

## Public forest agencies face many issues in managing, fostering and adapting to changes in forest tenure

### Great wall of reform

by Xie Chen

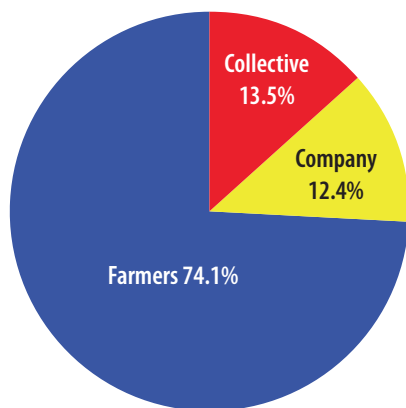
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In 2006 the government initiated a seventh round of tenure reform, the aims of which are to provide explicit tenure, stimulate forest management, reduce the tax burden and regulate tenure transfer.

At present, 162 million hectares of collective forestland—88.6% of the total—have clear tenure rights. The total area of forestland with ownership certificates is now 134 million hectares. It is possible to take out loans by mortgaging forestland in 26 provinces—32 billion yuan have been borrowed involving 2.8 million hectares of forestland. Forest insurance has spread to 17 provinces and covers 31.8 million hectares of forestland. At least 94 500 forest cooperatives have been set up with the participation of 11.36 million rural households accounting for 14.3 million hectares of forestland.

Between 2007 and 2010 the area of rural household forestland increased dramatically—by 23%—in the Conversion of Cropland to Forests Program area in 22 provinces. There has been another increase this year. The chart below shows the distribution of forestland after the reform.

### Forestland tenure distribution, monitored counties



### Emerging issues

A number of issues have emerged in the wake of the reform. For example, a lack of access to markets and processing facilities reduces the incentive for small-scale farmers to engage in forest management. The migration of rural people to urban areas—a phenomenon known in China as the 'empty heart' village—has created a shortage of labour for forest management.



Sally Collins. Photo: Tetra Yanuariadi

### Degradation as a trigger for change

by Sally Collins

RRI fellow and former associate chief, US Forest Service

North America was first settled by people from northern Asia more than 10 000 years ago. Today, the descendants of these peoples are often called Native Americans.

About four centuries ago, European settlers began to displace the Native Americans. As the settlers moved west, forests were cleared for agriculture and industrial development. The government provided incentives to private landowners to move west and acquire land. Multiple treaties were signed between Native American tribes and the US government, only to be violated repeatedly. Many tribes lost their lands completely, while others were re-settled onto reservations in generally unproductive, undesirable parts of the west. The few luckier ones, mostly in the Pacific Northwest and Montana, were able to hold onto some of their original homelands.

Laws like the Homestead Act gave land ownership to farmers and ranchers who agreed to live on the land and improve it in specific ways. Similarly, the mining law allowed prospectors to own the land they were mining after a certain period of time. Unsurprisingly with such incentives, the west quickly filled with people.

Many of these laws, however, resulted in corruption and multiple overlapping claims. Before European settlement, forests covered nearly one billion acres (405 million hectares) of what is now the United States. Between the mid 1600s and 1920, about 300 million acres (121 million hectares) of forest was cleared, primarily for agriculture.

At the beginning of the 20th century, the degradation that was occurring became apparent to everyone. Enormous fires, floods and erosion followed the deforestation. Wildlife disappeared and streams became degraded. People demanded change, and it was out of this movement that a system of state and public lands was established.

Now the federal government owns one-third of the forestland in the United States. Some of that is in national parks, some is in national forests, and some is in national wildlife refuges and on other public lands. Another 8% is owned by the states, and about 58% is owned privately. Nearly ten million individuals own more than 150 million hectares of forest and other wooded land.

The total forest area has been relatively stable for the last 100 years (currently about 747 million acres—302 million hectares). Towards the end of the 20th century, however, the public once again became outraged by what was happening to forests on public lands—the loss of old-growth forest and wildlife and the degradation of watersheds, caused by a combination of over-exploitation and under-investment in management. By 2002 nearly all industrial-scale forestry had stopped on public lands, but today millions of acres of trees are dead due to insects and disease, and every year fires affect millions of additional acres.

There are five themes to this history of US forest tenure.

1. Forest tenure policy has evolved through time, and with each type of tenure—public, private and indigenous—the results have been mixed.
2. Public forestlands were established following several decades of deforestation, over-grazing and land degradation. The US public demanded change; a great system of parks and forests was one result. This has served to protect many special places, but management has not been consistent, nor has investment, and many public forests have suffered as a result.
3. Private forests have added great wealth to the nation and provided key ecosystem values and are generally well managed.
4. The rights of Native Americans were repeatedly ignored and promises made to them were broken as both the public and private lands' systems were established. We are living with the consequences 100 years later, where Native Americans, especially those without a land base, are suffering economically and socially. On the other hand, tribes with a land base are managing those lands with a strong conservation ethic.
5. Finally, the approach to the management of public forests is changing from large-scale industrial forestry—conducted for the past 50 years—to small-scale, community-based forestry. Forest concessions are being replaced with new 'stewardship contracts' given to local groups, tribes and new industries.



Luiz Joels. Photo: Hwan Ok Ma

## **Brazil's political will** by Luiz Joels

Former Deputy Director

*Brazilian Forest Service*

Twenty years ago, Brazil had just emerged from dictatorship. We had a new constitution that guaranteed indigenous peoples' rights and included a chapter on environmental protection. At the same time, a rubber-tapper called Chico Mendes was murdered, bringing additional focus on forest tenure. The Earth Summit, which was held in Rio de Janeiro in 1992, attracted further attention to issues of people's rights and the environment. There was a growing perception among the Brazilian public, media and government that deforestation needed to be stopped and the rights of indigenous and traditional communities needed protection.

Ultimately, this led to changes in forest policy. Many indigenous lands were created in which government still has ultimate responsibility but the people have tenure rights. Other approaches were also devised, such as reserves where traditional extractive activities are permitted. There has been a huge increase in indigenous lands in the Amazon, from less than 20 million hectares in 1989 to more than 100 million hectares today. There has also been a massive increase in national protected areas in the Amazon, from about 30 million hectares in 1989 to more than 70 million hectares in 2009.

Most of the recent change in policy, however, is a result of an upsurge in deforestation in the early 2000s. A new, integrated approach to deforestation was devised. For the first time in Brazilian history, on any issue, a group of 14 ministries worked together—there was no precedent for this and it has been possible only because it was an instruction from the Brazilian president. Deforestation has been brought under control. At the same time, a positive agenda has been pursued, involving, among other things, the creation of the Brazilian Forest Service (BFS) and timber concessions in public forests, and the development of a strong program in community forestry.

The latter is headed by the BFS and the Ministry of Agrarian Reform; without this partnership it would have been

impossible to do anything. Other ministries also participate and there has been strong involvement by civil society—government and civil society have an equal number of seats at the table. The first conference in the international series of tenure conferences convened by ITTO and RRI, which was held in Acre in 2007, was important in mobilizing this process; many commitments were made and the national program was able to truly get under way in 2009.

The *Programa Terra Legal* (Legal Land Program) is an initiative to legalize the tenure of certain lands in the Amazon. It is needed because many non-traditional people have moved to the Amazon enticed by government propaganda; some have gone to areas that were government settlement projects but the projects didn't work and now they occupy land illegally. The program to legalize their lands will help them to gain access to credit and give them the ability to get approval for forest management plans (if you don't own the land you can't get a plan approved and you can't harvest or transport your timber), and so on. The land has to have been occupied before 2004.

Overall, there has been significant progress in tenure reform in Brazil in the last 20 years. On the other hand, we have a very proactive and organized agricultural sector that is fighting against some of these changes. As a result there has been no major new approval of indigenous land in the last 3–4 years. Changes have been proposed to the forest code and approved in the lower house of federal parliament, but they have not yet been approved in the senate. Meanwhile there has been an upsurge in deforestation. Supporters of community forestry will have to fight back.

## **Impediments to making money**

by Don Gilmour

Independent consultant

Governments have started to embrace community forestry for a number of reasons, including substantial reductions in the size of the forest bureaucracy and recognition that:

- State-controlled forest management has contributed to forest degradation in many countries.
- State control has frequently led to the exclusion of people living in and around forests.
- Communities *do* have the capacity to manage forests.
- Local communities have human rights, and indigenous people have particular rights.

There are three domains of forest management—governance; regulatory frameworks; and tenure—and the interaction of these is important. There has been quite a significant transition in tenure, but often there has been a lag in the governance and regulatory frameworks that are needed if communities are to make full use of those rights.



Don Gilmour. Photo: Hwan Ok Ma

A number of issues impede the development of community forestry, including:

- Formal and customary tenure rights that often overlap and lack clarity and security.
- Regulatory frameworks that limit community rights to subsistence goods (i.e. no commercial products, such as timber) while imposing considerable responsibility.
- Non-forest-sector regulations (e.g. on transport) that impede community rights to commercialize products.
- Resistance to changes in tenure that require changes to the locus of decision-making power (i.e. from governments to communities).
- Complex compliance procedures (e.g. for the registration of community forests and the approval of management plans) that limit the ability of communities to manage forests effectively.
- Heavy fees and taxes that reduce incentives for community forestry.
- Even where rights are clear and secure, hesitation among government officials to fully transfer rights to communities.

The emergence of REDD is bringing many of these impediments to the fore. REDD will only work if tenure is clear and secure—so tenure security needs to be a starting point for the concept, not an afterthought. REDD may even offer a chance to reduce the red tape that often confounds community forestry. On the other hand, carbon forestry has the potential to re-centralize power if national governments control the REDD agenda.

Community forest enterprises often have difficulty shifting from subsistence to economic development, partly because of regulations that restrict what they are permitted to harvest and when, where and how they get their goods to market. Moreover, most forests allocated to communities are degraded and it may take decades before the land becomes productive. In many cases most of the effort to promote community forestry has been put into the early stages of the process, such as to identify communities, define their community forests and develop management agreements.



Photo: Tetra Yanuariadi

Much less effort has gone into assisting communities to derive economic benefit from SFM.

To move community forestry to the next level (i.e. from subsistence to successful enterprises), the following should be pursued:

- Document examples of successful community forest enterprises.
- Analyze constraints that prevent communities from realizing the full economic potential of forestry.
- Advocate for the removal of such constraints, and support communities in deriving commercial benefits from their community forests.

**Question to Joels:** What were the political challenges in getting the reforms accepted at the state and federal levels, and what steps were taken to generate political will?

**Joels' response:** There was a moment in history where progressive forces were well organized and the new constitution demanded that reforms were made. Although there were many forces against the reforms they were not united at the federal level. Not all the states accepted the reforms, but some, such as Acre, developed even more progressive policies than those adopted federally. It was more difficult to implement reform in states where conservative forces were very strong.

One of the ways to make the reforms work was to create the National Council on Forests, where the states—as well as civil society and the private sector—were represented in all discussions. Some of the reforms reflect the points of view of state governments. How do the ministries work together? They only did

it because the president said they had to. The coordinator of the Ministers' Working Group demanded that the ministers themselves attended all meetings. They had a deadline for results and results were presented, so it worked. After that, many ministers realized that it was actually useful for them to work together. So, in Brazil, recent reforms started with the Ministers' Working Group. That's where change started to happen.

**Question to Gilmour:** You talked about communities as standard entities, but they are very diverse. So how do public agencies go about fostering community forestry? Mostly they want to do it, but they have a problem dealing with the diversity of communities.

**Gilmour's response:** This is a big challenge, and even recognizing the diversity that exists within communities is a useful first step. Powerful and non-powerful groups within a community can be identified and worked with, and gender issues identified and addressed. So try to understand the different interests or needs of groups within the community and then devise a process to work effectively with that diversity.

**Statement from the floor:** We want governments to change but they are finding it difficult. Perhaps, at training institutions, we need to teach forestry in new ways that show that it is about forest services and the indigenous people and customary owners who live in the forest. Then those new graduates will be able to address those issues more effectively.

**Gilmour's response:** Yes, why not start with forestry education? Most forest officers were trained in very traditional forms of forest management—a technical command-and-control approach; new forms of forestry require a different mindset. Can we expect old foresters to become modern community foresters? It will be very difficult, maybe impossible, for some. There are examples of change in forestry training, such as in Bhutan, where a new cadre is becoming stronger, although there has been antipathy between the new generation of community-trained foresters and traditionally trained foresters. The suggestion is a good one.

**Collins's response:** I agree that education is very important. The next generation should be present at every conference like this, and not just foresters but across disciplines. We have to teach our young people to think in these new and complex dimensions. We are not talking about tenure reform enough in forestry schools.

**Question from the floor:** A key message from all speakers is that government management of forests has always resulted in degradation. It is the same in Nepal. Community control of forests and the rights of indigenous peoples are increasing in all countries but the speed of handover to communities is very slow except in China. In these circumstances, do you really see much prospect for REDD? Because I have my doubts.

**Collins's response:** I too am sceptical about REDD, but the idea of payments for ecosystem services has huge potential for remunerating forest owners.

**Question to Gilmour:** What do you see as the most appropriate model for introducing and sustaining community forestry?

**Gilmour's response:** The simple answer is there is no one model. Every country has to develop its own model. One needs to look at what processes will work best in the country context.