTR*
- recognition (*pengakuan*)
 - *adat* forest (*SK bupati*)
 - ancestral land (*Permen 5/1999*)
- ownership (*milik*)
 - privately owned forest (*hutan hak*)
 - agrarian reform program (*PPAN*).

But the extent of these arrangements is very small and even the unambitious targets that have been set are not being met, as shown in the table. In the past, the approach in Indonesia has been to manage the resource first and to consider the tenure question as a secondary issue. This is the underlying cause of many of the problems we have right now. We need a new framework in which we tackle the tenure question first as a way of approaching the management of the landscape mosaic.

Progress in the allocation of community forests, 2007–10

Activity	Community forest and village forest (ha/year)	% of target achieved
Target	500 000	
Evaluated	80 988	16.2
Allocated	15 708	3.14
Permitted	4094	0.81

Why tenure reform is needed in Asia by Nonette Royo

The Samdhana Institute

Indonesia

Natural resource tenure in Asia is government-dominated. What's wrong with that? Government is the guardian, right? We all know, however, that the political economy is such that when there is too much power there is a temptation to abuse that power.

The forests of Asia and the Pacific are inhabited: 70% of the 350 million people worldwide who are forest-dependent are in Asia. The problem is that



Photo: Tetra Yanuariadi

they are not sufficiently represented in decisions made in the management and use of forests. Representation consists of the right to participate, and depends on access to information and justice mechanisms. There have been attempts to increase the representation of indigenous and local people in forest management in Asia, but generally these are not yet sufficient.

There is a fear that recognizing community rights will lead to forest destruction. But deforestation is increasing in the absence of rights. Companies that promote sustainability as part of their business models are in a quandary: how can they ensure that local people can rightfully and sufficiently participate?

So what model can we offer? If it is not government-dominated, what is it? We are hoping to find a consensus at this conference. There is a lack of political will, whereby reform is not always accompanied by broader rights. There is conflict—mainly from overlapping licences and other instruments—and no mechanism whereby a community can complain and say “Please, something is wrong. There is a license on my land and what can I do about it?” Tenure insecurity is also becoming an increasing financial burden. Good forest management is expensive because of the cost of obtaining licences and also the cost of dealing with conflicts.

Worldwide, private or community forest tenure is not an impediment to sustainable forest management and, indeed, as we will hear later, the reverse may be true. In Indonesia, the *hutan rakyat* (people’s forests outside the forest estate) in Java is actually expanding and supplying 50% of Java’s timber needs, with a population of about 138 million; often, those community forests are in better shape than state forests in Java (*Perhutani*) or forests in outer islands (where there is often rapid deforestation). In the Philippines the ancestral domain constitutes 40% of the forest zone, and there are now thriving transactions for using those resources and rehabilitating degraded forest land.

In framing tenure allocation it is important to ask, where is it? Can we move it from public to private? What are the options? Who will be responsible? Look at actors as change-makers—hundreds of communities are already contributing to forest management without waiting for government and without obtaining major financial rewards. If we reward that sort of effort with secure tenure we will release the productivity of those community groups.

The Indonesia–Norway partnership by Leif John Fosse

Senior Adviser

The Norwegian Government’s International Climate and Forest Initiative

Indonesia has committed to reducing its 2020 emissions—as estimated against a business-as-usual trajectory—by 26% out of their own funds and by 41% with international assistance. In recognition of the global significance of these commitments, Norway will contribute up to US\$1 billion over a number of years to assist Indonesia in realizing them. The Letter of Intent entered into between Norway and Indonesia on reducing emissions from deforestation and forest degradation forms part of a broader strategic partnership that involves cooperation on energy, human rights, trade and economy, and global climate policy.



Photo: Hwan Ok Ma

We are aware that the incentives offered are not at a level that can compete with the drivers of deforestation and forest degradation. Neither Indonesia’s pledge to reduce emissions nor the Norway–Indonesia cooperation will succeed unless there is political will at the highest level to undertake forest-governance reform, in the country’s own interest, including addressing the need to clarify land tenure. Broad ownership in civil society and extensive involvement of stakeholders, including in the sectors driving deforestation, are also essential preconditions for success.

The partnership will involve three phases. The first, to be implemented in 2010 and 2011, involves payments for planning, capacity-building and institutional reform as well as a two-year suspension of concessions for the conversion of natural forest and peatlands. The second phase, 2011 to 2013, will involve payments for independently verified emissions reductions in a pilot province and further policy change and institutional reform to enable reduced emissions from forestry and land-use change. The third phase, from 2014, will involve payments for independently verified emissions reductions relative to a mutually agreed or UNFCCC-based reference level.

The initial phase involves six mutually agreed deliverables:

- A REDD+ agency at the cabinet level to coordinate all REDD+ and land-use policies.
- A long-term financial mechanism.
- A multi-stakeholder REDD+ strategy, which will be developed with the involvement of all stakeholders.
- A two-year suspension of new licences for the conversion of natural forest and peatland.
- An independent institution for the monitoring, reporting and verification of greenhouse-gas emissions from forestry and land-use change.
- Selection of two pilot provinces to act as pilots for interventions.³

The first independent review of the implementation of Phase 1, by Gaia Consulting, concluded that there has been adequate delivery on most counts, but some of the most difficult issues are still to be delivered on.

In Phase 2, which we are now entering, opportunities to reduce forest-related greenhouse-gas emissions include:

³ Central Kalimantan has been identified and a second pilot province will be named towards the end of 2011.

- Engaging in more participatory land-use and spatial planning.
- Providing incentives for local governments and industry to embrace a less carbon-intensive development path.
- Identifying degraded land suitable for land swaps using economic, legal, social and environmental criteria.
- Engaging in land-tenure and forest-governance reform to provide more security for business and forest-dependent communities.
- Creating conflict-resolution mechanisms for overlapping claims to land.
- Increasing productivity in agriculture, which would reduce the need for the conversion of natural forest and peatlands.

UNFF's ministerial declaration

by Mahendra Joshi

Senior Programme Officer

United Nations Forum on Forests

At its recently concluded 9th session, the United Nations Forum on Forests (UNFF) called on governments to strengthen enabling environments to promote local entrepreneurship, community–company partnerships and small and medium-sized forest-based enterprises in sustainable forest management. Forest-dependent communities have developed forest-related knowledge that in many ways is complementary to modern scientific knowledge. These communities live in and around forests and interact with forests on a daily basis. They, more than anyone else, are stewards of the forest. In many cases, however, securing tenure rights is insufficient because forest communities are restricted in their access to markets.

Policies need to take into account the aspirations of all, including the most isolated. They should provide an enabling environment for communities to set up enterprises that they both manage and benefit from. This could include institutional reforms and/or the strengthening of existing ones; capacity development through research, technology and extension approaches; and international and regional cooperation.

I would like to refer to the Ministerial Declaration made at UNFF9, in which ministers responsible for forests committed to actions such as:

- Improving the livelihoods of people and communities by creating the conditions needed for them to sustainably manage forests, including by promoting secure land tenure, participatory decision-making and benefit-sharing.
- Developing and implementing cross-sectoral and multi-institutional policies, mechanisms and actions at all levels, which integrate sustainable forest management into development plans and programs.

The United Nations has declared 2011 as the International Year of Forests. Let us use this year-long celebration of all things forests to emphasize the importance of forests to all of us, in particular the hundreds of millions of people who depend directly on them for their livelihoods. It is only by recognizing the close link between forests and people that we will see sustainable forest management implemented for the generations to come.

Comment from the floor: I am here to represent the customary people of Papua. The Indonesian national constitution stipulates that the land, forest, sea and air space is owned by the state and should be managed for the welfare of the people. The Papuan customary people, however, have owned the land since God gave it to us. Even today there is no such thing as non-owned land—all land has owners. The Indonesian government must return these rights to the Papuan customary people.

Question from the floor: Are Indonesian rules and regulations related to tenure in accordance with the United Nations Declaration on the Rights of Indigenous People? As we know, the forestry law and the plantation estate law have been taken to the United Nations Committee on the Elimination of Racial Discrimination.

Siriat's response: Indonesian regulations related to tenure are problematic and do not yet follow the international conventions. But in the climate-change policy debate, indigenous peoples and local communities in forest areas are not only stakeholders, but also rights-holders. The rules and regulations on climate change will supposedly accommodate this concept.

Question from the floor to Ganga: In your analysis, what are the key reasons that have brought about land-ownership change?

Ganga's response: Partly it is the unfolding global demand for human rights. Governments must abide by their international commitments; land tenure is related to rights, it is globally agreed, and there is no way to escape. Some countries are not doing what they should, but sooner or later they will have to move. But unless people speak up and conflicts become visible, there will be no change.

Question from the floor to Bambang: Why are you not giving the land to the people? Why keep the land with the government? Why are you not willing to transfer the land to the people?

Bambang's response: We are talking about legally designated forest estate. If, however, indigenous people have customary rights to land in the forest and can make a claim then that land could be excised from the forest estate.

Comment from the floor: I hope this conference will be a milestone. I hope that it will bring some kind of change to the involvement of local and indigenous people in forest management. People and forests go together but the state makes things difficult for us. The time has come to recognize the role of communities and to help them to improve their livelihoods. I call on all governments to recognize the role, and in this way to resolve forest conflict.

Comment from the floor: I am from a community living near a national park. As we have heard, local communities should be respected, but in reality we are very depressed because we cannot gather resources, such as timber, in the national park. During this conference we want to fight for our rights, we want the right to take timber and other assets to support our creativity and to use those resources for our livelihoods—to send our children to school and to support ourselves.

Comment from the floor: I am head of an *adat* council in Kalimantan. Borneo used to be very rich in forests; now the situation is critical, all because of privately owned companies. What has caused us most suffering is that many of our rights were taken away by those companies, those corporations, so *adat* forest no longer exists. It used to be our land, our customary land, but it was taken away by the corporations. We appeal to the international community to pay attention to the forests in our area and to limit the powers of those corporations.