



Improving access to forest resources

Experiences in informal tenure reform from IUCN's Livelihoods and Landscapes Strategy



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Executive summary

It is commonly claimed that forest tenure reform that provides rural people with rights to access and use of forest resources can contribute to improved forest management and poverty alleviation. But, at least with respect to poverty alleviation, there are few experiences with formal forest tenure reform that have demonstrated this to date. Given how difficult it is to achieve pro-poor tenure reform, an important question is whether modest informal changes can achieve results. This paper argues that, in advance of full-scale tenure reform involving legislated changes to tenure laws, more modest locally negotiated changes and local 'informal' arrangements can lead to improved access to forests and provide people with the confidence that enables them to invest time and resources in forest management in the short and medium term. The modest informal changes can act as useful 'policy experiments' to support more formal change. This paper argues that secure tenure is not always a sufficient condition and is not always a necessary condition for enabling better management that benefits people.

This paper examines experiences from the Forest Conservation Programme of IUCN, particularly the Livelihoods and Landscapes Strategy (LLS). Cases are presented from: northern Thailand, where negotiated informal arrangements ensure local confidence about continued access to land and encourage investment of labour and resources; from the Andaman coast of Thailand, where negotiated land use has benefitted communities and acted as a 'policy experiment'; from the Miyun watershed in China, where negotiated land-use changes have encouraged local people to become involved in forest conservation and management and have involved a rethink of financial incentives; from Ghana where a simple tree registration system has helped ensure farmers' rights over planted trees; and from Uganda, where locally negotiated controls on grazing have facilitated agroforestry for soil conservation and a pilot joint forest management activity within the Mt Elgon National Park.

About LLS

The Livelihoods and Landscapes Strategy (LLS) is a global project of IUCN's Forest Conservation Programme funded by the Directorate General for International Cooperation (DGIS) of the Netherlands Ministry of Foreign Affairs. Its first phase ran from 2007-2011. Its overall goal has been *"the effective implementation of national and local policies and programmes that leverage real and meaningful change in the lives of rural poor, enhance long-term and equitable conservation of biodiversity and ensure the sustainable supply of forest-related goods and services in line with nationally-defined priorities"*.

LLS was designed as a direct response to achieving two of the major challenges facing sustainable development at the time of its design in 2006:

- How to find practical ways to support governments and donors in ensuring that the benefits of national poverty reduction strategies reach the rural poor, and in particular those who are highly dependent on natural resources including forests and trees.
- How to reverse the current lack of momentum in implementing international commitments on sustainable forest use and conservation and therefore address the slippage of forest-related issues within international development.

The strategy is predicated on the belief that although these two challenges are inextricably linked, natural resource management and conservation organizations have yet to make a convincing case, on a large enough geographic or institutional scale, as to how improved resource use and conservation can make a difference to the livelihood security of the rural poor. It is hardly surprising therefore that ministries of finance and economic planning have tended to be unaware of the fact that forest goods and services remain as important as ever for many poor people and could be better harnessed to contribute to rural poverty reduction, as well as the national economy.

LLS has contributed to shaping a bold new vision of forests as multifunctional assets that can make a real difference to rural poverty, economic growth, environmental quality, human well-being as well as biodiversity conservation. It has promoted this vision among both the forest sector and decision makers in other sectors whose own goals and targets impact, or are impacted by, the state and integrity of forest resources. The strategy has four key thematic components, each addressed in a mutually integrated manner:

- i) forests and poverty reduction,
- ii) markets and incentives,
- iii) governance, and
- iv) transforming landscapes

Targeted geographic interventions in nearly 30 landscapes across 23 countries in Africa, Asia and Latin America looked at the linkages between the four themes and avoiding their treatment as stand-alone issues.

This paper is one of a series of thematic working papers exploring the cross-cutting operational components, and which draw on various aspects of landscape experiences to test some of the assumptions behind LLS, bringing together a host of its lessons and insights. The papers draw on data and information generated over the last 5 years and in most cases, at the time of publication, successes on the ground have continued into 2012, when the first phase of the project officially closes.

With sustainability integral to the LLS project design, the work of LLS will in effect live on in each landscape and often much more widely than that, influencing local, regional and international practice and policy in the manner already detailed and reported in the LLS Landscape Papers, Thematic Papers, Thematic Briefs and Research

What is a landscape?

A landscape is a mosaic of different types of land use such as agriculture, forests, pasture and conservation areas. Managed as a whole, a landscape serves a variety of needs for various stakeholders.

The LLS vision of a landscape is of multiple and complementary land uses based on negotiation rather than centralized planning. Landscapes do not exist in a vacuum, but are influenced by a wide range of external factors including policies and economic conditions generated far outside it, land use in adjacent landscapes and perhaps remote physical features such as dams.

Addressing landscape management issues always requires interventions outside as well as inside the landscape.

Introduction

Discussions about 'tenure reform' almost always interpret it to mean the establishment of secure tenure. However, the meaning of secure tenure is often vague. It is frequently equated with the need for formal titles and registration. Elsewhere, it seems to imply a form of tenure that benefits from recognition in law or government regulation, without necessarily involving registration or title.

In recent decades there has been a high level of agreement that there is a strong linkage between 'secure tenure' (often understood as secure *private* tenure) and poverty reduction. In development literature, authors such as de Soto (2000) and Hughes (2004), among others, have been powerful proponents of this idea which is seen as a core part of the 'liberal consensus'. Both de Soto and Hughes, along with other economists, equate secure tenure with private or individual tenure and not with common property regimes. Other authors agree that weak rights are major factors in people remaining poor but see secure common property rights as an important alternative in some cases (see, for example, Bruce, 2004).

The broad concern for secure tenure is strongly reflected in the literature on natural resource management and conservation. UNDP *et al.* (2005, p 19), for example, argue that "[o]wnership and access are the most fundamental keys to the wealth of nature". The Food and Agriculture Organization of the United Nations (FAO) has put considerable effort into examining the role of tenure in improved forest management and poverty reduction (see, for example FAO, 2008a and 2008b). There has been a strong push within the forestry sector for reform focusing on the need for secure tenure (for example, FAO 2011).

The underlying argument behind secure tenure is based on the idea that confidence about future access to land and natural resources will encourage people to invest time (labour) and resources (such as agricultural inputs and purchase of equipment) in improving land and natural resources such as forests. It is argued that secure tenure gives people confidence that they, not others, will benefit from their labour and investment. The corollary is that, in the absence of secure tenure, they are unlikely to protect resources or use them sustainably and that they might even deliberately destroy them. It is commonly assumed that without formal rights to land and natural resources, access to these resources cannot be defended.



Landscape mosaic ©IUCN/Intu Boedihartono

A further argument in favour of formal title is that unless land is clearly owned (this is often taken to mean privately owned) and inalienable, capital for investment is likely to be unavailable. The Australian economist Helen Hughes has argued strongly, with reference to the Pacific and especially Melanesia, that development is impossible without individual private tenure (see, for example, Hughes, 2004). Hughes, like many others, places emphasis on both the need for registration and titles to land and private ownership, by which she means individual ownership.¹ Her position has been strongly attacked on a number of grounds in a series of papers edited by Fingleton (2005). Some of the papers in the collection attack her findings on empirical grounds: Bourke (2005) disputes the claim that agriculture in Papua New Guinea (PNG) is in decline and argues that the status of PNG agriculture is much healthier than claimed by Hughes and her associates; Mosko (2005) argues from a particular case study that the real constraints are related to poor infrastructure such as roads and that agricultural production has been successful; Lightfoot (2005), referring to Fiji, argues

¹ In Papua New Guinea, a major target of Hughes' argument, most of the land is under customary tenure which is recognized under the Constitution, although customary land is not registered. Hughes argues specifically both for titling and individual tenure – a strong version of the argument for secure tenure.

that Hughes' critique of communal ownership misses the point that communal ownership can be combined with private rights which provide much of the security that Hughes claims only exists with clear private title.

There have been a number of critiques against the emphasis on formal tenure and individual property:

Samuelson (2001), reviewing de Soto (2000), argues that de Soto goes too far in making "property rights – or their absence – the center [sic.] of everything". He argues that 'cultural economics' is missing from de Soto, pointing out that "People around the globe respond to rewards and penalties, but the rewards and penalties vary among different cultures".

Davis (2006), discussing de Soto's promotion of land titling with reference to slums, argues that titling may benefit more wealthy squatters, but can have disastrous effects on poorer squatters because it often imposes additional costs by incorporating them into the tax base. Land titling exacerbates differences between poorer and wealthier squatters. Although Davis is referring to titling applied to slum dwellers, his observations may also apply to land titling of farmland or forest rights. Concerns about the unintended consequences of land titling or registration have also been expressed in relation to the privatization of common land (see, for example, FAO, 2011). This may have the effect of denying access to people who previously had access.

The argument by Hughes and others that communal property can never be the basis of development misses the point that some resources, in some situations, cannot be meaningfully privatized. In the case of large-scale pastures and large areas of forest, communal management is often the only viable form of tenure (Fisher, 2005). In the case of pastures where extensive seasonal movements are involved or where variable seasonal conditions require flexibility, communal management is an effective option. Large areas of forest cannot be sub-divided into small individual plots because the transaction costs of management (protection and reforestation) would be too much for individual owners.² Of course, privatization in the form of private tenure for large concessions or wealthy individuals might work for management, but would not benefit the poor.

Informal tenure is sometimes referred to as 'soft' tenure, that is rights that "can be modified relatively easily by bureaucratic discretion" (FAO, 2011, p.41). One argument against 'soft' tenure is that arrangements can easily be reversed. It is important to remember that this is, to some extent, true of formal tenure – governments can and do change the laws.

Gibson *et al.* (2002) assessed a small number of forests in Guatemala to test whether private property led to forests being better managed. They found that *de facto* (i.e. informal) institutions work where people have developed agreed rules and plans about forest use: "Communities holding a forest in common can, under certain circumstances, create institutions to manage their resources as successfully as – or more successfully than – private owners" (p.206). Importantly, with regard to the need for formal tenure, they found "that *de jure* property rights are not a powerful predictor of variations among the sampled forests" (p 206).

Another argument against over-emphasis on formal tenure has been made by Fisher (1995) and Fisher *et al.* (2008). The argument states

...that confidence about future access, whether based on formal tenure or not, is more crucial than formal title. In fact, legal rights are not always enforced and may even be ignored by government agencies, while oral agreements may be sufficient if there is a history of their being honoured... (Fisher *et al.*, 2008, p.110).

Discussion of the literature reveals that the idea that secure tenure is important for resource management and development (including poverty reduction) is widely accepted and advocated as the basis of sound economic and resource management policy, although this widely accepted idea is not universally accepted. A problem

² It is important to remember that communal and individual rights are often combined in traditional tenure systems. For example, in Turkana, Kenya – broadly a common property pastoralist regime – informal but secure individual rights to important areas of trees are an important complement to communal land management (Barrow, 1990).

presented by discussions of this issue is that a number of somewhat separate ideas are often, but not always, linked. The idea of secure tenure is generally equated with registration and title. Many advocates link this with an assumption that this should, or must, mean individual (private) tenure. The discussion also reveals that acceptance of either of these ideas is not universal and there are critiques of many aspects of them.

The aim of this paper is to examine some experiences from IUCN's Livelihoods and Landscapes Strategy (LLS) relevant to the theme of 'secure tenure'. We will examine experiences from a number of case study landscapes and, based on these cases, we will argue that formal tenure is not always necessary to achieve meaningful changes in people's willingness to invest in land and forest management. We will also argue that it is often all that is practical in the short to medium term.

The reality is that despite the wide recognition of the importance of tenure rights there are not many cases of forest tenure reform intended to recognize existing rights of the poor (including indigenous peoples) or grant new rights through legislative change. While the need is recognized, the task is difficult.

One of the assumptions underlying the LLS approach is that clear property rights and secure tenure for poor people are necessary preconditions for negotiations to successfully *and* equitably balance trade-offs between local and global needs.

Accordingly the LLS programme in a number of landscapes paid considerable attention to the potential for tenure reform. In practice, the emphasis was on 'tweaking' resource access (tenure) arrangements at the landscape scale, while at the same time using local interventions as policy experiments.

This paper argues that secure tenure is not always a sufficient condition, and is not always a necessary condition, for enabling better management that benefits people. Given how difficult it is to achieve pro-poor tenure reform, an important question is whether modest informal changes can achieve results. The paper argues that more modest, often informal changes can be useful steps towards tenure reform and can provide people with the confidence that enables them to invest time and resources.



Tacana landscape ©IUCN/Intu Boedihartono

We wish to stress that these case studies do not for the most part demonstrate quantifiable improvements in livelihoods or forest management. The time frame for LLS has been too short for that. The case studies do show that minor changes to access arrangements have led to changes in the willingness of people to invest time and resources, because they have gained confidence in their ability to benefit from their investments over time. This is particularly significant in the case of long-term investments such as planting trees for timber and tree crops (such as coffee).

Case studies

Doi Mae Salong³

Doi Mae Salong is located in the Chiang Rai province of northern Thailand, on the border with Myanmar; it has been classified as a reserved forest. As a reserved forest,⁴ agriculture and occupancy are generally not permitted; however, this has not been enforced and as a result the Doi Mae Salong has become highly degraded. The area is hilly with important watershed functions; deforestation and soil erosion are significant problems.

Nearly half of the population consists of exiled Chinese Kuomintang forces, along with their families and descendants. The Kuomintang fled to Burma after the Chinese revolution and subsequently moved to Thailand in the early 1950s. The Thai government allowed them to stay in Doi Mae Salong providing they helped the government to combat the communist insurrection of the 1970s. The rest of the population consists of members from six different ethnic groups ('hill tribes') and a small number of ethnic Thai. There are significant numbers of refugees from Myanmar among the hill tribe population.

Doi Mae Salong is the watershed of the Mae Chan River. Out of a total area of 335 km², 90 km² have been designated for the LLS landscape. The population in the LLS landscape numbers approximately 15,000. Land use in the landscape consists of a mixture of farmland and degraded natural forest.

Doi Mae Salong has been under the control of the Royal Thai Armed Forces (RTAF) because it adjoins the Myanmar border and is therefore a sensitive security area – this makes it unusual. The role of the RTAF until very recently (including the period of LLS involvement) went beyond security to include land and forest management.⁵ In 2007 the RTAF, conscious of the degraded status of the landscape, initiated an ambitious forest restoration programme in honour of the King of Thailand's 80th birthday. The programme began with attempts to reforest an area that had been used for farming. The farmers involved protested and the RTAF, to its credit, decided to reconsider its approach to landscape restoration. It approached IUCN for advice about how to implement the task. IUCN, under the LLS programme, became involved as a partner in the landscape and brought to the table the concept of landscape management based on negotiated land use.

The institutional basis for the new approach evolved into a multi-stakeholder forum involving community leaders and representatives of the RTAF, IUCN, local government and various government departments. The key process was negotiation over land use between areas with high priority for soil conservation and areas for farming. In the case of the site where the aborted first attempt at forest restoration occurred, the RTAF agreed to provide access to better farmland in exchange for access to the erosion-prone site for replanting. This set a precedent for negotiated exchange through the LLS process.

The point to note here is that access to new farmland was based on an agreement with no clear legal validity. Nevertheless, trust between the RTAF and the community was established and farmers developed confidence about continued access to farmland. A small informal survey was carried out in 2009; it confirmed that the people surveyed were aware of the decision-making process and happy with the way it worked. The survey also confirmed there was a degree of confidence about future access to resources and land. This

³ All of the landscape case studies referred to in this paper have been documented in more detail in a series of published landscape papers. The case studies draw to a varying extent on information provided in the landscape papers supplemented by the personal knowledge of the authors of this paper and by other sources as acknowledged. As LLS activities formally ceased in 2011, the information presented in the case studies applies to late 2010 or early 2011, unless otherwise indicated. See www.iucn.org/forest/lls.

⁴ The National Reserved Forest Act B.E. 2507 (1964) prohibits agriculture. Occupancy is also prohibited, except under limited conditions with the approval of the Director-General of Forestry. In practice, political realities have limited the capacity and political will of the authorities to expel people from Reserved Forests, especially as many communities have been resident for decades. To confuse matters National Reserved Forests can be declared degraded forests. Such forests can "be allocated to landless farmers... in the framework of the Agricultural Land Reform Act 1975" (Fischman, 2012).

⁵ This has begun to change since 2011 and the Royal Forest Department (RFD) is expected to take over forest management functions in future.

confidence existed despite the fact that there was no likelihood of secure tenure, in the form of land certificates, in the foreseeable future.

In addition to the negotiations about land use, other activities at Doi Mae Salong under LLS included restoration of erosion-sensitive sites and the promotion of agroforestry. The agroforestry activities included mixed plantations of perennial crops (such as fruit trees and coffee) often planted on erosion-sensitive sites. This approach combined restoration of landscape function with income generation.

From the point of view of tenure, the Doi Mae Salong experience highlights the potential of tinkering with tenure arrangements without waiting for large-scale formal tenure reform. In the context of the political realities of forest control in Thailand, it was out of the question that full land rights and land titles could be issued in Doi Mae Salong in the short or medium term. Attempts to deal with these issues in reserved forests in the past have always been met with strong resistance politically, particularly within the Royal Forest Department (RFD). In addition to the usual reluctance to condone farming in reserved forests, there were also some citizenship issues related to granting title to refugees and migrants without citizenship. In other words, waiting for the law to change to allow for formal tenure would not have addressed the land degradation or land access issues. Despite the understanding that the area was a reserved forest in which agriculture and occupancy were not permitted, people had been living and farming in Doi Mae Salong for many years. This was in part because the reality that many people live in the forests has had to be tolerated by the government – it has little choice in the matter. This is a common situation in Thailand. The rather unique arrangement between the government and the ex-Kuomintang is an example of exceptions being made for political or administrative convenience.

While farming was formally illegal, the practical reality was that people lived in the area. This, combined with the tendency for land-use decisions to be made on an administrative basis, provided room for informal tinkering. It was possible to work within the existing system to offer some sort of confidence about continued access. There was clear evidence that this informal approach was enough for people to invest time and resources in agriculture and agroforestry.



Children involved in LLS action learning, Thailand ©IUCN

This is particularly clear in the case of agroforestry activities. Coffee and macadamia have been planted in agroforestry plots, particularly in erosion-prone sites. Farmers have been very keen to grow seedlings and plant these crops. There has been no cash benefit in the short term, as coffee cannot be harvested until at least the third year and macadamia generally not until the sixth year. In 2010, 60,000 coffee seedlings were produced and planted and there is continuing demand. There is, as yet, no measurable output, but it is clear that people are doing things differently in anticipation of future benefits.

Although the negotiated informal tenure arrangements in Doi Mae Salong operate at a local level, the process has acted as a sort of policy experiment and has provided a degree of confidence in community capacity that might lead to long-term tenure changes.

Generally, in Thailand negotiated land uses benefit communities (by providing confidence about longer-term access) and the government (by reducing expansion of agriculture in ecologically sensitive areas and meeting broader social obligations). In 2010 the previous government recognized the potential of community-based tenure and the Cabinet passed a resolution calling for of Community Land Title Deeds (*Chanot Chom Chon*) to be issued on an experimental basis (Fischman, 2012). Two villages in Doi Mae Salong were included in the original proposal for 30 trial villages. According to Fischman, large numbers of communities have subsequently applied for deeds, but only two have been approved. These do not include the Doi Mae Salong villages. Fischman suggests the change in government in July 2011 may have resulted in the programme

having a lower degree of priority. It is possible that the low level of implementation demonstrates how little political support the policy has.

The Andamans

The LLS site on the Andaman coast of southern Thailand includes two watersheds and spans approximately 130 km of coastline. It includes a wide variety of different habitats from montane forest to seagrass beds and coral reefs. It has been described as a 'reef-to-ridge' system. It includes a large number of villages located in different habitats. There are three national parks, two wildlife sanctuaries, a non-hunting area, a UNESCO Biosphere Reserve and a Ramsar site. The LLS interventions focused on three sites in each of the two watersheds. The project aimed to identify priority areas for conserving the ecosystem and collating and sharing information on biodiversity and restoration to community-based organizations (CBOs), and also providing technical support to these CBOs. It was also concerned with improving the multi-stakeholder process for managing the landscape.

Mae Nang Khao Mountain, in Kuraburi district, Phang Nga Province is a montane forest that drops steeply over an area of 3 km from its highest point to the coast. The upper portion of the area has been demarcated as a forest reserve with portions zoned under the Agriculture Reform Act. The forests within the area serve as a watershed supplying freshwater to the communities that surround it. At its base, the mountain is surrounded by seven villages. The predominant source of livelihoods for the seven villages is agriculture-based consisting of rubber smallholdings or mixed fruit orchards. However, the seven villages also use the forest for local traditional uses and as a source of water. The seaward edge of the landscape is surrounded by a dense mangrove ecosystem and a small proportion of the community is dependent on small-scale aquaculture and fishing in the near-shore areas for their livelihoods.

Institutionally, the north Andaman coast is a complex landscape. The regulatory framework covering the area is fragmented, with multiple overlapping jurisdictions. A governance assessment of the Kuraburi watershed found at least 21 different government agencies with some form of jurisdiction in the area (Knight *et al.*, 2010), with no one government body having power over the whole landscape. There were large numbers of government institutions, NGOs and CBOs with interests in the landscape. Government agencies include the Ministry of Natural Resources and Environment, the Ministry of Agriculture and Cooperatives, the Ministry of Tourism and Sports and the Tambon Administrative Organizations (TAOs – the sub-district level local government).

An assessment of key natural resource problems within Mae Nang Khoa indicated that local communities regarded illegal logging and encroachment of forest reserves for agricultural use as the most pressing issues. Many respondents noted that clear demarcation between the forest reserve and community use areas was lacking and, due to the lack of land, communities were encroaching on the forest reserves for agricultural use. Respondents also noted that problems were exacerbated due to insufficient communication among the different village communities and between the communities and government agencies.

LLS interventions in the area focused on supporting communities to network with each other and the relevant government agencies. The project also supported the participatory demarcation of community use areas and monitoring of the ecosystem. Interventions began by supporting one of the seven villages, the community of Ban Thung Rak, with the support of local Buddhist monks to facilitate a dialogue with the surrounding communities. Additionally, government-community dialogues were supported by facilitating engagement with the key government agencies and the communities. Through a participatory approach, six of the seven villages agreed to a process of demarcating the forest reserve and to voluntary conditions to halt the clearing of forest land and reduce hunting. In addition, 32 Km² of forest reserve boundaries have been demarcated in three of the six villages by the local community network (Ban Thung Rak, Bang Dad and Nai Tui). As part of the demarcation process, the community, with the support of IUCN, conducted biodiversity and monitoring assessments of the area. They also compiled inventories that identified over 40 plant species including rafflesia, which they have documented on their website. As part of livelihood support, the communities have also received support from the North Andaman Community Tourism Network (NACT) to document and

develop appropriate tourism products that match community and conservation needs. In collaboration with local monks, a nature trail that showcases the area's biodiversity has been developed and is marketed to local tourists through NACT.

One of the key outcomes of the multi-stakeholder process, and in particular efforts to engage local authorities and government staff in discussions with communities over resource issues, was an increase in trust and confidence, with outsiders more trusting of community capacity and commitment and communities more willing to work with the outsiders. By fostering monitoring and assessment by the communities, the project increased the knowledge of members enabling them to interact more effectively with the government. In this case *de facto* ownership and management have been strengthened as a result of confidence building and networking. More generally, in the landscape various communities manage forests and coastal resources under local informal arrangements 'within village boundaries'. The building of trust with government agencies has contributed to an increasing willingness to recognize these local systems or at least to provide sympathetic support.

One indicator of the value of supporting informal arrangements and including officials in activities that give them a sense of ownership, is reflected by the inclusion of Mae Nang Khao in the initial list of 30 pilot sites for the communal titling (*Chanot Chom Chon*) programme, although, as mentioned above in relation to Doi Mae Salong, this process seems to have stalled. Additionally, leadership skills among the community have been strengthened and one of the local community leaders is a member of the government-appointed team. Despite difficulties in securing formal recognition (through a *Chanot Chom Chon* deed), the Mae Nang Khoa community continues to exercise improved control over the forest resources through the establishment of a local institution in the form of a network and increased capacity to prevent outsiders from damaging their forest resources.



Market in Thailand ©IUCN

“Moving closer to nature”, Miyun watershed, China

The Miyun watershed is another of the LLS landscapes. It is a major source of Beijing city's water supply. It has a total area of 15,788 km². Approximately one million people live in the watershed upstream from Beijing. The forest within the watershed has been heavily deforested over a long period of time, presenting a serious threat to the Beijing water supply. Efforts to tackle this have consisted of two major strands. The first is a logging ban that has been in place for more than 30 years. The second is a plantation programme that has involved planting large areas with various species, including conifers. Despite extensive reforestation efforts, the plantations are in very poor condition and have limited value for watershed conservation. The paradox is that, despite strict protection, both the remaining natural forests and the planted areas have limited capacity for watershed protection.

While logging bans and a protection regime have not led to forests suitable for watershed protection, they have contributed significantly to the impoverishment of the people living in the watershed because of the restrictions they have placed on local forest access and use.

LLS began working in the watershed in 2007. A major focus of the intervention was on developing modified silvicultural systems using an approach termed 'close-to-nature' silviculture. This involves attempts to restore the forest to conditions that resemble the original 'natural' condition as closely as possible. Management plans were prepared by project staff and partners and discussed in the two pilot villages prior to approval by the forest department. On the basis of this participatory approach to developing forest management plans,

the Forest Department issued timber-use permits for small quantities of timber. This was a major policy 'step forward' and was directly attributed to the interventions.

The new approach to silviculture allowed for the removing trees that competed with target trees. Overall, this modified the forest structure in a way that favoured species that had been present in the past and also removed unhealthy trees. Allowing people to harvest selected trees of substantial size also took pressure off the harvesting of shrubs and small regenerating trees, which are important for protection against erosion. The emphasis shifted from protection to active management and involved the communities in decision making about forest management and management activities (including harvesting).

Improvements in the forests in the selected 'pilot' villages have been significant, in terms "of forest structure, quality and function"⁶ At the same time there have been changes to people's livelihoods, particularly in access to fuelwood. This has been accompanied by the development of improved (more fuel efficient) means of using fuelwood for heating.

The LLS activities concentrated on two pilot villages, with the expectation that improved forest governance and new approaches to silviculture might be applied more widely throughout the landscape. Changes to livelihoods have been limited due to the short time period since the interventions started. Changes to biodiversity have also been limited compared to the overall size of the watershed. However, the experimental approach has shown evidence of working effectively.

The crucial issue in the landscape has been the logging ban. This has had negative effects on livelihoods and forest condition, since it has protected large trees and has not adequately promoted regeneration. It was not possible in any realistic timeframe to overturn the logging ban as this was an entrenched policy. However, it was possible, working with the forest authorities in the relevant jurisdictions, to achieve a relaxation of the ban on a pilot basis. This had significant benefits for forest management and on the ability of villagers to access forest resources. Tinkering did work, and the acceptance of 'close-to-nature' silviculture by the forest authorities indicates that there is potential for the policy experiment to contribute to policy changes in future.

"Small changes for big impacts", Ghana⁷

Sometimes legal or policy changes are not enough to provide people with confidence about future access to trees and forest resources. Problems with implementation may mean that lack of confidence persists. Simple local arrangements may change this.

In the cocoa belt of southern Ghana, cocoa farmers have a clear understanding that the cocoa trees and food crops they plant on their land belong to them, subject to whatever leasehold arrangements tenants may have with customary landowners.⁸ However, farmers do not have rights to naturally regenerating trees on farmland.⁹ These belong to the government. Under a Forestry Commission Administrative Directive of 3 August 2006 on the Registration of Private Plantations Located Outside Forest Reserves, farmers were given rights to non-cocoa trees they planted, subject to registration. However, farmers were often unaware of this and, even when they were aware, there was a reluctance to plant trees because it was difficult to demonstrate that trees they had planted actually belonged to them because they had no evidence to prove it.

⁶ Li Jia, Lucy Emerton (2012). *Moving Closer to Nature: Lessons for landscapes and livelihoods in the Miyun landscape, China*. Gland, Switzerland: IUCN.

⁷ Samuel Kofi Nyame, Michael Okai, Adewale Adeleke and Bob Fisher (2012). *Small Changes for Big Impacts: lessons for landscapes and livelihoods from the Wassa Amenfi West Landscape, Ghana*. Gland, Switzerland: IUCN.

⁸ Most land in Ghana is under customary tenure, which has full constitutional and legal recognition. However land registration covers only a small portion of land. Complex arrangements exist for the allocation of land, with many farmers (including cocoa farmers) obtaining land through lease arrangements made with landowners.

⁹ It is important to note that the 2006 directive does not apply to naturally regenerating trees on private land, although policy discussions are apparently in hand about a similar provision relating to naturally recurring trees.

The LLS field team in the Wassa Amenfi West landscape, which included the Forestry Commission's Forest Services Officer, developed a simple solution to this problem. First, photocopies of the registration certificate were provided. Second, improvements were made to the original certificate which was a simple A4 sheet. The improved tree certificate consisted of a booklet with background information on the regulation. This was accepted for use by the District Forest Office. The farmers now get a certificate documenting the trees they have planted, detailing numbers and species. They receive one copy while another copy is filed with the Forestry Office. This simple measure has increased confidence that farmers are able to benefit from the trees they plant.

As this system became more widely known and used there was a rapid increase in the number of trees planted, as indicated by registration figures:

2008: 22 certificates, 7,201 trees, nine species

2010: 16 certificates, 46,615 trees, 15 species.

The increase in planted trees is related to the high-value market for timber and the realization that trees planted belong to the farmers who will be able to benefit from the sale of trees when they mature. People have not received income as a result of this change so far, as tree registration is a new process. However, a mechanism has been put in place that provides opportunities for the future and farmers are clearly responding. The registration process is a simple change. It is a local arrangement made with the District Forest Office. Replicating it nationally would presumably have significant impacts on tree planting.

“Rights, resources and rewards”, Mount Elgon, Uganda¹⁰

Mount Elgon is located in eastern Uganda and western Kenya. There are national parks on either side of the border managed by the respective wildlife departments. The Ugandan Mount Elgon National Park is located on the western side. The Mt. Elgon LLS landscape is located on the northern slopes just outside the park.



Community consultation, Mount Elgon, Uganda ©IUCN

This area is in Benet sub-county. The majority of the population consists of people from the Benet ethnic group. Many of these were relocated from the national park when it was created. Other members of the population include Benet who have been living in the lowlands for a longer period and have been engaged in agriculture. The Benet who were evicted¹¹ from the national park were traditionally hunter-gatherers. There has been a long history of tension between the park authorities and the people in the landscape.

The landscape area has been badly deforested and suffered soil erosion. Despite extensive efforts to reforest the degraded landscape through various projects, tree planting was unsuccessful, mainly due to uncontrolled livestock grazing in the dry season. Livestock grazing also made on-farm soil conservation difficult.

During participatory planning discussions, local people, facilitated by the LLS team, identified the need for some by-laws to control grazing, along with several other natural resource management regulations. (In Uganda, by-laws are allowed as long as they are passed by the sub-county and, subject to checks by the Attorney-General to ensure they conform to the constitution and other laws, come into force locally.) The by-

¹⁰ Barbara Nakangu, Chemonges Awadh, and Stephen Kelleher (2012). Rights, resources and rewards: Lessons learned on rehabilitating landscapes for livelihoods in the Benet landscape, Uganda. Gland, Switzerland: IUCN.

¹¹ The preferred administrative term is probably “relocated”.

laws, proposed by the communities (villages) of Benet sub-county, have been passed at the sub-county and district levels, and, even before they were formally approved by the Attorney-General, they were already having an effect, because they were subject to popular agreement within the sub-county. While the incentives for the by-laws mainly related to soil conservation and being able to plant trees successfully (something they had been trying to do for many years, but failed because of the livestock), it is clear that these investments were perceived by the communities as more advantageous than continuing to allow their own livestock to graze and browse wherever they wanted.

As a result of this simple breakthrough, people were able to see the benefits of on-farm tree plantation and soil conservation because the results would not be destroyed by uncontrolled grazing. Already more than 30 km of contours have been dug by hand using collective labour. This change in behaviour would never have occurred if the by-law had not been passed. The enthusiasm for the construction of contours and associated tree planting is evidence that farmers saw benefits in terms of agricultural productivity. Villagers report significant changes in downstream water quality. All that was done to support the work logistically was the provision of some digging tools – there were no payments. Others outside these moderately supported villages have copied the approach without any support. Since the by-law was established, families in the landscape have planted an average of 200 trees each.

This represents a form of tenure change insofar as access rights to the affected area for livestock grazing were previously restricted. The changed access rules were agreed and implemented locally (by the community consisting of several villages) even before they became formalized through approval of the Attorney-General. LLS helped facilitate the by-law development process, and LLS staff also assisted by providing technical support for terracing and for tree nurseries.

The degree of trust and confidence built up within the Benet community through these activities had the additional effect of increasing trust between the community and the park authority. This led to the park authority piloting restoration of degraded forest within the park boundaries through a joint forest management approach based, not on a formal national policy, but on trust and perceived mutual benefit. In return for their role in restoration, communities were given access to non-timber forest products (NTFPs) within the park (including the right to establish beehives within the park). There has also been an agreement that the communities will be given a proportion of any carbon payments resulting from the restoration.

The Mt Elgon case is an example of how improved access can be negotiated in a situation where national laws and regulations do not allow access to forest resources. During the life of the LLS work, livelihood benefits were not yet quantifiable and there were no benefits from forests inside the park before. These changes will enable people to benefit in future from the trees planted on-farm, and from the restored forests inside the national park. Laws governing national parks in Uganda do not allow any extractive use. In the absence of facilitating laws, 'institutional tweaking' played an important role.

Conclusion

This paper aims to qualify some of the claims made about the importance of 'secure' tenure (taken to imply a level of formal legal recognition) as a basis for improved forest management and poverty reduction or livelihood maintenance. This is not intended to be an argument against the value of secure tenure, but rather a caution against assuming it will solve everything, and encouragement to attempt modest changes rather than doing nothing in the absence of reforming laws relating to tenure and allocating certificates. The key point is that formal tenure change cannot always (or even often) be achieved in the short to medium term. In the meantime, smaller informal changes can have valuable benefits.

There are several additional points that can be made about tenure reform. Of these, this paper has focused on the first, but the others are important:

- Formal changes are not always necessary. A lot can be achieved through informal tweaking and, in cases where large-scale formal reform is politically unlikely, tweaking is better than nothing.
- Formal tenure is not always enough. It is common to have tenure reform in cases where marketing laws or administrative practices undermine the intent behind the formal tenure arrangements.
- Formal changes can be counterproductive if carried out without adequate exploration of locally recognized rights and practices. This can occur when *de facto* common property is converted to private property (see Bruce, 2004; FAO, 2011), or when rapid registration of rights claims provides tenure to the wrong people or misses the claims of people who have secondary rights.

There are some situations in which formalization of tenure may be a priority. For example, the harnessing of non-traditional benefits, such as Payments for Environmental Services (PES), carbon and biodiversity markets (especially from voluntary sources) will probably need some degree of formalization of tenure.



Greta Lakes ©Intu

The reality is that forest tenure has often been very difficult to change, especially in a manner that is pro-poor. Efforts to pass laws that provide for community rights to forests are generally resisted, partly because governments and forest authorities do not trust communities to manage forests responsibly, and partly (perhaps mostly) because vested interests do not wish to see rights to valuable resources transferred. For this reason tenure reform is largely about the politics of the possible. Major tenure changes don't happen quickly and require trust and confidence. In this context, working on informal small-scale tenure is often the only possibility. The lessons from modest tinkering may lead to the confidence and knowledge needed to enable more formal change.

This paper has argued that secure tenure is not always a sufficient condition for sustainable management and may not always be a necessary condition. We have also argued that modest and often informal changes can be useful steps towards tenure reform when full-scale reform is not politically possible in the short to medium term. This can happen because 'institutional tweaking' or 'tinkering with tenure' may operate as policy experiments which demonstrate the potential for more comprehensive changes. As is clear from several of the cases discussed in this paper, small steps can build trust and confidence between people who don't normally trust each other.

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