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Land and Resource Tenure, Natural Resource Management, and Biodiversity

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— THEMES & KEY CONCEPTS



THEMES

- Key tenure and property rights concepts relevant to natural resources governance
- The role of tenure security in promoting multiple goals of natural resources policy goals (sustainability, climate, livelihoods, poverty reduction)
- (Tenure in the SDGs?)
- Multiple policy instruments applied to improving NRM outcomes (payments for environmental services (PES), corporate sustainability commitments, rights devolution)
- Focus on use of tenure reform to promote community forestry
- Restoring Forests, Restoring Community Self-Determination
- USAID contributions to self-determination in forest governance

KEY TENURE POLICY CONCEPTS & TRENDS

- Rights to forests, pastures and fisheries today tend to be owned by states
- Use by companies, families and communities governed by direct regulation
- Short or long term lease or concession rights may be granted, typically to companies

KEY TENURE POLICY CONCEPTS & TRENDS

- Rights devolution advocacy, supported by research, has argued that social and environmental outcomes may be better where communities are granted large share of use and management rights (though not alienation rights)
- Governments generally reluctant to devolve or recognize rights, though notable progress in some countries, particularly rights to forests (often with USAID support).
- Rights important to other NRM policy instruments, e.g. PES, corporate zero-deforestation commitments, forest and landscape restoration (e.g. Bonn Challenge)

TENURE SECURITY SERVES MULTIPLY POLICY GOALS

- Sustainable land use
 - Right holders undertake long-term investments and manage for the long-term when they perceive that their land and resource rights are secure
- Climate
 - AFLOU sector represents 30-35 percent of carbon mitigation potential. Forests represent about 19 percent.
- Livelihoods and poverty reduction
- Tenure security key assumption in major policy initiatives

TENURE SECURITY SERVES MULTIPLY POLICY GOALS

- REDD+, a Payment for Environmental Services (PES) model
- Corporate zero-deforestation commitments (Non-state forest governance arrangements)
- Community rights devolution/recognition
- Forest & landscape restoration

FOR EXAMPLE:

NON-STATE FOREST GOVERNANCE ARRANGEMENTS

- A study of drivers of forest loss in Argentina, Bolivia, Brazil, Paraguay, Indonesia, Malaysia and Papua New Guinea between 2000-2011 found that the production of ‘four analyzed commodities [beef, soy, palm oil, timber] was responsible for 40% of total tropical deforestation and resulting carbon losses.’ Henders, et. al. (2015)
- Non-state forest governance arrangements emerging globally: Key elements
 - Consumer and market expectations that commodities be produced sustainably
 - NGO activism catalyzes consumer expectations through monitoring and advocacy campaigns
 - Investment sector translates consumer signals and advocacy into reevaluations of risk and opportunity
 - Lower interest rates, less risk and higher returns increasingly associated with ESG investments.

CONSUMER & FINANCIAL MARKET DRIVERS OF CORPORATE SUSTAINABILITY COMMITMENTS: A HYPOTHESIS



GROWTH IN SHARE OF COMMODITIES CERTIFIED 2008 – 2013/2014*

Commodity	2008	2013/2014
Coffee	15%	39%
Cocoa	3%	30%
Palm Oil	2%	22%
Tea	6%	18%
Cotton	1%	4%
Bananas	2%	7%
Sugar	< 1%	3%
Soy Beans	2%	2%

Source: The State of Sustainability Initiatives Review, 2014. *International Institute for Sustainable Development*

* Percentage of Standard Compliant Metric Tonnes in Selected Agricultural Commodities

— WHERE & WHY HAS DEVOLUTION OF FOREST RIGHTS CONTRIBUTED TO BETTER GOVERNANCE & LIVELIHOODS



WHAT'S MEANT BY “COMMUNITY FORESTRY?”

- Community Forestry (CF) programs began with a focus on involving communities in *government programs* for reforestation and forest protection.
- CF programs have gradually evolved towards more-devolution of use and management rights, and more active use of forests by the local communities.
- Greater devolution of rights has been promoted by rights groups and donors, arguing that by assigning greater governance responsibility and clear use and management rights to communities, environmental and livelihoods outcomes might be better.
- Developing country governments have for the most part been ambivalent about rights devolution, with a few notable exceptions.



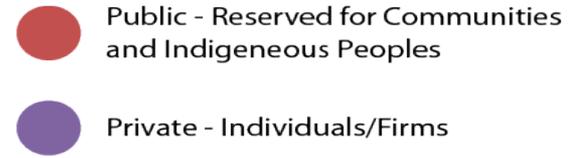
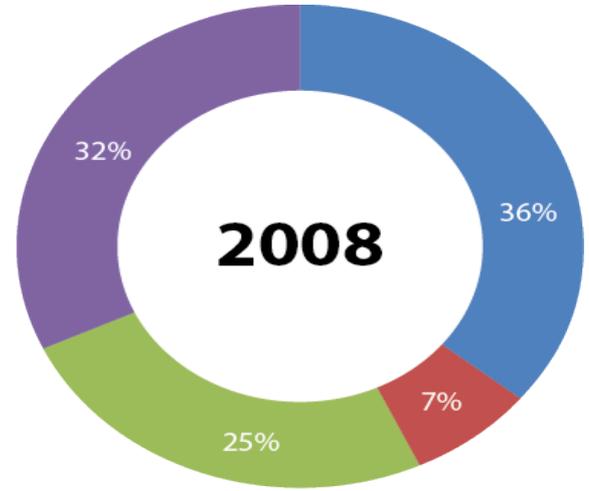
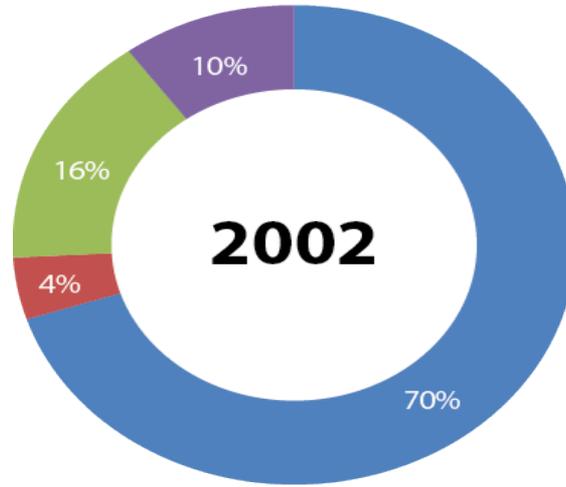
TOPICS FOR DISCUSSION

- The geography of rights devolution
- Research findings on Community Forestry (CF) “success factors”
- The significance of property rights
- Guatemala and Namibia case studies
- A model of the investment effects of rights devolution
- The rights devolution and the future of community forestry

THE FOREST TENURE TRANSITION IN LATIN AMERICA*

Percent Area by Tenure Type

*Source: Hatcher and Bailey, 2011.
(8 countries; 82% of Latin
America's tropical forests).



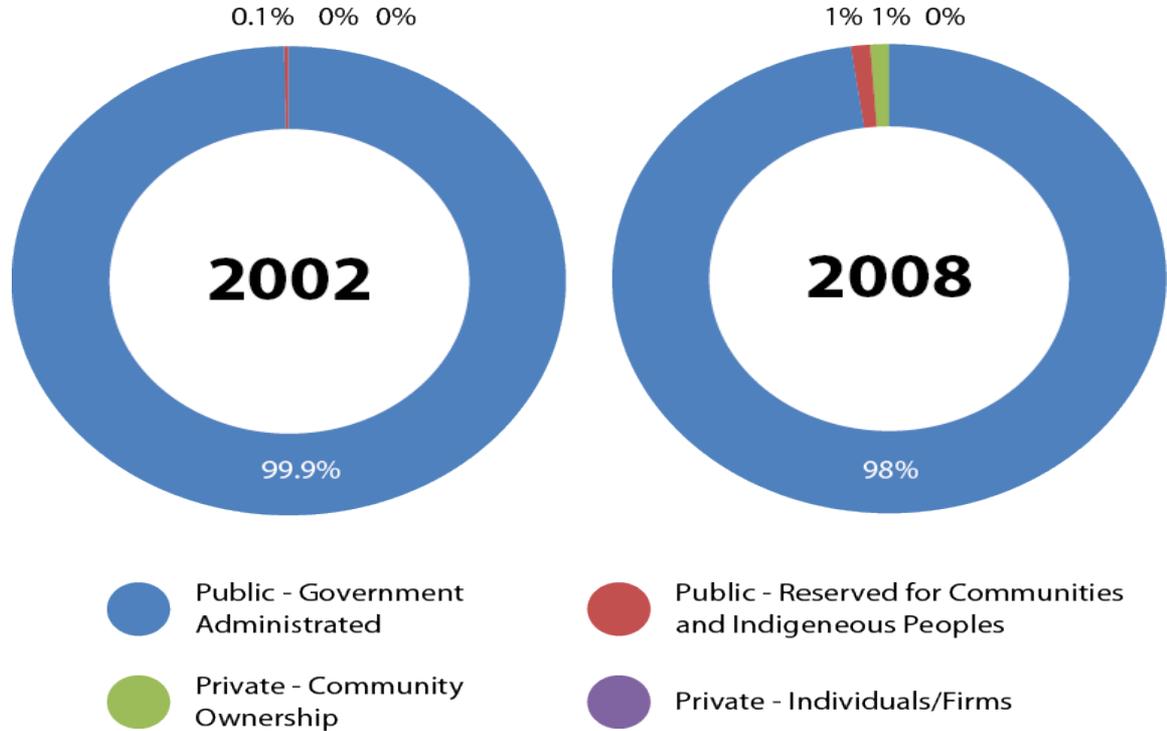
KEY FEATURES OF FOREST REFORM IN LATIN AMERICA

- Forestlands are demarcated and titled as collective or communal properties; States retain alienation rights
- Titles require retention of forest cover
- Emphasis has been on transferring rights to indigenous and ethnic communities
- Social mobilization by Indigenous peoples and civil society - key in promoting and ensuring tenure reform implementation, monitoring the progress and defending the rights:
 - In Peru, over 10 million hectares titled to about 2,000 native communities, around 20% of national forest area
- Considerable diversity in tenure models:
 - Indigenous territories, extractive reserves, agro-extractive and forestry settlements, community concessions, e.g. Guatemala

THE FOREST TENURE TRANSITION IN AFRICA*

Percent Area by Tenure Type

* Source: Hatcher and Bailey, 2011
Tropical Forest Tenure Assessment.
(Data for 8 countries, representing
84% of African tropical forests).



KEY LESSONS FROM AFRICA

BENEFIT-SHARING ARRANGEMENTS FALL SHORT, USER GROUPS RECEIVE LIMITED USE RIGHTS

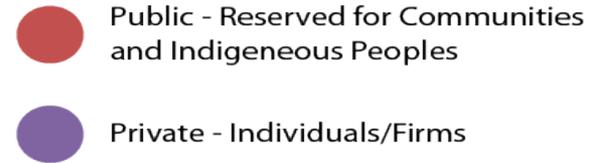
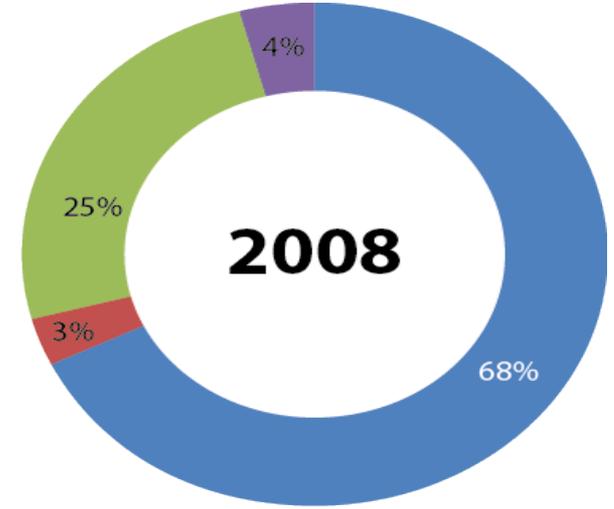
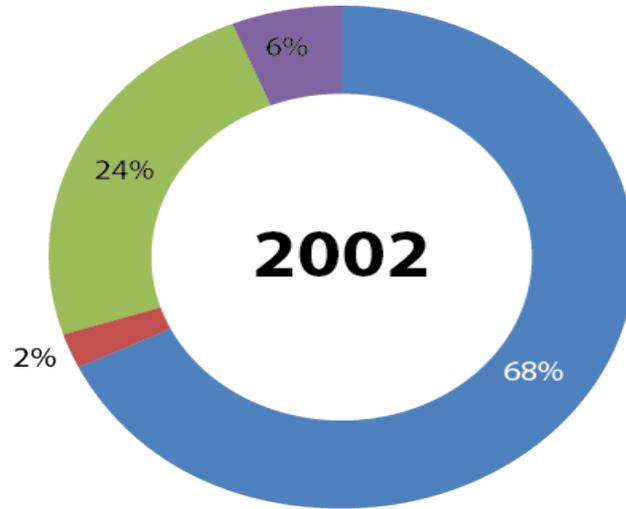
- Focus on benefit sharing arrangements, funded for instance by REDD+ PES schemes, administered by public or nonprofit organizations exercising discretion over terms and benefits
- Benefit-sharing schemes are often expensive to administer and generate high transaction costs for government agencies and village participants alike, and rely on continuation of donor funding
- Also, some focus on establishment of local forest user and conservation groups, licensed to exercise limited use rights in return for conservation services
- For instance, Kenya's Forest Act of 2005 provides for establishment of Community Forest Associations. Registration requires detailed management plans specifying conservation program and permitted extractive activities. CFA management plan approval process faces delays

THE FOREST TENURE TRANSITION IN ASIA*

Percent Area by Tenure Type

Major approaches:
Benefits sharing, rights
recognition, individual and
household allotments

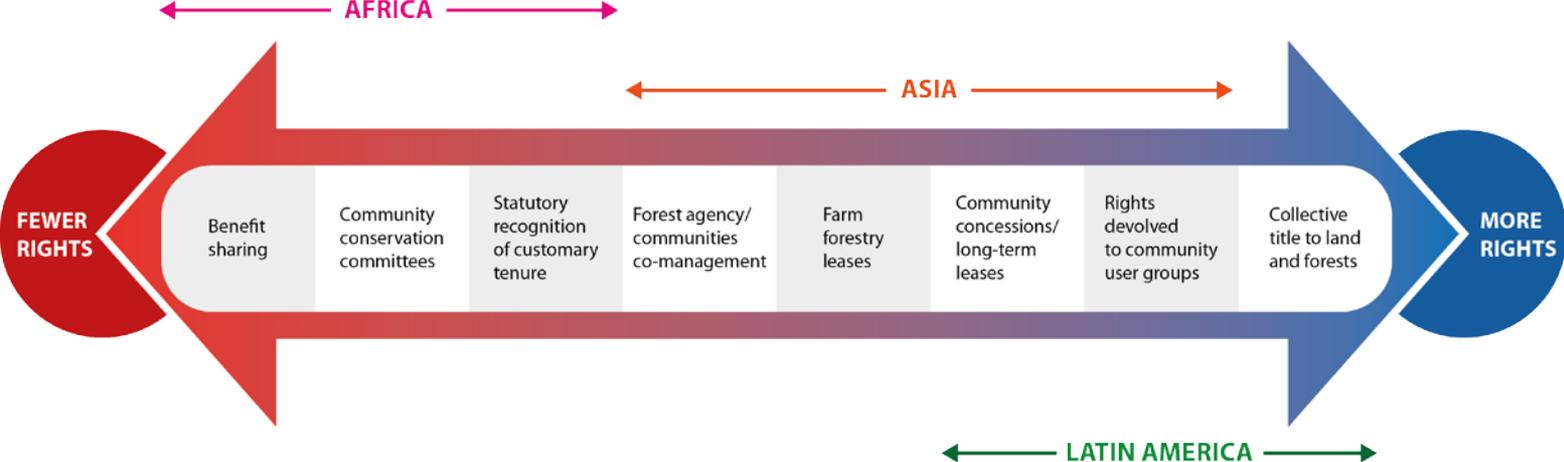
* Hatcher and Bailey, 2011
(8 countries; 90% of Asian
tropical forests but does
not include India or the
Philippines).



KEY LESSONS FROM ASIA

- Variety of approaches
- Nepal's 1993 forest rights devolution to Community Forest User Groups (20,000 CFUGs covering 25% of Nepal) believed to have contributed to significant increases in forest cover, but livelihood outcomes are mixed or uncertain. Significance of large rural labor out-migration as factor reducing pressure on forests not understood
- India's Joint Forest Management (JFM) rationale: communities protect forests from fire, illegal grazing, timber cutting, in exchange for use of non-timber forest products (NWFPs). Disparities between states in success & failure. (Patra). Nationalization of NWFP markets reducing returns to beneficiaries
- Vietnam. Forest Land Allocation (FLA) program grants up to 50 ha of land to families for afforestation
- Indonesia is attempting to devolve use and management rights to some indigenous communities, subject to approved plans and strict use conditions. Implementation slowed by heavy planning requirements

TYPES OF FOREST RIGHTS MODELS BY REGION



“Key factors which influence the success of community forestry in development countries”

- Secure property (tree and land) rights **(necessary)**
- Material benefits to community members **(necessary)**
- Socio-economic status and gender based inequality
- Intra-community forest user group governance
- Government support

Baynes, et al, 2015, Key factors which influence the success of community forestry in developing countries, *Global Environmental Change*, 35, 226–238



— THE SIGNIFIGANCE OF PROPERTY RIGHTS



THE SIGNIFIGANCE OF PROPERTY RIGHTS

Baynes, et al 2015 apply Schlager and Ostrom's (1992) schema of a 'bundle of rights' in which security increases with the duration of tenure in which occupants may

- Access land and withdraw resources from it,
- Manage and improve the land,
- Exclude others from it and
- Sell or lease it

“As these rights are lost, security of tenure decreases and peoples’ motivation for community forestry is subsequently reduced.”

Baynes, et al, 2015

GOVERNMENTS ONLY PARTIALLY DEVOLVE MANAGEMENT RIGHTS, REDUCING TENURE SECURITY

- “The lessons which may be extracted from the literature are that both secure land and tree tenure, provided either through government or extra-legal mechanisms, are necessary success factors”
- Unfortunately governments often only partially devolve management rights (i.e. power) to CFGs, with negative influences on their operations
- The effect of government interference with land and tree tenure is pernicious. For example, in the Philippines, the government’s willingness to revoke community forestry agreements has seriously weakened CFGs
- In Vietnam, Thanh and Sikor (2006), found that formal devolution of land management from the state to CFGs sometimes did not translate to actual rights, resulting in opportunistic overharvesting of residual native forest
- Holland, et al, 2017 found that “forest-friendly” collective titles reduced deforestation rates in Ecuador but use restrictions met with resistance by local people

— THE INVESTMENT EFFECTS OF FOREST RIGHTS DEVOLUTION



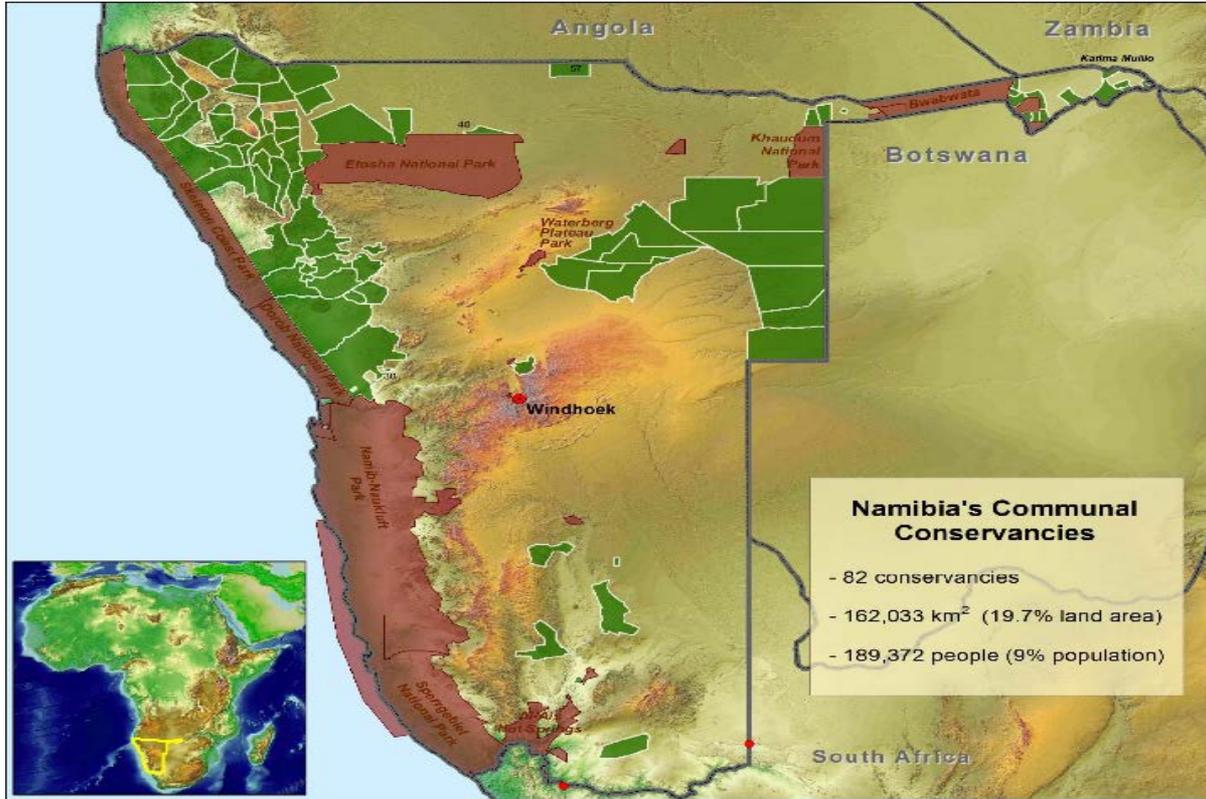
NAMIBIA COMMUNITY CONSERVANCIES

- 1996 law accorded ownership and management rights of wildlife to communities that establish conservancies and adopt management standards. (Nature Conservation Amendment Act, 1996)
- By 2015, 82 conservancies established; covering 162,000 sq. km (19.7% of land area); generating benefits for 189,000 people (9% of population)
- 2014 principal sources of income: Joint-Venture Tourism (43.5%); Sustainable Wildlife Use (39.9%); Craft Enterprises (5.2%); Natural Plant Projects (5.2%)

Photos credit: Namibia Association of CBNRM Support Organizations (NACSO)



NAMIBIA COMMUNITY CONSERVANCIES



NAMIBIA: BENEFITS & ACHIEVEMENTS

- 2014 total revenue, USD 8 million; since inception USD 48.7 million
- 1,700 full-time & 4,000 part-time jobs created (including 532 game guards); income invested in local schools, clinics, water supplies; human/wildlife conflict mitigation; greater perception of voice in governance of resources

NAMIBIA: BENEFTS & ACHIEVEMENTS



- Growth in wildlife population attributed to conservancies:
 - Elephant: 7,600 in 1995; 20,000 in 2012
 - Black rhino: 1980 near extinction; 2020 in 2014 (40% of Africa population)
 - Lion range increased ten-fold between 1995 & 2013
 - 10,000+ head of game moved to conservancies since 1999, including sable, giraffe, black rhino

NAMIBIA:

CHALLENGES / PROBLEMS TO BE ADDRESSED

- Generally weak institutional capacity of conservancies
- Declining or inadequate funding support for the CBNRM Programme
- Increasing human/wildlife conflict; need to increase household-level benefits; competing land uses.
- Increased poaching of rhino and elephant by organized crime cartels
- Growing social media assaults on trophy hunting (40% of conservancy revenue)
- A small number of conservancies generate most of the revenue, due to location near major roads, tourist routes, quantity of game, and competing land uses.
- Less visited conservancies provide important wildlife habitat/environmental services but are under-compensated, raising concerns that farmers in those areas will lose interest in the conservancy approach.(Suich, H. 2010)

MAYAN BIOSPHERE RESERVE

- Located in northern Guatemala, in the department of El Petén
- Encompasses 2.1 million hectares of lowland tropical rainforest; Mayan forests of Mexico and Guatemala make up the largest contiguous tropical forest north of the Amazon.
- Established by Congressional Legislative Decree 5-90 established the MBR in 1990; linked to the peace accord

MAYAN BIOSPHERE RESERVE

- Five objectives: conserve biodiversity; maintain the ecological equilibrium of the area; conserve cultural heritage; provide development alternatives consistent with resource conservation; promote active participation of society
- Three zones: Core zone (national parks, protected biotopes, wildlife preserves) 36%; **Multiple-use zone (40%)**; Buffer zone (24%)
- 14 concessions granted in the MUZ since 1995 (12 community and 2 industrial concessions); 25-year concession term.
- **Community concession adopted from industrial concession model**

MAYAN BIOSPHERE RESERVE

Credit: Hugo Ahlenius, UNEP/GRID-Arendal



BIOPHYSICAL & SOCIO-ECONOMIC OUTCOMES

- Management of principal NTFP Xade improved; lower off-take, higher quality; higher price
- Annual deforestation rate 2001-2009 **0.5%** compared to pre-concession (1991) rate of **1.5%**. (2.0% per year in Peten outside of concessions.)
- Incomes in forested concessions higher than those relying mainly on agriculture
- Employment increased, incomes increased (due to employment and dividends), income sources diversified (hunting, collecting NTFPs, timber, agriculture, off-farm services)
- **Most timber sales are generated by mahogany (75%) and cedar (10%-15%), which are not in great supply, raising concerns about the environmental sustainability of the concessions. Difficult to commercialize non-traditional species (Reyes Rodas, 2014)**

INSTITUTIONAL OUTCOMES

- National Council of Protected Areas (CONAP) is administratively weak, and faces political, legal, economic and social threats due to “lack of response to [drug-trafficking, illegal cattle ranching, pressures of extreme poverty around the protected area, agricultural invasions, pressure for mega-projects] and natural threats.” (Reyes Rodas, et. al, 2014, p .121).



Credit:
Nature.org

INSTITUTIONAL OUTCOMES

- Weak community forest enterprises.:“poor ability to prioritize and plan for investments, **inadequate organizational structure for business purposes**, instability of trained personnel in key positions,” and weak control over available resources.”
- “Lack of long-term entrepreneurial vision among leaders and members.”



Credit:
Nature.org

RIGHTS CAN CATALYZE INVESTMENT IN COMMUNITY FORESTS ENTERPRISES

- Rights devolution “triggers” new kinds of action (social and economic) at the local level and externally that lays foundations for investment in new forms of CFEs.
- Two key points to keep in mind:
 - We are adding a time dimension to understanding “investment readiness” as a *process* of internal and external social and economic development that unfolds through stages, and
 - We want to bring out aspects of the social character of the process, determined by the social, collective character of the resource rights

STAGE I: INWARD INVESTMENT & DEVELOPMENT OF REPRESENTATIVE INSTITUTIONS

- **At the community level**
 - New private investment in housing, education, health; funded by local savings and remittance flows.
 - New community-level organizations formed, catalyzed by rights and the new space for decision-making about forest use made possible by less regulation (Community User Groups)
- **External action(s)**
 - Formation of regional or national organizations/federations representing interests of Community User Groups

STAGE 2: COMMUNITY INSTITUTIONS GAIN CONFIDENCE, LOCAL LEADERS & ENTREPRENEURS EMERGE

- **At the community level**

- Further development of local social capital: NGO-supported small business projects; improvement of forest conditions; CUGs gain experience in sorting out local conflicts. (Emergence of effective local leadership may prove essential to moving into successful stage 2)
- First Community Forestry Enterprises (CFEs) emerge

- **External actions**

- “Forest reform.” Tenure reform *plus* investment, in roads, training, health, education, i.e. in public goods deemed important to help ensure success alongside new rights (analogous to “agrarian reform” programs of the 1960s, i.e. the “full package”)

STAGE 3: STRONGER LOCAL SOCIAL CAPITAL ATTRACTS NEW FORMS OF “BRIDGING CAPITAL”

- **At the community level**
 - Community User Groups license CFEs harvesting and processing goods for the external market, with investment in capital equipment in the form of donor grants and concessionary loans
 - CFEs have a “social character,” in that poor sections of the community may be principal suppliers of NTFPs and labor (note that Nepal law requires that 30-35 percent of income be set aside for Dalits)
- **External actions**
 - Federations of forest user groups focus initially on ensuring efficient government implementation of rights commitments, but may begin to give greater attention promoting commercial investment, including by advocating for investment-friendly regulations
 - Certified forest use and extraction plans meet investment conditions of ESG investors (e.g., Guatemala community forest concessions FSC certified)

— THE FUTURE OF COMMUNITY FORESTRY



THE FUTURE OF COMMUNITY FORESTRY

- Powerful drivers of change in the forestry sector are here to stay:
 - Communities, indigenous people and their partners challenging state hegemony in forest governance
 - Women and previously voiceless challenging and disrupting how forests are used and governed locally
- Secure land rights can amplify benefits of forest rights reforms

THE FUTURE OF COMMUNITY FORESTRY

- States will retain an interest in forest outcomes. Advocates & researchers can foster fresh thinking on appropriate state roles (that reduce over-reach), donors can support reform of forest agencies
- Because of social character of collective tenure, forest enterprises must pursue commercial and social goals simultaneously
- International agreements (FPIC, GCF, VGGT) and corporate sustainability commitments keep pressure on for rights recognition



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