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Forest Tenure Reform in the Age of Climate Change:

Lessons for REDD+

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Abstract

Numerous authors have stressed the importance of guaranteeing and protecting the tenure and human rights of indigenous and other forest-based communities under schemes for Reducing Emissions from Deforestation and Forest Degradation (REDD, or REDD+); and important international indigenous organizations have spoken out strongly against REDD+. This article examines two specific issues that present risks for local communities: rights to forests and rules for resource use. It draws on the findings of a study conducted by the Center for International Forestry Research (CIFOR) on forest tenure reforms in selected countries in Asia, Africa and Latin America from 2006 to 2008. The study underlines the numerous obstacles faced by communities *after* rights are won, in moving from statutory rights to their implementation and to access to benefits on the ground. It argues that there is currently little reason to expect better results from national policies under REDD+ without binding agreements to protect local rights.

Keywords

1. Introduction

Numerous academics and activists have expressed concern about the rights of communities living in forests in light of the climate change mitigation scheme known as Reducing Emissions from Deforestation and Degradation (REDD+). For their part, indigenous organizations have repeatedly criticized REDD+ schemes in international forums, warning against risks to their land rights, single-purpose rather than integral approaches and the need for indigenous participation in REDD processes at all stages and levels of discussion and organization, among other issues (Latin American indigenous forum on climate change, 2010). To what extent are these concerns justified?

This article uses the results of a multi-country study on forest tenure reforms to examine two particular aspects of concern: community tenure rights to forests and forest resources, and rule-making about forest use. Both of these issues are central to REDD+. REDD is a performance-based mechanism whereby funds will be used to compensate developing countries for the reduction of forest carbon emissions as compared to a national baseline; the 'plus' refers to the inclusion of carbon stock enhancement. It is likely to involve both funds and compliance markets. It will require 'national land-use and forest-sector planning, stakeholder negotiations, carbon brokering, national-level carbon accounting, and provision of funds and services to local actors' (Phelps et al., 2010).

Fundamentally, performance-based payments will require clear tenure rights, as demonstrated by Payment for Environmental Services (PES) programs (Wunder, 2009), as well as changes in resource use that result in emissions reductions. Who will obtain these carbon rights, and who will decide what uses of forests are permitted? How will these decisions affect communities living in forests? There are three possible outcomes:

* REDD+ could have no effect on forest-based communities that are simply left out of the process. This might occur, for example, in communities that are already managing forests effectively or are far from current forest frontiers, where funds would be unlikely to result in further emissions reductions (for concerns about this, see Ricketts et al., 2010; Griffiths, 2008).

* REDD+ could benefit communities, such as by securing tenure rights, strengthening local identity and empowering communities to manage forests sustainably, and providing a source of income to poor areas.

* Finally, REDD+ could harm forest communities. It could undermine tenure rights, disempower local decision making, limit local livelihoods in the name of conservation and promote elite capture of lands and carbon payments.

It is notable that the Copenhagen Accord from December 2009 failed to make explicit reference to the 'rights of indigenous peoples and members of local communities', though this was initially on the agenda (Sikor et al., 2010). This omission, together with lessons from experiences of forest tenure reforms in 10 countries in Africa, Asia and Latin America, does not bode well for indigenous and local communities under REDD+, in the absence of a binding agreement to respect their rights. A study of these reforms, conducted by the Center for International Forestry Research (CIFOR) from 2006 to 2008, highlights the numerous obstacles that communities face even after winning tenure rights, in moving

from statutory rights to their implementation, and then to access to benefits on the ground. This article argues that these experiences of granting rights to communities sound the alarm on entering into strategies like REDD+ without seriously addressing forest governance issues in general – and community tenure rights in particular.

The article is organized as follows. Section 2 discusses concerns about the rights of forest-based communities under climate change and REDD+, the roots of those concerns and the rise of forest tenure reforms in favour of communities. Section 3 presents the methods for the forest tenure reform study. Section 4 presents the findings regarding the numerous challenges faced by local communities in the struggle for reforms and their implementation. Section 5 discusses and analyzes these challenges to local rights in light of REDD+ and is followed by the conclusions.

2. Tenure, community rights and REDD+

2.1 Concerns about REDD+ and community rights

Concerns have been raised around a variety of issues regarding the impact of REDD+ on the rights of indigenous and other communities living in forests. Specifically, tenure rights and, more generally, overall participation in REDD+ processes are two of the most prominent concerns (Brown et al., 2008; Griffiths, 2008; Macchi et al., 2008; Cotula and Mayers, 2009; Sunderlin et al. 2008). Indigenous organizations often have even broader objections and have been among the most outspoken critics, with a recent international meeting concluding,

> 'The solutions proposed by governments and international NGOs to address the effects of climate change based on market logic, … referring to the clean development mechanism [and] proposals for REDD+, constitute new forms of geopolitical economic threats to both indigenous rights, which are guaranteed by numerous international instruments, and the livelihoods of our peoples' (Latin American indigenous forum on climate change, 2010).

Climate change adds several new dimensions to an already complex framework of rights and resources. For example, forests both contribute to climate change and are affected by it. Forest-based populations are vulnerable both to direct climate change effects (ecological change, change in weather patterns, extreme events, etc.) and to competing interests for those forests or lands in light of mitigation schemes (such as carbon markets and biofuels expansion).

Indigenous declarations regarding climate change often prioritize food security. The Anchorage Declaration resulting from the Indigenous People's Global Summit on Climate Change in early 2009 states,

> 'In order to provide the resources necessary for our collective survival in response to the climate crisis, we declare our communities, waters, air, forests, oceans, sea ice, traditional lands and territories to be "Food Sovereignty Areas," defined and directed by Indigenous Peoples according to customary laws, free from extractive

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industries, deforestation and chemical-based industrial food production systems (i.e. contaminants, agro-fuels, genetically modified organisms).' (Anchorage Declaration, 2009)

Similarly, participants in a Central American workshop on REDD+ in 2009 with indigenous and non-indigenous community leaders emphasized the search for integral, grassroots solutions and the importance of adaptation, as well as mitigation, measures (author's notes). A report by the World Conservation Union (IUCN) argues that secure rights to resources, among other things, are essential for the ability of local peoples to respond and adapt to the challenges of climate change; without these, 'the resilience of indigenous and traditional peoples may decrease and the threshold, beyond which a system may not be able to adapt to environmental change may be exceeded' (Macchi et al., 2008: 22).

In the same vein, the effective implementation of REDD+, like PES schemes, is likely to require secure tenure, and particularly clear exclusion rights (Wunder, 2009). Grieg-Gran et al. (2005) found that eligibility requirements involving payments for environmental services in Latin America often excluded people without formal titles. Eliasch (2008) states, 'Only when property rights are secure, on paper and in practice, do longer-term investments in sustainable management become worthwhile.'

Thus REDD+ raises several questions for forest communities. What if their rights are not secure? What if they are secure on paper but not in practice (see Cotula et al., 2008 on biofuels expansion; see also SBS World News Australia cited in RRI, 2010 on events in Papua New Guinea)? What if they are secure for forests but not for carbon? If efforts are made to secure rights under REDD+, who will benefit?

Reducing carbon emissions under REDD+ also requires changing forest practices. But limitations on, or prohibitions of, some current uses that release carbon, such as swidden or shifting cultivation, could have severe livelihood consequences (Minang et al., 2008; Alcorn, 2009). There have been calls for more protected areas (Roe, 2008; Ricketts et al., 2010), which could also lead to restrictions on use rights. Who will decide what uses are appropriate? Though many people believe that REDD+ will not work unless local needs are taken into account, the bottom line is that REDD+ is a climate change, not a poverty-alleviation, strategy; the needs of poor people living in forests are secondary (Griffiths, 2008).

In light of these concerns, indigenous communities have demanded that all initiatives 'secure the recognition and implementation of the human rights of Indigenous Peoples, including security of land tenure, ownership, recognition of land title according to traditional ways, uses and customary laws and the multiple benefits of forests for climate, ecosystems, and Peoples before taking any action' (Anchorage Declaration, 2009). Though other traditional peoples or non-indigenous forest-based populations may not have the same international presence in forest and climate change debates, the concern over their land and livelihood – and the right to have a voice in decisions that could affect those – is likely to be similar.

2.2 The roots of concern, and signs of change?

The literature on forests and on conservation is replete with cases of rural communities whose livelihoods have been affected by state policies or the intrusion of outsiders into 'their' forests. These include state-authorized forest concessions (e.g. Anaya and Grossman, 2002); forest classification schemes that prohibit community use (e.g. Peluso, 1992); mining and petroleum concessions (e.g. Oyono, et al, 2006; Kimerling, 1991; Lynch and Harwell, 2001); evictions from, or severe limitations on livelihood activities in, parks or protected areas (e.g. Cernea 1997, 2006; Dowie, 2005; Brockington and Igoe, 2006; Adams and Hutton 2007; see Agrawal and Redford 2009); and colonization or invasions by farmers and ranchers (e.g. Fulcher, 1982; Schmink and Wood, 1984; Colfer et al, 1997; Baird and Shoemaker, 2005). In many cases, these forests, historically, had been used and managed by communities themselves.

Centralized forest ownership and control has a long history that has been well described by Dixon and Sherman (1991), Fay and Michon (2003), Harrison (1992), Peluso (1992), Pyne (2009), Vandergeest and Peluso (1995), Westoby (1987, 1989), and others. According to this literature, the tendency for centralization has been based, simultaneously or at different moments, on the usurpation of lands for royal and elite hunting grounds, the economic value of trees, a commitment to professional, 'rational' or 'scientific' forestry, the need to maintain future timber supplies, protection of environmental services and entrenched bureaucracies. No less important to centralized control of forests in some countries is the overall treatment of indigenous peoples, such as the annihilation and, later, assimilation policies that prevailed until recently in much of the Americas (Van Cott, 1994, 2000).

If only community rights are considered, there is little room for doubt that many communities living in forests today deserve a better deal. But what about forest conservation? Sayer et al (2008, p. 3) write, 'The harsh reality for conservation is that, for most local people, conversion to agriculture or to industrial estate crops provides a faster route out of poverty than either local forest management or total protection'. There is no guarantee that local people will conserve forests if they have more, or more secure, rights, though the central tenet, that secure rights permit longer-term horizons and greater interest in sustainability, appears to hold true. A review of data from 152 forests in nine countries showed that forest degradation is inversely related to strong collective action and rule enforcement at the local level (Chhatre & Agrawal, 2008).

Hence in some cases, more secure tenure rights have clearly resulted in improved forest management (Sayer et al., 2008; Ricketts et al., 2010). In others, converting forests to other uses will bring greater livelihood benefits and may even be 'sustainable' over the long term (Tacconi, 2007).

In spite of such concerns, an important change in forest tenure has been occurring since the 1980s, with a number of countries in Asia, Africa and Latin America granting new tenure rights to communities living in and around forests (White and Martin, 2002; Sunderlin et al., 2008; Agrawal et al., 2008). In the developing world, recent data suggest that some 27% of forests are now owned or designated for management by these populations, with rights to at least 200 million hectares transferred or recognized since 1985. This portion has

increased from 22% just since 2002 (Hatcher, personal communication, based on data from Sunderlin et al., 2008).[1]

These reforms have arisen for a number of reasons. 'Top-down' reforms have been developed due to concern over deforestation, to share conservation costs, to obtain support for government policies, to promote social justice and rights under new democratic regimes, to respond to donor pressure for larger reforms and to appease internal dissent or demands. 'Bottom-up' demands have emerged because people see opportunities for demanding the return of rights to forests that were usurped in the past, or because the forests over which they have customary rights are being invaded or threatened by outsiders who fail to respect those rights. At times, reforms have arisen when communities specifically seek out help from the state for forest management or conservation (see Larson et al., 2010b).

These forest tenure reforms could make REDD+ sceptics more optimistic – but should they? Though reforms on paper are intended to increase local rights or tenure security, reforms in practice have faced serious challenges. These include the implementation of rights, the defence of those rights from ongoing competition and the construction of the institutions necessary to exercise those rights, obtain benefits and distribute benefits equitably. They demonstrate a certain tension between those who believe communities can or will manage forests better under these new conditions and those who believe deforestation and degradation will continue or worsen. Hence the latter fear has served to justify not only state forest regulation but also sometimes heavy restrictions on forest use accompanying forest tenure reforms. Nevertheless, as will be seen below, concerns over forest sustainability are not the only, or even the most important, factor challenging the ability of communities to enjoy their new rights in practice.

This article presents a synthesis of some of the key findings of the research on these reforms. What rights are being granted to forest-based communities? What are the obstacles to tenure reforms? What are the lessons to be learned in light of REDD+?

3. Methods

The Center for International Forestry Research (CIFOR), in coordination with the Rights and Resources Initiative (RRI), undertook a study of forest tenure reforms from 2006 to 2008 at more than 30 sites in 10 countries. The countries are: in Asia, India, Nepal and the Philippines; in Africa, Burkina Faso, Cameroon and Ghana; and in Latin America, Bolivia, Brazil, Guatemala and Nicaragua. Less intensive research was also conducted in Laos.

The research used comparative, in-depth case study methods, with a high level of contextualization at multiple scales. It was aimed both at understanding reforms and at influencing policy. Hence countries were chosen based on the potential to influence policy in locations where a statutory tenure change in favour of communities had recently occurred or was about to occur. Within countries, research sites, usually involving multiple villages, were chosen not necessarily to be representative of all reforms, but to be the most

[1] Global forest data is notably unreliable. See the Annex of Sunderlin et al. (2008) for a full explanation of methods, including specific attempts to increase the reliability of the data behind their analysis.

helpful cases for providing information on the tendencies of reforms in a way that would support policy advocacy in each context. Thus the different sites chosen may represent different types of reform, forest, forest classifications, market engagement, etc. Depending on the nature of the reform, then, our field sites may have been typical cases in some ways, but more often offered particularly interesting experiences. Work with local stakeholders was intended to enable these actors to better represent and articulate the interests and priorities of their local constituencies, especially the vulnerable groups within them, and to engage effectively with decentralized structures and policy-making processes. Table 1 presents a list of the countries, regions or sub-regions and the 'communities'[2] studied, as well as a phrase briefly naming the model of reform.

Table 1 *Research sites and tenure models studied*

Country	*Region*	*Community*	*Tenure model*
Bolivia	Guarayos	Santa María de Yotau	Communities within indigenous territory being demarcated and titled
		Cururú	
	Northern Amazon (Pando)	Turi Carretera	Agroextractive communities being demarcated and titled
		San Jorge	
Brazil	Porto de Moz	Turu	Agroextractive communities bordering agroextractive reserve (RESEX)
		Taperu	
	Trans-Amazon	Dispensa I	Colonist communities
		Pontal	
Guatemala	Petén	Carmelita	25-year community forest concession (community living inside concession)
		Arbol Verde	25-year community forest concession (members from several communities living outside concession)
	Highlands	Chancol	Highland communal forests (multiple community, single title, community owned)
		Mogotillos	Highland communal forests (local government owned)
		Chichim	
		Estancia	
Nicaragua	RAAN	Tasba Raya	Indigenous territories being demarcated and titled
		Layasiksa	
Burkina Faso		Goada Forest	Local association: management for regeneration
		Nakambé	Concession: fuelwood management (classified forest, central government domain)
		To	Concession: fuelwood management (nonclassified forest, ocal government domain)
		Comoé-Léraba	Concession: forest and wildlife reserve
Cameroon	Lomié/Dja	AVILSO	Community forests
		Medjoh	
	Mount Cameroon	Bimbia–Bonadikombo	

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[2] As understood in this research, 'community' is defined as a group of people 'who share a common interest or purpose in a particular forest and share common resources. Hence the resident-based community (or village) may overlap with the community of interest or be a subset of it, or vice versa. There may also be local "communities" embedded in larger communities' (Larson et al., 2010a).

	Northwest Cameroon	Oku	
	South Cameroon	UDEFCO	
		Kienké–Sud	Forest revenue sharing (logging concession to company)
Ghana	National		Benefit sharing from logging
	Assin Fosu Forest District (Adwenase Community Forest)	Assin Akropong	Collaborative forest management: 'dedicated forest' with management plan, for protection
		Subinso 1	
		Subinso 2	
	Afram Headwaters Forest Reserve	Asempanaye	Modified Taungya System (tree planting, community and individual farmers share future timber revenue)
		Ada Nkwanta	
		Kwapanin	
India	Ajhmer, Rajhastan	Kumhariya	25-year renewable lease for tree grower cooperatives for fuel and fodder to recover wastelands
		Nathoothala	
		Khoda Ganesh	
Nepal	Nawalparasi, *Terai* (lowlands)	Sunderi CFUG*	Community forests with approved operational plans
	Lalitpur (hills, periurban)	Patle CFUG	
	Baglung (hills, rural)	Sanghukhola Ratopahara CFUG	
	Dolakha (high-altitude hills)	Suspa CFUG	
Philippines	Nueva Vizcaya, Region 2	Kalahan Education Foundation	Certificate of ancestral domain with community based forest management
		Banila Community based Cooperative Project	Community-based forest management
		Barobbob Ecological Socio-Economic Project	Comanagement agreement with local government (local occupation rights for 25 years, renewable for 25 years)
	Compostela, Mindenao	Nagan-Panansalan-Pagsabangan Forest Resource Development Cooperative	Community-based forest management

*CFUG = Community Forest User Group
Source: Larson et al. (2010a)

The research involved multiple layers, scaling both downwards and upwards from the multi-village site. At this site and the more local scale, research was aimed at examining socially and economically differentiated access to forest resources, as well as the institutional processes and mechanisms for sharing benefits within and among communities, in light of tenure forms. These cases were then analyzed in relation to research into the broader regional and national context to understand the reforms as a whole. Contextualization was a key feature of the approach. Research at the larger sub-national and national scale sought to generalize the findings in order to inform dialogues between governments and civil society organizations and to identify specific constraints

and opportunities for linking pro-poor forest management to decentralized as well as central government planning processes.

All of the research was carried out using the same set of central questions, key theoretical and background readings and definitions of key terms. In all cases, lead researchers at the country or sub-country regional scale – usually developing country nationals and always people with extensive experience in the regions studied – were charged with oversight of the site-level research, guaranteeing effective analysis of the findings in light of the particular research context (Larson et al., 2010a).

In terms of lessons for REDD+, then, these cases represent countries demonstrating a clear interest in supporting, at least to some degree, greater community tenure rights; notably, many other countries may not. They represent a broad variety of reforms within and among countries; within each country, case study results have been analyzed in relation to broader-scale reforms and overall trajectories. Finally, the studies represent countries, regions and villages where local people tended to be active in fighting for and defending their rights. In light of REDD+, then, they provide a wealth of examples – many of which may be best-case scenarios – of what could go wrong.

4. Results[3]

Tenure reforms involve at least three stages of change: the granting of statutory rights, the implementation of rights in practice and the development of specific measures accompanying reforms that enable communities to derive benefits from new rights. Though in many cases communities did, in fact, obtain greater or more secure rights to forests and forest resources, these gains were sometimes won at great effort and cost, involving many years of struggle, grassroots organizing, national and international networking, international court cases, time and money (Paudel et al. 2010). This section will review an assortment of the challenges faced at each stage of reform across the cases studied.

4.1 Statutory reforms

There are large differences in the extent of rights granted. Forest tenure reforms range from fairly simple tree planting agreements and benefit-sharing arrangements from industrial logging, to a variety of community-based forest management schemes and even titling of large territories. Though the former programs may in fact represent important positive changes compared to the past, they are much more limited in scope than a land title.

Some rights are temporary, others are permanent, and still others are long term but conditional. In all cases the central issue regarding tenure security is whether the new rights can be withdrawn, and (if so) how and under what circumstances. Property titles, such as those offered in some of the Latin American sites, or the guarantee of forest rights in perpetuity in Nepal, combined with constitutional provisions (a current demand of the community network FECOFUN, Paudel, pers comm.), appear to provide the greatest long-

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[3] See also Larson et al. (2010b,d) and Dahal et al. (2010).

term security.[4] Rights granted through less binding instruments, such as decrees, regulations or contracts, are more tenuous, particularly if they can be unilaterally overturned. For example, the community of Mogotillos in the Guatemalan highlands negotiated control over a forest area through an agreement with the municipal government (the formal owner of the forest), but legally, this could easily be annulled, for example in a change of administration[5] (Elías et al., 2009).

Concession contracts tend to be secure legal instruments but have time limits, and renewal is not guaranteed; like other less binding instruments they sometimes can be cancelled easily. The concession contracts in the Petén, Guatemala, can be overturned for non-compliance, and do not establish any procedures for addressing compliance failures or recourse mechanisms (Monterroso and Barry, 2009). As in the Petén, community forestry contracts in Cameroon are valid for 25 years, but the management agreement has to be renewed every 5 (Oyono et al., 2009).

Communities may believe they are entitled to larger and better quality forests than the ones to which they are granted rights. In Cameroon, community forests are limited to the lower-quality domain of off-reserve forests. Whereas the permanent forest estate comprises 18 million hectares of forest, the non permanent forest estate comprises only 4.5 million hectares; community forests have been granted in the latter, for a total of .6 million hectares (Oyono et al., 2009). That is, less than 3% of forests have been formally granted for community use. Some community members argue that their rights have been reduced, not increased, because formal rights were recognized to an area much smaller than the one they customarily claimed (Oyono et al., 2009). Similarly, in Nepal, as of 2005, only about 2% of the (higher-value) *terai* forests had been handed over to community forest user groups (CFUGs), compared with almost 24% of the (lower-quality) hill forests (Bhattarai, 2006).

Many communities have been given poor quality forests or wasteland areas with the expectation or specific mandate that they will dedicate their labour and resources to improving them. This was particularly common in the past in the Asian cases studied; these are also countries where reforms began longer ago. For example, social forestry in India in the 1980s was based on the supposition that 'people would willingly invest their labour and capital in raising fuelwood and fodder trees' (Saxena, 1997). The sites studied in Rajasthan involved the formation of village cooperatives for tree planting on 'revenue wasteland' (Saigal et al., 2009). In addition to India, many of the sites studied in the Philippines and Nepal, as well as sites in Cameroon and Ghana, required reforestation or other kinds of tree planting.

Statutory rights in less degraded landscapes may still be combined with strict rules for resource use, such that granting rights may actually result in restricting access. In the Brazilian municipality of Porto de Moz, in the state of Pará, local communities demanded the creation of an Extractive Reserve (RESEX) to protect their land from intruders. The

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[4] Titles may lead to other problems, however, especially where rights are complex and overlapping, and should thus not be assumed to be the best solution in all cases.

[5] In practice this is unlikely, however, but only due to the strength of the community organization (Elías, pers comm.)

resulting 'Verde para Sempre', covering some 1.3 million ha and including about 58 communities, was created in 2004 by presidential decree. The reserve secured the property rights of residents and allowed the communities to exclude timber companies from their lands, but it also imposed new constraints on forest use for smallholders. A RESEX is intended as an area where landholders develop extractive activities and small-scale agriculture. There are no limits on the collection of NTFPs, but other uses, such as logging, require a forest management plan when allowed at all. First, however, any activity to be developed in the RESEX must be part of a RESEX development plan. Five years after the declaration establishing the reserve, this plan still had not been written. The current situation leaves local people little flexibility to use forest resources to fulfil their material needs – at least not legally (Pacheco et al., 2008).

The formalization of forest rights has sometimes resulted in both winners and losers even among customary users. In Nepal, for example, granting rights to settled communities ignored the customary rights of transhumant pastoralists in Nepal's high hills. In one of our study sites, the population of pastoralists fell from 35–40 prior to the establishment of the community forest to 16 at the time of the study (Paudel et al., 2008).

4.2 Implementation processes

Once rights are won on paper, the real work begins. Implementation processes are often fraught with opposition and competing claims, as well as logistical and governance challenges. Competing claims for forests and forest lands may involve land invasions by poor peasants; wealthy farmers and businesses interested in ranching, large-scale agriculture, biofuels or logging; mining or petroleum concessions; or the expansion of protected areas for conservation and tourism. How these conflicts play out depends, at least in part, on the effectiveness of community organisations and alliances, and on the role played by the state.

The state may fail to implement reforms or move very slowly to do so. In Nicaragua, 15 years passed between the constitutional reform granting indigenous communities the right to their traditional lands and the passing of the law that set up the institutions for implementation. The law was written only after a legal battle in the Inter-American Court for Human Rights, which the government of Nicaragua lost[6], and it was only passed thanks to extensive grassroots organizing. It took six more years after that for the first titles to be granted (Larson and Mendoza-Lewis, 2009).

When forests granted to communities are being invaded by other actors, communities may need state support to keep them out, but this is rarely provided. In Nicaragua, for example, the Layasiksa community had an ongoing conflict with a colonist settlement inside its territorial claim, but the state intervened only after the community took the law into its own hands and a peasant farmer was killed during a violent eviction. Before this, Layasiksa's repeated appeals to legal and government institutions had fallen on deaf ears.

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[6] For more information see Anaya and Grossman (2002), Wiggins (2002).

In a few cases, important state actors have backed the competition rather than communities. In Guarayos (Bolivia), for example, the forestry authority renewed several private logging concessions on traditional lands that were claimed by the Guarayos people and were in the process of demarcation. This decision undermined confidence in the titling process, in the indigenous organization representing the Guarayos people and in the government institutions involved (Cronkleton et al., 2009). In the Petén (Guatemala), the state initially backed a park expansion project that would have shut down several community concessions. The concession organization Association of Forest Communities of Petén (ACOFOP) launched and won a 3-year battle, costing about US$100 000, to have this decision reversed (Monterroso and Barry, 2009).

In other cases, the state itself may be an important competitor for forests. That is, although communities may have the right to exclude other intruders, they may not have the right to exclude the state itself. In Burkina Faso and highland Guatemala, for example, the consent of the community is not required for the state to authorise licences to third parties in community forests. Though in most of the other cases community consent is required, this rarely extends to subsoil rights, such as petroleum prospecting and mining.

Sometimes competing claimants for forest access have legitimate claims, as in the case of the Nepal herder communities mentioned above. In Cameroon, Bantu communities obtaining forest rights often fail to include Pygmy populations in their definition of 'community'. As one Pygmy stated, 'The Bantu say that we are nomads, without fixed residence and village. They say that it is they who created the village, without us, and that the forest therefore belongs to them' (Oyono et al., 2009).

It is often difficult both politically and logistically to define the borders of the forest area to which communities have rights. The demarcation of indigenous territories in Nicaragua and Bolivia, for example, involves tedious mapping processes, and borders are only easily defined in remote sparsely populated areas. Mapping in Guarayos, Bolivia, moved relatively quickly through such areas, resulting in the titling of almost a million hectares between 1999 and 2003; but three years later only an additional 18 thousand hectares had been titled (Cronkleton et al., 2009). In Nicaragua, many indigenous territories suffer conflicts with non-indigenous colonists but also between and among neighboring indigenous communities (Finley-Brook, 2007).

Demarcation can complicate customary rights if it is not done carefully. In the northern Amazon region of Bolivia, where Brazil nut harvesting is the primary livelihood activity, customary rights systems have developed around Brazil nut trees and connecting networks of trails rather than forests or land. Demarcation was not always accurate, however, since it was based on land rather than these networks. Also, so-called compensation areas were granted to communities with insufficient forest area in order to meet a 500-hectare per family standard, but these areas sometimes already had people living in them (Cronkleton et al., 2009).

Though not the primary focus of this article, it is important to mention that implementation has also faced internal governance challenges. New rights may not reach all community members or even the community at all. It is sometimes assumed that communities already

have appropriate institutions and mechanisms for resource access and control, and that reform will not affect existing institutions. But this is a risky assumption. For example, obtaining rights to a community forest in Cameroon is so bureaucratic and costly that communities often have to rely on local and sometimes external elites for funding, who then hijack the process and usurp the benefits (Oyono et al., 2009). In Ghana, two measures to support benefit sharing from logging with forest-fringe communities – the distribution of stumpage fees and social responsibility agreements – have been largely controlled by traditional chiefs, and there is little indication that community members are benefiting (Marfo, 2009). In indigenous territories, primarily in Latin America, new institutions usually have to be established at larger, territorial scales, which may then be a new site of struggle and conflict (Larson et al., 2010e; Stocks, 2005).

Alternatively, the state may require communities to form a new kind of organisation, such as an incorporated entity, in order to implement new rights. It is particularly common for external agencies to establish new forest management committees in communities. These new entities are likely to overlap and compete with existing community governance structures, while shifting resource rights, priorities and income levels. In the village of Carmelita, in the Petén (Guatemala), the concession organisation overlaid the governance structures that had built up around NTFPs and re-oriented the community towards new high-value timber resources (Monterroso and Barry, 2009). In Layasiksa (Nicaragua), project proponents from the Worldwide Fund for Nature (WWF) insisted that the existing elected authority structure was not appropriate for managing a community logging operation (Larson and Mendoza-Lewis, 2009). Though both communities now run relatively successful forestry cooperatives, some of the tensions and conflicts could have been avoided with greater prior understanding of social and cultural contexts.

4.3 Access to benefits

Policies accompanying reforms can facilitate the ability of communities to act on and obtain greater benefits from their new rights. These include capacity-building measures and the facilitation of market access. More often, however, state policies and bureaucrats impose cumbersome and costly regulations on the use or sale of forest resources. Rather than promoting local *forest* management and recognizing effective local rules where these exist, state regulations tend to prioritize top-down timber management.

Communities interested in logging have to participate in highly cumbersome and costly processes to obtain permits and licenses. These are sometimes the same processes required of logging companies but may include additional rules for communities as well or be applied in ways that discriminate against communities (Larson and Ribot, 2007). Often they challenge community capacity simply to obtain the permits.

The process for establishing community forests is so complicated in Cameroon that none have been established without extensive external assistance (Oyono, 2002, 2004); the required management plan can cost as much as US$55,000 and take up to two years to complete (Smith, 2006). In addition, logging must be undertaken using low-impact procedures. In contrast, short-term concessions to the private sector, known as *ventes de*

coupe, are less regulated, entailing no management plan and no restrictions on logging methods (Oyono et al., 2006).

In the Philippines, although the approved work plan specifies the targeted volume to be harvested annually, the actual volume harvested depends on approval from the Department of Environment and Natural Resources, which issues an annual permit. Without the permit, the cooperative cannot proceed with its timber harvesting operations, but approval can easily take more than six months, leaving the cooperative with only six months to operate. This is in part because it is issued by the department's central office in Manila, and it can cost as much as US$4,700 to obtain. Even after the permit has been issued and the timber has been cut, there are additional regulations to control the transport of harvested timber (Dugan and Pulhin, 2006): communities must obtain a permit for moving timber to the roadside, and another to transport the timber to buyers. The department staff that issue permits are usually many kilometres away, leading to further delays and additional transaction costs (Pulhin et al., 2008).

Nepal's regulations for community forests leave ample room for government foresters to interfere with the rights of user groups, even after communities have satisfied the formal requirements. The main contractual document that guides forest management practice is an operational plan, prepared and agreed upon by the district forest officer and the community user group. Hence, district forest officers often use their administrative and technical influence to add provisions beyond what is legally required. For example, the operational plan of Sundari CFUG includes a provision stating that when harvesting timber from the community forest, the CFUG should get permission from the district forest officer and record the harvested amounts by species. In one case, a CFUG member who wanted to sell 300 cubic feet of excess timber in the market had to visit the range post (a level of local government) more than 12 times over a four-month period before getting the final approval (Paudel and Banjade, 2008).

The combination of complex bureaucracies, high up-front costs in time and money, the lack of credit facility, forest officer interference and the risk associated with demanding formal markets presents major disincentives for community investment in formal management plans. Under such conditions it is very unlikely that communities will undertake community-based logging operations without significant outside support or other incentives (Pulhin et al., 2010). In contrast, regulations for non-timber forest products tend to be less stringent, and communities are more often permitted to manage these resources according to internal rules and traditions.

5. Discussion

The study of tenure reforms presented above demonstrates the many ways in which community rights may be challenged or limited during the reform process. Where there is support for securing community rights, REDD+ will presumably be designed and implemented in governance contexts that are similar to the ones in which these reforms have taken place. Where there is not, the context may be even more unfavourable to communities. Different outcomes are only likely if REDD+ efforts are accompanied by a

substantial effort to challenge the status quo. What can these experiences tell us, then, about tenure rights and rule making for indigenous and other local communities under REDD+?

The three stages of tenure reform each involve a different set of challenges that limit or threaten community rights, as well as benefits of reforms. Statutory reforms do not all promote sweeping changes in rights; some are more modest, and some are more ambitious. The latter appear to have often emerged from grassroots demands – for example for indigenous rights to traditional lands. But whether modest or ambitious, the implementation of reforms encounters delays and obstacles. These include competing interests and demands for the same forests or forest resources (which may include actors ranging from loggers and land grabbers to private industries or conservation organizations), lack of follow-through and attempts to limit the rights granted.

In fact, the state is charged with implementing statutory reforms, but other sectors or actors within the state bureaucracy may also be competitors for resources. Taken as a whole the cases studied demonstrate a variety of practices suggesting such competition: foot dragging with regard to land titling, policy reversals, corruption and the failure to defend new community rights from competing interests and intrusions.

With regard to rule-making, regulations tend to be top-down, highly bureaucratic and sometimes arbitrary. Only in a handful of cases do rules build on successful local, self-management practices and almost only for low-value products (Larson et al., 2010c). Table 2 summarizes the needs of local communities, as they themselves define them, under tenure reforms and the problems found in practice.

Table 2. *Needs of communities and results of forest tenure reforms in practice*

Community needs under reform	Results in practice
Secure tenure rights, implemented in practice	Competition for rights
Rights to forest resources with value	Rights to low-value resources
Rights granted to legitimate customary users and rightsholders	Rights to certain users or elites
Rights, land borders defended by the state	Competition from the state, or from others backed or ignored by the state
State capacity to implement	Weak state capacity
Greater local decision-making powers	Imposed rules, key decision-making powers retained by the state
Accompanying support measures for the use of forest resources	Bureaucracy and restrictions
Community governance capacity and capacity building	Unaccountable local authorities

What is at the root of these problems, and is REDD+ likely to overcome them? In general, across the three different stages of reform, the obstacles facing communities can be grouped into three types: political, technical and conceptual (see also Larson et al., 2010b). Political

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obstacles refer to competition for rights, resources and benefits from forests. They involve actors who oppose or interfere with reforms because they believe they have something to lose if communities are empowered, or who take advantage of reforms for their own gain. They include, for example, loggers, mining or petroleum companies who want resource rights, conservationists pushing for exclusive protected areas, bureaucrats who hold onto power and line their pockets by controlling decisions and resources, and community leaders or elites who seek a disproportionate share of benefits.

Nevertheless, not all interference or problems with failed implementation or follow-through are due to political competition and corruption. Technical obstacles refer to capacity issues. Delays in implementation or the failure of the state to demarcate territories accurately, fairly or in a timely fashion, for example, may also be a problem of human resources such as experience, skill or funding. For their part, communities may not have prior experience in organized, collective forest management. Most reforms are new and constitute a steep learning curve for all involved. Technical weaknesses, however, can be confused with more intentional delays and can also serve as a smokescreen for the political interests of powerful actors. In addition, forest and environmental agencies are often reluctant to cede or share their technical roles with communities.

Conceptual obstacles refer to the extent to which communities are seen as, and given the chance to be, good forest stewards. Conceptual obstacles may also serve as a smokescreen for political interests, but there are also real, legitimate concerns about the future of forests if communities are given greater rights. At the same time, if historic and traditional rights and past abuses of traditional peoples are taken into account, many communities have legitimate claims to rights, and there is little justification for continuing to deny these, or for subjecting these populations to laws and regulations that are more restrictive than those that are applicable to other forest populations.

As a potentially very important funding mechanism, REDD+ could provide financing to address technical and capacity issues; perhaps most importantly, it could improve forest stewardship by making conservation more economically attractive than forest conversion. But unless countries choose to address the underlying political problems explicitly and aggressively under REDD+, there is little reason to believe the results will be particularly favourable for communities.

REDD+ is not primarily a tenure reform, nor are local rights among its priorities. Yet REDD+ will require clear tenure rights, as well as clear rules regarding the use of forest resources. An analysis of 25 country readiness plans (R-PINs), however, concluded:

> '… many R-PINs suggest a very limited analysis (and in some cases understanding) of the existing situation with regards to conflicts over tenure and potential obstacles to reform and implementation. Issues such as … the nature of customary practices and indigenous rights are not consistently addressed. Furthermore, few countries address the need to clarify carbon rights within existing tenure systems.
> 'Given the strong consensus amongst participating countries that improving tenure security is critical for REDD, a deeper and more practical discussion of how these issues may be resolved will be needed….' (Davis et al., 2009).

REDD+ strategies risk not even acknowledging let alone addressing existing forest governance problems, including tenure and international human rights standards (Griffiths, 2008; Seymour, 2008). Without secure tenure rights, local communities are 'vulnerable to dispossession – which could be a major concern if REDD increases land values and outside interest' (Cotula and Mayers, 2009, p. 3).

The experience with biofuels is instructive. Biofuels have increased demands for land, and though, in theory, they should not expand into forests (thereby negating potential positive greenhouse gas emissions effects), this has occurred in some areas. In a review of the evidence across the globe, Cotula et al. (2008) found that where tenure rights are not secure, large-scale commercial biofuel expansion is leading to dispossession of poor people – of the land on which they depend for their livelihoods. In Indonesia, in some cases the expansion of oil palm plantations has resulted in violence and repression and the takeover of indigenous lands without due process (Colchester et al., 2006; Seymour, 2008).

The findings from the study of tenure reforms suggest that there is no reason to believe that community tenure rights would be safe under REDD+. That is, states would not necessarily secure and defend forest rights for communities. Clearly, those communities that already have secure, permanent rights that cannot be reversed unilaterally or arbitrarily should have little to fear. But if their rights are not already secure, communities risk losing access to forest resources, and if a process is launched to secure rights, there are still risks of elite capture, conflict and inequity.

Whether or not rights are secure, rules may be designed and enforced through centralized, top-down processes and institutions. Unless they are broadly focused on the many values of forests, rather than strictly on carbon emissions, they risk repeating the example of the regulatory bureaucracy currently associated with timber – an example far from meeting the demands of indigenous peoples for integral approaches to climate change and a priority on food security. REDD+ rules may restrict local resource access, impinge on local livelihoods, fail to compensate for losses and distribute burdens and benefits inequitably.

6. Conclusion

The study of recent tenure reforms – which were specifically aimed at recognizing or expanding the rights of forest-based peoples – offers insights into potential problems with the implementation of REDD+ schemes. Will states defend communities against competing interests and elite capture? Will they facilitate community participation and share REDD+ benefits with communities? Will states protect community livelihoods if it means lowering potential national income from carbon sales? Or will they simply make the rules and expect, or force, communities to follow them? The findings suggest that the fears of forest-based communities in this regard are not unwarranted.

The failure to defend and secure community tenure rights, and the imposition of externally-designed rules, can clearly have a detrimental impact on communities. But these problems could have a detrimental impact on REDD+ as well. Climate change debates have focused on three main measures of success – effectiveness, efficiency and equity (Angelsen, 2009).

The latter, despite its ethical implications, has the less apparent effect on the economics and practice of avoiding carbon emissions. The failure to address equity issues, however, places the project at risk (see also Angelsen, 2009): it is likely to alienate forest-based peoples, increase conflict and lose the confidence of the international agencies currently promoting REDD+. Conflict could even lead to intentional forest destruction, undermining emissions reductions.

But such warnings may be insufficient to convince governments interested in REDD+ to undertake the kinds of governance transformations that would be required to protect local community rights. Binding agreements, included in REDD+ conditionality, would be more effective. In their absence, protecting community rights and livelihoods and improving the potential for benefits in light of REDD+ requires attention to three key questions (Larson et al. 2010b). What strategies will competing interests use to undermine existing community rights; how will third parties try to take advantage of communities that have gained rights; and what are the most effective strategies for communities to defend and continue to deepen their rights, including to participate in opportunities like REDD+?

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