

# GLOBAL OVERVIEW OF TRENDS IN TENURE AND REGULATORY REFORM

Andy White  
Beijing, China  
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# Definitions

Tenure: property ownership and rights/modes of access

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

Source: *Forest Decentralization in Federal Countries*, 2005. Gregersen, Contreras, White. CIFOR.

# Key Points

## 1. Both are in transition:

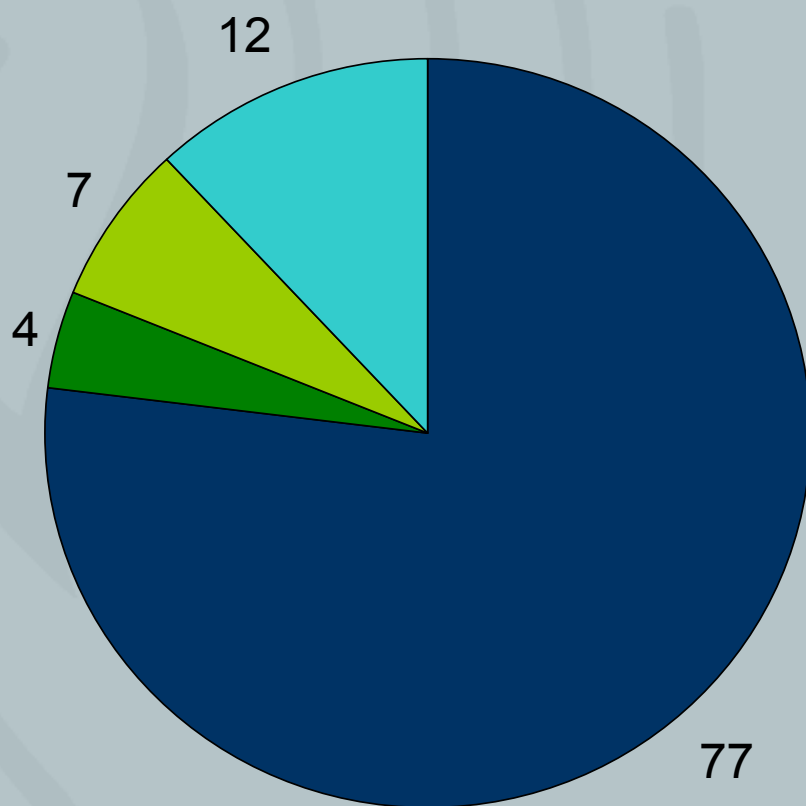
- Tenure: state → private (collective, individual)
- Regulations: state command → mix of state/civil/market systems; from coercion → incentives and outcomes

## 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



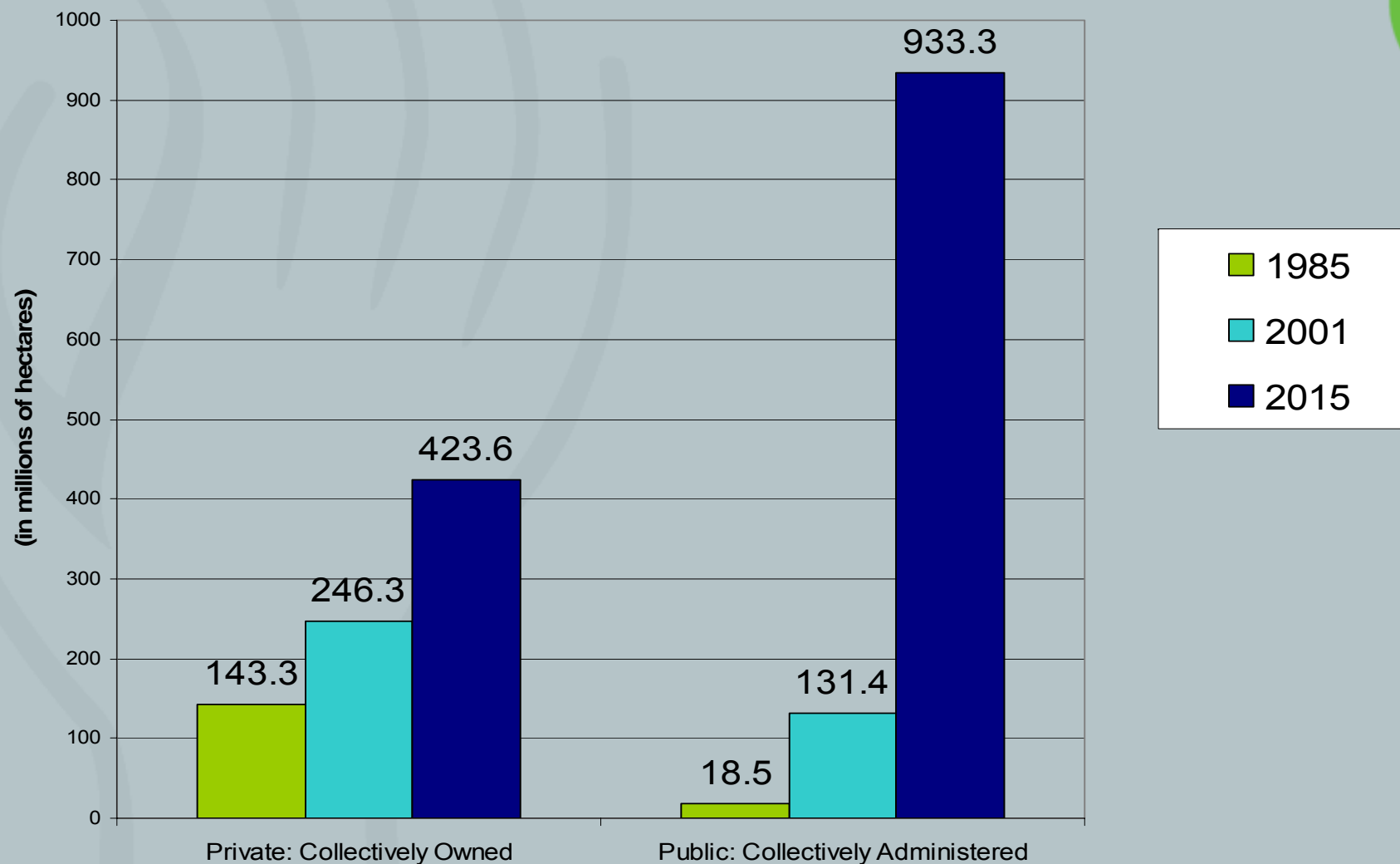
- Public: Administered by Government
- Public: Administered by Communities
- Private: Collectively Owned
- Private: Individually Owned



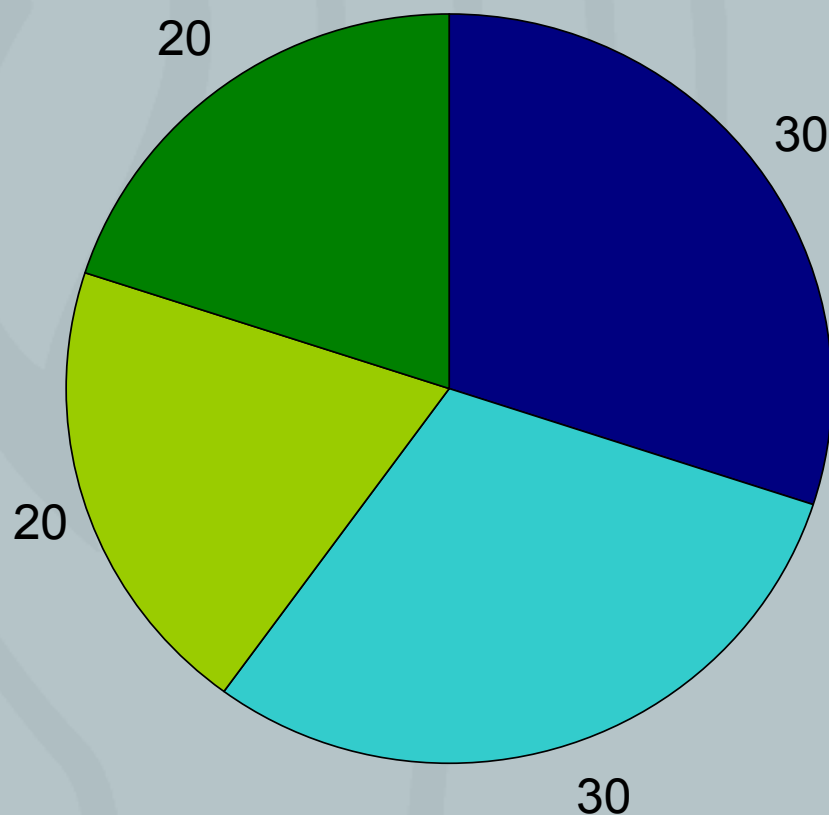
# Public Forests in Transition: Key Trends

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?



# Forest Land Ownership: Globally – 2015?



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# 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*

- 18<sup>th</sup> – 19<sup>th</sup> 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

**Civil**

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

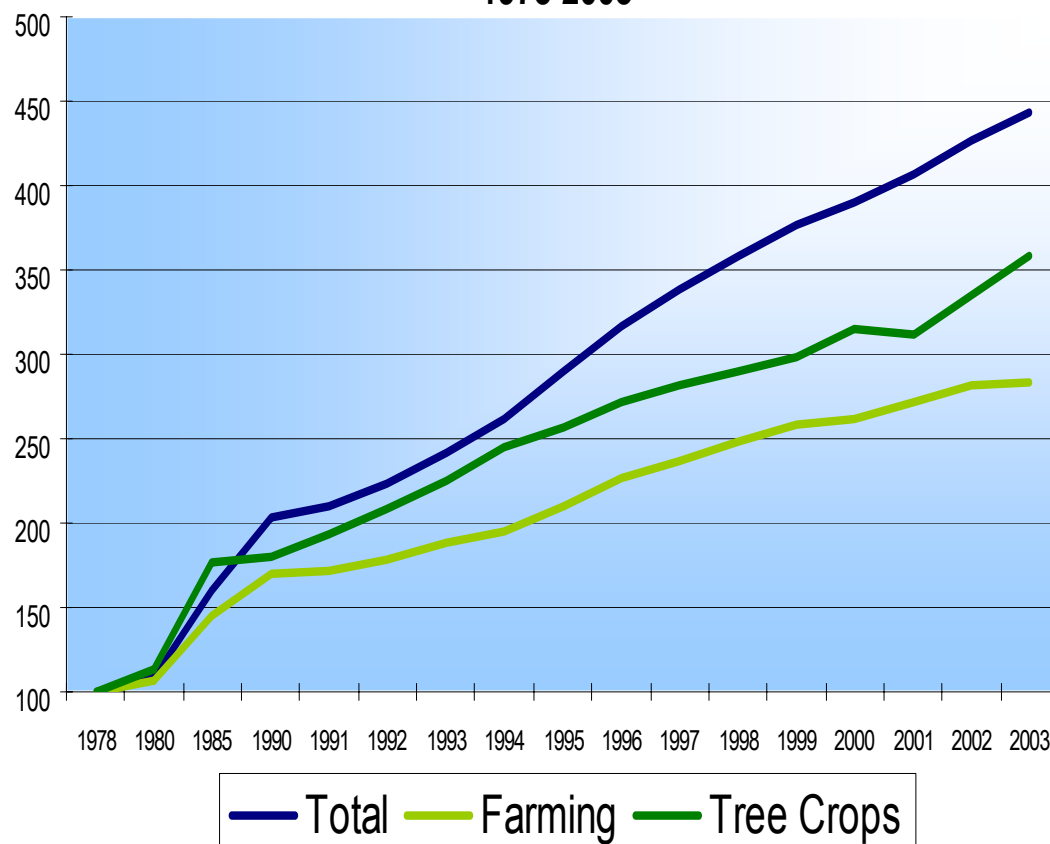
# Montana: Interpretations

- 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

Indices of Gross Output in Chinese Agriculture  
1978-2003



- 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



# Some Principles and Good Examples

## 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



# Thanks!

*Lots of opportunities to learn and share  
lessons between countries – principles not  
blueprints*

[www.rightsandresources.org](http://www.rightsandresources.org)

[awhite@rightsandresources.org](mailto:awhite@rightsandresources.org)