Unlocking the potential of forests through tenure reform

The conference declaration
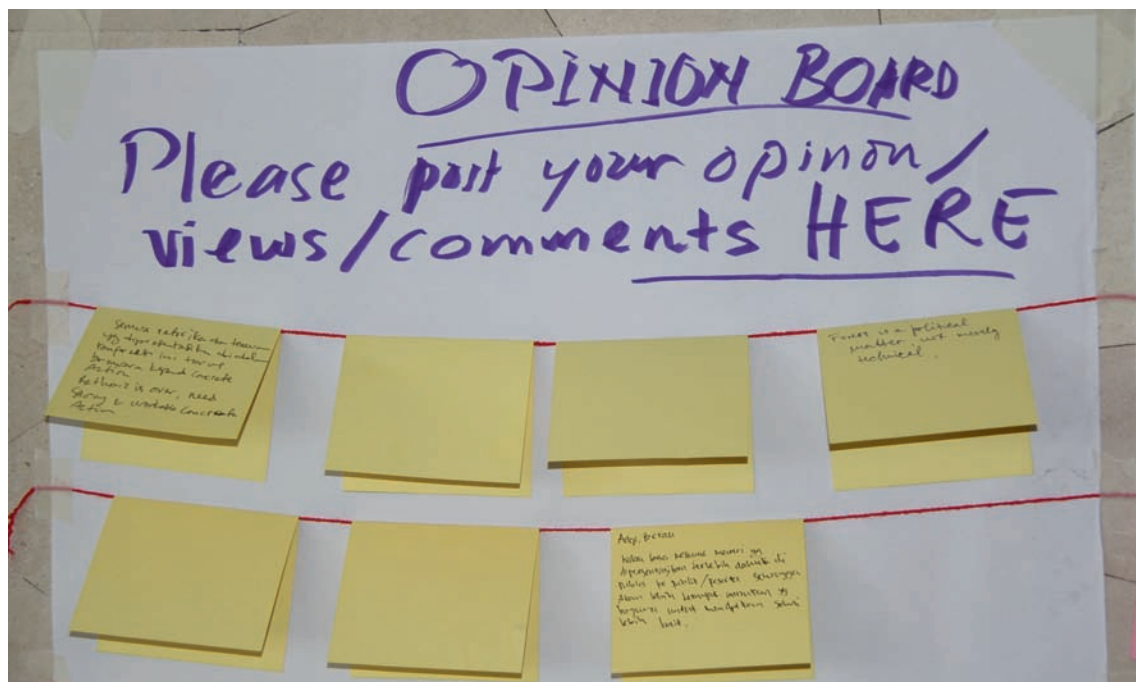

Photo: Hwan Ok Ma

Key issues and challenges
General

Forest tenure is unequal in many countries in Asia-Pacific, and many people have no legal access to land. While communities have customary rights to vast areas of forest, these are rarely recognized in statutory law. In many countries, the rights of indigenous peoples and local communities to control their own forests are still being ignored, and there is a lack of legal mechanisms to support indigenous peoples and local communities in managing their lands and forest areas.

About 68% of forest in Asia-Pacific is administered by government, compared with 32% in Latin America. In some Asian countries almost all forest is administered by government. Within public forests, very little forest is designated for use by indigenous peoples and local communities. In many countries the high level of state ownership is a legacy of the colonial era.

The high rate of deforestation and forest degradation in many countries in Asia is linked to inequality in land tenure and a lack of access by forest-dependent communities to ownership rights.

Foresters have tended to focus on technical and economic aspects of forestry, yet forests are also social and political matters. Foresters still lack the training to deal with such matters.

Some governments in Asia-Pacific have programs to provide more access to forest communities, and to pursue agrarian reform, but progress is slow. The process of delineating forest boundaries is also too slow.

Illegal logging, corruption and encroachment continue to be widespread, partly because of the lack of clarity on tenure.

Even in countries where community tenure is relatively high, the state often retains the right to restrict the economic use of the land, or a portion of the land, without compensation. For example, a certain percentage of a forest holding may be required to be preserved from harvesting.

There is a lack of research to support forest-tenure reform, including on customary land ownership and the impacts of tenure reform on forest conservation, social equity and poverty alleviation.

Poverty and development

Some of the poorest people in Asia-Pacific live in forest-dependent communities, yet development assistance has consistently failed to improve the livelihoods of these people.

The harvesting of most community forests is limited by the regulatory framework to subsistence goods. Communities are heavily constrained in harvesting valuable products, particularly timber.

A lack of communication between government and communities restricts the access of communities to resources, programs and markets, also hampering their fair participation in policy development processes. In many cases this is compounded by a lack of community capacity. The complexity of many forest regulations hinders community development.

Donors show little flexibility in the way they provide funds to indigenous peoples and local communities and their federations, associations and networks.

Climate change

Deforestation and forest degradation in the Asia-Pacific region are significant contributors to global greenhouse-gas

Right of reply: A participant raises a point during discussion on the conference statement. *Photo: Hwan Ok Ma*

emissions. For example, the majority of Indonesia's greenhouse-gas emissions come from land-use change and forestry. Clear and secure tenure rights and access to resources are essential for mitigating greenhouse-gas emissions from the land-use sector.

The consideration of traditional knowledge is largely missing from international debate on climate-change mitigation. The slow pace of negotiations on REDD+ is creating uncertainty at the national level and in forest communities.

Conflict

Unclear, unjust or overlapping forest-tenure arrangements lead to conflict—between communities, between communities and companies, and between communities and government. These conflicts can and sometimes do involve violence against communities.

In many countries there is a lack of effective conflict-resolution mechanisms for resolving disputes over forest tenure, which may be exacerbated by unequal access to information, unbalanced power structures, and weak capacity.

Gender

Women are often disproportionately affected by conflicts over forest tenure when they lead to the moral disintegration of family and community values. There is a gender bias in development institutions, whereby women are assigned roles based on cultural norms and religious interpretation.

No matter what type of tenure reform, it affects men and women differently. Women can be marginalized by processes of land-tenure reform. Greater rights for the community do not translate automatically to the rights of women. It is often difficult for women to engage in processes of land reform.

Even if policies are gender-affirmative, their implementation is a challenge. It is likely that women with low education levels will not be reached by government programs or forest-based development.

Planning and safeguards

Spatial planning for forests and agricultural land tends to be driven from the top down and ignores community uses, ownership and knowledge, and there is little cross-sectoral coordination. Few governments have incorporated community mapping in their spatial planning processes.

Safeguards such as participation and free, prior and informed consent (FPIC) are yet to be fully instituted in processes of forest-tenure reform. The application of FPIC has been disappointing in some forests, due at least in part to a lack of understanding of the concept.

Key lessons

Triggers of forest-tenure reform. Opportunities for land-tenure reform, including forest-tenure reform, can be brought about by public concern over environmental degradation; a change in governance model (e.g. from dictatorship to democracy, or from centralism to decentralism); activism by forest users, indigenous peoples and local communities; and international commitments on rights and responsibilities.

Identity and positive change. Tenure rights are necessary to secure the identity, cultural heritage and traditions of indigenous peoples and local communities, and to enable people in such communities to live with dignity and self-esteem. Tenure reform is not the be all and end all of forest problems, but it is a key condition for addressing deforestation, forest degradation and community development.

Conflict. Independent institutions or mechanisms are needed to resolve conflicts related to forest tenure, both formally and informally. Such institutions or mechanisms must be transparent and accessible. Conflict-resolution models that work at the local level are best developed using participatory approaches. Community mapping is often a necessary first step in resolving conflicts.

Cross-sectoral approach. Tenure reform is not sector-bound; it is multi-dimensional. Land-tenure relationships are a convergence of social, cultural, technical, institutional, legal, economic and political forces that push and pull, a process that can create considerable tension. Meaningful coordination between sectors, the different levels of government, NGOs and communities is essential for effective spatial planning and to speed up tenure reform and the establishment of community-managed forests. Forest-tenure reform requires strong inter-agency coordination, and should be multi-stakeholder based.

Community mapping. Community mapping is an important tool in tenure reform. It can be used, for example, for gazettement; titling; revitalizing customary law; transferring knowledge to younger generations; affirming community identity; resolving conflict between families, communities, companies and government; and litigation. Obtaining meaningful participation in community mapping is essential, and not always easy; it requires approaches that are gender-just and that ensure the informed participation of marginalized groups.

Tenure security. Forest tenure is not just about the distribution of land and forest resources; it is also about how to secure and use forest resources, including timber, to improve livelihoods and achieve sustainable forest management at the village level. Tenure security for any group depends on three factors—that it is legally recognizable; that it is socially acceptable; and that rights are externally enforceable.

Investment and enterprise. Gaining local control of forests is a process that starts with tenure reform but also involves investment to stimulate enterprise development in forest communities. Financial empowerment can lead to increased autonomy and help rights-holders to obtain long-term tenure security.

Political commitment. Forest-tenure reform is a long and evolving process, so long-term political commitment is needed. Creating successful community forest-based initiatives also often requires a long process of capacity-building and development and therefore the long-term commitment of the involved parties. Opposition to reform, especially from powerful interest groups, may be strong, but this may be mitigated by promoting success stories.

Institutional reform. Transition from centralistic to democratic decision-making requires both political and institutional reform. Communities need access to markets, information, technology and infrastructure, but they also have the capacity to take charge of their own institutions if they have secure tenure. Resolving conflicts over forest tenure and use will require institutions to transfer some of their authority over the resource. Simplifying forest regulations to enable the flourishing of community-based enterprises is often an essential ingredient for ensuring that communities can capitalize on progress in tenure reform.

Climate-change mitigation. Reducing forest-related greenhouse-gas emissions, and achieving economic growth, are not mutually incompatible, but forest-tenure reform is critical for both. New market opportunities for forest products and services, including carbon markets, should be explored to promote community-based management of forest resources.

Gender and safeguards. Tenure-reform processes should actively seek the effectively participation of women and other marginalized groups. Building safeguards into policies, laws and processes will help to protect the vulnerable from discrimination and elite capture. There is a need to educate foresters in community approaches and to build a cadre of people, including women, with such wider knowledge.

Guiding principles

All parties—governments, institutions, industry, communities, NGOs and international organizations—must employ the principles of good governance: accountability, transparency, efficiency and effectiveness, responsiveness, forward vision and rule of law.

Forest-tenure reform requires a clear policy that should be set before laws are drafted. The policy must be developed in an inclusive and participatory way.

Recommendations

The time has come to move community forestry to a new level in order to unlock the potential of forests to make a significant, consistent and sustainable contribution to community and national development. Building on the results achieved so far in some tropical countries on the recognition of community rights and the development of appropriate policies, there is a need and an opportunity to ensure the delivery of concrete economic benefits that are equally shared. Donors and international organizations are invited to collaborate to advance a new generation of tenure reform and community forestry initiatives aimed at sustainable local and national development.

All parties

- Place more trust in indigenous peoples and local communities.
- Develop widely agreed criteria for measuring the success of forest-tenure reform.
- Compile and monitor success stories and active processes, and make data available to all parties to

Photo: Tetra Yanuariadi

better publicize the advantages and challenges of forest-tenure reform and community-based forest management and enterprises.

- Conduct research on customary land-tenure systems and innovative approaches to tenure reform. Do not use a lack of research to justify a slow pace of reform.

- Pay much greater attention to ensuring the rights of communities to harvest high-value forest resources, including timber, and their capacity to add value to and market such resources.

- Support the role of community-based forest enterprises through capacity-building, regulatory reform and improved access to credit.

- Develop simple tools and mechanisms to ensure that projects and programs integrate women's needs as a core component.

- Translate concepts such as FPIC and other safeguards into language and models based on traditional knowledge and practices.

- Work to increase investment in capacity-building for local communities and local governments.

- Participate in and support follow-up to ensure the implementation of the recommendations contained in this declaration, as relevant to each country.

- Monitor and report on the implementation of those recommendations at timely intervals.

- Increase access to funding for community-based forest management.

Governments

- Provide communities, including women, the poor and other marginalized people, with assistance and training in dealing with forest regulations.

- Ratify and implement United Nations conventions, declarations and agreements that recognize, respect and protect the rights of indigenous peoples and local communities dependent on forests.

- For those governments that have not yet done so, ratify and implement the International Tropical Timber Agreement, 2006, as a framework for the social and economic development of forests.

- Use international instruments on the rights of indigenous peoples and local communities to guide government and sectoral policies and, where appropriate, develop an overarching national law to protect such rights.

- Provide support, awareness-raising and capacity-building for community-based forest enterprises to meet the requirements of initiatives such as the EU FLEGT Timber Regulation, the US Lacey Act and other import regulations, as well as certification.

- Improve the enabling environment for small enterprises so that forest communities can register businesses, access financial services, negotiate partnerships and attract sustainable investment.

- Create or accelerate the registration, recognition and protection of the rights of indigenous peoples and local communities and the delineation of forest lands.

- Implement FPIC and other safeguards in all government policies to ensure that the rights of indigenous peoples and local communities are respected and environmental values are protected.

- Implement procedures to ensure that women, the poor and other marginalized groups participate in and benefit from processes of forest-tenure reform.

- Establish and strengthen networks of women, the poor and other marginalized people at the village level.

- Establish or strengthen forest programs, with budgets, focused on women's activities at the village level.

- Create, as necessary, independent institutions or mechanisms to formally resolve conflicts related to forest tenure.

- Evaluate procedures for the issuance of tenure instruments to communities, and for the administration of timber and non-timber forest products and services on community and private forest land, with a view to making the application and approval processes quicker, simpler and cheaper.

- Develop integrated and harmonious legal frameworks and policies regarding forest and land tenure.

- Ensure that the issuance of regulations affecting community forest tenure is accompanied by access to information and capacity-building.

- Adopt gender-just community mapping as a critical component of spatial planning using a combination of top-down and bottom-up approaches.

- Develop simple tools and mechanisms to ensure that projects and programs integrate the concerns of indigenous peoples and local communities.

- Increase the role of independent third parties in the monitoring of government programs.

- Ensure that broad economic plans prioritize low-carbon development and, where appropriate, include the payment of green premiums for sustainably produced products and services.

Civil-society organizations

- Provide communities, including women, the poor and other marginalized people, with assistance and training in dealing with forest regulations.

- Commit gender-sensitive budgets and networks at all levels and aggregate data to assist the poor within communities at the village level to improve tenure rights and the capacity to improve their livelihoods.

- Continue to work with communities to map their customary lands using participatory processes, and ensure legal recognition.

- Ensure the provision of legal advice to communities on the establishment of forest-based enterprises, clarity of tenure and the components of governance. Provide support to enable market access, and document community intellectual property.

- Work with local and central governments, where applicable, to implement and monitor activities related to forest-tenure reform and governance.

- Provide a bridge between government and communities on program activities, including mapping and spatial planning.

- To the greatest extent possible, facilitate the understanding and use of existing government regulations among communities to achieve forest-tenure reform.

- Promote multi-stakeholder processes for reforming laws, regulations and institutions, including judicial and quasi-judicial institutions.

- Facilitate more access to resources by enabling changes in fiscal regulations.

- Work with government to improve and simplify forest-related regulations.

- Help prepare community forest enterprises—with an emphasis on women—to access markets for their products and services.

- Ensure that appropriate capacity-building is undertaken to enable local communities and local people to carry on managing their forests themselves.

- Work with communities to build capacity and create pressure to negotiate with government for the removal of contradictory provisions in policies, acts and institutions on forest tenure.

- Work with communities to build their grassroots-level forums to bring about conducive policy changes by mobilizing policymakers.

- Work with government to undertake land-tenure legislation and implementation reforms.

- Work with government to research, document, mediate and resolve land conflicts.

- Negotiate with the private sector to support land-tenure reform processes.

Communities

- Mobilize to participate in and provide input to spatial planning processes, such as through community mapping.

- Organize and network so that marginalized groups within communities can participate effectively in reform processes and can express opinions on and claim rights to forest tenure.

- Carefully select partners that can facilitate market opportunities to commercialize forest goods and services.

- Continue the conservation, management and sustainable use of forests.

- Pursue economic sustainability in managing their forests.

Donors and international organizations

- Urgently seek ways to increase the amount of funds that reach the poorest and most marginalized forest-dependent people, and provide support through target-group networks. In doing this, encourage the use of national capacity.

- Provide funds through flexible mechanisms to increase capacity-building in indigenous and local communities and local governments.

- In cooperation programs for the forest and social sectors, support partner countries in the implementation of forest-tenure reform and enterprises at the community level.

- Provide a transparent mechanism for the distribution of donor assistance to ensure that this distribution is equitable and reaches those most in need.

- In partnership with the private sector, support the advance of a new generation of community forestry initiatives aimed at sustainable local development, whereby the financial benefits obtained from the sustainable use of forest goods and services are re-invested in local businesses as the foundation of rural economies.

- Mobilize ITTO's Civil Society Advisory Group to assist in advancing and promoting projects and programs, including value addition of green products and the pragmatic implementation of certification.