Policy brief on Tenure Improvement for strengthening Community Forestry : A Multi Stakeholders Approach

A. Background

Insecure property rights are one of the main causes of deforestation in contrast to secure tenure that result in improved management and conservation of forests (Sunderlin, Hatcher, & Liddle, 2008). However, tenure conflicts on land and forest area has been increasing due to the pressures of growing population and the weakness of the forest governance that impacted to tremendous environmental degradation. While the the state's ownership of 99.9 percent of forest land through a highly centralized system of forest governance with inadequate recognition of customary tenure rights leave majority of rural citizens with extremely insecure rights for countries like Lao PDR, in another case such as Indonesia, the role of local communities and their access to natural resources often overlap with the rights accorded to government/state enterprises and the private sector (Figure-1). The exploitation of forest resources has driven large companies to ignore the interests of these communities who live within and depend on forests for their livelihoods. This situation in turn has triggered the emergence of intra- and inter-community social conflict, conflict between communities and the government, as well as conflict between communities and companies (Zazali, 2012). On the other hand, despite success of a co-management model in reforestation, afforestation, and diversifying economic opportunities in rural communities in Bangladesh, communities are not fully benefitted due to lack of legal recourse for dispute resolution, little confidence of participants on the prospect of long-term return from such programs leading to secret selling of allotted plots to local elites.
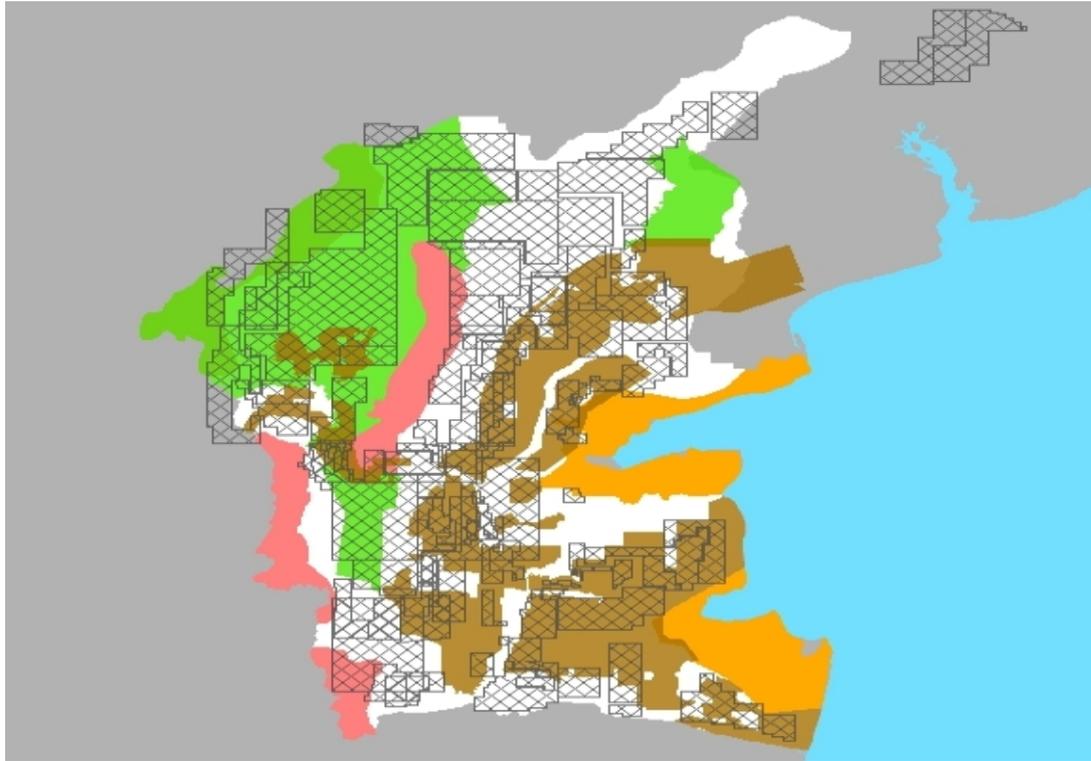
Figure-1: Overlay of forestry-plantation-mining areas in Pasir District East Kalimantan-Indonesia, (Prasetyo, 2016)

The weakness on forest governance policy and its implementation in many countries has become a crucial problem causing the uncertainty and overlapping on tenure right. These are significantly increasing the vulnerability, poverty, and lead to elicit the dilating conflicts. Consequently, it has impacted to unsecure the ownership right, inequitable benefit sharing, increased forest degradation, overlapping spatial planning and stimulate the conflict of interest among the stakeholders. This policy brief is intended to address the question of how to improve tenure right in such conflicting situation for strengthening community forestry.

B. Existing practices of forest tenure

According to FAO (2011) last few decades have seen transitions in the formal tenure arrangements including de-collectivisation of forests, the legitimization and formalization of indigenous and local community claims to land and forests in Latin America; the increasing adoption of community forestry, with its attendant changes in access and use rights, in many parts of the developing world; and the privatization of national forest assets in some countries, including New Zealand, Australia and South Africa. Another aspect of such transitions have been recognition of indigenous rights and community ownerships along with shifting from emphasis on timber production or absolute preservation to a more multifunctional vision of forest management encompassing conservation of biodiversity along with multiple forest uses (FAO 2010a). This transition involves two significant features of tenure including ownership and management rights, and operationalisation of such rights (FAO 2011). In case of ownership, public ownership is predominated followed by community, private and other types of ownership. Though state is the predominant owner and manager of forests in almost all countries, the use and managerial rights of the forests are not necessarily the same as ownership rights (ibid). Globally, the management responsibilities of 11% of forest are laid on communities. evolving from an emphasis primarily on production to a more people-centric model designed to support the conservation of forest,

Assessing 61 statutory community tenure regime RRI (2012b) reports tenure as a "bundles of rights" available to communities such as access to forest resources; making decisions on forest management; the ability to commercially harvest timber and other forest products; and being able to exclude outsiders. Most of the countries do not relinquish ownership of the land with some few exception. However, governments may devolve management rights to communities.

In general communities are required to accept a range of responsibilities in exchange for the rights to manage their forests and share in the benefits. These are generally prescribed in the regulatory framework (laws, policies, rules and regulations, etc.) and can include such things as preparing management plans, carrying out forest inventories and obtaining approval from government officials to harvest, transport and/or sell forest products. The precise form of management (particularly the level of empowerment) varies from country to country and also within countries, depending on a host of factors. While "Community forestry" is a term used in many countries, but it can refer to varying packages of community rights and

responsibilities and their distinguishing features can be categorized in terms of the rights and degree of participation. FAO (2016) categorizes generic types of CBF, in a continuum of strength of rights, participation and empowerment (Figure 2).

Figure-2: Spectrum of Community Based Forestry (FAO 2016)

C. Alternatives for tenure improvement

Allocation of land and management rights

One option for securing tenure is **Institutionalizing legal forest property** rights through privatization of forest ownership which is argued to provide the strongest incentive and is therefore the ideal form of tenure. The options here are selling the land or its use rights to one or multiple private owners either permanently or for fix term with or without rights of selling. However, it is argued that private ownership or entitlements run the risk of division and selling of such land which ultimately will result in worse situation. Some stresses that this problem can be minimized by community ownership whereby the community would act as the restrain. Additionally, such ownership will be effective in case of economies of scale and securing externalities and also be efficient given scarce organizational resources as administration of dealing with communities is more efficient than a large numbers of individual (Lynch & Talbott 1995). However, the risk of selling still exists under the situation of agreement of all members in doing so. Moreover, privatization has always been a complex process involving consideration of actual or potential holders and a number of ways to privatize state's forests. One suggestion for overcoming t this is to temporarily restrict sales and treating different types of forests according to their function, coverage, current land use and customary practice(Sembiring 2002).

Another option has been **common property and joint tenure arrangements** different types of which have also all been demonstrated to work in various situations (FAO 2016). The effectiveness of private or collaborative options is highly context specific. While private

ownership has been found to be successful in China and Vietnam, collaborative practices have been effective in other countries such as Bangladesh.
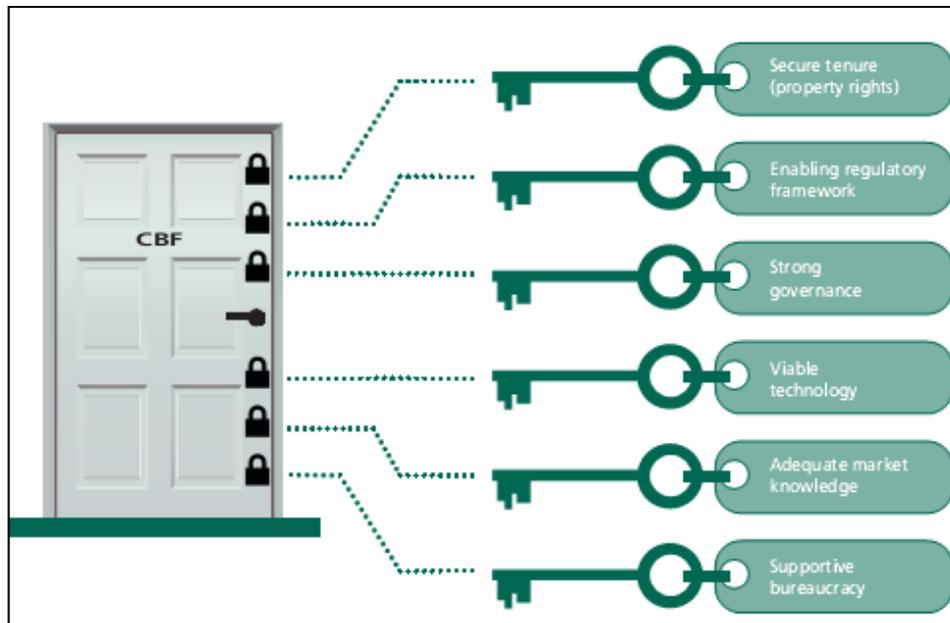

Figure-3. Keys to effective community-based forestry (FAO 2016)

Regulatory Framework

Simple action of allocating ad-hoc blocks to communities or the individuals is insufficient for achieving more sustainable resource utilization and conservation of forests if not accompanied by improvement in forest governance. However, the review of the impact of tenure reforms in different regions illustrate that secure tenure alone is by no means sufficient for successful CBF (Dahal and Adhikari 2008; Pacheco et al., 2012; RECOFTC, 2013). These studies illustrate that any attempts of reforming forest tenure must be associated with parallel reforms in regulatory framework and governance systems (FAO 2016). This is because, despite existence of secure community rights, manifold and intricate compliance procedures significantly constraints effective management practices. For instance, generally the rights accrued to community is conditional to various responsibilities such as provision of providing detailed management plans, complex inventories, approval from several authorities (Larson et al. 2008). Such has been the case observed in Latin America (Larson et al. 2008) and Nepal (Paudel et al. 2014) whereby government regulatory process were found to be disabling rather than enabling through lengthy process along with high transaction cost and difficult compliance standards. Additionally, regulatory frameworks in other sectors may also impact the management practices of CBF. The

example includes inability of people to sell forest products in the market that they are entitled to by means of forest regulation due to the regulations in transport, marketing or other sectors (FAO 2016). This requires coordination amongst different sectors' regulation.

Governance

Strong governance mechanism is also essential for achieving sustainable forest use with emphasis on local level forest management institutions (Charnley and Poe 2007. This is also critical for anchoring social capital and storing forestry knowledge in communities (Szulecka & Secco 2014). Particularly, imposed institutional mechanisms with the neglect of extant institutional structures of resource management have been found to be with negative and destructive outcomes (Kamoto et al. 2013). Hence, concerns have been increased for formulating policies based on clear understanding of complex nature of existing institutions and their possible impacts (Komoto et al. 2013). An important aspect is elite capture in local institutions which requires consideration of the historical, socially embedded and negotiated nature of resource governance arrangements in local institutions (Wong 2013).

Supportive bureaucratic mandate and culture

Creation of an enabling regulatory framework in turn is dependent on creation of a supportive bureaucratic mandate and culture as the bureaucrates are usually not only resistant in relinquishing their authority over forests but also deterrent in accrual of formally declared right of communities (FAO 2016). For instance, an analysis of case studies across all major ecological zones in Nepal revealed that even though local rights of access and usage were guaranteed in national policies and laws, "a latent hesitation exists among government field officers to fully transfer the rights to communities" (Paudel, Banjade and Dahal, 2008). Hence, there is a need for constructing supportive bureaucratic culture as an unsupportive culture is behind the underperformance of externally sponsored initiatives through incompatibility between the local and sponsored cultures and institutions and the failure of forestry development experts to understand local realities (de Jong et al.2010).

Tenure security, in general, requires alteration in roles and interrelation of key actors including government officers, smallholders, community groups and individuals which considerably can affect CBF. For instance, community forestry through secure tenure rights requires alteration in forest manager's position from active management through authoritarian control to participatory management involving relinquishment of such control through assistance and supporting them for their own benefits instead of state's direst economic benefits. This entails a basic alteration in

organizational culture which has been found to be most difficult.). Additionally bureaucratic power and processes tend to reproduce themselves with the result that policies and practices can easily reinforce existing social hierarchies and divisions.Such changes of attitude and approach cannot come about by formal decree and invariably need a great deal of support.

D. Recommendations

The above analysis and experience from reform initiatives illustrate that tenure improvement is a complex process where exists no specific type of tenure system (private/individual or communal) and general policy recommendation. Policy development is a process that has to be adapted to the country context, involving a range of stakeholders and interests, and the time is needed to identify appropriate tenure arrangements to achieve selected objectives (FAO, 2011). A wider national effort, political will and an enabling environment will address tenure needs and make them more comprehensive and sustainable (Rothe & PaulMunro-Faure). However, what can be inferred from experience is that allocation of forest land or rights should be approached in a comprehensive rearrangement process rather than singular actions. This can be achieved through adoption of a participatory multi-stakeholder approach and rearrangement process, tailored to specific local needs and conditions considering all aspects of forest management following an analysis of the weaknesses of current land use arrangement as well as practices. This require focusing on different forest land boundaries, demarcation of forest land, way of minimizing sectoral, intra and intergroup land conflicts. The important questions of consideration here are how to demark forestland amongst different stakeholders, how to minimize different conflicts in land ownership and useservation purposes?

The recommendations which can be made from this are :

- **Adoption of a cross-sectoral legislative framework** with due consideration of different sectoral and inter-sectoral policies in general and fostering collaboration between land and forest administrations through better coordination, in particular. This requires a Participatory approach on land tenure reconstruction involving participation of key stakeholders in consultation and processes related to clarifying tenure issues.
- **Extending management role of the community** through strengthening partnership and improvement of collaborative form of community forestry.
- **Acceleration of boundary demarcation and mapping** through Integrated cross-sectoral spatial planning and one map policy in case of map overlapping.

- Enabling **meaningful reform practices through focusing** not only on delegating rights but also on transferring real power through necessary supports. Emphasis should be on making such reform pro-poor through equitable allocation of better quality forests and benefit sharing, transparent planning and decision making process, etc.
- **Respect local customs** through making state policies flexible to accommodate local variation of customs and culture; and acknowledging the significance of local knowledge on forest management
- Policy formulation should be informed by an **evaluation of existing practices** so as to take corrective as well as innovative measures through identification of success and failure. Given temporal changes in the social objectives of forest management, options should be created for **regular reviewing** in order to ensure reflection of society's demand in forest management.
- **Giving appropriate legal education to local people** through developing easy-to-understand guidelines.