GLOBAL OVERVIEW OF TRENDS IN TENURE AND REGULATORY REFORM

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Definitions

Tenure: property ownership and rights/modes of access

Regulatory Framework: regulations affecting landuse, transport, enterprises (e.g. quota)

Key Points

1. Both are in transition:
   - **Tenure**: state → private (collective, individual)
   - **Regulations**: state command → mix of state/civil/market systems; from coercion → incentives and outcomes

2. Reforms require rethinking (and reducing) role of the state (shifts in power, politics, vested interests)

3. Reform necessary to achieve development goals and private investment

4. There are emerging principles and good examples to learn from: both what to do and how to do it
Forest Land Ownership: Globally

- **Public: Administered by Government**: 77%
- **Public: Administered by Communities**: 12%
- **Private: Collectively Owned**: 7%
- **Private: Individually Owned**: 4%
Public Forests in Transition: Key Trends

1. Recognition of indigenous and other community-based rights
2. Devolution of long-term management and use rights to indigenous and other communities
3. Reforming forest concessions: from large industry to community management
4. Privatization: devolving public land ownership:
   - E. Europe – restitution of household lands
   - S. Africa – selling of public forest plantations
A Doubling of Community Tenure in the Last 15 Years: What Will Happen in the Next?

<table>
<thead>
<tr>
<th>Year</th>
<th>Private: Collectively Owned</th>
<th>Public: Collectively Administered</th>
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<tbody>
<tr>
<td>1985</td>
<td>143.3 (in millions of hectares)</td>
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<tr>
<td>2001</td>
<td>246.3</td>
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<tr>
<td>2015</td>
<td>423.6</td>
<td>933.3</td>
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Forest Land Ownership: Globally – 2015?

- **Public: Administered by Government**: 30%
- **Public: Administered by Communities**: 20%
- **Private: Collectively Owned**: 20%
- **Private: Individually Owned**: 30%
Public Forests in Transition: Some Drivers

1. Human rights – some 250 million indigenous forest dwellers, historic abuse of rights and exclusion

2. Communities often as good, or better, managers than governments
   - Growing recognition that much “wilderness” is not “wild”, “natural” is not “natural”

3. Limited capacity of many public forest agencies
   - $15 billion/year illegal logging

4. Growing appreciation for importance of property rights for rural development, conservation, private investment
Lessons on Land/Forest Tenure

• no single mode is optimal:
  • e.g. private land can (and does) provide public goods

• not unidirectional
  • e.g. reemergence of collective administration in the US – with choice, people create

• forestry remains feudal
  • a long, historic struggle ahead
Regulations in Transition

- state command → mix of state-civil-market systems;
- from coercion → incentives and outcomes
- conventional approach – state:
  - identifies, decides, designs, implements, monitors, enforces, adjudicates, penalizes
Examples from the USA

50 states, 50 different approaches – adjusted to local social, economic, environmental context

• 18th – 19th century: abuse of public and private forests
• 50’s - ‘70’s – command and control – prescriptive regulations and management plans (some states)
• 80’s – now:
  • public participation, towards simpler plans
  • voluntary adoption of “best management practices – with “bad actor” laws
• Other states nothing at all
Reforms Require Rethinking Roles

Example: Montana – a “system to promote best practice and compliance”

Coordinates, facilitate participatory process to identify BMP’s, funds education, organizes monitoring, enforces “bad actor” law

State

Outcomes: improved practice, less conflict, continued logging

Private

Organizes education, adopt, self-police, set-up “logger certification” program

Volunteers, gets educated, participates in monitoring, “watchdog”

Civil
Montana: Interpretations

• Reasons why it seems to work:
  • simple, low cost to administer
  • transparent and inclusive;
  • focuses on most critical externalities (public goods),
  • empowering, minimal infringement on property rights
  • builds on individual incentives and interest for social inclusion,
  • state judiciously uses coercion “bad actor law”
  • a credible threat of “regulation” – and the costs of conflict

• Some reasons why it might not travel:
  • limited critical mass of “credible threat of regulation” and interests
Necessary for Progress On Development Goals


- Rapid response to regulatory, administrative, property reforms
- China ’78-’84
  - reforms led to 2X production and 3X income increase
- No similar level of effort in the forest sector – yet beginning to occur
Tenure:

1. pilot, research, plan, establish system for adaptive reform (at local level)

2. focus on respecting or providing local choice, with mechanisms to control “elite capture”

3. do in tandem with regulatory reform – or suffer distortions

Examples:

- Mexico, Bolivia, Brazil
Some Principles and Good Examples

Regulations:

1. Pilot, research, plan, establish system for adaptive reform (at local level)

2. Focus on critical problems, sites and operators
   - Prioritize most important externalities, most important sites, largest, most destructive industry

3. Simplify, encourage voluntary compliance, “systems” approach, transparency

   • Examples:
     - Australia, USA, Brazil – in process
Lots of opportunities to learn and share lessons between countries – principles not blueprints

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