

Strategies to Enhance the Security of Forest Tenure



Why is tenure important?

Without secure rights, forest users have few incentives – and often lack legal status – to invest in managing and protecting their forest resources. While secure property rights cannot ensure sustained protection and investments in an asset, they are often a necessary condition. Unfortunately, ownership rights to much--if not most--of the world's forests are contested with great political tension over who owns, and who should own, the forests. This tension has driven some governments to seek to clarify and redistribute rights as a way to improve basic human rights and the conditions for sustainable conservation.

What is tenure security?

There are two basic components to tenure security, the particular rights that are recognized and the matter of whether those rights are secure.

Land resources can be roughly categorized as privately or publicly owned.

- Private property may be owned by individuals or firms, or owned in common by members of a defined community with shared norms and rules regarding access to it.
- Publicly owned land refers to all lands owned by central, regional or local governments. The public category is further divided into: lands administered by government entities and lands set aside or “reserved” for local communities, including indigenous groups, on a semi-permanent, but conditional basis.

The key elements of tenure security include: legal recognition and support of property rights, the presence of independent judicial arbitration systems, effective regulatory mechanisms and institutions, and a supporting political constituency. The relative importance of these elements will vary from place to place, but are necessary to ensure security over time. Given that formal and informal rules often overlap and create conflict, enhancing tenure security tends to be a long-term, incremental process involving negotiation and conflict resolution.

Strategies for increasing tenure security

There are a number of strategies that public and private actors can undertake to enhance security. These include:

- Active engagement by the public sector to provide leadership and funding of more equitable and efficient tenure arrangements. Efforts to clarify rights, recognize indigenous and other community claims, and strengthen legal and regulatory mechanisms can increase local benefits and incomes, and enable competitiveness of the sector.
- Legal activism to promote community claims. Public interest lawyers can sometimes use an existing legal system to support community claims to natural resources, including forests. They also can test cases in court, challenge decisions, provide the legal expertise to write new laws and fully use the alternative dispute resolution mechanisms that exist in many countries. [Activist-oriented public interest lawyers](#) have been key players behind actions in Australia, Canada, the U.S. and the Philippines.
- Participatory mapping to document community claims. Many non-governmental organizations (NGOs) have adopted mapping as a way for indigenous communities to reclaim historical lands. In fact, [community mapping \(pdf\)](#) has been used successfully for years to make property rights claims

from Canada to Indonesia. This approach usually involves NGO staff employing rapid appraisal techniques with local people to create a physical map of an area. The map is used as a first step to negotiate tenure rights deals with government agencies and private firms.

- Public education and lobbying for those on all sides. Well-informed and active groups can influence policymakers and legislatures during critical turning points in a country's politics. The fall of apartheid in South Africa created an opportunity for the African National Congress government to work with international donors to establish tenure security as a national goal in the constitution. The [Communal Property Associations Act of 1996](#) also was approved, giving groups organized as associations and trusts to hold land titles.
- Support for networks of organizations with capabilities to negotiate and to mobilize political will. In [Nusa Tenggara, Indonesia](#), conflict over logging restrictions applied to local communities despite continued commercial logging of mahogany, led village families to negotiate specific agroforestry activities on small plots within a buffer zone. During subsequent negotiations, formal agreements were reached to allow small land concessions for community members, along with greater discretion regarding their agroforestry activities. In exchange for this increased tenure security, the community assumed responsibility for protecting the forest from illegal logging. As a result, incomes increased and newly planted trees had a higher survival rate.
- Pilot projects to demonstrate the feasibility of community concessions to forest communities. Environmentalists helped establish a national park in Peten, Guatemala, called the Maya Biosphere Reserve. Local residents, however, continued to cut timber out of the reserve—until a solution was found. The government issued at least [four forest management concessions](#) to local communities in the buffer zone. Partner NGOs provided technical, administrative and community organizing expertise. Satellite images reveal that illegal logging and the agricultural frontier have not expanded in the community concession areas. Economic results thus far have produced an average of \$318 per hectare or \$4,400 per family.

Given the likelihood of conflict in the process, many of these approaches require proactive effort. Leaders must take advantage of trends and political opportunities for governments as occurred in South Africa with the fall of the apartheid regime (see example above). Selecting appropriate strategies will require an understanding of these existing conditions, in which key considerations include:

- determining existing incentives and disincentives for forest conservation inherent in existing property rights;
- determining whether a political constituency exists to defend and promote tenure reform;
- determining whether an independent judicial arbitration system exists to handle disputes, and whether there are effective regulatory mechanisms and institutions needed for enforcement; and
- determining the ability to identify the consequences of management activities, which can lead to a redefinition of rights and responsibilities.

Achieving tenure security is a critical step, but certainly not the only step necessary to advance sound forest management and economic development. Policies and market frameworks must be conducive to forest management. The political and economic opportunity has never been as open as it is today for responding to the global challenge and ensuring that enhanced tenure security leads to better outcomes for forests and communities.

Resources:

Ellsworth, Lynn. 2002. [A Place in the World: Tenure Security and Community Livelihoods, a Literature Review](#). Washington, D.C: Forest Trends.

Forest Trends. 2002. [Strategies for Strengthening Community Property Rights Over Forests: Lessons and Opportunities for Practitioners](#). Washington D.C.: Forest Trends. (Includes above mentioned case studies).

Gibson, Clark C., Margaret A. McKean, and Elinor Ostrom. 2000. [People and Forests: Communities, Institutions, and Governance](#). Cambridge, Massachusetts: MIT Press. (not on-line – see link for summary and purchasing information)

Lynch, Owen J. 2000. [Promoting Legal Recognition of Community-Based Property Rights, Including the Commons: Some Theoretical Considerations \(pdf\)](#). Paper read at 8th Biennial Conference of the International Association for the Study of Common Property, May 31-June 4, 2000, at Indiana University, Bloomington Indiana.

Ostrom, Elinor, Thomas Dietz, Nives Dolšak, Paul Stern, Susan Stonich, and Elke U. Weber, eds. 2002. [The Drama of the Commons](#). Washington, D.C.: National Academy Press.

Powell, I., White A. and Landell-Mills N. 2002. [Developing Markets for the Ecosystem Services of Forests \(pdf\)](#). Forest Trends, Washington D.C.

White A. and Martin A. 2002. [Who Owns the World's Forests? Forest Tenure and Public Forests in Transition. \(pdf\)](#) Washington, D.C.: Forest Trends.

Links to further information:

[Center for International Environmental Law](#). Contains publications pertaining to tenure reform.

[Digital Library of the Commons](#). A gateway to international literature pertaining to common property and related issues.

[International Forestry Resources and Institutions](#). A network of collaborating institutions engaged in research pertaining to the institutional dimensions of sustainable forest management.

[The Land Tenure Center](#), University of Wisconsin-Madison. Contains an extensive on-line collection of papers pertaining to land tenure and related issues.

[Regional Community Forestry Training Center for Asia and the Pacific](#). Disseminates information pertaining to community forestry.

The [World Bank Development Forum](#) – see archive of on-line forum on “[Land Issues and Sustainable Development](#)”