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RECOGNITION AND RESPECT FOR TENURE RIGHTS

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ABSTRACT

Recognition and respect for tenure rights has long been recognized as an important concern for development, conservation, and natural resource governance. This paper discusses why secure tenure rights for local communities, indigenous peoples and women are central to good natural resource governance and important for livelihoods and human rights, as recognized in multiple international conventions. The paper reviews both challenges and opportunities for securing rights in practice and highlights successful cases of tenure reform. Communities are likely to continue to face resistance and opposition to recognition, and competition for land and natural resources, from more powerful actors, even after rights have been granted. Successfully recognizing and securing tenure requires a strong, evidence-based understanding of these challenges in order to design effective strategies to overcome them. This includes building coalitions and supporting grassroots organizations and social movements; designing a clear roadmap, with communities, for implementation; supporting the enabling conditions for improvements in livelihoods and effective and sustainable resource management; and monitoring progress to adapt to and confront new challenges.

KEYWORDS

Tenure reform, indigenous communities, governance, community forestry, formalization

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I. INTRODUCTION

Recognition and respect for tenure rights has long been recognized as an important concern for development, conservation, and natural resource governance. At the same time, there is wide variation in understandings of tenure rights and in priorities for rights recognition across actors and contexts. This conceptual paper presents key concepts, challenges and opportunities for recognition and respect for tenure rights to natural resources, with a particular emphasis on those who have often been ignored or marginalized historically – such as indigenous peoples, rural communities, the non-elite or specific marginalized groups within those communities, and women.

Tenure rights with regard to natural resources refer to the social relations and institutions governing access to and use of land and resources (von Benda-Beckmann, von Benda-Beckmann, and Wiber 2006). Tenure rights determine who is allowed to use which resources, in what way, for how long and under what conditions, as well as who is entitled to transfer rights to others and how (Larson 2012). Tenure rights are often described as a “bundle of rights” comprised of rights to access, use, manage, exclude others from, and alienate land and resources (Schlager and Ostrom 1992). Different rights in the bundle may be shared or divided in a number of ways and among stakeholders, along with the obligations and responsibilities associated with rights. The nature of the resource, such as whether it is in a fixed location (e.g. trees or forests), moves (e.g. wildlife), or flows (e.g. water), changes the nature of tenure and resource governance.

Demands for recognition of tenure rights in recent decades, particularly from grassroots movements and communities, reflect an attempt to reverse historical marginalization through the formalization of, and respect for, the legitimate rights of indigenous peoples and communities to the resources that they depend on for their livelihoods. Recognition, in this context, implies a legal process aimed at formalizing, through law or de jure process, rights that are already being held through customary, informal or de facto mechanisms (Fitzpatrick 2005). The term “legitimate tenure rights” has gained currency through its use in the Voluntary Guidelines on the Governance of Tenure (FAO 2012), and calls attention to tenure rights, such as customary or informal tenure, that may not be documented in statutory law. In practice, views and decisions regarding what rights should be granted to which resources and to whom continue to be contested.

Building on this introduction to key concepts, the next section discusses why tenure rights are central to good natural resource governance. This is followed by a section on existing standards regarding tenure rights recognition, particularly as established through international frameworks. The next two sections discuss, respectively, challenges and op-

portunities for recognizing and securing tenure in practice, using examples from research. This is followed by a conclusion and recommendations.

II. WHY TENURE IS IMPORTANT FOR NATURAL RESOURCE GOVERNANCE

Tenure matters because it provides a foundation for local governance, the stewardship of land and natural resources, local livelihoods including benefit-sharing, and empowerment and human rights. After a history of resource centralization, views have begun to shift toward decentralization and devolution of resource rights, but not without ongoing challenges.

Natural resources have been centralized under state ownership over time through a series of processes that have been discussed extensively elsewhere, especially in relation to forests (Peluso 1992, Harrison 1992, Sunderlin 2011); the discussion here draws primarily on the forest literature. Particularly since the 1800s, customary forest rights were denied and local practices were criminalized by colonial governments in Asia and Africa and independent states in Latin America, under both timber and wilderness policies (Gadgil and Guha 1995, Guha 2001, Springate-Baginski and Blaikie 2007, Peluso 1992, Peluso and Vandergeest 2001, Neumann 1998, Wily and Mbaya 2001). Over time, conservation advocates have both challenged and supported the rights of communities living in forests, in policies ranging from “fortress conservation” (Brockington 2002) to advocating for indigenous rights (see Roe 2008 for a discussion). Both a utilitarian view of forests as a source of government revenue (forest use to provide the greatest good for the greatest number) and a more preservationist stance advocated by some conservationists were used to justify absolute state control of the forest resource base and the strict regulation of its use (Larson and Pulhin 2012), thus resulting in the marginalization of local populations.

The result for forests, however, was not good. After decades of state control, numerous forests were in poor condition (Poffenberger 2001). Centralized state management, of both protected areas (Hecht and Cockburn 1989, Rao and Geisler 1990) and logging (Brunner et al. 1999, Poffenberger 2006), had largely failed to control deforestation and forest degradation. Where traditional or indigenous systems had existed previously, states had failed to replace them with more effective institutions (Bromley and Cernea 1989). The overall situation of forest tenure in some of the most important forests of the world had led to severe social conflict and forest destruction (Hecht and Cockburn 1989). Similar patterns have been observed in relation to other types of natural resources; for example, state control of wildlife was associated with declines in wildlife populations in Namibia (Brown and Bird 2011).

Today, views have begun to change, and important tenure reforms are recognizing or transferring ownership, management and/or use rights over land and natural resources to indigenous people and local communities (Aggarwal and Freudenberger 2013, RRI 2014). The changes have emerged due to indigenous rights and other movements and based on increasing evidence of the positive links between community rights and natural resource outcomes (Larson and Dahal 2012). For example, the Nobel prize-winning body of work by Elinor Ostrom demonstrates that, under the right institutional arrangements, local communities and farmers protect and effectively manage natural resources, including common pool resources like forests and irrigation systems (Ostrom 1990). Greater local participation in resource governance institutions has also been shown to lead to better outcomes for both livelihoods and biodiversity (Ostrom and Nagendra 2006).

There is now substantial evidence that tenure security is a necessary, if not sufficient, condition for resource sustainability (Ding et al. 2016, Gray et al. 2015, Stevens et al. 2014). Insecure tenure has been associated with deforestation and forest degradation (Chomitz et al. 2007). By contrast, a systematic review of research on the environmental impacts of different property regimes in forests, fisheries and rangelands found that avoiding open access situations in fisheries and forests and transferring user rights to communities usually led to positive environmental impacts (Ojanen et al. 2015). Secure rights can eliminate the need to clear forest to claim land, a common driver of deforestation in the tropics, and can encourage stewardship of resources over the long term. Tenure is also central to climate change mitigation efforts, as tenure rights determine rights and responsibilities under schemes for Reducing Deforestation and Forest Degradation (REDD+) (Larson 2011, Larson et al. 2013, Sunderlin et al. 2014). A study of 80 forests commons across 10 countries found that institutional arrangements that incorporate local knowledge and decentralized decision making, specifically greater local rule-making autonomy, are associated with high carbon storage as well as livelihood benefits (Chhatre and Agrawal 2009).

Local tenure rights are also important for livelihoods, as well as benefit sharing. Tenure rights define relationships among people with regard to the natural resources that are central to rural livelihoods. Although there are no simple, universal correlations, the potential benefits of tenure rights for livelihoods are fairly straightforward. Secure resource access can improve food security for poor communities and particularly for the poorest members of those communities (Place 2009). Tenure arrangements that grant communities secure and exclusive use rights and the right and capacity to exclude outsiders is likely to decrease outside competition for resources. Under the right circumstances, secure tenure can foster community engagement in new resource-gen-

erating activities like community forest management, payments for ecosystem service schemes, or community tourism. Formalization of tenure rights establishes the legal foundation for benefit-sharing arrangements with outside companies, such as oil palm (intiplasma schemes in Indonesia) or logging companies.

Tenure is also important from a gender perspective. Women and families depend on tenure security for secure livelihoods and resilience. For example, women's tenure rights have been found to be associated with their increased participation in household decision-making, increases in household income, and increased expenditure on food and education (Giovarelli, Wamalwa, and Hannay 2013). However, women's security is not the same as men's, and their tenure rights tend to be weaker than men's in rural areas of developing countries (FAO 2011). Securing women's participation in decision-making is seen as integrally related to securing women's resource rights (United Nations 2013), as women "have different needs, uses and knowledge in relation to their ecosystems" (Aguilar 2016, xxvi). Agarwal (2015) found a significant positive correlation between the number of women on community forestry executive committees and forest conservation outcomes. In another study, women's participation in forest-related decision making was found to be highly correlated with less disruptive conflict (Coleman and Mwangi 2013).

Tenure is also important for the empowerment of indigenous communities. Indigenous peoples have fought before international courts and the United Nations to have their rights recognized to their land and resources, to full and equal participation in society, and for the right to self-determination. Their greatest successes have been in Latin America, where multiple regimes for recognizing indigenous rights to land and territory have been adopted (Roldán-Ortiga 2004, Stocks 2005). In the 1970s and 1980s, the strategy for self-determination taken by the Coordinating Body for Indigenous Peoples' Organisation of the Amazon Basin (COICA) "mark[ed] a conceptual shift from the liberal conception of land as a means of production, to territory as a spatial concept with much wider cultural and political connotations" (Hvalkof 2002, 93). Today, indigenous movements see the right to territory as inseparable from rights more broadly (Larson et al. 2016), as "struggles over land, forests, pastures and fisheries are struggles for survival, self-determination, and meaning" (Murombedzi, Ribot, and Walters 2016, iii). In addition to providing the basis for their livelihoods and cultures, indigenous peoples assert that rights to lands, territories and resources are fundamental to their ability to protect and maintain their environments (Tauli-Corpuz 2016).

Although rights recognition has improved overall, old pressures on land and resources – competition for control and for profits – continue and are exacerbated by new ones, such as climate change, resource declines and degrada-

tion, and new interests in large-scale agribusiness, biofuels or carbon sequestration. Greater recognition and security of tenure also help to guard against the risk of negative impacts on people and ecosystems posed by large scale land acquisitions for agriculture and extractive industry (German, Schoenveld, and Mwangi 2011). However, conflict and lack of clarity over tenure are still the norm in many places, and this condition works to the advantage of some actors, discouraging resolution (see Fitzpatrick 2006). Violence is still far too common: Global Witness reports 908 people killed in the decade from 2002 – 2013 because of their work on environment or land issues, over half of them in Brazil (Global Witness 2014). Although some, perhaps many, isolated communities are still able to live relatively free of threat under customary norms, it is not clear how long this could last without formal recognition serving as some kind of protection for the future.

III. INTERNATIONAL STANDARDS REGARDING TENURE RIGHTS

The prominent recognition of tenure rights as a critical element of good governance is reflected in a range of international frameworks that have been adopted on rights to lands and resources.

As discussed by Silverman (2015), the Universal Declaration of Human Rights establishes rights to property alone and in association with others.¹ Rights to property are further guaranteed through the American Convention on Human Rights² and the African Charter on Human and Peoples' Rights.³ The Inter-American Court of Human Rights has further held that the concept of property is not only defined in domestic law, but also by indigenous peoples' customary land tenure.⁴

Indigenous peoples have been a particular focus of international instruments recognizing tenure rights, in light of the close relationship of indigenous peoples to their customary lands. International Labor Organization Convention 169 on Indigenous and Tribal Peoples, adopted in 1989, recognizes the rights of indigenous peoples to lands, territories, and resources that they possess by reason of traditional ownership or use.⁵ The United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in 2007, further affirms the rights of indigenous peoples to their traditional lands, territories and resources (Article 26), prohibits indigenous peoples' forced removal from their traditional lands (Article 10), and establishes that states should obtain the free, prior and informed consent of indigenous peoples before approving any project that affects their lands, territories or resources (Article 32).⁶

With regard to women's tenure rights, international law also recognizes the equal rights of women to own and benefit from property (Silverman 2015). The Convention on the Elimination of All Forms of Discrimination against Women

(adopted in 1979) includes a provision on the equal rights of women to "ownership, acquisition, management, administration, enjoyment and disposition of property". The Beijing Declaration and Platform for Action, from 1995, 2000 and 2010, also calls for women's rights to inheritance and land and property ownership. In addition to international frameworks, there has been substantial progress with regard to national constitutions and laws (World Bank, FAO, and IFAD 2009). According to United Nations (2011), "at least 115 countries specifically recognize women's property rights on equal terms with men" (cited in United Nations 2013). Nevertheless, the implementation of these measures has been very weak (United Nations 2013).

The *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, unanimously endorsed by the UN Committee on World Food Security in 2012, reflects a broad global consensus on the importance of land and resource tenure for development, food security, environmental resilience, and human rights. The Voluntary Guidelines particularly call on States to ensure that policy, legal and organizational frameworks recognize and respect all legitimate tenure rights, including customary rights not currently protected by law and women's tenure rights (FAO 2012). In addition to recognizing and respecting all legitimate tenure rights, the guiding principles of the Voluntary Guidelines call on States to safeguard legitimate tenure rights against threats, promote and facilitate the enjoyment of tenure rights, provide access to justice for infringement of tenure rights, and prevent tenure conflicts. The Guidelines further note that non-state actors, including business enterprises, have responsibilities to respect human rights and legitimate tenure rights (FAO 2012).

Land and resource tenure is also included in a number of important global goals and initiatives. The Sustainable Development Goals adopted by the UN General Assembly in September 2015 include several targets on land.⁷ Under the Poverty goal, target 1.5 sets target of equal rights to ownership and control over land and other natural resources for all men and women, particularly the poor and vulnerable. To achieve the Food Security goal, target calls for secure and equal access to land for small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers. The Gender Equality goal includes a target on reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property (see United Nations n.d.-a).

Recognition of the importance of tenure issues to the equitable and effective implementation of REDD+ initiatives is further reflected in the adoption of tenure provisions in REDD+ safeguards and standards (United Nations n.d.-b). The UNFCCC Cancun Agreement safeguards (Appendix 1)

calls for respect for the knowledge and rights of indigenous peoples and members of local communities, and for the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities. While gender is not specifically highlighted in the safeguards, the Cancun Agreement refers to the importance of gender equality and effective participation of women for effective action on climate change (Silverman 2015). The UN-REDD initiative Social and Environmental Principles also include provisions to: Respect and promote the recognition and exercise of the rights of indigenous peoples, local communities and other vulnerable and marginalized groups to land, territories and resources, including carbon (Principle 2, Criterion 7).⁸

These international standards, among others, set the context of expectations for all relevant actors in their actions affecting tenure rights, including in natural resource and conservation contexts.

IV. CHALLENGES OF RECOGNIZING AND SECURING TENURE

Successfully recognizing and securing tenure require a strong, evidence-based understanding of the many challenges of and sources of opposition to reforms, in order to design effective strategies to overcome them. Securing tenure rights faces multiple challenges. These are not only manifest before winning the right to formalization and establishing the policies that would bring this about but also extend through processes of implementing and exercising rights. Challenges range from resistance and opposition to deficits in human, technical and financial resources at all levels, as well as broader governance problems such as weak rule of law. Efforts to formalize and secure tenure rights need to be attentive to these challenges, which affect whether new statutory rights result in rights in practice (Larson, Barry, and Dahal 2010), and whether rights in practice result in improvements for livelihoods or for natural resources (Larson 2011). This section summarizes challenges in three stages of reform: the formal recognition of rights, in general terms; the implementation process and granting of rights to specific populations; and the exercise of diverse tenure rights in practice for communities and for natural resources.

The first stage in formal recognition is to get the legal framework in place that establishes the right in general terms, thus allowing specific communities to apply for recognition under the new law. This reform requires overcoming resistance to indigenous and community rights from multiple arenas, for example: those who believe natural resources should be managed by the state for the greatest public good; development interests that support large-scale private investment and see granting resources to communities as taking them out of production; and conservationists who

fear local people will overexploit resources and prefer models such as parks without people (Larson and Pulhin 2012). These particular perspectives or worldviews combine with more questionable opposition due to competition for control over resources and biases such as racism to stack the deck against rights recognition.

Formalization has also commonly, in the past, prioritized private individual rights over collective rights, which can sever the web of multiple legitimate and distinct claims of women, youth, seasonal users and others and impact sustainability where larger scale collective governance is a better fit with the management needs of ecosystems and resources (Meinzen-Dick and Mwangi 2009). Although this has changed in important ways, such as among multilateral agencies like the World Bank (see Augustinus and Deininger 2006), there are still strong advocates for breaking up collective lands for individual titling (see DeSoto 2011) and policies that encourage this, e.g. laws in Mexico and Peru that facilitate the division of collective lands (Chirif and García-Hierro 2007). These policies represent a particular and hegemonic market-oriented perspective on development, which tends to favor corporate sector actors and elites, who often have powerful friends in government.

Most commonly, opposition to formalization for communities results in a weak legal framework or substantial limitations on the rights granted (Larson and Pulhin 2012). These may be in the form of short-term or temporary rights, such as community forestry in Cameroon or the Philippines or the Modified Taungya System in Ghana, or weak legal instruments such as decrees, agreements or local regulations that can be overturned by a unilateral decision (e.g. community forestry contracts), rather than constitutional amendments or laws such as those establishing Brazil's indigenous lands (the 1988 Constitution) or community forestry in Nepal (the 1993 Forest Act and the Forest Regulations of 1995) (Larson, Barry, and Dahal 2010, Larson et al. 2010). The bundle of rights may also be limited. For example, reforms that fail to grant exclusion rights mean outsiders can extract community resources, and management rights may be limited in ways that undermine local stewardship and benefits.

Once rights are conferred by law, implementation challenges to ensure that formalization actually benefits rural citizens remain. One set of challenges concerns who is best able to take advantage of new opportunities under the law. In their review of the history of formalization in three countries, Kelly and Peluso (2015) conclude, "Contemporary state actors allocate vast areas of state lands to private, often foreign, developers for capitalist production, with nary a concern for the interests, needs, and claims of most of their citizens" (488). There may be an open battle for legitimacy (who is the legitimate rights-holder) or a more covert one. That is, competition for resource control does not end with the creation of a law recognizing rights for indigenous people or local communities.

The process of formalization can also create risks of a breakdown of property rights systems into open- or contested-access areas due to the superposition of, and conflict between, formal and customary property systems (Fitzpatrick 2006). Related risks include increased competition and land-grabbing (Cronkleton et al. 2009), the favouring of some groups over others or inattention to existing customary arrangements (Sikor and Nguyen 2007, Sikor and Thanh 2007, Meinzen-Dick and Mwangi 2009). Formalization can create opportunities for elite capture by more powerful players, external or internal to a community, who obtain rights to lands, forests or other natural resources that had previously been under the customary control of the community; this is particularly true when formalization involves titling where there are multiple, overlapping rights (Cousins 2007, Mwangi 2007, Peters 2002, 2004).

In Bolivia, for example, the government placed a moratorium on land sales when the Guarayos indigenous territory was in the process of resolving conflicting land claims and demarcating borders. Demarcation began in the more remote areas, while “accessible areas were subject to heavy pressure from colonists, loggers, and other actors [who were] strategically placed to take advantage of the situation to occupy land”; that is, powerful actors ignored the moratorium and participated in extensive land grabbing (Larson, Cronkleton, and Pulhin 2015, Cronkleton et al. 2009).

Not all implementation challenges emerge from competition, however. The rules and regulations created for formalization can often be burdensome for communities, requiring high time and financial investments. Land and resource management may be subject to multiple types of regulations, such as “rules that limit areas available to local communities; rules that delineate conservation areas and impose limits on use; and bureaucratic requirements for permits and management plans, which restrict the commercial use and marketing of valuable forest products” (Larson and Pulhin 2012). Such restrictions often go beyond what is needed for sustainable resource management, and instead undermine incentives and support for it.

Similarly, formalization requires ongoing investment of resources by government agencies. Resolving overlapping claims, such as to land and forests, requires demarcation, up-to-date cadasters, conflict negotiation and mediation and the technical, financial and human resources to carry this out. For example in the case of Peru, after more than 40 years of reform implementation to recognize indigenous rights through communal land titles, fewer than 10% of the titles granted in the Amazon region have been geo-referenced and/or registered properly (Instituto del Bien Común 2016, 25). This lack of unified official data is a major bottleneck and has resulted in overlapping conflicts. Constant changes in regulations and institutional mandates of government institutions in charge of implementation result in major

incongruences resulting in titling processes that have taken over 15 years. In fact in a recent survey in Peru of agents of implementation more than 80% of respondents raise concern of existing incongruences and lack of coordination between government institutions involved. Additionally, while regulations specify that sub-national governments are in charge of implementing titling procedures, these entities lack the financial and human resources to be able to fulfill this mandate (CIFOR 2016).

Weaknesses in legal frameworks also emerge in the process of implementation. Tres Islas is an indigenous community in Peru. As explained in a *Forest News* blog from October 6, 2016, one of the community’s main complaints is that, when they obtained the title in 1992, community leaders thought they were also obtaining the right to the resources on their land and to exclude others from entering their territory to extract resources. This exclusion right was not officially granted, however, so when they tried to build a barricade to prevent intrusions, mainly by illegal miners, they were fined and jailed. Tres Islas finally won its exclusion right after the landmark ruling of the Peruvian Constitutional Court in 2012 upholding the community’s autonomy to control access to its territory.

The case of Tres Islas is not uncommon. In many countries the state retains formal ownership over natural resources, although the extent to which control is exercised varies from between countries and resources. Rights to resources such as forests may be granted with a land title; rights to water are often not. Ownership over subsoil resources is often retained by the state. “New” resources such as carbon, associated with emissions reductions schemes such as REDD+, are still largely undefined (Loft et al. 2015). In practice, this means, on the one hand, that people from outside the community may have legal rights to resources within the community and, on the other, that community access to resources – particularly the most valuable ones (such as forests as in the case of Peruvian Law 29763) – is often governed by onerous regulations. In many cases, the latter makes it extremely difficult for communities to benefit from valuable resources without substantial external support (Larson and Pulhin 2012, Cronkleton, Pulhin, and Saigal 2012).

Finally, the challenges do not end after communities have obtained their title, contract or other legal document. Other questions remain: to what extent is the right secure, free of threat, and able to be exercised? Does it improve livelihoods and/or the condition of the resource? Does it improve access to benefits, and does it do so in a manner that is equitable with regard to internal community relations?

Formalization can help protect against land invasions or competition for rights, but this is not guaranteed, and minimally requires ongoing vigilance; it may also require time

and resources such as for lawyers and grassroots mobilization. In the case of Nicaragua’s newly titled indigenous territories, for example, non-indigenous peasants continue to migrate into these areas, although it is illegal, and government authorities have done little to stop them. The result has been increasing tensions, including violence and armed conflicts, with a number of people killed.⁹

In Guatemala, the Peten community forestry concessions have been challenged repeatedly by the prospect of park expansion around the Mirador Basin archeological site. The interest in promoting cultural-archeological tourism in the north of the Mayan Biosphere Reserve, expanding an existing national park, could result in the annulment of existing concession contracts affecting at least five community forest groups. While community organizations, through legal battles, have been able to halt the expansion process to date, proposed changes in regulations could renew the project (Paudel, Monterroso, and Cronkleton 2012, Devine 2016). If successful, it would revoke existing community concessionaire rights to make room for an initiative led by private investors. A land title is only as good as the ability and will to enforce it.

An additional challenge for collective rights is what happens internally to communities, particularly for marginalized groups or women, or for temporary or migratory resource users who are also from poor populations. In Nepal, for example, granting rights to settled communities ignored the customary rights of transhumant pastoralists in Nepal’s high hills, leading to a large drop in the population (Paudel, Banjade, and Dahal 2008). In Cameroon, indigenous hunter gatherers are not included as part of the “community” of agriculturalists (Oyono, Kombo, and Biyong 2009). In other cases, local elites have been able to take advantage of reforms for their own benefit. There is considerable debate in the context of sub-Saharan Africa over the re-emergence of chiefs and customary authorities under democratic regimes in some countries (see, for example, Ribot 2004, Ntsebeza 2005, Mwangi 2007, Ribot, Chhatre, and Lankina 2008, Cousins 2011, Nuesiri 2014).

With regard to women, multiple studies (Fonjong, Fombe, and Sama-Lang 2013, Westendorp 2015, Kaarhus and Dondeyne 2015, Mhache 2014) exemplify how local customs, norms and traditions in different ways could hinder the implementation of new laws giving women equal rights to land, mainly in Africa and Asia. There is little research on women’s access to resources under collective tenure regimes. Women often face different risks as tenure reforms are implemented (Namubiru-Mwaura 2014, FAO 2010, 2002). Not only is their access and control over resources often tied to their relationships with male relatives, but also they tend to be heavily dependent on forest resources (Meinzen-Dick et al. 1997, Bose 2011, Agarwal 1990). An assessment of women’s land rights by United Nations (2013)

states, “A major part of the remaining challenge revolves around implementation and enforcement. Even in countries where good laws exist, women frequently do not enjoy their rights to access and control productive resources.”

These implementation challenges also affect the relationship between formal rights and resource stewardship. Studies have shown that deforestation is less in indigenous and community forests, as compared with surrounding areas, where communities have legal rights and the support of the state, such as for enforcement of their rights or for community forestry (Stevens et al. 2014). The extent and nature of tenure security or threats, as well as the right and capacity to exclude unwanted outsiders are important. Another important variable is the economic value of the resource to community livelihoods, and related to that, the resource governance regime. The role of the state is central – in the reform, the relationship to communities and whether it facilitates or inhibits good community management.

V. OPPORTUNITIES AND APPROACHES TO ADVANCE TENURE RECOGNITION AND SECURITY

Despite the challenges associated with recognizing and securing tenure rights, the growing awareness of the role of tenure in achieving development and environmental goals has created a range of new commitments, initiatives, and policy openings at the country level. Several countries are in the process of reforming their legal frameworks for land tenure, such as Cameroon and the Democratic Republic of the Congo. In other countries, such as Kenya and Liberia, new land laws have recently been enacted. Advocacy regarding the impacts of large-scale land acquisitions have prompted private sector commodity investors to adopt commitments to avoid “land grabbing” in their supply chains (e.g., see Oxfam 2016). Initiatives such as the Global Donor Working Group on Land and the European Union program of support to implement the Voluntary Guidelines on Governance of Tenure indicate that some international donors are providing support to tenure-related activities. These opportunities also highlight the importance of learning lessons from previous tenure reforms, including key conditions for reforms and practices that can help advance them.

Reforms have emerged under a variety of conditions, although there are some common characteristics. Most reforms would probably not emerge or progress without grassroots social movements, often arising from deep social unrest or overt conflict, together with strategic alliances and networks. When governments have been reticent to support indigenous rights, these advocates have put pressure on congress, turned to national and international courts, and lobbied other external organizations that can put pressure on their national government. India’s Forest

Rights Act, the Constitutional recognition of customary lands in Indonesia, and indigenous rights to ancestral lands in many Latin American countries all emerged from strategic mobilization (Stocks 2005).¹⁰ These experiences highlight the importance of support for grassroots organizations and coalition-building to foster and sustain reforms.

Another important condition for effective tenure reform is the support of government, or more precisely, of key advocates or allies within government. While the impetus often comes from the grassroots, it is the government – often the legislature, sometimes a particular ministry – that has to adopt a legal reform and the institutional framework for the recognition of tenure rights. Reforms that have emerged under progressive (pro-indigenous or pro-peasant) or populist (rightwing or leftwing) regimes include Peru's first indigenous land law (Law 22175 of 1978), Mexico's ejidos (the Agrarian Law of 1915, reformed in 1992) and Tanzania's village lands (Village Land Act of 1999). Brazil, large-scale reforms in the Amazon emerged with the return to democracy after the end of an authoritarian regime in 1985, as did the first social forestry regimes in Indonesia.

Beyond the enactment of laws, successful implementation requires ongoing investment in institutional capacities at all levels. Government agencies need clear mandates, strong capacity, and sufficient resources to carry out their roles in titling, enforcement, and conflict resolution. The strength and autonomy of local governance institutions are also critical for implementation of tenure reforms and to enhance the links between tenure rights and effective resource governance. In a study of biodiversity conservation in Costa Rica, Basurto (2007) found that "Local autonomy can help local institutions increase their potential for biodiversity conservation as long as there are well-defined institutional arrangements in place." Similarly, Ostrom and Nagendra (2006) found that greater local rule-making autonomy has been shown to lead to better outcomes for biodiversity and livelihoods. In a comparative synthesis of case studies from East Africa and Mesoamerica, Hayes and Persha (2010) similarly highlighted the importance of local resident rulemaking autonomy, as well as the importance of "external financial and institutional assistance for monitoring and enforcement of local rules" and of support for "buffer[ing] residents and their respective local institutions from more powerful, and at times corrupt, actors and agencies."

Nepal's community forest user groups provide an important example of how greater tenure security has enabled community-based institutions to build sustainable livelihoods and improved forest management at scale. While forest devolution started in Nepal since the mid-1970s, major progress in terms of community forestry was observed once the 'Master Plan for the Forest Sector' (1988) adopted a 'user group' approach, which was based on the existing indigenous forest governance arrangements in various parts

of the country (Gilmour 1990). Traditional users were granted usufruct rights over the forest. The Forest Act (1993) and Forest Regulations (1995) offered strong legal backing for community forestry, which has since contributed to community development, institutionalized inclusive and democratic governance at the local level and developed leadership of women and other marginalized members (Pokharel et al. 2008). Currently there are over 18,000 forest user groups managing over one third of Nepal's forest area.

Combining community tenure reforms with strong measures to decrease economic pressures from extractive industry and agribusiness has proved to be a successful strategy for ensuring that rural peoples and ecosystems benefit from tenure reforms. One of the most successful examples of rights recognition resulting in greater tenure security and large declines in resource degradation (specifically deforestation by large-scale investors) is the case of Brazil. As mentioned previously, the Brazilian government recognized indigenous rights in the 1985 Constitution when the country returned to democratic rule, as an effort to address inequity and social conflict in the Amazon. Multiple land and forest regimes (e.g. protected areas, sustainable use areas, and agrarian reform settlements) were developed between 1988 and 2003 with the largest area dedicated to indigenous lands, totaling over 100 million hectares as of 2013 (Gonçalves and do Valle 2014). In 2004, it began the Action for Deforestation Prevention and Control program (PPCDam), which combined strong legal tenure rights with strict forest cover regulations, monitoring and sanctions. The government also ended perverse subsidies, for example placing a moratorium on soy production from forested areas. Finally, incentives were provided through the Amazon Fund. The result was an impressive decline in deforestation "from a 10-year average of 19,500 km² year through 2005 to 5843 km² in 2013, a 70% reduction" (Nepstad et al. 2014). The sustainability of these gains has been questioned recently, however, as deforestation rates have risen again since the historic low in 2012.

Ensuring that reforms create enabling conditions for communities to develop resource-based livelihoods, with strong financial and technical support to meet regulatory requirements, has been another important approach. Guatemala's community forestry concessions are an exceptional example of community management regimes with positive results for both forests and livelihoods. Between 1994 and 2001, the Guatemalan government, with the backing of important international donors, signed 12 25-year community concessions contracts (for areas ranging from 7,000 ha to 85,000 ha) inside the Mayan Biosphere Reserve (MBR) with local community groups (Radachowsky et al. 2012, Monterroso and Barry 2012, Taylor 2010). The previously conflictive forest landscape was transformed, as communities were granted rights to manage and sell both high-value

timber and non-timber forest resources in about 400,000 ha. Although the regulations were strict, requiring FSC certification, it was possible for communities to meet them because of the investment made in the arrangement by multiple actors, including the commitment of key government supporters (Monterroso and Larson 2013). A comparative study of forests in the region (the Maya Forest of Mexico and Guatemala) found no significant difference in deforestation rates between the community concessions and protected areas (Bray et al. 2008). Income from collective timber and non-timber sales surpasses US\$44 million and is distributed to members, invested in social infrastructure and reinvested in community forest enterprises (Monterroso 2016).

The cases from Guatemala and Nepal also demonstrate the ongoing importance of social movements, and specifically the higher-level federations of community organizations, to overcoming implementation challenges (Paudel, Monterroso, and Cronkleton 2012, Taylor 2010, 2012). A comparative study of the Association of Forest Communities of Petén, Guatemala (ACOFOP) and the Federation of Community Forest Users Nepal (FECOFUN) found that both were important to the emergence and success of tenure reforms, particularly in light of ongoing threats (Paudel, Monterroso, and Cronkleton 2012). These two federations, in very different contexts, influenced reform processes and outcomes in common ways: (1) enhancing the performance and effectiveness of community groups, organization and livelihoods efforts, (2) improving public support for community rights and forest management, (3) effectively challenging top-down government policies that would have undermined community rights, while increasing government accountability and responsiveness, and (4) formulating and proposing people-oriented policies (Paudel, Monterroso, and Cronkleton 2012).

Granting a significant and meaningful portion of the bundle of rights is also important for success. Tanzania's community based forest management (CBFM) has been lauded as the model mechanism for transferring and securing forest ownership rights to forest residents, promoting sustainable forest management and ensuring that communities benefit from their forests. Unlike Tanzania's Joint Forest Management (JFM) program, which has been less successful (Persha and Meshack 2015), CBFM has a strong basis in village land ownership. Introduced in early 2000s, CBFM has expanded from 544 villages (323,220 hectares) in 1999, when the Village Land Act was passed, to over 2328 villages (covering about 2,400,000 hectares) in 2012 (TNRF 2013). CBFM implementation usually involves an initial NGO/donor supported phase lasting about 3-5 years with subsequent implementation solely by the communities with technical support from local governments. While there are several success stories, one case stands out as unique. The Mpingo Conservation and Development Initia-

tive (MCDI) supported CBFM implementation in Kilwa District in South-Eastern Tanzania (see MCDI n.d.). It started in four villages in 2004 and expanded to 17 villages by 2016. In this program, the CBFM mechanism secures collective forest ownership, management and use rights at the village level; sale of certified timber and carbon credits generate revenues. In 2009, Kikole became the first village in Eastern and Southern Africa to generate revenues from sustainably and selectively harvested timber using Forest Stewardship Council (FSC) certification; as of 2016, 17 villages now benefit from FSC certified timber sales (Mshale 2016).

Specific attention to the tenure situation and needs of women and marginalized groups can overcome risks of exclusion from the benefits of tenure recognition. Cameroon provides an example of how to build recognition of the importance of women's customary tenure rights. The Cameroon branch of a regional organization aimed at advancing women's tenure rights, REFACOF, has worked with rural women throughout the country and developed strategic alliances to influence both parliamentarians and traditional authorities (chiefs). One result was a Common Position document from the Traditional Chiefs in Cameroon and a reinterpretation of customs that appeared to discriminate against women. One position of the National Council of the Traditional Chiefs (CNCTC) stated that, "Custom is not an obstacle for women in land tenure. May the traditional leaders who administer the land customarily sensitize head of families for an end to the frustration experienced by women holding land" (Bandiaky-Badji et al. 2016).

Finally, ongoing vigilance is also required to increase the potential for long-term security of tenure. The example of rollbacks in Brazil, after initial strong success, both in securing indigenous rights (Gonçalves and do Valle 2014) and in lowering deforestation rates, serves as a warning. "'Successful' tenure reforms at any particular point in time may not be permanent but rather likely to be met with opposition and attempts to rollback community rights" (Larson et al. Forthcoming). This means having a clear understanding of the obstacles to and the conditions for success, and providing ongoing monitoring of, and support for, reforms.

VI. CONCLUSIONS AND RECOMMENDATIONS

Tenure refers to the content, or substance, of rights and to the security of rights. It refers to rights from different points of view, to overlapping rights and sometimes to conflict. Understanding rights requires an understanding of history and of power relations. In addition, a focus on 'rights' alone only tells part of the story: not all rights can be exercised, and not all of those who gain access to resources have rights.

Pressures from those who see national development and "progress" as driven by large-scale private investments,

and from those who fear communities will act as drivers of resource degradation, remain. Hence communities are likely to continue to face resistance and opposition to recognition from more powerful actors, who are also able to influence key state actors. Overcoming the obstacles to recognition and respect for legitimate community rights requires coalitions for change and a clear understanding of the roots of opposition (Larson et al. forthcoming).

The environment and conservation sector has an important role to play in efforts to secure tenure rights, as a key element of effective and equitable natural resource governance. As highlighted above, secure land and resource rights are central to the substantial and effective roles that indigenous peoples and local communities play in conserving ecosystems, habitats and species around the world. Emerging policy openings and experience with practical innovations offer new opportunities to strengthen community land and resource rights in protected areas management.

Advocates of tenure reforms should consider the following recommendations:

- Support social movements/grassroots organizations to lead tenure reform efforts and monitor progress
- Build and support broader networks and coalitions to support tenure reforms and their implementation.
- The conservation sector, in particular, should increase its engagement in and support for tenure reforms, as a global conservation priority
- Seek allies and build strong leadership – a champion

from within the state –to overcome opposition, lobby across sectors and interests, and maintain political will

- Design reforms with an understanding of the context and history, particularly to identify and anticipate potential conflicts, challenges, risks and unintended consequences
- Develop a clear roadmap and guidelines for implementation, so that benefits reach those intended and so that the weakest, those with less voice, are protected (e.g. migrants, people of lower caste or class, women)
- Ensure that government agencies have the mandate, capacities and resources required for their roles in titling and enforcement
- Combine recognition reforms with enabling conditions for improvements in livelihoods and effective and sustainable resource management
- Promote mechanisms for transparency and free, prior, informed consent, particularly in relation to large-scale land investments
- Monitor progress, with regular feedback and adaptive mechanisms to make adjustments

There are no “magic bullets” for securing recognition and respect for legitimate tenure rights for local communities. There are, however, many ways to support tenure reforms and their implementation that will increase the likelihood and sustainability of success, and the contributions of tenure security to effective and equitable natural resource governance.

REFERENCES

- Agarwal, B. 1990. "Social security and the family: coping with seasonality and calamity in rural India." *The Journal of Peasant Studies* 17 (3):341-412.
- Agarwal, B. 2015. "The power of numbers in gender dynamics: illustrations from community forestry groups." *The Journal of Peasant Studies* 42 (1):1-20.
- Aggarwal, S, and M Freudenberger. 2013. *Tenure, Governance, and Natural Resource Management: Contributions to USAID Development Objectives*. Washington, DC: USAID. Available from <https://www.land-links.org/wp-content/uploads/2016/09/Tenure-Governance-and-Natural-Resource-Management.pdf>
- Aguilar, L. 2016. "Foreword." In *Gender and forests: climate change, tenure, value chains and emerging issues*, edited by CJP Colfer, BS Basnett and M Elias, xxv-xxix. London: Routledge.
- Augustinus, C. and K.W. Deininger. 2006. Innovations in Land Tenure, Reform and Administration in Africa. In *Land Rights for African Development: From Knowledge to Action*.
- Bandiaky-Badji, S, CN Ntamag-Ndjebet, JT Weah, and J Meyers. 2016. "Women and Tenure in Liberia and Cameroon." In *Gender and Forests: Climate Change, Tenure, Value Chains and Emerging Issues*, edited by CJP Colfer, BS Basnett and M Elias, 171-185. London: Routledge.
- Basurto, X. 2007. *Policy, Governance and Local Institutions for Biodiversity Conservation in Costa Rica*, Management, University of Arizona, Tucson, AZ.
- Bose, P. 2011. "Forest tenure reform: exclusion of tribal women's rights in semi-arid Rajasthan, India." *International Forestry Review* 13 (2):220-232.
- Bray, DB, E Duran, VH Ramos, J-F Mas, A Velazquez, RB McNab, D Barry, and J Radachowsky. 2008. "Tropical deforestation, community forests, and protected areas in the Maya Forest." *Ecology and Society* 13 (2):56.
- Brockington, D. 2002. *Fortress conservation: the preservation of the Mkomazi Game Reserve, Tanzania*. Oxford; Bloomington; Dar es Salaam: International African Institute ; Indiana University Press; Mkuku Na Nyota.
- Bromley, DW, and M Cernea. 1989. *The Management of Common Property Natural Resources* (World Bank Discussion Paper No. 57). Washington, DC: World Bank.
- Brown, J, and N Bird. 2011. *Namibia's Story: Sustainable natural resource management in Namibia: Successful community-based wildlife conservation*. London: Overseas Development Institute. Available from <http://tinyurl.com/zjs6wkc>.
- Brunner, J, F Seymour, N Badenoch, and B Ratner. 1999. *Forest problems and law enforcement in Southeast Asia: The role of local communities* (Resource Policy Brief). Washington, DC: World Resources Institute.
- Chhatre, A, and A Agrawal. 2009. "Trade-offs and synergies between carbon storage and livelihood benefits from forest commons." *Proceedings of the national Academy of sciences* 106 (42):17667-17670.
- Chirif, A, and P García-Hierro. 2007. *Marcando territorio: Progresos y limitaciones de la titulación de territorios indígenas en la Amazonía*. Copenhagen: International Work Group for Indigenous Affairs (IWGIA).
- Chomitz, KM, P Buys, G De Luca, T Thomas, and S Wertz-Kanounnikoff. 2007. *At loggerheads? Agricultural expansion, poverty reduction, and environment in the tropical forests* (Policy Research Report). Washington, DC: World Bank.
- CIFOR. 2016. *Escenarios participativos sobre la seguridad de la tenencia comunal de la tierra en la región de Madre de Dios* (Technical Report). [online]: CIFOR. Available from http://www.cifor.org/publications/pdf_files/Reports/Result_report2016.pdf.
- Coleman, EA, and E Mwangi. 2013. "Women's participation in forest management: A cross-country analysis." *Global Environmental Change* 23 (1):193-205.
- Cousins, B. 2007. "More than socially embedded: The distinctive character of 'communal tenure' regimes in South Africa and its implications for land policy." *Journal of Agrarian Change* 7(3): 281-315.
- Cousins, B. 2011. *Imithetho yomhlaba yaseMsinga: the living law of land in Msinga, KwaZulu-Natal* (Research Report no. 43). Cape Town, South Africa: Institute for Poverty, Land and Agrarian Studies (PLAAS).
- Cronkleton, P, P Pacheco, R Ibarguen, and M Albornoz. 2009. *Reformas en la tenencia de la tierra y los bosques: la gestión comunal en las tierras bajas de Bolivia*. La Paz, Bolivia: Centro para la Investigación Forestal Internacional (CIFOR) and Centro de Estudios para el Desarrollo Laboral y Agrario (CEDLA).
- Cronkleton, P, JM Pulhin, and S Saigal. 2012. "Co-management in community forestry: How the partial devolution of management rights creates challenges for forest communities." *Conservation and Society* 10 (2):91-102.
- DeSoto, H. 2011. "The Amazon is not Avatar." In *Development cooperation report 2011, OECD, 50th anniversary edition*, 79-90. Paris: OECD Publishing.
- Devine, JA. 2016. "Community forest concessionaires: resisting green grabs and producing political subjects in Guatemala." *The Journal of Peasant Studies*: 1-20. doi: 10.1080/03066150.2016.1215305.
- Ding, H, P Veit, A Blackman, E Gray, K Reyter, J Altamirano, and B Hodgdon. 2016. *Climate Benefits, Tenure Costs: The Economic Case For Securing Indigenous Land Rights in the Amazon*. Washington, DC: World Resources Institute.
- FAO. 2002. *Land Tenure and Rural Development*. (FAO Land Tenure Studies). Rome, Italy: Committee on Food Security for the Food and Agriculture Organization of the United Nations.
- FAO. 2010. *Forest Resources Assessment*. Rome, Italy: Committee on Food Security for the Food and Agriculture Organization of the United Nations.
- FAO. 2011. *The State of Food & Agriculture: Women in Agriculture: Closing the Gender Gap*. Rome, Italy: Committee on Food Security for the Food and Agriculture Organization of the United Nations.
- FAO. 2012. *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome, Italy: Committee on Food Security for the Food and Agriculture Organization of the United Nations.

- Fitzpatrick, D. 2005. "'Best practice' options for the legal recognition of customary tenure." *Development and change* 36 (3):449-475.
- Fitzpatrick, D. 2006. "Evolution and chaos in property rights systems: The Third World tragedy of contested access." *The Yale Law Journal* 115 (5):996-1048.
- Fonjong, L, L Fombe, and I Sama-Lang. 2013. "The paradox of gender discrimination in land ownership and women's contribution to poverty reduction in Anglophone Cameroon." *GeoJournal* 78 (3):575-589.
- Gadgil, M, and R Guha. 1995. *Ecology and equity: The use and abuse of nature in contemporary India*. New York: Routledge.
- German, L, G Schoenveld, and E Mwangi. 2011. Contemporary processes of large-scale land acquisition by investors: case studies from sub-Saharan Africa (Occasional Paper 68). Bogor, Indonesia: CIFOR.
- Gilmour, DA. 1990. "Resource availability and indigenous forest management systems in Nepal." *Society & Natural Resources* 3 (2):145.
- Giovarelli, R, B Wamalwa, and L Hannay. 2013. Land Tenure, Property Rights and Gender: Challenges and Approaches for Strengthening Women's Land Tenure and Property Rights. Washington, DC: USAID.
- Global Witness. 2014. *Deadly environment: the dramatic rise in killings of environmental and land defenders*. London: Global Witness.
- Gonçalves, MA, and RST do Valle. 2014. Advances and setbacks in territorial rights in Brazil. Washington, DC: RRI; ISA (Brazil).
- Gray, E, PG Veit, JC Altamirano, H Ding, P Rozwalka, I Zuniga, M Witkin, FG Borger, P Pereda, and A Lucchesi. 2015. The economic costs and benefits of securing community forest tenure: evidence from Brazil and Guatemala. Washington, DC: World Resources Institute. Available from <http://tinyurl.com/zab29wl>.
- Guha, R. 2001. "The prehistory of community forestry in India." *Environmental History* 6 (2):213-238.
- Harrison, R. 1992. *Forests: The shadow of civilization*. Chicago: University of Chicago Press.
- Hayes, T, and L Persha. 2010. "Nesting local forestry initiatives: Revisiting community forest management in a REDD+ world." *Forest Policy and Economics* 2 (8):545-553.
- Hecht, SB, and A Cockburn. 1989. The fate of the forest : developers, destroyers, and defenders of the Amazon. London: Verso.
- Hvalkof, S. 2002. "Beyond indigenous land titling: Democratizing civil society in the Peruvian Amazon." In *The Spaces of Neoliberalism: Land, Place and Family in Latin America*, edited by J Chase, 87-118. Bloomfield, Connecticut: Kumarian Press.
- Instituto del Bien Común. 2016. Tierras comunales: más que preservar el pasado es asegurar el futuro: El estado de las comunidades indígenas en el Perú. Lima, Peru: IBC.
- Kaarhus, R, and S Dondeyne. 2015. "Formalising land rights based on customary tenure: community delimitation and women's access to land in central Mozambique." *The Journal of Modern African Studies* 53 (2):193-216.
- Kelly, AB, and NL Peluso. 2015. "Frontiers of commodification: State lands and their formalization." *Society & Natural Resources* 28 (5):473-495.
- Larson, AM. 2011. "Forest tenure reform in the age of climate change: Lessons for REDD+." *Global Environmental Change* 21 (2):540-549. doi: 10.1016/j.gloenvcha.2010.11.008.
- Larson, AM. 2012. Tenure Rights and Access to Forests: A Training Manual for Researchers: A Guide to Key Issues. Bogor, Indonesia: CIFOR. Available from <http://tinyurl.com/gnwdw7c>.
- Larson, AM, D Barry, and GR Dahal. 2010. "New rights for forest-based communities? Understanding processes of forest tenure reform." *International Forestry Review* 12 (1):78-96.
- Larson, AM, D Barry, GR Dahal, and CCJ P. 2010. *Forests for people: community rights and forest tenure reform*. London: Earthscan.
- Larson, AM, M Brockhaus, WD Sunderlin, A Duchelle, A Babon, T Dokken, TT Pham, I Resosudarmo, G Selaya, and A Awono. 2013. "Land tenure and REDD+: The good, the bad and the ugly." *Global Environmental Change* 23 (3):678-689.
- Larson, AM, PJ Cronkleton, and JM Pulhin. 2015. "Formalizing indigenous commons: The role of 'authority' in the formation of territories in Nicaragua, Bolivia, and the Philippines." *World Development* 70:228-238.
- Larson, AM, and GR Dahal. 2012. "Forest tenure reform: new resource rights for forest-based communities?" *Conservation and Society* 10 (2):77.
- Larson, AM, I Monterroso, MR Banjade, and E Mwangi. Forthcoming. "Community rights to forests in the tropics: Progress and retreat on tenure reforms." In *Comparative Property Law: Global Perspectives*, edited by M Graziadei and L Smith. Cheltenham, UK: Edward Elgar Publishing.
- Larson, AM, and JM Pulhin. 2012. "Enhancing forest tenure reforms through more responsive regulations." *Conservation and Society* 10 (2):103-113.
- Larson, AM, F Soto, D Mairena, E Moreno, E Mairena, and J Mendoza-Lewis. 2016. "The Challenge of 'Territory': Weaving the Social Fabric of Indigenous Communities in Nicaragua's Northern Caribbean Autonomous Region." *Bulletin of Latin American Research* 35 (3):322-337.
- Loft, L, A Ravikumar, MF Gebara, TT Pham, IAP Resosudarmo, S Assembe, JG Tovar, E Mwangi, and K Andersson. 2015. "Taking stock of carbon rights in REDD+ candidate countries: Concept meets reality." *Forests* 6 (4):1031-1060.
- McDermott, MH. 2001. "Invoking community: Indigenous people and ancestral domain in Palawan, the Philippines." In *Communities and the environment: Ethnicity, gender, and the State in community-based conservation*, edited by A Agrawal and C Gibson, 32-62. New Brunswick: Rutgers University Press.
- MCDI. n.d. *Mpingo Conservation & Development Initiative* [cited 25 December 2016]. Available from <http://www.mpingoconservation.org/>.
- Meinzen-Dick, R, LR Brown, HS Feldstein, and AR Quisumbing. 1997. "Gender, property rights, and natural resources." *World development* 25 (8):1303-1315.
- Meinzen-Dick, R, and E Mwangi. 2009. "Cutting the web of

- interests: Pitfalls of formalizing property rights." *Land Use Policy* 26 (1):36-43.
- Mhache, EP. 2014. "Gender Division and Utilization of Natural Resources: A Case Study of Mindu-Tulieni and Makombe Villages in Bagamoyo District, Tanzania." *Journal of the Open University of Tanzania* 16:25-48.
- Monterroso, I. 2016. *Forest tenure reforms and socio-environmental consequences: case studies on Guatemala and Nicaragua*, Universitat Autònoma de Barcelona, Barcelona, Spain.
- Monterroso, I, and D Barry. 2012. "Legitimacy of forest rights: The underpinnings of the forest tenure reform in the protected areas of Petén, Guatemala." *Conservation and Society* 10 (2):136-150.
- Monterroso, I, and AM Larson. 2013. "The Dynamic forest commons of Central America: new directions for research." *Journal of Latin American Geography* 12 (1):87-110.
- Mshale, BI. 2016. *Governing Forests in a Carbon Challenged World: Learning from REDD+ in Tanzania*, University of Michigan, Ann Arbor, MI.
- Murombedzi, J, JC Ribot, and G Walters. 2016. "Editor's Note." In *Responsive Forest Governance Initiative (RFGI) Working Paper Series*, edited by J. Murombedzi, JC Ribot, and G Walters. Dakar: CODESRIA.
- Mwangi, E. 2007. "Subdividing the commons: Distributional conflict in the transition from collective to individual property rights in Kenya's Maasailand." *World development* 35 (5):815-834.
- Namubiru-Mwaura, E. 2014. *Land Tenure and Gender: Approaches and Challenges for Strengthening Rural Women's Land Rights*. Washington, DC: World Bank.
- Nepstad, D, D McGrath, C Stickler, A Alencar, A Azevedo, B Swette, T Bezerra, M DiGiano, J Shimada, and RS da Motta. 2014. "Slowing Amazon deforestation through public policy and interventions in beef and soy supply chains." *Science* 344 (6188):1118-1123.
- Neumann, R. 1998. *Imposing wilderness: struggles over livelihood and nature preservation in Africa*. Berkeley, CA: University of California Press.
- Ntsebeza, L. 2005. "Democratic decentralization and traditional authority: dilemmas of land administration in rural Africa." In *Democratic decentralisation through a natural resource lens*, edited by JC Ribot and AM Larson, 71-89. London: Routledge.
- Nuesiri, EO. 2014. *The re-emergence of customary authority and its relation with local democratic government* (RFGI Working Paper #6). Dakar, Senegal: CODESRIA.
- Ojanen, M, W Zhou, L Durey, D Miller, B Mshale, S Nieto, E Mwangi, and F Petrokofsky. 2015. Preliminary findings from a systematic review on the environmental impacts of different property rights regimes in forests, fisheries and rangelands. Paper read at 2015 World Bank Conference on Land and Poverty, at Washington, DC.
- Ostrom, E. 1990. *Governing the commons: the evolution of institutions for collective action*. New York: Cambridge University Press.
- Ostrom, E, and H Nagendra. 2006. "Insights on linking forests, trees, and people from the air, on the ground, and in the laboratory." *Proceedings of the national Academy of sciences* 103 (51):19224-19231.
- Oxfam. 2016. *Behind the Brands: Issue - Land* [cited 25 December 2016]. Available from <http://www.behindthebrands.org/en-us/issues/land>.
- Oyono, P, S Kombo, and M Biyong. 2009. *Les nouvelles niches de droits forestiers communautaires au Cameroun: Effets cumulatifs sur les moyens de subsistance et les formes locales de vulnérabilité*. Yaoundé, Cameroon: Center for International Forestry Research.
- Paudel, NS, MR Banjade, and GR Dahal. 2008. *Community forestry in changing context: emerging market opportunities and tenure rights*. Kathmandu, Nepal: CIFOR; Forest Action.
- Paudel, NS, I Monterroso, and P Cronkleton. 2012. "Secondary level organisations and the democratisation of forest governance: case studies from Nepal and Guatemala." *Conservation and Society* 10 (2):124-135.
- Peluso, NL. 1992. *Rich forests, poor people: resource control and resistance in Java*. Berkeley, CA: University of California Press.
- Peluso, NL, and P Vandergeest. 2001. "Genealogies of the political forest and customary rights in Indonesia, Malaysia, and Thailand." *The Journal of Asian Studies* 60 (3):761-812.
- Persha, L, and C Meshack. 2015. *Is Tanzania's Joint Forest Management Program a Triple Win? Understanding Causal Pathways for Livelihoods, Governance and Forest Condition Impacts* (3ie Grantee Final Report). New Delhi: International Initiative for Impact Evaluation.
- Peters, PE. 2002. "The limits of negotiability: Security, equity and class formation in Africa's land systems." In *Negotiating property in Africa*, edited by K Juul and C Lund, 45-66. Portsmouth, NH: Heinemann.
- Peters, PE. 2004. "Inequality and social conflict over land in Africa." *Journal of Agrarian Change* 4 (3):269-314.
- Place, F. 2009. "Land tenure and agricultural productivity in Africa: A comparative analysis of the economics literature and recent policy strategies and reforms." *World Development* 37 (8):1326-1336.
- Poffenberger, M. 2001. *Communities and forest management in Southeast Asia*. Gland, Switzerland: IUCN.
- Poffenberger, M. 2006. "People in the forest: community forestry experiences from Southeast Asia." *International Journal of Environment and Sustainable Development* 5 (1):57-69.
- Pokharel, BK, P Branney, M Nurse, and Y Malla. 2008. "Community forestry: Conserving forests, sustaining livelihoods and strengthening democracy." In *Communities, Forests and Governance: Policies and Institutional Innovations from Nepal*, edited by HR Ojha, NP Timsina, C Kumar, MR Banjade and B Belcher, 55-91. New Delhi: Adroit Publications.
- Radachowsky, J, VH Ramos, R McNab, EH Baur, and N Kazakov. 2012. "Forest concessions in the Maya Biosphere Reserve, Guatemala: a decade later." *Forest Ecology and Management* 268:18-28.
- Rao, K, and C Geisler. 1990. "The social consequences of protected areas development for resident populations." *Society & Natural Resources* 3 (1):19-32.

- Ribot, JC. 2004. *Waiting for Democracy: The politics of choice in natural resource decentralization*. Washington, DC: World Resources Institute.
- Ribot, JC, A Chhatre, and T Lankina. 2008. "Introduction: Institutional choice and recognition in the formation and consolidation of local democracy." *Conservation and Society* 6 (1):1-11.
- Robbins, AS, and S Harrell. 2014. "Paradoxes and Challenges for China's Forests in the Reform Era." *The China Quarterly* 218:381-403.
- Roe, D. 2008. "The origins and evolution of the conservation-poverty debate: a review of key literature, events and policy processes." *Oryx* 42 (4):491-503.
- Roldán-Ortiga, R. 2004. Models for recognizing indigenous land rights in Latin America (Biodiversity Series Paper no. 99). Washington, DC: World Bank Environment Department.
- RRI. 2014. What future for reform? Progress and Slowdown in Forest Tenure Reform since 2002. Washington, DC: RRI.
- Sarin, M. 1993. From conflict to collaboration: Local institutions in joint forest management. (Joint Forest Management Working Paper No. 14). New Delhi, India: Ford Foundation; Society for the Promotion of Wastelands Development.
- Saxena, N. 1997. The saga of participatory forest management in India (Special Publication). Bogor, Indonesia: CIFOR.
- Schlager, E, and E Ostrom. 1992. "Property-rights regimes and natural resources: a conceptual analysis." *Land economics*: 249-262.
- Sikor, T, and TQ Nguyen. 2007. "Why may forest devolution not benefit the rural poor? Forest entitlements in Vietnam's central highlands." *World development* 35 (11):2010-2025.
- Sikor, T, and TN Thanh. 2007. "Exclusive versus inclusive devolution in forest management: Insights from forest land allocation in Vietnam's Central Highlands." *Land Use Policy* 24 (4):644-653.
- Silverman, A. 2015. Using International Law to Advance Women's Tenure Rights in REDD [Edited by Niranjali Amerasinghe]. Washington, DC: Rights and Resources Initiative; Center for International Environmental Law.
- Springate-Baginski, O, and P Blaikie. 2007. *Forests, people and power: the political ecology of reform in South Asia*. London: Earthscan.
- Stevens, C, R Winterbottom, J Springer, and K Reyntar. 2014. Securing rights combating climate change: How Strengthening Community Forest Rights Mitigates Climate Change. Washington, DC: World Resources Institute; RRI.
- Stocks, A. 2005. "Too much for too few: problems of indigenous land rights in Latin America." *Annu. Rev. Anthropol.* 34:85-104.
- Sundar, N. 2000. "Unpacking the 'joint' in joint forest management." *Development and change* 31 (1):255-279.
- Sunderlin, WD. 2011. "The global forest tenure transition: Background, substance, and prospects." In *Forests and People: Property, Governance, and Human Rights*, edited by T Sikor and J Stahl, 19-32. London: Earthscan.
- Sunderlin, WD, AM Larson, AE Duchelle, IAP Resosudarmo, TB Huynh, A Awono, and T Dokken. 2014. "How are REDD+ proponents addressing tenure problems? Evidence from Brazil, Cameroon, Tanzania, Indonesia, and Vietnam." *World Development* 55:37-52.
- Tauli-Corpuz, V. 2016. Report of the Special Rapporteur of the Human Rights Council on the rights of indigenous peoples (UN Document A/71/229). New York: United Nations.
- Taylor, PL. 2010. "Conservation, community, and culture? New organizational challenges of community forest concessions in the Maya Biosphere Reserve of Guatemala." *Journal of Rural Studies* 26 (2):173-184.
- Taylor, PL. 2012. "Multiple forest activities, multiple purpose organizations: Organizing for complexity in a grassroots movement in Guatemala's Petén." *Forest Ecology and Management* 268:29-38.
- TNRF. 2013. Community-based Natural Resource Management: Stocktaking Exercise in Tanzania. WWF; Tanzania Natural Resource Forum. Available from http://www.tnrf.org/files/CBNRM_STR_TNRF2013.pdf.
- United Nations. 2011. UN-Women: Progress of the World's Women 2011-2012: In Pursuit of Justice. New York: United Nations.
- United Nations. 2013. UN-Women and OHCHR: Realizing Women's Rights to Land and Other Productive Resources. New York: United Nations.
- United Nations. n.d.-a. *Sustainable Development Goals: 17 goals to transform our world* [cited 25 December 2016]. Available from <http://tinyurl.com/q4ddfbf>.
- United Nations. n.d.-b. *UN-REDD Programme* [cited 25 December 2016]. Available from <http://www.un-redd.org/>.
- von Benda-Beckmann, F, K von Benda-Beckmann, and M Wiber. 2006. *Changing properties of property*. New York: Berghahn Books.
- Westendorp, I. 2015. "Personal Status Law and Women's Right to Equality in Law and in Practice: The Case of Land Rights of Balinese Hindu Women." *Journal of Human Rights Practice*:huv013.
- Wily, LA, and S Mbaya. 2001. Land, people and forests in eastern and southern Africa at the beginning of the 21st century: impact of land relations on the role of communities in forest future. Nairobi, Kenya: International Union for Conservation of Nature – East Africa Regional Office (IUCN-EARO).
- World Bank, FAO, and IFAD. 2009. *Agriculture and Rural Development: Gender in Agriculture – Sourcebook (Module 4: Gender issues in land policy and administration)*. Washington, DC: World Bank.

ENDNOTES

¹ Universal Declaration on Human Rights. UN General Assembly resolution 217 A. December 10, 1948.

² American Convention on Human Rights “Pact of San Jose, Costa Rica” (B-32).

³ African Charter on Human and Peoples’ Rights (Banjul Charter). Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986.

⁴ The Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Judgment of August 31, 2001, Inter-Am. Ct. H.R., (Ser. C) No. 79 (2001).

⁵ *ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries*. 27 June 1989, 1650 U.N.T.S. 383 (entered into force 5 September 1991).


⁶ United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 61/295. 13 September 2007.

⁷ Resolution adopted by the General Assembly on 25 September 2015. 70/1 Transforming our world: the 2030 Agenda for Sustainable Development.

⁸ UN-REDD Programme Social and Environmental Principles and Criteria. UNREDD/PB8/2012/V/1.

⁹ See for example http://www.nytimes.com/2016/10/17/world/americas/nicaragua-dispute-over-indigenous-land-erupts-in-wave-of-killings.html?_r=0

¹⁰ Many reforms have also emerged from serious environmental problems such as deforestation or resource scarcity. Examples include some of the earliest reforms in India (Sarin 1993; Saxena 1997; Sundar 2000) and the Philippines (McDermott 2001), in which communities were granted denuded lands to reforest, as well as more recent reforms in China, which now has the largest area of afforestation/forest restoration in history (see Robbins and Harrell 2014; FAO 2010).



IUCN is a membership Union composed of both government and civil society organisations. It harnesses the experience, resources and reach of its 1,300 Member organisations and the input of some 15,000 experts. IUCN is the global authority on the status of the natural world and the measures needed to safeguard it.

CEESP, the IUCN Commission on Environmental, Economic and Social Policy, is an inter-disciplinary network of professionals whose mission is to act as a source of advice on the environmental, economic, social and cultural factors that affect natural resources and biological diversity and to provide guidance and support towards effective policies and practices in environmental conservation and sustainable development.

The Natural Resource Governance Framework (NRGF) is an IUCN initiative created for the purpose of providing a robust, inclusive, and credible approach to assessing and strengthening natural resource governance, at multiple levels and in diverse contexts. The NRGF is hosted by the IUCN Commission on Environmental, Economic and Social Policy (CEESP), working in close collaboration with the IUCN Secretariat and partners across the Union.