Decentralization and Devolution of Forest Management in Asia and the Pacific
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Foreword

Governments throughout Asia and the Pacific region are creating exciting and innovative opportunities for achieving sustainable forest management and biodiversity conservation goals by decentralizing authority and responsibility for resource management. The trend to decentralize is driven by a range of factors, including efforts to reduce central bureaucracies and cut budgets, a history of government forest management failures, increased economic liberalization and market orientation, and growing commitment to more equitable forest management.

Throughout the region, innovative legislation and policies are strengthening the hands of local governments and communities in managing forest resources. The various initiatives have led to greater access and control of forest resources by local people. In turn, forest protection and management have often improved and resource pressures been reduced.

While the decentralization trends are very promising, many programs have encountered major challenges, disappointments and setbacks. To explore the issues and challenges facing various decentralization and devolution initiatives, the Philippines Department of Environment and Natural Resources/Forest Management Bureau (DENR/FMB), the FAO Regional Office for Asia and the Pacific (FAO/RAP), and the Regional Community Forestry Training Center (RECOFTC) jointly organized the "International Seminar on Decentralization and Devolution of Forest Management in Asia and the Pacific". This publication is a result of the seminar. The seminar was convened in Davao City, Philippines, from 30 November to 4 December 1998.

The importance of forest management decentralization and devolution issues is underscored by the large number of participants that attended the meeting and the broad support given to the seminar by various international organizations. More than 180 participants from 21 countries participated in the five-day seminar, which included a day of field visits to various sites on the island of Mindanao where many of the experiences from the Philippines in decentralization and devolution can be observed.

The main objectives of the seminar were to:

- Critically review decentralization and devolution experiences in forest management;
- Discuss emerging issues associated with different approaches to adaptive forest management;
- Identify and analyze constraints and opportunities in recent efforts;
- Examine gaps between policy and implementation in the field; and
- Explore how successful pilot efforts can be scaled up to generate wider impact.

One of the main issues that arose from the seminar was the recognition that decentralization and devolution are two very distinct processes. Experiences in the region indicate that decentralization does not automatically result in devolved forest management. Many of the papers in this publication indicate the need for greater understanding of how these policies are actually implemented at the local level and how these policies affect local forest management efforts.

Experience reveals that local government units or local forest bureaucracies are often given responsibility to undertake activities but not the authority or appropriate budget resources to make meaningful decisions. For decentralization policies to have significant impact, those who are delegated responsibility need greater authority and decision-making power to implement programs.
Discussions and presentations at the seminar pointed out that it is not only a lack of human and financial resources at the local level that has led to slower acceptance of decentralized forest management policies, but reluctance within forest and other government bureaucracies to relinquish control.

On the other hand, increasing democratization throughout the region has led to the emergence of numerous alliances among local organizations and networks attempting to create opportunities for more meaningful decision making for local people. There is a need to bridge the gap between governmental reform (decentralization) and the exciting changes taking place at the local level. Only then will decentralization policies have their intended affect of spurring rural development and promoting forest conservation.

We hope this publication will assist those in charge of formulating and carrying out forest management policies to better understand the key issues and challenges that underlie effective implementation of decentralized forest management.

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Core financial support for the seminar was provided by the USDA Forest Service, the United States Agency for International Development (USAID), and the Community Forestry Unit of FAO.

The large number of participants who received financial support to attend the seminar highlighted the great importance that many organizations are giving to decentralization and devolution in forest management. The organizers would like to thank all these organizations for providing the necessary financial support for participants and their follow-up work in preparing papers for this publication. Finally, FAO and RECOFTC thank all the participants who made presentations and actively participated in the seminar, and the authors who prepared papers for this publication.
Overview of Themes and Issues in Devolution and Decentralization of Forest Management in Asia and the Pacific  
by R.J. Fisher, Patrick B. Durst, Thomas Enters and Michael Victor

Decentralization and devolution are dominant themes in contemporary discussions of forest policy and management throughout the world. Many countries have drafted legislation or policies for implementing decentralization and devolution in one way or another. Nevertheless, between the policy, rhetoric and implementation there are obvious gaps, and there is little conceptual clarity about the meaning of decentralization and devolution. The "International Seminar on Decentralization and Devolution of Forest Management in Asia and the Pacific," held in Davao, Philippines, from 30 November to 4 December 1998, explored experiences and issues surrounding the implementation of decentralization and devolution approaches in the region. This introduction reflects on some of the key themes and issues that emerged from the seminar.

Differentiating Decentralization and Devolution

There are diverse definitions of decentralization and devolution, and the two terms are often even treated as equivalent. It is useful, however, to distinguish between them. Decentralization can be defined as the relocation of administrative functions away from a central location, and devolution as the relocation of power away from a central location. In this sense, power can be equated with the capacity or authority to contribute to decision-making. While decentralization and devolution may occur at the same time, it is quite possible to decentralize administrative functions without devolving the power to make meaningful decisions.

In practice, genuine devolution of power over forest resources has occurred only to a limited extent, even where decentralization and devolution are major policy thrusts. Types of both processes can also be differentiated by the direction in which functions or powers are shifted, such as from a central bureaucracy:

- To regional or local offices;
- To local political structures (i.e. local government); or
- To local communities or natural resource users (i.e. groups established by local social processes, not by administrative fiat).

The first type largely represents decentralization only. This introduction focuses mostly on the second and third types, which involve both decentralization and devolution.

Who Sets the Objectives? Devolution of Power over Resources

Within the Asia-Pacific region, the tendency has been to grant local communities the responsibility for protecting forest resources, without granting the rights to use them in a major way. Where local use is permitted, it is usually highly circumscribed and generally limited to minor or non-wood forest products. For example, a tribal community in the Philippines was given the responsibility to protect a watershed, but no rights to use the resources within it. Ancestral domain legislation in the Philippines is intended to recognize traditional connections to resources as a basis for formal tenure, but in this case formal tenure has brought responsibilities without rights (see Datu Ontog Lolong). Another clear example is the case of protected areas in India (see Badola), where people are given the responsibility to protect resources but are not given access to use them.
A related problem is the decentralization of responsibility without devolution of the power to make independent decisions or to take action outside narrow parameters set by forest authorities. Key forest management objectives are usually set by governments, and the decision-making authority of local communities tends to be limited to decisions that meet these objectives.

The pattern of devolving responsibility without power is also evident in the decentralization policies of the Philippines where local government units are the main local implementers. Local government units are given the responsibility to implement programs without the opportunity to define the programs - nor are they allocated adequate resources to meet the new responsibilities.

In real devolution, those to whom responsibilities are devolved should have substantive input in setting the objectives, rather than simply meeting objectives set by others. "Substantive input" does not necessarily mean that all decision making is devolved, but it does imply the genuine possibility of affecting outcomes, and a willingness on the part of those devolving authority to modify their objectives.

This discussion raises some serious questions about devolution. Why, given all the official policies and rhetoric concerned with decentralization and devolution, are governments and forest authorities apparently willing to devolve only responsibility? Are they trying to maintain control over valuable resources while cutting management costs? Or do forest authorities simply not trust communities to make the right decisions? To what extent are forest management objectives negotiable? To what extent should they be negotiable?

Should Forests be Given over to Communities for Management?

There is much disagreement as to whether forest resources should be handed over to communities at all. One line of thinking holds that devolution to communities is not only desirable, but necessary; another holds that it is totally undesirable. Between these extremes lie other less absolute viewpoints.

The main argument in favor of devolution is essentially pragmatic: conventional forest management (i.e. through forest departments) has not worked well in much of the region (see Banerjee). Continuing high deforestation rates have been viewed as evidence that the current system is not working. Devolution is expected to offer more effective management. In addition, it is often argued that devolution is desirable on grounds of equity and social justice.

One of the key arguments against devolution is based on the belief embraced by some foresters that communities do not have the ability to manage forests. This concern may be legitimate in particular cases and may indicate a need for some controls (and for capacity building at the community level), but it is not valid as an argument against community control of forests. This viewpoint indicates an obvious lack of trust and confidence in communities.

Another variant is the argument that some communities do not have the will or interest to manage forests. According to this view, commercialization and marketization have transformed the rural economy to such an extent that traditional resource use patterns have been replaced with newer livelihood strategies that include commercial exploitation. Many communities and devolution proponents argue that this change should not stand in the way of further devolution - that there is no reason why communities should not manage forests for commercial purposes. What this means is that many rural people are demanding the same rights and benefits as their urban compatriots (away from livelihoods dependent on forest resources) such as access to markets, choices in managing their natural resources, and education and health services. In
particular the younger generation has largely set out on the path of "modernization", and that might mean that labor-intensive forest management activities are no longer in their interest. In fact, the harboring of high development expectations of many rural people can be a serious threat to sustainable forest management and biodiversity conservation (see Enters and Anderson). Thus, the implication is that forest management policies need to be flexible so they can be adjusted to local realities and the desire to break out of economic exclusion.

The idea that forests cannot be handed over because communities cannot be trusted to manage them properly is, in any case, based on a simplistic understanding of tenure - an assumption that complete control must be vested in either the forest department or communities. Actually, no form of legal tenure anywhere in the world encourages absolute control, so there need not be great concern about a loss of control in handing over forest ownership to communities (see Lindsay). In all societies, non-governmental ownership has always been subject to some regulation. Even in countries where private ownership is most strongly enshrined, such as in the United States or New Zealand (see Clarke), governments still maintain some rights and controls, so people are constrained from certain actions even on their own private land.

Partly underlying the apprehension about relinquishing control of forests seems to be a real concern on the part of some foresters about giving up the valuable understanding, tools and techniques of forestry science. If foresters do not control forests, then what will be their role?

It is feasible that foresters will gain by genuine devolution, because what they will lose is their regulating role, which is often considered a distraction from their focus on forestry science. Devolution can offer an opportunity for rethinking how forestry can support local management.

It is interesting to note that some of the very people associated with Joint Forest Management and similar programs oppose the handing over of forests to local people. This indicates a partial commitment to decentralization in the form of devolution of responsibility and some forms of participation, but an explicit rejection of devolved decision making or power sharing. These views are honestly held and clearly illustrate that the policy dialogue about devolution remains very diffuse. Furthermore, it is apparent that the assumptions of various people advocating devolution are sometimes inconsistent and that many people fail to distinguish devolution from decentralization.

A Typology of Approaches to Decentralization and Devolution

While there is no clear consensus about whether devolution is desirable, it is possible to classify most cases of decentralization and devolution into three basic types of approaches.

In the first type, governments seek public participation in (generally) large-scale programs, with centrally set objectives. This seems to be the pattern in most programs. The Indian model of Joint Forest Management certainly fits this pattern; it involves communities in forestry activities (including protection and planting) on forest department land. While some benefits are provided in return for participation, the objectives are set by the forest department and decisions are made on the basis of these objectives. In other words, communities participate in government programs, they are granted responsibilities and some benefits, but they are given little or no authority. This scenario is essentially decentralization without devolution.

The second type involves the decentralization of forest management roles from central government to local government, but not to local communities. Transfer of responsibility to local government units is a major focus of policy development in the Philippines. Even in this context,
the discrepancy between responsibility and power is an issue. In one example, a provincial governor had to "pull power down" from the central government in order to implement the program. This approach involves decentralization, with a degree of devolution in some instances.

The third approach involves the handing over of a significant amount of control to local communities or individuals. This approach is widely discussed rhetorically, but there are very few working examples. The broadest application appears to be represented by community forestry in Nepal, where community rights to use national forestland can be formally recognized subject to negotiated and approved management agreements. However, even the experiences in Nepal indicate that decentralization and devolution are not always complementary (see Singh and Kafle; Uprety and Shrestha). On one hand, the Forest Act of Nepal devolves forest management responsibilities to forest users groups as independent organizations. On the other hand, the Decentralization Act gives local governmental units control over all natural resources within their administrative area. This has caused confusion and conflict at the local level regarding rights to benefits, access and responsibilities. Local communities are now trying to work out their own strategies to deal with these contradictory policies.

Enabling Meaningful Devolution

Meaningful devolution requires both that local managers (be they local government units or local communities) have the capacity to manage forests and that those with current authority to make management decisions are prepared to transfer that authority. It would be naïve to think that all people with control over resources wield their power only for the common good. No doubt some people wish to retain their power over resources for their own benefit. On the other hand, many (probably most) resource managers are reluctant to devolve authority because they genuinely fear the outcome of uninformed management. A major prerequisite for meaningful decentralization and devolution, therefore, is to build levels of trust in local management.

Trust is a prominent issue. Organizational or social arrangements that increase people's trust in each other are a major form of social capital, which is a resource that enables partnerships to work. It is essential to increase trust between foresters and communities as well as within communities; this will involve building local capacities and providing examples of effective local management to demonstrate improved capacities.

It is also essential that arrangements include safeguards (checks and balances). However, decentralization and devolution approaches should not simply allow forest departments to set and police the rules, and judge community performance. Forest departments must also be answerable to the communities, perhaps through third parties, special tribunals or other mechanisms.

The importance of monitoring the performance of community-level forest managers is often noted. It is important for at least two reasons. First, it provides checks and balances. Second, monitoring can help identify successful community-level managers and contribute, through the provision of good examples, to the building of trust and confidence.

Testing a community's capacity to implement a management plan designed by someone else is not a valid measure of the community's management capacity. In other words, it is difficult to assess community management capacity meaningfully if there is no real community input into decision-making. Monitoring the success of community-based forest management can only be meaningful when there is genuine devolution of authority.
As Banerjee stated during seminar discussion, it is also unfair to apply tougher tests to community-based activities than to conventional forest management. In this context, it is important to remember the high annual deforestation rates that prevail under the current management system.

**Conclusion**

Examination of the key issues surrounding decentralization and devolution of forest management in the Asia-Pacific region clearly reveals a single important theme: it is not enough simply to diversify the responsibility for implementing centrally defined objectives. Rather, decentralization and devolution policies and implementation must progress to genuinely devolved (usually pluralistic) forms of decision making and objective setting. Otherwise, decentralization and devolution will contribute relatively little to sustainable forest management and human development.
Decentralization and Devolution in Forest Management: A Conceptual Overview

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Introduction

The terms decentralization and devolution, along with a number of associated terms (such as participation and power) are now used widely in discussions about forestry policy. The terms are, however, used to describe a wide range of different approaches and processes to forest management and are often wrongly interchanged. The first aim of this paper is to define more clearly what the various terms and concepts mean. The second aim is to look at some ways in which the concepts have been applied in practice and to identify implications from these experiences to guide future attempts to apply decentralization or devolution to forest management practices.

This paper is a critique of much of what has been described as decentralization and devolution in the past, not a critique of the ideas (or ideals) behind decentralization and devolution. It supports the call for devolution made by Dr. Banerjee (see Ajit Banerjee in this volume). The paper is not intended to be a comprehensive analysis of the different decentralization processes occurring throughout the region, but rather an effort to encourage more explicit awareness of what devolution or decentralization mean both theoretically and in practice.

Definitions and Concepts

Four key concepts will be discussed in this section: decentralization, devolution, power and participation.

The terms decentralization and devolution are often used more or less interchangeably, but it is important to differentiate between the two. Decentralization can best be defined as relocating administrative functions away from a central location. This does not necessarily involve changing the locus of decision making, or devolving power. In distinction to this, devolution can be understood as relocating power away from a central focal point.

In this context, power can be defined as the capacity to affect the outcome of decision-making processes. It is important to stress that this implies a genuine role in decision making, not just a token input in the form of "consultation". These definitions are not precise, but the distinction reflects common usage and, more importantly, it is useful for purposes of analysis.

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Another important aspect of both decentralization and devolution is the direction which either one can take. In the forestry context, the terms are used to describe the relocation of administrative functions and/or power from a central location or focal point to:

- regional or local offices of the forest bureaucracy;
- local political structures (such as the sub-district or administrative village level); or
- "natural" users (i.e. groups established by local social processes, not by administrative fiat).

Participation is another term which is used vaguely. Arnstein (1969) developed a typology of ways in which the word is used. These eight levels are progressively ranked in a ladder which
groups various usages into more general categories ranging from "non-participation", "degrees of tokenism" to "degrees of citizen power" (see Figure 1). When we look at many so-called participatory projects it is clear that they fall within the lower levels of the ladder. The organizing principle of this ladder is the degree of power people have over decisions that are made. This notion of participation ranked in terms of degrees of power over decision making is a useful entry point into discussions of what is really devolved and decentralized in forest management.

**Review of "Participation" in Forest Management**

Several conclusions can be drawn from any modestly informed look at what passes as participatory forestry:

- Most local participation in forest management occurs at the lower levels of Arnstein's ladder of citizen participation;
- Examples of serious devolution (expressed as a meaningful role in decision making about forest resources) are rare; and
- Participatory forest management rarely involves access to valuable forest resources.

![Degrees of participation ladder](Image)

The last point is made clear by Banerjee (2000) who reviewed the participatory forest management experiences of a number of Asian countries where he had personal experience. He drew the following conclusions:

- In India, Joint Forest Management (JFM) applies only to degraded areas;
- In Nepal, where community forestry is relatively advanced in the hills, the extension of community forestry to the Terai (where there are valuable accessible resources), or to access to any valuable products, is strongly contested by foresters; and
- In Bhutan, community forestry applies mainly to peri-urban degraded areas.

Discussion of people's participation in forest management often revolves around complaints that the "people do not want to participate in forest management". Sometimes the reason for this unwillingness to participate is attributed to a lack of knowledge and skills or a lack of understanding regarding the importance of forests. Sometimes it is seen as being the result of the absence of adequate "participatory methodologies" ("if we just had better tools and techniques, we could get people involved"). It is likely, however, that the more common reason is that people do not "participate" because they see no point in promoting someone else's agenda. We return, thus, to the question of power to influence management decisions.
This failure to devolve power is not just a matter of not devolving power to communities. Many attempts at administrative decentralization and devolution exhibit a common pattern in which the “periphery” is expected to implement objectives set at a central level. Very often there is a discrepancy between the responsibilities people are given and the rights and powers they have (including the power to act on their responsibilities). Devolution of responsibilities is rarely accompanied by devolution of authority. For example, forest staff are often given the responsibility to encourage local people to participate in forest development activities, for which there is a budget, but do not have the authority to make agreements about the use of that budget. Agreements made in good faith by field staff are often reversed by senior officials, with the result that confidence in field staff by local people declines and efforts to increase local support fail.

**Misapplying Devolution and Decentralization**

In addition to the basic problem of devolving true power responsibility to implement policies, there are three major ways in which decentralization and devolution have been misapplied:

- Responsibility is often devolved without accompanying devolution of authority to make meaningful decisions required for implementation. This occurs when decentralized administrative units are required to implement programs without having the authority to make the local decisions needed to implement the programs (as in the example given above). It also happens when communities are given responsibility to manage forests without the authority to make the day-to-day decisions involved to perform these responsibilities.
- Responsibility (and, sometimes, authority) are devolved to the wrong people. An example of this is where control of a forest is given to a group that does not have locally recognized use rights, or when authority is given to an elite group, disempowering a wider population of users.
- Approaches to devolution and decentralization are frequently based on applying standard organizational models of local organization (usually based on formal administrative structures) that ignore local conditions and (often effective) existing local arrangements and organizations. In other words, application is often sociologically naive.

As an example of the pressures to impose a standardized organizational model, it is useful to look at Indonesia in 1998. In the spirit of *reformasi* associated with the fall of the Suharto Government, there were immense pressures to make major reforms to forest policy, including strong emphasis on recognition of the needs of local people. The Minister of Forestry at the time was a strong supporter of cooperatives and there was an assumption that local participation would flow in the form of standardized cooperative arrangements, despite the risks that cooperative arrangements would probably not be appropriate in all (or even many) situations. To work, cooperatives would need to be appropriate for a variety of situations such as cases where voluntary groups of farmers were involved in timber production or where traditional shifting cultivators were involved in regulating farming on individual plots through existing social arrangements. Cooperatives might work in some cases, but would be problematic in others.

The problem with standardized models is that they often ignore what has been learned about the social basis for effective local action. A brief history of the evolution of community forestry in Nepal illustrates some of the issues associated with applying devolution and decentralization at the community level in forestry. The Nepal study illustrates the misapplications and also shows ways they can be addressed.
The Nepal Experience

Following the nationalization of private forests in 1957 and the collapse of the feudal system in the early 1950s, it became increasingly clear that the government could not manage forests effectively without local people being involved. It was also recognized that rural people had legitimate and urgent needs that could only be met from forests. The first real community forestry policies were initiated in 1978 with the introduction of Panchayat Forest and Panchayat Protected Forest Rules under which specified areas of forest could be handed over to local politico-administrative units called Panchayats for reforestation of degraded forests (Panchayat Forests) or protection in the case of existing forests (Panchayat Protected Forests).

This proto-community forestry was modestly successful in achieving local support, but was limited by the fact that neither category of forest allowed any significant forest use unless there was also an approved forest management plan. These were very rare. Major rethinking became evident in a watershed Workshop on Community Forestry Management in 1987 and was officially enshrined in Nepal's Master Plan for the Forestry Sector in 1988. The revised policy encouraged transfer of forests to local communities for active management and use. Emphasis in the field shifted to developing operational management plans with communities as a prerequisite to handing over forests for their use.

But major institutional barriers remained. One of these was the continuing requirement that the Panchayats should be involved, although it had already been established that smaller groups of traditional users, living close to forests and with informal locally recognized access rights, were more appropriate managers. In fact, handing forests over to the Panchayat was often seen by traditional users as giving away their forest to those who had no active interest in their management. The problem was that there was a strong official ideology that the Panchayat system was a unique and indigenous non-party solution to governance in Nepal. This made it impossible to ignore the village Panchayats in community forestry arrangements. There were also some major "institutional incompatibilities" between the forest department and local communities that limited the rate of hand over of forests to communities (Fisher 1990). These incompatibilities included:

- The tendency by the forestry department to assume that there was some sort of institutional vacuum at the local level. It was assumed that there was no useful local knowledge about forest management and subsequently, locally established use-rights and existing local management systems and organizations were ignored. Thus, emphasis was placed on establishing new arrangements that not only ignored existing arrangements, but also were often in direct conflict with them.
- The "committee syndrome", whereby interventions focused on setting up standardized and externally-sponsored organizations in the form of committees. Field staff were required to set up such committees, although they frequently lacked local support and operated in name only. In the meantime, functioning local systems often continued to operate unrecognized.
- The forest department, partly because of the Panchayat ideology, continued to focus on local government, rather than on "natural" user groups.

Research into local forest management systems and lessons from field experience led to an improved understanding of these difficulties, but it was only with the collapse of the Panchayat ideology after the 1990 revolution, that community forestry was able to shift focus from local Panchayat officials towards user groups. Legislation in 1993 further entrenched the user group approach. These changes led to a rapid increase in the number of community forestry
management agreements. By 1998, the government had handed over more than half a million hectares of forest to roughly 5,000 registered user groups.

The community forestry program is very popular with rural people, and demand for development of operational plans and hand over remains high. There are, however, signs that many forest officials would like to limit the program in various ways.

The main point emanating from the experience of Nepal relates to the increased success of participatory forest management which arose from a better understanding of what is involved in successful local collective action. Lessons about the factors that enable people to work together to manage forests were incorporated in policy and implementation. It was only after power was devolved to the actual users that community forestry in Nepal began to take off.

What is Known about the Social Basis for Collective Action?

There is a vast body of literature on the management of forests as common property and a great deal has been learned about the social basis for effective collective action at the local level (see Ostrom 1990; Fisher 1994). Essentially, forest management by local people requires people to agree or consent to some forms of regulated access to, and use of, forest resources. This involves cooperation, negotiation and institution building. So, what is known about the types of conditions necessary for collective action? We know that:

• There must be a high degree of trust among actors, who must be reasonably confident that others will comply with agreements made.
• People are less likely to breach agreements when doing so will interfere with existing social arrangements. In other words, people do not wish to start conflicts with people they live with, they depend on to provide work, and with whom they share family ties. Interdependence (Ostrom 1990) or embedded social relationships (Fisher 1994) encourage adherence to forest management arrangements. For this reason "natural" communities are a better basis for collective action than artificially constructed, or administratively convenient, units.
• Collective management around resource management is more likely when the boundaries of the resource and the boundaries of the social unit managing it coincide (Uphoff 1992). This can be phrased slightly differently: all the people who use a resource and only those people, should be part of the social unit which manages it. Again, managing forests through formal administratively convenient units (such as Panchayats) tends not to work socially, unless they coincide with the actual users of the forest.

All of these points have great importance for how devolution or decentralization is applied at the community level. Where communities are defined in terms of the formal political and administrative structure, there are real risks that responsibility and authority will be applied to a "community" level that is inappropriate in terms of what is known about effective collective action.

The tendency to focus too much on the formal local political structures makes sense to bureaucracies, for several reasons:

• It is easy to identify representatives;
• A clear legal basis exists; and
• It is procedurally simple (which is good for large-scale implementation).
But, there are major disadvantages:

- The formal political system is often adversarial whereas resource management requires consensus, or at least consent;¹
- The representatives do not represent all interests;
- Because of this, there is likely to be limited adherence to decisions;
- Formal political systems tend not to coincide with "natural" user groups; and
- Collective action is inhibited if relationships are not "embedded".

Conclusions and Implications

What are the implications of these observations for the implementation of devolution and decentralization forest management policies?

The first implication (applicable whether the shifts are to local administrative units, local political structures or to "natural" user groups) is that effective decentralization or devolution requires devolved decision making and the need to support devolved responsibilities with power and authority. The second implication, applicable at the community level, is that the process needs to be informed by an understanding of the social basis of local (collective) action. A third implication (not explicitly discussed in this paper, but arising from the discussion) is that we need to think of ways to combine the concerns of local governments with those of other non-formal groups.

References


¹ These limitations apply even when the formal political system involves representative democracy. In representative democracy, there is often a high level of opposition to majority decisions. Where outcomes cannot be enforced, consensus or consent are necessary.
Introduction

Unfortunately there are many examples of inadequate and unsustainable forest management by central governments and large private interests alike - from both the developed and developing worlds. In developing countries, where governments are often distant from the resource base and have little means, some government forest reserves exist only on paper, having long ago been exploited and converted into other land uses. On the other hand, forest concession management by industry, especially when it tends to follow short-term economic interests, has equally been questioned about its sustainability.

Perhaps because of these failures, decentralization has been viewed as a promising way of achieving more sustainable forest management. Decentralization in general, and its usual accompanying concepts like participation and co-management, holds prospects for increased proximity to clients, local ownership, reduced transaction costs, increased equity, and enhanced sustainability (Van de Sand 1997); and improved management, accountability, agricultural and economic productivity, and cost recovery (Vermillion 1997). Brown (1998), discussing the rationale for community involvement in forest management, mentions proximity, impact, local livelihoods, capacity, equity, cost-effectiveness, adaptation and development philosophy as key elements.

Decentralization as a means to improve forest management and promote sustainability has had a great number of adherents over the past decade or so. To many, it is a less naive form of participation, and is a form of participation that recognizes political and administrative realities, and moves beyond the isolated, small-scale, success of some participatory rural development projects. A number of documents and reports deal with its positive and potential impact. However, a growing number of voices point out that decentralization is not sufficient, or does not and can not work unless some important accompanying measures are in place.

Forestry has not been immune to the "decentralization fever". Decentralization in forestry holds a number of perhaps illusory and unkept promises. However, devolution of forest management responsibilities and authority to local communities, private small holders or other local groups is not a "sustainability panacea", especially when one type of inadequate, monolithic management is replaced by another. Some experience seems to show local communities and groups perform erratically, sporadically and inequitably (see Enters and Anderson in this volume). They need interaction with outside entities for technologies, techniques markets, and other things that might not be available to them. They are also not immune from capture by special interests and manipulation. They may lack interest and skills, they may be unable to manage conflicting interests within the community, and its knowledge and management systems may be stressed by an increasingly globalized, populated and liberalized world. Indeed, it was partly for some of these reasons that many forests were nationalized in the first place. In isolation, local communities may lack sufficient checks and balances to prevent environmental abuse and may not develop the capacities for sustainable forest management. Decentralization does not mean that local communities or groups magically have the capacity for sustainable forest management.
Decentralization, like participation, means many things to many people and has become common in the jargon of donors and governments alike. Clearly a critical approach is needed if decentralization is to live up to its promises and produce meaningful change and better forest management, and not just remain cynically used phrases to camouflage the status quo. A number of critical questions are currently being asked:

- When and where is decentralization justified?
- What should be decentralized and to what extent?
- Do local entities have the capacity to adequately fulfil their "new" roles and responsibilities?
- How can decentralization avoid becoming deconcentration and the status quo in new clothes?
- Does decentralization implicitly imply a broader and more diverse institutional landscape?

Complete answers to these questions are beyond the scope of this paper. However, the paper attempts to introduce four considerations - subsidiarity, empowerment, pluralism and social capital - that contribute to a better understanding of the processes involved in the decentralization of forest management, and therefore to more realistic approaches. While many other issues could be discussed, such as participation and accountability, the contention of this paper is that these four considerations are centrally (but perhaps not uniquely) important for understanding and succeeding in decentralized forest management. Despite this importance, they are often overlooked.

This paper builds mainly on the deliberations of two workshops, both held in Rome in December of 1997, the "Technical Consultation on Decentralization" and the "Working Group on Pluralism and Sustainable Forestry and Rural Development". While the paper raises some concerns as to the possible success of some forms of decentralization, the aim is not to doubt the need for decentralization in many cases, but hopefully to make it a more effective process.

**Subsidiarity**

Subsidiarity is the principle that decisions should be made at the lowest possible level where competencies exist. It aims for the effective implementation of tasks within a given policy and a hierarchical level, which minimizes costs and maximizes social well-being. For forest management, this implies that "concerned local populations should be officially responsible for a part of the cost and benefits of functions essential for the local management of resources". (Babin and Bertrand 1998). In essence subsidiarity is the concept behind decentralization. In many instances in the past, local communities were assumed to not have the capacities to make decisions about local resource management, even when they were required to shoulder some or most of the costs.

Babin and Bertrand (1998) cite two examples of the concrete use of the concept of subsidiarity in forest management. One is the development of "rural wood-energy markets" in Niger. The Government of Niger developed a framework that confers extensive local autonomy to local populations on the basis of a contract negotiated between the state and a local management structure. The process does not impose technical solutions, but promotes the emergence of possible solutions and self-organization. It does not assume that the central level has all the answers, technical or otherwise, but assumes that solutions will emerge as challenges are encountered. In their words "the state plans and manages forest resources at the national and regional levels and leaves local management to the local population". Some results of this process include 150,000 ha of forest under management, appropriate quotas and harvesting
techniques, high tax collection rates, increased incomes for local populations, and increased levels of social investments.

In Madagascar, contracts (secure local management contracts) and environmental mediators are being used to help promote more sustainable forest management. The government passed a law in October 1996 (Law 96-025) on the local management of renewable resources - mainly through a process of contracting management to local communities. The Government of Madagascar, CIRAD (Centre de Co-operation Internationale en Recherche Agronomique pour le Development) and their partners in GELOSE (local and secure management of natural resources) are applying the principle of subsidiarity to forest management. This includes a process of mediation in the negotiation of contracts and activities that allocate responsibility and authority for management to the local level.

Subsidiarity can be a useful tool to judge decentralization efforts and choose among options. It requires not only a careful and realistic analysis of local capacities, but also a comparison of capacities and devolution of responsibility and authority to the most appropriate entity. Strangely, this is often absent from much discourse on decentralization. Subsidiarity can help against the tendency to apply potentially universal solutions, like decentralization, without local adaptation. Subsidiarity is also helpful in pointing out the element of time (i.e., that levels of competency change over time). So should decentralization.

While subsidiarity helps to assess the different, but complementary roles of the state and local actors and the necessity for roles for both, it also points towards the type of role the state might play. According to Kaimowitz et al. (1998) local governments and actors

"...also need an overall policy context favorable to local initiatives and clear mechanisms for exercising their legal rights and carrying out their responsibilities. Unfortunately, so far, national and departmental government agencies have done little in this regard, and in some instances have indirectly undermined local government activities. Externally funded projects and NGOs have provided municipal governments with some technical assistance, training, and funds, with largely positive effects, but this has been insufficient to consolidate their natural resource management activities."

Other roles for the state mentioned by Babin and Bertrand (1998) include "referee, economic decider, supervisor of actions and their effects, planner of actions in the framework of land-use providing structural instruments for orientation and development". It is also necessary for the state to look after "public goods" that may be undervalued by the private sector or at the local level.

**Empowerment**

There is a saying that "power is never given, it is always taken - it has always been thus and it will always be thus" (possibly attributable to W.E.B. Dubois). Thus the notion of 'empowerment' is immediately problematic. How can one party empower another? Does not the less powerful party have to take power? Dependence on power sharing and the good will and altruism of the powerful (either in government or in the private sector) is a highly risky and unpredictable affair for the less powerful. In most instances, local communities and user groups will have to be organized (to demand power) before power is shared. They have to be organized to take it - otherwise they are condemned to wait for a few altruistic people to come along. To paraphrase Bratton (in Robinson 1996) once the question was "how can development and government agencies reach the poor majority?" - the participation question. Now it is more likely to be "how
can the poor majority be enabled to influence meaningfully public policies and choose those who will implement them?" - the empowerment question.

Ribot's (1998) work on forest management in the Sahel describes the decentralization process, which indeed benefits local people, but perhaps not as much as it should.

"The language of decentralization and participation is often of local control, autonomy and benefits yet the new structures being introduced in their name afford little. Local populations are still relegated to a carefully circumscribed set of roles and relations with forests, little autonomy is created and few new benefits are devolved."

In some cases, the costs of decentralization are disproportional to the benefits. This has been the case in Mali and in some forms of Joint Forest Management (JFM) in India when the requirements and part of the costs of developing a "local" forest management plan are such that in reality decisions and authority remain with the centralized forest service. Contracts for forest use can have the same problem. Some contracts between local users groups and the forest development authority for classified reserves near Bamako, Mali were looked upon very favorably by local groups. However, it became clear that the forest service was not only the sole judge of what amounted to good forestry practices with respect of management plans, but also the arbitrator in case of disputes. Local groups accepted the arrangements because they got slightly more benefits and security than they would have otherwise. But as Ribot (1998) points out, this was perhaps more in the way of charity than of empowerment. These actions improve life slightly for rural populations and thus are welcomed, but they do little to change the fundamental relations and bestow secure rights. There is a growing literature that critiques much of the participatory approach on these or similar grounds (see for example Brown 1994). In many cases it appears that local communities through decentralization become little more than proxies for the central technical units.

In some cases, it appears that decentralization is solely motivated by financial considerations. For example, forest service personnel working for a project responsible for the management of peri-urban forest reserves near Bamako, Mali explained to villagers that the decentralization of forest management and the sharing of rights and responsibilities with user groups was implemented due to financial constraints at the center. The implication was that if funds became available again then the participatory approach would be discontinued.

Ribot (1998) implies that decentralization without empowerment is in reality another form of centralization. Attempts to decentralize are often made without proper analysis of either the situation or the process of decentralization itself. It has rarely gone beyond the terms of projects and marginal small-scale exceptions. Ribot (1998) also states that the concern for decentralization is not new - he enumerates four waves of interest in decentralization in West Africa since 1900 - and thus is not always successful or extensive.

There are numerous ways of empowerment. The obvious legal and political ones may in fact be the most difficult if not necessarily the most important. Ribot (1998) cites several processes or preconditions that contribute to local empowerment and accountability that do not necessarily rely on legal and political systems or reforms. These include:

"embeddedness of authorities in the local community; belief systems that orient authorities toward service and dedication; reputations that local authorities seek to maintain; journalists, NGOs, community organizations or individuals lobbying or acting as watchdogs; social resistance or threats of resistance; ... central state oversight oriented toward downward
accountability (in place of the current form of central tutelle); reporting requirements concerning local government meetings and public service; information dissemination about the obligations and powers that local governments have to local populations;... open fora for public discussion;... education and literacy campaigns."

Decentralization and empowerment should also include the various services working at the local level. If these services, such as extension, are not empowered (i.e. field agents do not have certain rights, authorities and responsibilities), they will be unable to respond adequately to the demands placed on them.

Aspects of empowerment should be built into decentralization and devolution efforts and these efforts should be critically assessed for their degree of empowerment of local entities.

**Pluralism**

Successful decentralization often implies new and more open and equitable relationships between a range of groups and organizations - community, government, private sector, NGO, etc. - at the local level. As Fiszbein (1997) states, "After all decentralization means that certain functions previously performed by national bureaucracies will be performed by a given combination of public and private agents at the local level". This combination means that multiple and, at times, conflicting interests are in play. Decentralization implies an emerging pluralistic situation.

Pluralism can be applied to many domains (see Box 1). As a system applied to politics - to the way society is to be conducted and guided - pluralism is grounded in the need to ensure that several decision-making powers should find expressions thus creating a series of checks and balances between groups. As applied to the analysis of society, it asserts that experiences differ as well as opinions, behavior and reactions. It usually refers to the existence of a number of social groups who coalesce around certain apparently common traits or experiences. As a philosophical doctrine, it affirms that beings are many, are individualistic, and do not depend on an absolute reality (Clément 1997). In epistemology, it implies that there are no universal truths (at least for non-trivial questions of substance) and that separate knowledge systems exist which cannot be absolutely proved or disproved (Rescher 1993).

In forestry, there are growing numbers of groups who are independent and do not share the same forest management objectives. Disagreements on objectives are often interpreted by the parties as lack of capacity (Fiszbein 1997). For example, forest services sometimes assume that because local groups do not agree with central expert authorities on how forests should be managed, they must lack capacities or knowledge, and therefore are not capable of managing these resources. In fact this often has to do with having different sets of objectives and frankly disagreeing on approaches. Disagreement does not always signal lack of capacity.

One of the major reasons mentioned in opposition to decentralization is the lack of capacity of the decentralized entities. In addition to the argument that "lack of capacity" is often in reality a disagreement on objectives, it can also be argued that this is a hypothetical statement or self-fulfilling prophecy. Local entities can never prove their abilities unless they have some authority. Fiszbein (1997) observes that in Colombia the proponents of decentralization did not argue that local entities already had the capacity to manage. They argued that only through decentralization would these capacities be developed. He also observes that what is often perceived as lack of capacity is in reality conflicting objectives. Studies in Mali (Sow and Anderson 1996) and Sudan (Sulieman 1997) for example demonstrate that local people have very different perceptions and
perspectives on the forest resources and their management. This does not mean, of course, that local people lack capacity. This strongly reflects the pluralistic situation.

Box 1: Some key elements of pluralism in sustainable forestry and rural development

- Different groups have and always will have different positions, opinions and objectives on sustainable forest management and rural development
- Groups are autonomous and independent
- There is no single, absolute, universal and permanent solution to any substantive natural resource management problem - for any given land unit there are numerous "sustainable scenarios"
- No group/organization can claim a superior or absolute scenario; sustainable forestry and rural development decision-making is no longer the sole mandate of expert authorities
- A system of organizational checks and balances is central for avoiding errors of a narrow single entity management system - this is the positive aspect of 'bounded conflict'
- Conflicts are inevitable and can not be resolved but managed
- Equity in decision-making is a distant but worthy ideal
- Platforms, mediators and facilitators are often needed to provide the conditions for negotiation and cooperation
- Communication is essential and helps participants understand their differences
- Consensus is unlikely but progress can be achieved without it
- Approaches to sustainable forest management that aim at consensus are often misguided and unsustainable
- Proactive approaches and new processes of sustainable forest management decision-making in pluralistic environments are emerging - more experience is needed

*Anderson et al. (1998)*

Presently, pluralism's most common use in development jargon seems to be to describe a multitude and diversity of actual or potential "delivery mechanisms". Traditional public sector service delivery has been heavily criticized for such weaknesses as inadequate coverage, ineffectiveness, inefficiency and audience bias. Observers have seen a greater role for other partners (such as the private commercial sector, NGOs, and farmers or forest owners' associations) to overcome constraints in public delivery. Much of this discussion assumes that there remains unity of objective and purpose, a single knowledge system and a right answer to be extended. It assumes that somehow all these different organizations fit together to serve the same objective and to deliver similar scientific content. In many cases, different non-government partners are simply seen as "sub-contractors" or acknowledged to be better at meeting the needs of certain audiences, but with the same body of knowledge. Sometimes it appears that other partners are integrated as long as they recognize a sole source for technical content and thus become mere proxies for the centralized authority (Anderson et al. 1998).

The situation may be more complex. Pluralism does reflect a differing set of views, and on complex issues (like ecosystem management within a dynamic social system) these views are resistant to scientific reductionism.

"... pluralism will not only be accorded recognition, but it will be used and made an integral part of government policy. Among the institutional consequences of pluralism obtaining recognition
in various countries, decentralization is frequently listed, i.e. pluralism as handing over the governance of a component part of the territory to some elected local authority (and not to appointed agents of the central government). Two factors enter into play, however, and relativize this link between recognizing pluralism and decentralization. One is bound up with the imperfect nature of decentralization, which is often de facto the fruit of a subtle compromise between deconcentration and decentralization. Accordingly, decentralization does nothing to simplify problems attendant upon pluralism; there will always be groups and individuals with differing opinions and objectives, and the resolution of local problems does not always facilitate the solution of problems at the national level. Quite the contrary”. (Clément 1997)

Decentralization inevitably unmasks conflicts, genuine disagreement and lack of consensus at different levels. However this is critical to the development of capacities. Partnerships and political competition at the local level and the greater involvement of non-state actors are a strong motivator of capacity building (Fiszbein 1997).

There are fears and some real risks that some types of competition between multiple interests at the local level can lead to degradation. This is even sometimes the justification for the imposition of central control. On the other hand, the presence of multiple interests can lead to a system of checks and balances and mutual monitoring by autonomous groups where the chances for sustainability are improved over single interest management. Crucial to new relationships and the success of decentralization is the recognition that this implies pluralism and the creation of coordination mechanisms (forums where multiple groups and interests get together and negotiate) and participatory methods that respect the plurality of participation. There is no single mechanism and approach that fits all situations.

Social Capital and Capacity Building

Many forestry and environmental problems and activities require some type of collective action, usually on common pool resources, but also on public and private lands. Most forms of JFM in India and community forestry in Nepal, for example, are based on types of collective local action. Decentralizing management to local groups poses the question of capacity at the local level. Collective action can be very difficult where levels of social capital are low and capacity is weak or lacking.

Social capital is often seen in vague and ambiguous terms. It remains a secondary consideration for many involved in decentralized forest management. An example, from Hobbes, perhaps best shows what it is and how important it can be. To paraphrase: One neighbor's rice is ready for harvest today and another's will be ready tomorrow. The second neighbor does not help the first because she is not sure that the other will help her the next day. Both neighbors lose in real economic terms because of the lack of "norms, trust, and reciprocity networks that facilitate mutually beneficial cooperation in a community” (Harriss and de Renzon 1997). A study of social capital in Tanzania (Narayan and Pritchett 1997) revealed that higher village social capital is associated with higher levels of individuals' incomes even after controlling for household education, physical assets and village characteristics.

Harriss and de Renzon (1997) distinguish an array of different types of social capital including family and kinship connections, wider social networks or associational life, cross sectorial linkages, political capital, institutional and policy frameworks and social norms and values.

The concept of social capital may be of particular relevance to the decentralization debate. In an important study, Putman (1993) shows how the differences in existing social capital (meaning
norms of reciprocity, networks, and trust) impact and condition the success of decentralization efforts in Italy. In 1970, Italy embarked on an ambitious program of regionalization and decentralization of governance. The central question of the study was "what are the conditions for creating strong, responsive, effective representative institutions"? The success of decentralization in the North of Italy can be traced back to higher levels of civic engagement or social capital. Putman (1993) even traces differences in social capital back one thousand years. His analysis stresses that the success of decentralization depends on the levels of social capital that already exist within the local area, which is path-dependent or historical in nature. His work is interesting because it lays the groundwork for predicting the success of decentralization. Once the key factors are known it might be possible to design decentralization strategies that take them into consideration. However, his outlook is ultimately somewhat pessimistic - the techniques to build social capital and the length of time involved are daunting.

Bebbington and Kopp (1998) provide examples in forestry where social capital was built (in a dialogue between the local and central levels) and these networks and norms of trust served to promote sustainable forest management. In one case, these processes were mainly from the bottom up, as the decentralization of forest management was initiated originally by rural people's organizations (RPOs) wanting to take more control over their indigenous lands in Bolivia. In another case, from Colombia, the process was more top-down with central government level actors taking a lead role in decentralization. He also emphasizes the important role of social capital in making the use of other forms of capital more efficient and effective, and the key role of government officials.

On the other hand, the effects of the lack of social capital in forest management can be quite dramatic. Conroy et al. (1998) give a striking example from Orissa, India. Here four villages took collective action to protect a degraded patch of a reserved forest. They started in 1975 and by 1984 the vegetation had increased in density and height. However that same year, several of the villages had a series of conflicts about the siting of a road, the sharing of benefits from a jointly managed pond and local elections. The villagers no longer had the levels of social capital (including trust) needed for collective action. Within the space of several days the protected patch was cut down by the villagers (and also by some unconstrained outsiders). By 1986, the patch was worse than it had been in 1975 with roots even having been dug up. It should be noted that while the conflicts had a dramatic effect on the collective action needed for forest management and protection they originally had no link to forestry.

The relationships between local institutions and central governments are complex and effective decentralization may well mean that the latter takes on a stronger role in some areas. "Local governments clearly require external assistance both to bolster their support for sustainable resource management and to strengthen their capacity to promote such management" (Kaimowitz et al. 1998). Those policy arguments which pose civil society or the local community against the state, or which rest on the view that a "robust civil society" is necessarily a precondition for "good government" are almost certainly misconceived (Harriss and de Renzon 1997). Governments can help build social capital and capacity. What appears to be needed is new forums for the various actors to come together and methods of participation that are indeed empowering and take into consideration dissension and dissonance.

Conclusion

Decentralization and devolution hold promise for improving forest management and moving towards sustainability. Many local communities and groups are uniquely placed to contribute to these goals, for a number of reasons. They often have important endowments of social capital
making collective action possible, although this is not always the case. Less well recognized, they are often pluralistic in nature and contain traditional systems of administrative and political checks and balances and accountability (Thomson 1994). As such, they are more pluralistic than government departments and private sector concerns, and are therefore perhaps slightly more likely to manage their forest resources sustainably.

Decentralization should result in more effective and productive interplay between organizations involved in forest management - from community-based organizations through private companies to state agencies. Sustainable forest management requires constant learning and adjustment. The presence of a multiple actor system promotes needed mutual learning and innovation in addition to checks and balances. Multiple interests, instead of being a threat to sustainability, may in some ways be essential. To the extent that decentralization promotes this, and not single entity management, it will contribute to sustainable forest management.

Much decentralization is top-down - implemented as programs with too much time spent discussing levels and representation. It is an artificial non-organic approach to something that should remain, if one is honest, unpredictable. "Each municipality has a quite distinct dynamic that can lead to widely diverging social and ecological outcomes" (Kaimowitz et al. 1998). Hence sometimes decentralization helps achieve sustainable forest management and sometimes it hinders the achievement of this goal.

Decentralization cannot guarantee that communities will reap more benefits and be more interested in sustainable forest management. However, it does seem to increase the chances that this will happen - especially when combined with other enabling actions and incentives. As Kaimowitz et al. (1998) state: "There are clearly instances where decentralization has or will allow these groups to participate more in local government, have greater access to forest resources, restrict encroachment by large timber companies and ranchers, and influence policies affecting forests". While containing promising elements, this does not guarantee sustainable forest management per se. Experience shows that decentralization and devolution are complex processes and in themselves not sufficient to guarantee sustainable resource management.

Decentralization is an approach that embodies many elements - some of these elements may even be more critical than decentralization itself. In fact it may not be a universal "good" thing - some things should not be decentralized and a strong center may be needed to assure the success of decentralization. Decentralization may be needed to meet the goals of local capacity building, pluralism and subsidiarity.

Decentralization can be both an end and a means, it can pose almost as many problems as it solves. It is also not a panacea and should not be taken, for example, as a substitute for democratic representation. It seems to work best in situations where a number of criteria are already in place and is not a substitute for those conditions. Since decentralization does not seem in itself to be the answer to sustainable forest management and its outcomes are somewhat unpredictable, it may be useful to give more attention to subsidiarity, empowerment, pluralism and social capital.
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Creating Legal Space for Community-based Management: Principles and Dilemmas

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Prologue: Law and the Fumba Mangroves

For centuries, communities on the Fumba peninsula of Zanzibar have depended on mangroves. Mangrove poles have provided a critical supply of building material for homes and boats. The rich mangrove ecosystems have supported an abundant supply of fish and other marine resources.

Today, as elsewhere in the world, the mangroves of Fumba are disappearing at a tremendous rate. Alarmed by this state of affairs, in the early 1990s the residents of Kisakasaka village, in collaboration with Zanzibar's small Subcommission for Forestry, took some modest steps to address this problem at the community level.

Villagers and foresters agreed that the crux of the problem was the wanton fashion in which the mangroves were being exploited. People from other parts of Zanzibar and mainland Tanzania were coming to the area and destroying large areas of the mangrove forest. The villagers conceded that their own use of the mangroves was increasingly out of control and showed little respect for past local management practices. No one, in short, was taking responsibility for the management of Kisakasaka's mangroves.

With the encouragement of government foresters, the villagers of Kisakasaka responded to this situation by designing a new approach to local mangrove management. They formed a conservation committee, and they worked out a set of rules or by-laws which they felt would help stabilize the situation, and allow the mangroves a chance to regenerate. Cutting periods were established, closed areas were identified, and harvesting limits were set. The by-laws created a simple system of penalties for violations, and a rotation system of monitoring by committee members. Finally, access to the area by outsiders was to be limited, allowed only under certain conditions and subject to an entrance fee and permit.

Zanzibar's beleaguered Subcommission for Forestry, understaffed and underfunded, has increasingly come to recognize the essential role of communities in forest management. Similar experiments are springing up elsewhere on the islands, and a newly adopted National Forest Policy proclaims the need for more (Silima et al. 1994). There are, of course, great uncertainties. Immense economic and demographic pressures are bearing down on the new arrangement in Kisakasaka, and it remains to be seen if these can be resisted. No one knows for sure if the incentives for participation will be sufficient to overcome the costs of organization and forbearance. It is too early to tell if the adopted rules are environmentally sound, but in view of the alternatives, these seemed like risks worth taking, to villagers and foresters alike.

There is, however, another important issue, one that has hovered in the background throughout the short history of the Kisakasaka effort: are such initiatives legally sustainable? Will the experiment work under Zanzibar law? Questions like these arose from time to time during the

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2 An earlier version of this paper was presented at the International Workshop on Community-Based Natural Resource Management, held 10-14 May 1998 at The World Bank, Washington, DC.
process of mapping out the Kisakasaka plan, but in the end this aspect received little systematic attention.

The failure to examine legal implications is not surprising. It is human nature to wish away legal complications when things seem to be going well. But had careful attention been paid to these matters, a number of soft-spots in the legal foundations of the experiment might have become apparent. Consider the following:

- All mangroves, including those in Kisakasaka, were "forest reserves" under Zanzibar's forest law. In reserves, all decisions regarding management were to be made by the government, and all forest resources belonged to the government. While the Subcommission for Forestry agreed to village use of the mangroves in accordance with an approved plan, nothing in the law or in the Subcommission's informal agreement with the community could prevent it from unilaterally changing its mind. Result: the rights of the community to manage the mangroves and to benefit from its management could be easily terminated, and were therefore legally insecure.

- Zanzibar's forest law had been written in an era when the main objective was to keep people out of the forests, not to involve them in management. Under a loose reading of the law, the government might be able to delegate substantial powers and responsibilities to communities in forest reserves. Many officials, however, did not read the law in this spirit, and instead pointed out that there was nothing in the law that gave them the explicit right to grant such powers to communities. Result: the legal authority of the Subcommission for Forestry to allow community initiatives in mangroves was perceived as uncertain.

- The group of villagers involved in the program was largely self-selected and informally constituted. Its relationship to existing local government institutions was highly uncertain. It was also uncertain how the group's by-laws related to the power of townships to issue their own by-laws in relation to resource management. Result: the legal status of the management group and its authority to make and enforce rules was unclear.

When the villagers and foresters were working out a plan for Kisakasaka, concerns like these, if acknowledged at all, must have seemed abstract and obscure. The community and the government were, after all, working together for once toward a common goal, in a climate of mutual trust.

However, It is not hard to imagine ways in which these infirmities could come to have real-life consequences. What if other Zanzibaris, jealous of Kisakasaka's regenerating mangroves, began to argue that the villagers had no right to lay claim to a part of Zanzibar's "national" forests? What if some Kisakasaka residents themselves began to violate the by-laws, arguing that those by-laws had no legal status? What if personnel changes within the forestry sector brought in decision makers unsympathetic to community management - could they stop the Kisakasaka experiment with a stroke of the pen?

Experiments like Kisakasaka, in short, have emerged in a legal environment that at best was poorly suited to their objectives, and at worst could jeopardize their success.

There are prospects that the legal environment may be changing for the better. Zanzibar has recently adopted a new Forest Resources Conservation and Management Act, a law that may, if fully implemented, address many of the above concerns. The new act provides a mechanism for drafting "community forestry management agreements" that can be utilized for forest reserves as well as other areas suitable for community management. Procedures for the delineation of
community forest areas are spelled out, as are the basic rights and responsibilities for both parties to any agreement. Community groups are empowered to draft enforceable by-laws (subject to Forest Department approval) and can be recognized as legal entities. Nevertheless, the law draws back from setting forth too many details, opting instead for a flexible approach that would allow agreements to be tailored to reflect local conditions and community aspirations.

State Law and Community Management

The example of Kisakasaka is far from unique. It represents a modest example of a growing emphasis worldwide on the management of forests and other natural resources by local communities, groups, families and individuals.

But Kisakasaka is representative in another way as well - in the weaknesses of its legal underpinnings (though as noted above, recent legal reforms may improve the situation). This is a characteristic it shares with many, if not most, community-based management efforts around the world. For the most part, legal regimes do not provide a way for local people to establish enforceable legal rights to the resources on which they depend, or to play a meaningful part in planning and managing those resources. Many national laws continue to reflect a state-centric approach to resource management and a restricted philosophy of property rights that has tended to undermine existing community-based systems. This has seriously constrained local people and progressive government officials in the search for new community-based solutions.

As in any area of human endeavor, community management can take place in blissful ignorance of its legal environment, provided that (by design or indifference) the policy, social and economic conditions are favorable. Some community management systems have existed for centuries, and may continue to operate with no legal underpinning as far as state law is concerned, and perhaps even in direct contradiction to what is written on the law books or administered in the courts. There are of course many political, social, economic and ecological variables that play a part in the success or failure of any given effort, many of which state laws and legal institutions may affect only marginally.

Yet community-based management systems almost never exist in a state of pristine isolation. Natural resources are the focus of increasing conflicts around the world. Where community-based management efforts are subject to growing threats from outside or within, and to the tugs and pulls of national and international economies, the formal legal environment, for better or worse, becomes increasingly relevant. Consequently, it appears inevitable that the presence of state law (or in many cases, the problems caused by its absence) will loom ever larger as community-based efforts receive more attention - both supportive and damaging - from outside.

Looked at from a different angle, local management initiatives need state law, sometimes more than their advocates like to recognize, though usually less than governments are willing to admit. They need state law because, however robust local management systems may be, there are things that local institutions or community-based rules often cannot accomplish alone. This includes:

- Community-based institutions, acting alone, cannot define the rules by which they interact with outsiders. Of course, interaction with outsiders is invariably shaped by community-based rules, and frequently governed by long-standing norms and understandings between local groups and outsiders that stand outside of state law. Highly localized management systems (for example, those that operate at the level of a particular village or user group), are often nested within a wider community governed by elaborated "customary" or non-state legal regimes that provide rules for how the smaller groupings within the larger community interact as well as mechanisms for resolving conflicts. Thus,
"outsider" may be defined differently depending on which concentric, or sometimes overlapping concept of community, one is alluding to. The point remains, however, that because local groups and community-based systems are also nested within a state legal regime, local groups often need a legal status that outsiders can recognize and interact with. They need legal protection from trespass and the criminal behavior of outsiders. They need state law to provide legal recognition to community-based rules and to tell outsiders that they have to abide by those rules.

- Local rules also cannot define the limits of state power, that is the extent to which the state will respect local autonomy, and where, and under what conditions it will retain the power to intervene. In the best scenario, community groups, other components of civil society, and government will work together to define these limits. Nevertheless, unless these limits are spelled out in state law, or somehow recognized by the state legal system, there is little that community-based rules alone can do to enforce them.

- State law may play an important role in providing basic protection for individuals against the abuse of local power. The extent to which state law should intervene on behalf of locally oppressed people, or can be effective in doing so, is of course problematic. Nevertheless, especially in constitutional settings, where the state has pledged to uphold some basic human rights, it is hard to see how state law can escape this responsibility. In many parts of the world, people oppressed by their own communities turn for support (though sometimes more symbolic than instrumental support) to concepts of equity or social justice that are articulated in state law.

- Finally, state law is needed to provide basic guidelines for protection of important wider societal interests, such as environmental protection. Here, again, the problem is one of balance. The call for vesting stronger and more secure property rights in local communities is sometimes portrayed as dangerous because government will lose its power to protect wider interests. Yet such an argument is clearly spurious. No private property right is absolute, and government always retains a regulatory function by which it can act to protect legitimate interests of outsiders, including future generations (Lynch 1998). The problem lies in trying to define those interests. Government frequently has an excessively expansive and detailed vision of the "national interest", with the result that local autonomy and decision making can be drastically undermined. National interest has often been defined as if the needs and aspirations of local people were not part of the equation, and that national interest can only effectively be defended by the state defining all rules of resource access and use.

To point out in a generic way why state law has an important role to play in effective community-based management is not to say that it actually plays this role in all or even most cases. Law, in fact, does many of these things quite miserably, or not at all. Despite the rapid proliferation of rhetoric in support of community management and participatory processes, many if not most community-management efforts continue to exist in a state of legal uncertainty and insecurity (Bruce 1999).

There have always been exceptions to the above generalization. And perhaps more importantly, some encouraging legal developments are beginning to take place in many countries, where laws are being designed that are more supportive or at least less hostile to community initiatives. Though it is difficult to summarize the wide-range of approaches that are emerging, it is possible to identify several different approaches:

- Laws that recognize local ownership (or other substantial property rights) over land and/or natural resources based on historical claims. These would include laws that provide for the recognition of long-standing land claims of indigenous communities as in
ancient domains legislation in the Philippines, native title laws in Australia, and indigenous land rights laws in a number of Latin American countries.

- Laws that provide mechanisms for a site-specific delegation to local people of some measure of management responsibility over state land and/or resources, either on an indefinite basis or for a particular term. Such delegation is usually spelled out in some sort of plan or agreement. Under this category would fall most joint management or co-management arrangements, such as Joint Forest Management (JFM) in India and similar programs in a growing number of other countries.

- Laws that promote decentralization (decentralization being used here in the sense of delegation or devolution of authority to local government units). Depending on the nature of the decentralization program in a particular country, it may result in a greater involvement of local community-based institutions in resource management. This is less likely to be the case, however, where decentralization is in essence simply a delegation of authority to local units of central governments, or where local government institutions are more accountable to higher levels of government than to the local population (Ribot 1997).

These are not hard and fast categories. Indeed, the first two broad approaches might be said to represent a spectrum, consisting of a variety of situations characterized by more or fewer "sticks" in the bundle of rights held by community-based managers. In between these two ends of the spectrum we find many types of intermediate approaches, such as laws that allow for village titles over common property resources in Tanzania (Wily 1997).

Designing Enabling Laws: Principles and Dilemmas

The emergence of new legal techniques in a number of countries should not obscure the fact that there are many other countries where little progress has been made. Where progress has been made, often it has been ambivalent and not supported by enough political and social will to make it a reality. There remains, in the words of Lynch (1998), an urgent need to design legal frameworks that "allow local community-based institutions to define, preside over and redefine the rules of resource use".

The purpose of the remainder of this paper is to suggest some basic principles that might guide the design of an improved legal framework for community-based management, and to identify some of the central difficulties and remaining issues that confront this task.

The search for broadly applicable principles may seem like a risky undertaking in view of the diversity of approaches falling within the scope of community-based natural resource management, a diversity that is reflected and reinforced by the wide variety of legal arrangements (existing or proposed) that might apply. The promotion of community management may in some cases involve the recognition or revival of pre-existing management systems or existing community-based tenure regimes; in other cases, it may involve the creation of new systems and new rights. There is a sliding scale in terms of the level of government involvement or oversight. In some situations, community ownership or control of an area may be acknowledged, with government only playing the role of regulator. In other situations, government may assert and retain ultimate ownership and control of the resource, but allow some degree of community management subject to site-specific agreements. All of this takes place against the backdrop of extremely diverse legal traditions and doctrines, and in the context of legal systems of vastly different capacities and origins.
This variety warns us against searching for legal models that are easily transferable from one country to another. This is a dangerous pursuit in any field of law (Lindsay et al. 1998). The danger is greatest in a subject matter such as community-based management, which is inherently characterized by local variation. Workable laws that effectively support community-based management will vary widely depending on the peculiarities of existing legal and institutional arrangements, and the nature and extent of community management models and objectives in particular settings. For example, community participation in the management of a protected area may involve rights that are significantly restricted compared to community management of a village forest maintained largely for local uses. Working out fair and sustainable leasing arrangements for *bhabhar* grasses in India may seem to have little in common with the effort to define ancestral land rights in the Philippines.

Nevertheless, there are certain key substantive principles that are central to the task of improving the legal environment, however varied the situation, and however significant or restricted the rights that have been devolved or recognized.

Laws designed to promote community-based management can usefully be evaluated by reference to criteria that fall into two broad categories - **security** and **flexibility**. Community-based managers, whatever the setting, need secure and certain rights. At the same time, they also need the flexibility and the power (the *legal space*) to exercise choice in a way that reflects their unique needs, conditions and aspirations. For both security and flexibility, laws in most countries of the world leave much to be desired.

**Security**

As already stressed, community-based management can take many forms, and the nature of the rights local people have with respect to the resource can vary considerably from model to model. Nevertheless, one principle should apply in any context. For any individual community effort to be successful, it must not only provide a realistic hope of significant benefits, but also must instill confidence that the rights to those benefits are secure and will not be taken away arbitrarily. This principle applies however limited or extensive the rights granted under a particular program may be.

Security is, of course, in part a state of mind. Where relations have traditionally been good between community and the government, local people might feel secure enough to undertake management simply on the basis of a promise from local officials. Sometimes a sense of security is derived from the fact that a particular management arrangement is part of a donor-funded project, thus unlikely to be derailed as long as the flow of funds is assured - a type of security that may prove illusory in the long run. In other situations, communities may not feel secure no matter how carefully and strongly their rights are set forth in legal documents.

Nevertheless, while perceptions of what constitutes security may vary, some key attributes can be identified that provide guidance to the designers of substantive legal provisions. It should be noted that this list is not exhaustive; at the same time, not all of the listed criteria may be relevant to any given situation. They are offered here simply as an indicative sample of the types of considerations that should be taken into account when attempting to design secure legal rights.

1. **Security requires that there be clarity as to what the rights are:** Confusion as to one's rights can significantly undermine the effectiveness and enthusiasm with which those rights are exercised. There are many examples in laws from around the world of rights so vaguely described as to be virtually meaningless. Striking examples include laws that
state that "customary rights of forest-dwellers will be respected as much as possible" or "customary law shall be respected unless the national interest requires otherwise". Perhaps more significant is the uncertainty that pervades many co-management arrangements, where rights and responsibilities have supposedly been negotiated and tailored to local conditions. Part of this is a failure of communication and understanding, part of it is a matter of politics - it may suit some people in power for rights to be vaguely defined, and finally part of it is a matter of drafting, both in legislation and regulations and in local level agreements that govern specific community-based initiatives. Examples from India and elsewhere testify to frequent confusion about the way in which benefits are to be shared, leading to false expectations and possible disillusionment.

2. **Security requires certainty that rights cannot be taken away or changed unilaterally and unfairly:** In almost any situation there are circumstances where rights can be taken away or diminished, but conditions and procedures for doing so need to be clearly spelled out, fair and transparent, and the issue of compensation needs to be addressed. In the case of a co-management arrangement, it is important that the threshold be high, that termination by government not be an option unless there have been serious and persistent violations, and a failure to remedy those violations after notice. However, many legal provisions governing co-management fail to meet this standard, apparently giving the power to government to decide that a co-management agreement can be terminated for any reason, or for difficult to define reasons such as the notion that the agreement is no longer "viable." This type of insecurity may be exacerbated by the type of legal instrument that enables the establishment of co-management arrangements to begin with. In the case of India, despite several attempts to amend the Forest Act of 1927 to provide a firm legal basis for JFM, the program continues to be a creation of state government notifications and administrative orders. While this does provide an opportunity for flexibility in responding to experiences and problems encountered in implementation, it also fosters a sense among some government officials that the rights of participants are malleable, temporary and can be changed unilaterally by government if it decides that conditions warrant (Kant and Cooke 1998).

3. **Security is enhanced if the duration of rights is either in perpetuity or for a period that is clearly spelled out and is long enough for the benefits of participation to be fully realized:** If rights are to be in force only for a particular period of time - as in some co-management arrangements or community forestry leases- care should be taken to ensure that agreements are at least as long as is realistically required to reap the benefits of participation. Some of India's JFM notifications, for example, prescribe terms that range between five and ten years, or are tied to a growing cycle. Such provisions (which are not untypical of co-management in other countries as well) could create the impression of a "one-shot" approach that could undermine the community sense of ownership of the resource in question and weaken its long-term attitude towards management (Lindsay 1994).

4. **Security means that rights need to be enforceable against the state (including local government institutions):** The legal system has to recognize an obligation on the part of the state to respect these rights. It is uncertain in many contexts - and, largely untested - whether co-management agreements are in fact viewed under law as containing enforceable contractual obligations on the part of the state (Eggertz 1996).

5. **Security requires that the rights be exclusive:** The holders of rights need to be able to exclude or control the access of outsiders to the resource over which they have rights.
Use of the word "outsider" is potentially problematic. Exclusivity does not mean that there are no people outside the principal group responsible for management that might have certain rights that need to be respected. Distant or sporadic users of a resource may have legitimate historical claims that need to be accommodated. To the extent those rights are respected by the rules that are adopted, it would be wrong to refer to those users as outsiders in the sense that word is used here. What exclusivity does mean is that once the holders of rights have been defined, other users cannot be imposed on the group against its will. This means that government, for example, cannot assign rights to others over the same resource (such as assigning mining concessions in a community forest). It also means that government needs to recognize the power of the community group to apply its rules to outsiders, and where necessary, to assist in the enforcement and protection of the group's rights from outside interference.

6. Exclusivity also means that there must be certainty both about the boundaries of the resources to which the rights apply and about who is entitled to claim membership in the group. The issues of delineating the resource and identifying the holders of the rights are discussed below.

7. Exclusivity also means that the government entity entering into the agreement must have clear authority to do so: An agreement should only reflect promises on the part of government that the responsible authority is empowered to fulfill. For example, a contract between a government agency and a community-based management group concerning government land cannot create a right to exclude if the agency did not have the power to delegate that right in the first place. Other sectors of government may have powers over the same land and be in a position to take action that would be contrary to the principle of exclusivity if they were not included in the agreement themselves. This problem may seem a bit remote, but there are not infrequent instances of co-management agreements foundering on the shoals of inter-agency jealousies or turf battles, and a lack of clarity as to which government agency has control over which piece of land.

8. Security requires that the law recognizes the holder of the rights: The law should provide a way for the holder of the rights to acquire a legal personality, with the capacity to take a wide range of steps, such as applying for credits, subsidies, entering into contracts with outsiders, collecting fees, and enforcing rules.

9. Finally, and perhaps most dauntingly, security requires accessible, affordable and fair avenues for seeking protection of the rights, for solving disputes and for appealing decisions of government officials.

There is nothing surprising about the items on this list, and nothing about them is unique to the community-based management context. Some or all of these are attributes of security that any person or group having important private rights is likely to want and need. At the same time, we cannot ask too much of law. Law cannot ensure security in inherently insecure environments. For example, where people have a fundamental distrust of state law and legal institutions, reforming laws may have only a marginal effect at first in improving the sense of security. We need to keep in mind that fixing law may be a necessary condition in the long term, but not a sufficient one. What is striking for our purposes is how poorly most state legal regimes are in providing the basic elements of security to community-based management initiatives. In too many cases, government seems to be given very broad discretion to change its mind. So long as government signals to community managers that it does not take their rights seriously, it is likely that community managers will not either.
Flexibility and Meaningful Choice

Community-based natural resource management is about local choices and local adaptation. These qualities are put at risk if an excessively rigid, uniform approach, dictated by outsiders is applied. In this area of lawmaking, it is particularly important to think of law as an enabling tool, not as an elaborate set of rules that prescribe or dictate solutions to local problems. Yet it is remarkable how often this principle is ignored.

It must also be acknowledged that protecting flexibility in law is not an easy task, and some very serious dilemmas need to be faced. Even if it is both just and efficacious for state law to "pull back", and allow community-based rules (including in some cases deeply entrenched and long-standing systems of "customary" law) to flourish according to their own dynamics, flexibility can never be unlimited. Both wider society outside local groups, as well as individuals inside the group, have interests that need to be taken into account. Protecting these interests, while still leaving the necessary space for real local decision making and choice, requires very delicate balancing.

While the need for flexibility (for providing legal space for meaningful choice) is a principle that should guide all aspects of the design or support, it is examined here with respect to three areas: planning and management; the structure of local groups; and the identification of group membership and jurisdiction. All of these are closely interrelated, especially the last two.

Flexibility in planning and management

Legal regimes should allow flexibility in deciding what the objectives of management should be and the rules that will be used to achieve those objectives. Successful natural resource management obviously needs to be sensitive to local ecological, social and economic variations. Participants in management must also perceive that the benefits of participation outweigh the costs. These axioms are likely to be violated where outsiders presume to know what local people want, need or deserve. And yet in practice, this frequently happens. We hear tales from many places about management decisions made within "participatory" management contexts that do not reflect basic realities about what local people want or need.

What is striking when one looks at even some of the most progressive new laws supporting community-based management is how jealously government holds on to the decision-making function. This expresses itself in a number of ways. Often the legal requirements for drafting a management plan are quite complex, and likely to be alien to what communities are used to and perhaps what the situation requires. Frequently, regulations regarding co-management continue to vest almost all management decisions in government. There may be requirements for consultation with villagers, but at the end of the day, the decision rests with forestry officers, and they are ultimately responsible for producing the plan. This kind of close control may be necessary in some delicate environmental situations, but in many instances it is driven more by a long-standing belief that "government experts know better". Law alone cannot eliminate the tendency of officials to impose planning and management decisions, but the way that laws are drafted can help tip the balance away from perfunctory consultation to greater local ownership of the planning process.

It is also noteworthy how much the range of choice in community-based natural resource management is influenced by the preoccupations of different sectors, within government and international organizations. In any given location, we might find any number of overlapping participatory strategies, prescribed by different sectoral policies and legislation different sectoral
policies and legislation governing water, forestry, fisheries, livestock, etc. which can lead to the
creation in some places of separate and competing local institutions. As one Swazi farmer
explained to me this creates a sort of "exhaustion with participation". There is a tendency for
outsiders to look at resources in a compartmentalized way, which does not match up well with
the way local people themselves see their resources. What more and more research is bringing
out is that there are often many possible environmental futures for any given area of land and
water, and it is not always obvious that one should be preferred over another. Why grow timber
and not fruit trees? Why not more grass or food crops? Why not some sort of unique mixture of
uses? These are all fair questions, but the categories and labels used in law can sometimes fix
that choice. Sometimes the simple accident that land falls under the purview of one government
agency and not another means that its destiny is fixed, and there is little room for real choice by
local people. As one study of co-management of government forestland in southern Africa
showed, most of the decisions about what future was appropriate had already been made, leaving
very little on the table for negotiation (Matose 1997).

**Flexibility in recognizing and forming community-based organizations**

Flexibility is required in regard to how state law handles the recognition of local groups. It has
already been mentioned that community managers need some sort of legal "personality" that is
recognized by state law. The difficulty is how to spell this out in law. There has been a tendency for outside law to prescribe in too much detail the structure of local organizations and
the rules by which they operate. This is perverse, since one of the assumptions of community-
based natural resource management is that it is best to build upon local institutions that have
roots in local values and practices. If law tries to squeeze these institutions into forms that are too
complex and alien to the local situation, and then tries to standardize that form across many
different social settings, the result could be to create institutions that have little legitimacy among
their members.

It is instructive to look at this issue in the context of native land rights in Australia. Australian
law is interesting because it illustrates two quite different approaches to the problem of group
recognition. One approach is epitomized by the Aboriginal Councils and Associations Act. The
law, which was drafted to provide for the establishment of legal forms for indigenous groups to
hold native titles, was intended to allow indigenous groups "to develop legally recognizable
bodies which reflect [Aboriginal people's] own culture and do not require them to subjugate this
culture to overriding Western European legal concepts". As one study has shown, however, this
goal fell down in the hands of lawyers and officials who were unable to break free from the
concepts, processes and general approach with which they felt comfortable. The result was a law
that gave almost no room for local cultural variation in corporate structures and decision-making
processes, and in fact caused groups to lose control over their affairs. By contrast, some state
laws adopted in the 1990s, including the Native Land Titles Act are much more geared to the
recognition of existing institutional forms, providing very basic requirements and guidelines, but
leaving the details of internal group functioning up to the group itself. These latter laws are
notable for their recognition that state law should not try to codify the community-based laws of
indigenous groups, recognizing that to do so would threaten their inherent adaptability and the
inevitable processes of change over time (Fingleton 1998).

It must be conceded that this is a very difficult area and that legal recognition of community-
based institutions can have unexpected consequences. Even if done carefully, recognition almost
always changes the entity that has been recognized in some way. Moreover, legal recognition of
local leadership arrangements can be a device by which elites in a community further enhance
their own power, at the expense of weaker sections. There is also a tendency on the part of some
advocates of community autonomy to become so fixated on keeping state law out of the internal workings of a group that they cannot hear when people themselves are asking for intervention.

This issue emerged at recent series of consultations in Swaziland, a country in which the power of traditional leadership is still very strong, but where the system is under increasing pressure from both within and outside local communities. Speaker after speaker proclaimed that, while they did not want to abandon their tradition they were no longer sure that they knew what chiefs could and could not do, and fearful that customary controls on chiefly discretion were falling by the wayside. They said, in essence, "We don't want government law to tell us what to do; but we would like some basic guidelines, some help in holding our leaders accountable". One thing that was particularly striking about these comments was that many of the speakers were chiefs themselves.

**Flexibility in defining jurisdiction and boundaries**

Flexibility is needed in the definitions of management groups and areas of jurisdiction. The need for **certainty** with respect to these issues has already been mentioned. The question is **how** should state law address the issue of **what group** has authority over **what resources and** in **what area**? These are extremely difficult issues. There are a number of tendencies we can identify in laws around the world. One approach is for law to designate on a uniform basis a **local body or authority** that would have control over a **pre-defined area**, say a district or village council. Another approach is to provide for the recognition of different groups formed around different functions and objectives. The Nepal Forest Law, for example, refers to user groups who will have forestland turned over to them. These are essentially self-defining groups, and neither the membership of the group nor the demarcation of the area they manage have anything to do with local government boundaries. In fact, the Nepal legislation specifically states that a community forest area can overlap the boundaries between adjoining *Panchayats* (administrative units).

There are advantages and disadvantages to both approaches. The case of devolving authority to local government units is easier to define in legislation because there are uniform local structures in place. However, vesting power in a local government body is no guarantee that local people will have more of a say in local resource management, unless those bodies are designed to be democratic, representative and accountable (Ribot 1997). Moreover, natural resources and the way that people use them often have little respect for administrative boundaries (Emsail 1997). A fluid method of defining the responsible group creates a possibility of finding those institutions or people who, according to their own perceptions and needs, should have management responsibility and control over local resources. These are often based on long-standing traditional relationships. So the emphasis here is on self-definition. Still, the law may be legitimately concerned about whether some person or group is being unfairly denied an opportunity to participate.

It should also be noted that the empowering of local groups of users without efforts to coordinate with local units of government can in some cases result in the emergence of debilitating institutional conflict. Indeed, there is often a poor articulation between the seemingly complementary agendas of *decentralization* and *community-based management* (often driven by sectoral line ministries) that will need more careful attention as both agendas gain momentum.

A growing body of literature draws our attention to the immense conceptual and practical difficulties of "locating the community" in the formulation of legal regimes devolving powers and responsibilities to local communities (Klocek-Jenson 1998; Leach *et al.* 1997; Enters and Anderson both in this volume). It is essential to examine critically the various shorthand terms
used when discussing community-based natural resource management, and in designing legal strategies that support it. These can often obscure a messy reality and can have the effect of making decisions for people that they do not want to make. This paper, for example, may well be accused of focusing on a supposed tripartite relationship between state, communities and resources. Obviously, the positing of such a relationship, while perhaps useful as an organizational device, ludicrously oversimplifies reality. What communities are we talking about? In almost every situation, even within single villages, there are overlapping and often conflicting ideas of community, often bearing little resemblance to what outsiders see or want to see. Different groups or individuals within a community may have very different relationships with local resources, and very different visions of what the ideal future for their area should be. Even state law is not a homogenous thing, but a composite of many different, often competing elements. And left out of this tripartite scheme are numerous additional relationships with other people and institutions at local, national and international levels, who all may have legitimate claims to be stakeholders for the resource in question. In view of these complexities, we should think of the potential of law reform not as a search for a correct answer, but as a search for processes by which multiple and varied stakeholders can fairly and transparently negotiate and renegotiate with one another.

Making Law Reform Meaningful

Most of these remarks have focused on the substance - the principles and conceptual framework - of law. It is also useful to look briefly at the process of reforming and implementing laws, and examine several broad principles that could help guide the effort to make law a meaningful presence rather than a well-intentioned but ultimately empty gesture.

First, it is important to ensure that the design of law (from national legislation down to local level agreements) is governed by the needs, aspirations, insights and capacities of the intended users of the law, that it is not driven by the preconceptions of lawyers, donors and other outsiders, however well intentioned. This means opening up the process of lawmaking much wider and much earlier than is the case in most countries. For example, it is not sufficient simply to hold a few workshops at the end of the drafting process. It would be incongruous indeed for a process designed to elicit participation to be imposed from above without participation in its design. Yet, this requires emphasis because - even in many democratic societies - the concept of really engaging affected people in the lawmaking process from the beginning is either ignored or viewed with alarm. It means that lawyers need to learn to work to demystify law, to make its concepts and language accessible. It means that local managers and their allies, on the other hand, need to train themselves better in the language and processes of law, not all of which, incidentally are bad and twisted creations of devious legal minds. This is not a recommendation that flows only from a belief that people should have the right to be involved; it is a pragmatic recognition that without involvement, there is simply no realistic hope of passing laws that reflect reality and are capable of being used. A corollary of this is that law reform in support of community-based management should not be seen as a one-shot affair. It is an ongoing process that needs constantly to respond and adjust to feedback from the field.

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3 The environmental entitlements literature, epitomized by the works of Mearns, Leach and others has done much to broaden our thinking in this regard. See for example, Leach et al. 1997.
Second, the capacity of people to understand and use the law needs to be enhanced. Obviously this applies to educating local managers. But it applies as well to government bureaucracies, police forces and judges.4 Of course, at the end of the day, it is not going to be laws that persuade government officials to give real space to local initiatives - it is going to depend on changes in attitudes and professional styles. Law can influence these changes, but it cannot force them to happen.

Third, there is an obvious need to find ways of improving the machinery of law. A relatively independent judiciary is critical, but if community managers had to depend on most court systems to be the defenders of their rights, they would be in trouble. These remarks have been painfully silent about the need to design new ways of dealing with disputes and conflicts, but clearly this will be a vital part of making changes in the substantive content of rights a reality.

Fourth, we need to be realistic in our expectations. Law is often an inefficient and unpredictable way to accomplish change. Any attempt through law to make massive changes from what is on the ground will simply be ignored. Laws should not be enacted that rely upon resources that government does not have or that require a massive redesign of institutions that is simply unlikely to take place. It is counterproductive to legislate away all the messy and unpalatable aspects of life - this has never worked and never will. Passing laws that don't have some realistic chance of being implemented and of meeting at least some of their main objectives is a sure way to undermine further any residual faith in the rule of law.

Finally, a closing question about priorities. It may be asked whether the emphasis on the substantive detail of law is justified. Community managers and their allies must make strategic choices about priorities. They must consider in any given context whether for the time being it is better to work with imperfect legal instruments and concentrate on persuasion and building alliances rather than pushing immediately for legal changes that may, in some circumstance, upset delicate coalitions. Nevertheless, the search for legal regimes that provide meaningful, secure and flexible rights to community-based management is not a second-generation task. It is fundamental if community-based management is to become a sustainable and widespread strategy, rather than the ad hoc approach it has been in many countries so far.

References


4 The empowering potential of law and policy should not be viewed solely from the perspective of community-based groups, but from the perspective of progressive government officials as well. Indeed, the impetus for law reform has in some contexts come from government officials themselves, because of the constraints that law puts on their capacity to respond to and support community initiative (Shah 1998).


Devolving Forest Management in Asia-Pacific Countries
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Introduction

Decentralization has often been confounded with the concept of geographical division. Most people mistakenly consider division of a state into provinces and provinces into districts as decentralization because the area under each of the lower levels is less than that of the next higher. This is one of the reasons why a number of words have been coined to distinguish between different facets of decentralization. These include deconcentration, delegation, devolution and privatization (Hye 1985; Banerjee and Lutz 1996). Basically, deconcentration and devolution can cover the whole spectrum of decentralization types. Deconcentration can be defined to include all cases where larger units have been subdivided into small units without transferring any special authority. Devolution on the other hand refers to deconcentration where some form of authority has been passed from the center to the lower units in the hierarchy.

In this paper, policies of decentralization in forest management are first described, then the impact of the policies are discussed, and finally, some changes in the forest management paradigm are proposed. Prospects for change, methods of implementation and related problems are also examined.

History of Forest Control and Forest Policies

In forest management, the history of deconcentration parallels the deconcentration of the general administration although with some significant differences. For example, in India, around 1927, forest management, for long a central matter, became a provincial responsibility under the revenue department. Soon after, the forest section became independent of the revenue department. The forest organization since then consists of a Chief of Forests located at the provincial headquarters, and his regional deputies called Conservators of Forests. Divisional Forest Officers are usually located at the district headquarters and Forest Rangers and Beat Officers at the block or sub-block levels. This organizational structure is very similar to the general administration. The most striking difference is that deconcentration in forestry never went down to the village level or legislative wings. Another important variation is that the forest department opposed private or communal forest ownership in contrast to agriculture, for example. Thus, in spite of some deconcentration, forest management in India continues to be centralized, which is mainly a result of state coercion.

Pre-colonial times

Until the 16th century, the forestland in the Asia-Pacific region was mostly used by local communities for hunting and gathering, and distinct forms of shifting cultivation (Banerjee 1995a). In addition, forests were felled for sedentary agriculture and home gardens were introduced. Forest areas were usually controlled by a single or group of households, except in the case of hunting and gathering activities where control rested with the community. Land ownership was communal or land belonged in some vague terms to the sovereign. Land and forest management, however, rested with households. The forest administration was deconcentrated to the household, a group of households or the community level but the ownership lay with the community. This devolved form of forest management was neither an introduced nor imposed process, but rather a natural development of society.
Colonial times

With few exceptions, the relationship between households and the community, and natural resources, changed dramatically with the arrival of the colonial powers and consolidation of their foothold in the colonies. Forests came under the sovereignty of the state, which meant a move towards centralization, although the de facto situation was frequently different. Where forest products had a high commercial value and could be easily exploited (e.g., teak in India, Burma or Thailand, or sal and pine in Garhwal Himalayas), the arm of the administration reached the forests quickly. Remote forests and malaria infested areas (e.g., Nepal Terai) as well as products for which there was no market continued to be used by local people. In such cases, the de facto and de jure situations differed, which created tension between the people and the sovereign at a later stage in history. As the countryside opened up, the demand for all types of timber increased in the local and international markets. As the state realized the potential monetary and other values of the forest, stricter rules were enforced to bring all forests under its control.

Post-colonial time

With independence, the noose of state control on forestland was further tightened and traditional users were further excluded. In India, in 1953, the government gained control over the forests that belonged earlier to the zaminders (landlords). Even as late as 1980, the Conservation Act stipulated that central permission was required to change the legal status of any forest, which is a concurrent subject. But overall deforestation rates continued to increase.

Based on the provisions of the Indonesian Constitution (Basic Forestry Law enacted in 1967) the central government is empowered to control all relations between the people, the private sector and forests. Article 5 of this law stipulates that, "All forests within the territory of Indonesia, including the natural resources contained therein, are controlled by the state". Large areas were declared as parks and nature reserves or permanent protection forest (World Bank 1993) in order to exclude people from forests.

In Thailand, the Land Code of 1954 has the most important bearing on the question of land ownership, and by implication, on the process of centralization. Public forestland (Pah san-guan) historically had many users or "squatters". The government promulgated that anyone occupying any forestland as of 30 November 1954 was eligible to receive a land-use certificate provided proof of occupancy could be produced within 180 days. Only a few farmers in the provinces were aware of this stipulation. Most failed to take advantage of the opportunity to gain land rights. Thus, the new law turned them automatically into 'encroachers' of their own land. In 1985, the National Forest Policy set the "unattainable" 40 percent target for forestlands. In fact, the Royal Forest Department undertook a tree-planting program in degraded forests, which resulted in even more evictions and subsequently a political crisis (Lynch and Talbott 1995). The result of these developments is that today the debate on the decentralization process for forest management continues in Thailand with only few positive changes on the ground.

Impact of Forest Policies, Rules and Regulations

Forest policies towards centralization in the countries of the Asia-Pacific region had a number of impacts on their forests. Negative impacts include deforestation, forest degradation and loss of biodiversity. Other impacts such as the rise of environmental and green lobbies and local revolts have forced some governments to initiate first steps towards the devolution in forest management in an attempt to reduce the destruction of their forest resources.
**Forestland alienation**

Historically, local people used extensive areas of forests for long-fallow shifting cultivation. As more and more land was usurped by central governments, less remained for the people and their agricultural practices. Consequently fallow periods had to be gradually reduced with negative impacts for forest regeneration and agricultural production.

**Commercial forest exploitation**

Sustainability concerns in forest management were quickly pushed aside when countries reacted to favorable prices and the rapidly growing market demand for their timber. Some governments leased extensive areas of forests to concessionaires for timber harvesting. For example, by 1991 the number of concessionaires in Indonesia reached 580 covering 60 million ha or about 31 percent of the country's land area. In the Philippines, it was 4.67 million ha in 1989 (Gasgonia 1993).

**Dependence of the government on technocracy and policing**

In response to accelerating forest conversion and the poor control of forest resources, many governments initiated a number of programs and projects in forest management. One thrust was development of forest plantations. The Food and Agriculture Organization of the United Nations (FAO) estimates the annual gross planted area to be in the order of 2.1 million ha in Asia-Pacific region (FAO 1993b).

A second response was increasing forest protection efforts, although this measure was quickly assessed to be ineffective, as supervision was time consuming and led to the neglect of management duties by forestry officers (Subhabrata 1996). Corruption also increased tremendously, which did not help to further the cause of forest protection.

**Behavior of forest-dependent people**

In spite of the fact that many governments today control most forest areas, millions of rural and urban people depend, at least partially, on some forest resources. Most forest dwellers are extremely poor and in many ways economically disadvantaged. Due to prevailing laws, their forest use is illegal. In some areas, use is allowed as a favor by the government, although it can be withdrawn any time and without prior notice. Forest users are conscious of their vulnerable situation, and the possibility of being hauled up any time by the guardians of law. They therefore use the forest as a transient resource to be turned into cash whenever possible. This behavior fosters rapid forest deterioration.

**Rise of environmentalists and social activists**

Another development is the emergence of a strong environmental lobby - supported by international NGOs and the donor community - in most countries of the Asia-Pacific region. Environmentalists and social activists are concerned about the loss of habitat, wildlife, and biodiversity. Their major argument is that the losses are so rapid that total disappearance is not far off unless it is pre-empted by segregating sufficient areas of forests as protected areas. Some countries in the Asia-Pacific region have very impressive achievements in this regard. About 14 percent of the total land area has been demarcated as protected areas of various kinds for forest and wildlife conservation purposes (FAO 1993b).
Local protests for forest use rights and annihilation of forests

Subterfuge, resistance or - at times violent - protests by local people who have lost their rights to forests were organized in many countries in an attempt to force governments to yield ground. Examples are the Chipko ("hugging of trees") movement of India and the resistance of logging by the Penan people in Borneo. On the other hand, `subterfuge' can also be used to annihilate forests by slow attrition.

In 1970, when a major flood devastated many areas in the mountains of Uttar Pradesh of India, the local villagers of Chamoli blamed the destruction on forest cutting by contractors. Through the Chipko movement they prevented the contractors from further logging. The hugging movement then spread slowly to other villages (Ramchandra 1993). Chipko and other such environmental movements have influenced the government to formulate a logging ban on green (live) trees in the hills and to make appropriate changes in forest policy.

The Penans of Sarawak (East Malaysia), a small remnant of hunter-gatherers, objected to timber harvesting in `their' forests. As the government did not respond to vocal protests, they blocked logging roads to prevent the movement of trucks. In 1989, 71 Penan people were arrested for their activities. While no relief is in sight, the Penans have continued to fight their cause (Millier and Tangleley 1991).

In most developing countries of the Asia-Pacific region, local people have responded to land-use pressures by occupying forests. They either completely take over a forested area or chip away - sometimes hardly noticeable - the forest step by step. This form of unplanned forest conversion is very destructive.

New Initiatives - Successes and Failures

The adverse impacts of central forest management are deforestation and its environmental and social consequences. Between 1981 and 1990, the annual deforestation rate was estimated to be about of 3.9 million ha (FAO 1993b). While the damage to the forest is real, deforestation has also stimulated a debate on the effectiveness of centrally managed forest regimes, and triggered initiatives congenial to decentralization and local forest conservation. The initiatives differ among countries, but all are directed towards devolving forest management to local people.

India

The National Forest Policy of 1988 introduced certain changes oriented towards local and indigenous (tribal) people. Providing fuelwood, fodder, non-wood forest products and construction timber to local people has been recognized as a very crucial function of forests. In June 1990, the Government of India proposed the rehabilitation of degraded forests by local people in association with the forest department in and around the forests (referred to as Joint Forest Management or JFM). Under JFM agreements, forest protection becomes the responsibility of local people. Forest ownership is not affected by JFM, and remains with the government. Local people, through a village committee, are entitled to a number of forest products. By 1992, 17 Indian states had initiated JFM and about 2 million ha of forests were managed by 20,000 protection committees.

The environmental effects of JFM are positive. In most locations where JFM is in place, the forests have recovered dramatically. For example, in Hunsur, a village in the Western Ghats, people had managed a forest where the number of trees larger than 10 cm in diameter at breast
height increased from zero in an unprotected plot to 1,477 in protected plots after 14 years of protection (Rabindranath et al. 1996). In Hoshangabad district of Madhya Pradesh, the production of fuelwood increased fourfold (SPWD 1998). However, although JFM offers great potentials, currently its impact is still minor. In 1998, only 2 percent of the forests of India were covered by JFM agreements and only degraded forests were offered to local communities.

**The Philippines**

In Southeast Asia, the Philippines has the best record of policy changes in favor of the people, in particular upland dwellers. Since 1989, a government order has supported upland dwellers in acquiring legal rights to forest products within the areas of their traditional domain (Viyouth 1993). In addition, the Philippine government has funded several community forestry programs, including the Integrated Social Forestry Program (ISFP) (World Bank 1989), the National Forestry Program (NFP), its subsequent Forest Lease Management Program (FLMP), and the Ancestral Land Delineation Task Force (TF-AD). With some variations, these programs provide incentives to local people living on public forestlands, and in the uplands to sustainably manage local forest resources. However, extensive areas are excluded from the programs. In addition, some programs only cover denuded areas with less that 10 percent tree cover. Besides these two problems, bureaucratic procedures are also very cumbersome for claiming rights to forests and their products.

**Thailand**

In 1975, the Thai Cabinet granted amnesty to the residents of public forests so that they in turn could improve the degraded forests. The villagers were also provided with forest village development (FVP) funds. A similar program called Sit Thi Thankin (Right to Harvest: STK) was introduced in 1979, although in this case no funds for village development was made available (Viyouth 1993). As of 1990, under FVP, 119 villages covering 55,344 ha have been involved. The STK program of 1979 has benefited 709,395 families on 1.15 million ha of land (Attanotho 1993). Under the Thai constitution local governments at the sub-district level, Tambon Councils and Tambon Administrative Organizations (TAO), have an important role in natural resource administration within their jurisdiction. The Royal Forest Department has recently prepared for the implementation of devolution of forest management (see also Komon Pragtong in this volume).

**Lessons Learned**

There is no doubt that the traditional central forest management systems are partially to blame for the high deforestation rates of the past. The various new initiatives have also not been very successful in reversing past trends. However, it is now being gradually realized that wherever management has been at least partially decentralized to resource users, forests have shown definite signs of improvement. Yet, the process of decentralization is very slow and implemented reluctantly. Also, success is not universal. The reasons for the differences in performance and impacts can be grouped in two categories, i.e. macro- and micro-level issues.

**Macro-level issues**

**Lack of political will**

The forest policy of the Government of India has been to increase forest cover to a minimum of 33 percent of the total land area. Yet, in the name of development, about 4 million ha of forests
have been converted for infrastructure purposes such as dams, roads, townships, and refugee rehabilitation between 1956 and 1980. The government of the Philippines has made tiers and tiers of decentralized units, but no financial resources have been devolved. Most funds have to come from the central government, which means that the deconcentrated units are totally dependent on the center's largess. Although it is well known that the concessionaire system of timber harvesting is not conducive to good forest management, it continues uninterrupted in Indonesia.

**Lack of clear policies and legislation concerning devolution in forestry**

With the exception of Nepal and the Philippines, no other country in the Asia-Pacific region has clearly enunciated a national policy or legislation directed at decentralizing forest management to the local level. While JFM has made significant progress in a number of Indian states, current arrangements are based on an administrative order that may be easily contested in the court. The most important requirement, i.e. an enabling enactment, has not been passed yet.

**Lack of clear tenure**

With the exception of the Pacific Island States where communal ownership of forests is common, there is a lot of confusion on the issue of tenure and customary rights of local people. For example, in Indonesia, the Basic Agrarian Law of 1960 recognizes customary law as the basis of national land law. The Basic Forestry Law of 1967, on the other hand, has been invoked to disenfranchise local people of their rights in favor of commercial timber operations or conservation (Lynch and Talbott 1995). In India, the customary rights concerning various forest products are revoked as and when any national park, sanctuary, biosphere reserve or national heritage parks are established. Even in Papua New Guinea, the recent law dictates that forest owners can dispose of their products only through parastatal organizations.

**Lack of technology**

The technologies adopted in the decentralization initiatives follow the pattern suitable for timber management. No matter what the needs of the people are, the forest management of decentralized units is aimed at producing timber and poles to satisfy urban and industrial demands. There is a severe lack of research on or the promotion of management methods to accelerate the regeneration of shrubs and bushes that are most used by the people as fuel (Banerjee 1989).

**Lack of institutional restructuring**

"Forest Departments" still stand for forest policing. Where the decentralization and devolution processes are implemented, the forest department structures frequently remain unaltered. It is mistakenly assumed that staff training without any change of the main structural edifice of the department is sufficient to deal with decentralized and participatory forest activities.

**Bureaucratic apathy**

Policies supporting the devolution of authority to the forest users in Nepal are very clear. However, forests are transferred to the users only very slowly. Similarly, in Thailand, only 119 villages have benefited from the forest village program. The reasons for this lack of zeal are not difficult to detect. First, foresters are very apprehensive and fearful of losing their power. Secondly, only few foresters have faith in the capacities of people to manage forests sustainably.
After all, the myth that the poor local people are responsible for deforestation has been indoctrinated into their minds for decades.

**Micro-level issues**

**Usurpation by local elites and power brokers**

In places where decentralization and devolution policies have been drafted and passed, local elites and power brokers have frequently formed management committees and usurped the powers and benefits that should have been equitably distributed. Unless supported by outsiders and a sound system for ensuring equity is established, the poor and uneducated people often fall victim to the more prosperous, educated and vocal section within a village. The nature of forming management committees therefore has to be modified.

**Failure of weaning the people from forest dependency**

An alternative paradigm is being introduced for conservation of forests termed "eco-development" (see also Badola in this volume). It aims at reducing or eliminating the forest dependency of people living inside or on the periphery of conservation forests by promoting economic development of their village. The assumption is that when these people have an alternative source of income, they will not use the forests. The number of forest-dependent people is enormous. An estimate of people dependent directly on forests is about 420 million in India, Indonesia, Nepal, the Philippines, Sri Lanka and Thailand alone (Lynch and Talbot 1995). Economic development for so many people is beyond the scope of forestry projects. The amount being invested per village is paltry and can just touch the fringe of poverty. At best, most villagers view this development as an additional, but not alternative, income and the effects of the level on forest dependency are very limited. Eco-development cannot be a substitute for transferring rights to forests.

**Lack of local participation**

The sustainability of decentralization and devolution in forest management depends on the participation of the forest users in planning, execution, supervision and monitoring. In spite of the rhetoric, the fact is that participation is dismal. Except for the participation of the people in forest protection under JFM, there is hardly any input in planning (micro-planning), execution and supervision. The forestry officials generally are reluctant to accept the advice of others, especially of uneducated local people, on forestry management and related problems.

**Proposal for Change - Prospects and Potentials**

In the context of the discussion above, it is obvious that no half-baked or incremental measures can eliminate the problems that the past mistakes created. The fact is that all forests have to be returned to the people who should be given the authority to manage their resources. This complete and radical devolution has to be to the people who are the users, who reside in or near the forests, and who have the biggest stake in its survival for their own survival. This drastic change can be referred to as `Forest Reform'.

Proposals

Development of political will

The first and most important change required to bring about reforms in forestry is to develop the appropriate political will of the government. This cannot happen overnight and seldom happens on its own without some external inputs.

Fortunately, the political environment with respect to forest conservation has improved in recent years for a number of reasons. These include the dissemination of periodic data on deforestation rates (FAO 1993a; 1993b), and a surge in activities of international organizations in response to deforestation (Kenton and Tangley 1991) such as the Man and Biosphere Program of 1972, the World Heritage Convention of 1972, the Tropical Forest Action Plan of 1985, establishment of International Tropical Timber Organization in 1983, Biodiversity Conservation Strategy Programme since 1989, the Biodiversity Convention of 1992, and the UN Conference on Environment and Development (UNCED), popularly known as the Rio Earth Summit, of 1992 and its subsequent support activities. The media has helped in publicizing the problem of increasing tropical deforestation. International and local green NGOs and social activists have mushroomed, and local forest users demand a fair share in natural resource management. However, what needs to be done in concrete terms is frequently not spelled out. People's participation and devolution of authority are always mentioned in the recommendations but drown in the multitude of similar suggestions and proposals for action.

More pressure than what is exerted at present is required to build in the above processes to influence concerned governments to bring about reforms in forestry. Global conventions have to first place the subject of Forest Reform at the top of the agenda and then try to ensure its implementation by the signature countries of any convention.

Change in policy and legislation

A change in political will should be accompanied with appropriate forest policies and legislation (see also Lindsay in this volume). Amongst others, new regulations need to cover the deadline for completing the transfer of tenure to the people. In addition, the rules should envisage the preparation of plans for sustainable forest management. The rules should clearly define the benefits, rights and responsibilities of the managing group, which should be incorporated in the management plan. The villagers' managing group has to be small in size, not more than about fifty households, in order to ensure equity, as large groups do not function for the common good (Olson 1971).

Special attention should be paid to the needs of the underprivileged - poor households, the landless, marginal farmers, indigenous people and women - to ensure their participation. Officials should be excluded from management groups, although they may fullfil a useful advisory and monitoring role in the early stages of the Forest Reform.

Structural change of the forest departments

Under the Forest Reform, the functions of forest departments have to change substantially. One challenge that governments face is the inherent difficulty in restructuring government departments. The main new functions of the restructured departments would comprise:

- technical extension;
- training of the forest management groups in management skills;
- assistance in preparing forest management plans and research;
• advice on investments in agroforestry and farm forestry;
• dissemination of market information; and
• monitoring of contractual agreements between the government and local people.

Departments would be divested totally of protection and revenue-gathering functions with few exceptions such as the management of legally defined protection forests. The new structure would be two tiered; the upper tier consisting of specialists and the lower tier of small units, each responsible to a number of village management groups. The link between the two tiers would be non-hierarchical, with the upper tier responsible for extension, training and advisory services. The smaller units would be more or less independent and responsible for all other functions of the department.

Problems of the proposed paradigm

The paradigm suggested above faces some genuine problems. One problem often cited by the protagonists arises from a misunderstanding. Management of the commons has been described as tragic (Hardin 1968), and there are examples all over Europe and Asia supporting this theory. There is a common apprehension that devolution of forest management will lead to a second "Tragedy of the Commons". However, the present proposal is exactly opposite to what is described as common property in the literature as it limits the forest area for a small number of families for its management. This is synonymous with "communalization", a form of privatization where the property is owned by a group of people instead of an individual or the firm.

The second problem surrounds the issue of population growth, which is a reality in many Asian countries. It is assumed that forests allocated to one particular village will eventually be too small to satisfy subsistence needs. This may be the case in some countries that have already lost much of their forests, such as Sri Lanka and Pakistan, or in cases of uneven distribution of forest resources such as in Indonesia and Indo-Gangetic alluvial plains of India. The only answer to this problem is that governments and the people have to resort to alternative sources of energy and economic dependence. For example, in Nepal, in some parts of the border regions with India, the forests have receded miles away from the villages. The villagers are relying more on agricultural residues and farm trees for fuel.

Another tremendous problem is the possibility of migration as soon as forests are allocated to particular village households. There will be claims and counter-claims to property, some from indigenous people as part of their ancient domains (e.g., Thailand and the Philippines), and others from the old and recent migrants. One basic problem of the recent devolution initiatives is the emphasis on investigating the rights of the local and indigenous people to forests. This approach, which appears to right a wrong, has resulted in bureaucratic tangles and reduced the pace of transfers to a trickle. This distracts from making the important decision on which forest areas should be linked with which community as well as on the roles of the local inhabitants and the government. Disputes are unavoidable, but can be resolved between the claimants with governments as a mediator. Such conflicts have arisen between the Amerindians, the rubber tappers and other forest dwellers in Brazil. They have now formed a coalition of 'peoples of the forest' to fight for a common cause (Miller and Tangley 1991). Similar solutions are possible in the Asia-Pacific region.

Considerable conflicts between concessionaires and the new forest managers can be anticipated. In such cases, the government has to support the people based on its decision to devolve
authorities. That means that in countries like Indonesia, Malaysia and Papua New Guinea, the concession system needs to be dismantled just as has happened in Thailand and the Philippines.

Revenue from the forest is the second largest source of earnings for the government of Indonesia. It is equally important in many other countries of the Asia-Pacific region. In Indonesia, total output from the forest sector is around US$ 8 million (1998), which amounts to 7 percent of gross domestic product. A termination of all concession agreements would obviously result in a serious monetary loss. But in the long run, the country would not only recoup short-term losses but also enhance its income from the forests. The forest managing communities would be required to pay taxes on the income derived from their forests.

Another problem is that many forest managing groups are small and do not have the funds to invest in new technologies required for silvicultural and harvesting operations. As a result, at least in the early years of devolution, a sharp drop in production with the reintroduction of labor intensive technologies can be expected. Over time, productivity will increase as groups gain experience and have appropriate technologies at hand.

Last but not least, are social problems that will emerge when valuable resources are transferred to local communities that are far more heterogeneous than described in the general literature. The potential for abuse of power by local elites, increase in inequity and impoverishment of underprivileged village strata have been discussed above (see also Enters and Anderson in this volume).

Implementation of the proposals

The implementation of the `Forest Reform' is complex and cannot be handled by forest departments for a number of reasons. The departments are engaged in multifarious activities and cannot provide the financial and human resources required. Further, the forest department staff, as discussed earlier, is probably reluctant to accelerate the process, and lacks the expertise that the `Forest Reform' requires. A separate agency, such as the Forest Reform Department, has to be established temporarily for the transitional period. This agency should be staffed with people experienced in surveying and mapping, land reforms and social issues and be made up of representatives of government departments and civil society. Its mandate would be to oversee the transfer of forest resources as provided by law within the specified period. The target date will naturally vary from country to country depending on the present state of decentralization. The major tasks of the agency would be to:

- publicize nationally, regionally and locally, the implications of the `Forest Reform';
- explain the new system and the caveats in village meetings; and
- divide the forests into community forests - production and conservation - and protection forests.

An important task of the agency would be to link communities with their production community forest blocks. The demarcation between forest blocks would follow geographical features and agreed upon boundaries would be included in approximate sketch maps. This process is not without difficulties but with the help of the agency's social activists, conflicts would be resolved to the satisfaction of all people involved. In the case of conservation community forests, protected areas (e.g., a biosphere reserve or a wildlife sanctuary) have to be linked with all the villages that are contiguous to it and which have a stake in the area. That means that such areas will be linked to a group of villages rather than one village as in the case of production community forests, which necessitates the development of collaborative arrangements.
Once the above tasks have been completed and forest management committees formed in the villages, the agency can be disbanded and foresters can directly provide support services to the committees and oversee the demarcation of the various forest types on the ground.

Conclusions

The only option to conserve and sustain all categories of forests of the Asia-Pacific region is to devolve management responsibility and authority to the village and forest user levels through the ‘Forest Reform’. Its objective is the establishment of a new paradigm based on the premise that the forest benefits should rightfully go to the people who live in the forest or on its margins, irregardless of when they moved to where they live today. To successfully implement the reform requires policy changes, innovative legislation and a sincere political will. Working together with international organizations and local activists, governments can bring about the reform.

Devolution has to be implemented by linking villages to specific forest blocks that the villagers depend on economically. Thus, the present day large forest blocks need to be divided into smaller units with each being managed by a village committee. The reform process needs to be actively supported by a temporary agency composed of representatives of civil society and government departments. The role of the forest department in the future will be to support the preparation of management plans, to demarcate the forest of different village units and to provide technical assistance and advice on other matters.

Once the devolution process is completed, people will properly supervise and manage the forests of the Asia-Pacific region, corruption by outsiders will be resisted, more local employment will be generated and equity will prevail among the villagers. The government will also gain by imposing taxes on those villages managing their forests for economic gains.

To kick-start the devolution process requires a "Forest Reform Convention" sponsored by FAO and donor agencies and involving all the countries in the Asia-Pacific region. To support the convention theme it is imperative that FAO, UNDP and other organizations disseminate authentic (and not anecdotal) data about the superiority of people's management over the so-called scientific forest management and clarify the positive role that devolution can play in conserving our global forest resource.

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Devolving Forest Ownership in New Zealand: Processes, Issues and Outcomes

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Introduction

1987 to 1996 marked a decade of change for New Zealand's plantation forestry sector. The first visible change occurred when the government's forestry operations, run by the New Zealand Forest Service, were corporatized in 1987. However, the seeds of change were sown long before this. Indeed, the changes that took place could be regarded as a natural and logical evolution of forest management in New Zealand: as the industry grew from an "infant" in need of nurturing to a mature and competitive force, the need for state involvement diminished. Between 1990 and 1992 the government sold to the private sector over 350,000 ha of planted forests. The most recent chapter occurred only two years ago, in 1996, when the government sold its shares in the Forestry Corporation of New Zealand.

The main purposes of this paper are to trace the process of devolution, which in New Zealand's case is synonymous with privatization, discuss the policy intentions and results, and examine the issues and outcomes of devolution.

Devolution

From government agency to corporate giant

From 1919 to 1987, the government's forestry operations were run by a single agency the New Zealand Forest Service. The department's governing legislation of 1949 established that its primary objective was to produce and market forest products profitably. This was amended in 1976 to enable a "balanced approach" whereby, other factors were taken into consideration, including policies and directives to undertake afforestation in regions requiring economic development, employment provision, utilization of low productivity lands, meeting of planting targets, and environmental objectives.

During this period the government, through its direct and indirect involvement, laid the foundations of New Zealand forestry. By the mid-1980s a number of driving forces converged suggesting that it was time for the government to rethink how it managed its forest assets. Some of these forces included:

- The wood supply from the forests was forecast to surge during the 1990s, and a more commercial operating environment was necessary to maximize returns. This required downstream investments to advance this end.
- The environmental movement was concerned that the government ensured more environmentally friendly practices.
- Government policy of the day was to clarify organizational objectives and, thereby enable transparency and accountability.

The decision to corporatize the commercial functions of the New Zealand Forest Service was made in September 1985. Procedural options were debated and in November of the same year the government determined that the New Zealand Forestry Corporation be formed and empowered to operate as a commercial enterprise.
It was further decided that the non-commercial functions of the New Zealand Forest Service be transferred to two new government departments (Figure 1), the Department of Conservation (which manages the state's natural forest estate) and the Ministry of Forestry (which had policy, forest health and protection, and forestry research functions). The roles of the Ministry of Forestry were transferred to the new Ministry of Agriculture and Forestry in 1997.

In April 1987, the New Zealand Forestry Corporation was formally established, together with eight other state-owned enterprises, as a limited liability company under the Companies Act. A clear commercial focus was regarded as a prerequisite for the New Zealand Forestry Corporation to compete effectively with the private sector. The principle objective of all state-owned enterprises was to operate as a successful business. Indeed, the New Zealand Forestry Corporation proved very successful in turning a loss-making government agency into a highly profitable corporate agency (see Figure 1).

Figure 1: Restructuring the government’s forestry functions in 1985

A corporation in transition

Commercial success, however, was not sufficient to embed the new institutional approach to managing the government's commercial interests in forestry. A number of considerations meant that change was just on the horizon, including:

- The government and the New Zealand Forestry Corporation could not agree on the value of the forest assets;
- A growing appreciation among government and industry was that in order to derive maximum value from the forecast growth in wood supply, the wood processing industry needed greater security of supply; and
- The policy of the day was for the government to sell its businesses, unless there were good economic or social reasons to retain ownership.

The value of the State's forest assets

When the government's commercial forestry operations were corporatized the intention was to transfer the forest assets from the government's books to that of the new state-owned enterprise. However, the values of the forest assets estimated by government officials and by the New Zealand Forestry Corporation respectively were widely divergent. And differences persisted. Officials ultimately suggested that a pragmatic way of resolving the dispute was to sell the assets.
Facilitating value-added processing

Greater value-added processing was impeded by:

- the New Zealand Forestry Corporation's limited ability to raise capital and the requirement that any investment intention first receives the approval of shareholding ministers; and
- private sector processors' reliance on contractual wood supply arrangements.

The sale of the government's planted forests was to overcome both impediments. It provided processors the opportunity to vertically integrate their activities backwards into wood production and, thereby, guaranteed their future raw material supply.

Halfway house

Despite its commercial success, many regarded the New Zealand Forestry Corporation as a hybrid between a government department and a full commercial entity. Caught between two worlds some believed that its structure would only convey the worst of both. Indeed, there were provisions in the State-Owned Enterprises Act that allowed for political interference: it granted shareholding ministers powers of intervention and access to all the information relating to the affairs of the corporation. While Ministers deliberately restrained from interfering on the political level, this did little to sway the perceptions that, because the New Zealand Forestry Corporation was state-owned, the government could intervene in the name of other than commercial objectives.

Government's privatization policy

In its December 1987 Economic Statement, the government announced a fiscal strategy aimed at substantially reducing the level of public debt. In the same year approximately one fifth of government expenditure was needed to meet the annual servicing charge for official debts. The announced privatization was to use the sales' proceeds to repay overseas debts and, thereby reduce interest payments and future budget deficits. In the 1989 fiscal year emphasis was switched to the repayment of both domestic and overseas debt.

The 1988 budget established criteria for determining which government businesses would be sold:

- The government must receive more for the sale of the business than it expects to receive if it retains ownership; and
- The sale of any particular business must contribute to, and not impede, the social and economic objectives of government.

The 1990/1991 sales

The government's 1988 budget also announced that the commercial forest assets (550,000 ha of planted forests) were to be included among government businesses to be sold. The sale's objective was revenue maximization. A Forestry Working Group, comprising government officials and private sector consultants, was appointed shortly afterwards, and "...charged with making firm recommendations on... the optimal process to be used by the Crown in quitting its forestry assets". In its October 1988 report the Forestry Working Group advised that only the forests should be sold - and not the land on which they stood. It recommended that the forest be sold as transferable cutting and management rights and that the forest estate be split up into a
The New Zealand Forestry Corporation was appointed the government's sales agent in November 1988.

The government's right to sell its forest assets was enabled by the passing of the Crown Forest Assets Act 1989. The government's forest estate was divided into 90 units ranging in size from 51 ha to 132,112 ha. The 1989 Act, amongst other aspects, established for each unit tradable property rights called Crown Forestry Licenses. The licenses contained individual terms and conditions of sale.

The government intended that sealed bids be accepted for individual units, or groups of units, with the combination of bids giving the best return deciding the forests allocation. The sales process was designed to allow bidders the flexibility to tailor their own packages, to attract a large number of bidders and, thereby, facilitate a competitive bidding process.

Tenders were called for in April 1990, but only for 66 of the 90 units originally meant for tender. Forests in the Bay of Plenty and Canterbury were removed from the public tendering process because of uncertainties involving contractual supplies to New Zealand's two major forestry companies, Tasman Pulp and Paper and Carter Holt Harvey respectively.

Bids closed on 4 July 1990. Eighty-two parties had registered, and about half of these were foreign based. However, of the 82, only two bids met the mark:

- 47,030 ha of forest were sold to New Zealand's Tasman Forestry Limited; and
- 24,000 ha and the Conical Hill Sawmill were sold to Singaporean-Malaysian interest Ernslaw One Limited, for the combined sum of NZ$ 364 million (NZ$ 1.92 = USD).

A substantial round of bids and negotiations followed. The New Zealand Forestry Corporation, the Treasury, and outside experts were involved in negotiations with potential buyers. As a result a further 175,676 ha of state forests were sold including the Hawkes Bay and Canterbury forests which were sold to Carter Holt Harvey, ending the legal disputes. The 1990 sales process grossed over one billion New Zealand dollars.

**The government's residual role**

Bids received for many of the government's forest assets were not satisfactory. Fifty-five percent of the forest assets originally intended for sale remained unsold at the conclusion of the 1990/91 round of sales. Three new state-owned enterprises were established to take control of the unsold forest assets. These commenced operations on 1 December 1990. The New Zealand Forestry Corporation ceased to exist in its original form on 30 November 1990, but remained as a shell company to receive dividends from the new state-owned enterprises. Timberlands Bay of Plenty (later renamed the Forestry Corporation of New Zealand) was formed to take control of forests on the central North Island and the country's largest sawmill, Waipa. Subject to the resolution of contractual difficulties with respect to the supply from these forests, this state-owned enterprise remained on the government's sales agenda.

State-owned production forests on the West Coast were withdrawn from the sales agenda. Bids received did not reflect the true value of the forest resource. Timberlands West Coast was formed to manage these resources, which included 21,000 ha of natural forests. The remaining unsold forests became the responsibility of Timberlands New Zealand Limited (Figure 2). The next chapter in the privatization of New Zealand's state forest assets picks up from here.
The government's intention to sell New Zealand Timberlands Ltd. was announced in 1991. The plantations managed by the state-owned enterprise totaled 109,000 ha (36 forests throughout the North and South Islands of New Zealand).

In announcing its decision, the government indicated that it would maintain a flexible sales approach. Bids for individual forests, regions of forests, and the entire planted forest estate managed by the state-owned enterprise would all be considered.

Two key changes in sales conditions were the inclusion of a replanting covenant, and five-year sales contracts to New Zealand Timberlands Ltd. existing clientele. The replanting condition applies unless the licensee wishes to use the land for an alternative sustainable purpose approved by the Crown.

Indicative bids were received in February 1992, and parties approved to enter due diligence were identified quickly. The tender was competitive with a healthy number of bids received in early April 1992. On the last day of April it was announced that New Zealand Timberlands Ltd. had been sold to ITT Rayonier New Zealand (now known as Rayonier New Zealand) for NZ$ 366 million. Some forests were excluded from the sale because of environmental concerns or grievances of New Zealand's indigenous people - the Maori.

Sale of the Forestry Corporation

In 1996 the Minister of Finance announced the government's intention to sell its shares in the Forestry Corporation of New Zealand. The Corporation's assets were Crown Forestry Licenses to 188,000 ha of planted forests in the central North Island, processing plants in various locations, a nursery and a seed orchard.

The resolution of the contractual supply dispute between the Forestry Corporation and Tasman Pulp and Paper towards the end of 1995 had enabled the government to consider its options in respect of the Corporation, including sale. Following the announcement to sell, potential bidders were faced with what ultimately became a three-step process.

The first step required them to pass a threshold of confidence that they planned to add value to the woodflows from the Corporation's forests. The means of holding the successful bidder to its claimed intentions was by making breaches known to the general public. Stricter controls risked
limiting the successful bidders flexibility to respond to market changes, and were determined to be difficult to police.

Once past the threshold, step two was the tendering of closed bids. The sole criterion was price. A handful of large forestry companies and consortia submitted bids. However, as the strength of the bids was not as great as hoped, a third step was introduced into the sales process: bidders were asked to re-submit their bids.

In August 1996 it was announced that the Forestry Corporation had been sold to the Fletcher Challenge led consortium in a deal that valued the assets at NZ$ 2.026 billion. The other partners to the consortium were China International Trust and Investment Corporation (Citifor), and Brierley Investments.

**Issues and Outcomes**

The devolution, i.e. privatization, of New Zealand's state forest assets gave rise to a number of issues. These included:

- How best to preserve the rights of the Maori to reclaim land that is proved to be rightfully theirs?
- What would be the implications of the institutional changes for the competitiveness and profitability of forestry?
- How would jobs be affected?
- Would the new owners re-plant and expand plantations?
- Would devolution enable greater on-shore processing or further encourage log exports?

**Preserving the Rights of the Maori**

The Treaty between the Crown and Maori signed in 1840 guarantees Maori ownership and governance of their land and other possessions. However, throughout New Zealand's history successive governments took land from the Maori for a variety of purposes and by a variety of means, some more questionable than others.

Recognizing this, in New Zealand's more recent history, legal and institutional mechanisms have been put in place to hear Maori grievances and work towards a resolution. There are an average 1.5 claims by Maori on the land in respect of the 90-odd forests owned by the state before 1990. Most forests on the North Island have claims against them - one has as many as 5 claims from different tribal groupings. All forests on the South Island have been subjected to claims.

Among other things, the Forestry Working Group of 1988, which informed the government's privatization process, was directed to analyze and make recommendations on how to preserve the rights of Maori, without compromising the government's objective of revenue maximization. Following consultations with representative Maori groups, the recommendations of the Working Group were to:

- sell the trees and not the land;
- charge a land rent and hold proceeds in trust for whomever the Waitangi Tribunal rules to be the ultimate owner of the land;
- provide for the gradual return of land to successful Maori claimants as the existing tree crop is harvested; and
- pay Maori compensation for the lost opportunity to utilize their land, as they see fit.
These recommendations were given legislative effect in the 1989 Crown Forest Assets Act. To date, only one claim has been fully resolved. The resolution sat largely outside the strategies contemplated in the legislation. Resolution strategies are being developed in respect of another two successful claims. Many more claims remain. There are concerns about the capacity of the Waitangi Tribunal to hear and rule on claims; there are issues about whether alternative resolution processes should be followed.

**Competitiveness and profitability**

The New Zealand Forestry Corporation successfully turned the losses of its predecessor into profits (Figure 3). Despite this success, many felt that the profits could be higher still if the forest assets were owned by the private sector.

![Figure 3: Turning losses into profits (in million NZ$)](Source: Kirkland (1996))

Prior to the sales, the New Zealand forestry industry was dominated by the government (which either owned or leased 52 percent of the forest estate) and a handful of large domestic corporates. Australian company Elders Resources NZFP was the only significant foreign investment in the industry (Figure 4).

As a result of the sales and subsequent private sector transactions, the government now owns less than 7 percent of the planted forest area. New foreign players have entered the industry. The first round of forest sales in 1990 and 1991 saw the entry of Asian investors, who today account for just over 12 percent of the forest estate. The second round of forest sales, International Paper's acquisition of a controlling interest in Carter Holt Harvey in 1995, and the recent sale of Nelson forests to Weyerhaeuser, has meant that United States investors now account for a third of the New Zealand forest estate (Figure 5).
Have these changes enhanced the competitiveness and profitability of forestry, as many of the proponents of change claimed it would? It is not easy to answer this question. However, the following graph helps to shed some light on this issue (Figure 6). The line resembles the rate of mark-up on input prices in forestry relative to the non-tradable sector. This is an internal rate of exchange that measures the relative ability of forestry to attract resources from other sectors of the New Zealand economy. Graphically, an upward movement represents a deterioration in competitiveness and, conversely, a downward movement represents an improvement.
Clearly forestry has improved its competitive position since the late 1980s, concurrent with the period of corporatization and privatization. However, to attribute this entirely to the two processes would be misleading. A key factor underlying the movements in the graph is the log price spike in 1993. Nonetheless, economic theory, which tells us that contestability increases as the number of players in the industry increases, suggests that we can reasonably ascribe part of these movements to devolution.

Figure 6: Competitiveness of forestry

Employment

In 1987, when the New Zealand Forestry Corporation opened its doors, it was a much leaner organization than its predecessor. To improve labor efficiency, its deliberate strategy was to place heavy emphasis on contractors and cut back heavily on head office staff (Table 1).

<table>
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<tbody>
<tr>
<td>Salaried staff</td>
<td>1990</td>
<td>662</td>
</tr>
<tr>
<td>Wage workers</td>
<td>3,780</td>
<td>689</td>
</tr>
<tr>
<td>Contractors</td>
<td>1,300</td>
<td>1,419</td>
</tr>
<tr>
<td>Total</td>
<td>7,070</td>
<td>2,770</td>
</tr>
</tbody>
</table>

Whether jobs have been gained or lost as a result of privatization is a debate that has generated more heat than light, which is compounded by a scarcity of empirical studies. Some jobs were simply transferred following acquisition, some new owners have reduced staff numbers in pursuit of labor efficiency gains, others have created new jobs as they diversified forestry and wood processing activities. To illustrate the murkiness of this issue, examples on the positive side include:

- Juken Nissho's new investments in wood processing, following its acquisition of Crown Forests Licenses, has created new jobs; and
- The significant increase in the number of full-time and contract staff employed by Wenita above its 1990 start-up level.

Source: Malcolm 1996 (updated)
On the negative side of the ledger the Fletcher Challenge, Brierley Investments and Citifor consortium has rationalized its activities following its acquisition of Crown forest assets in the Bay of Plenty.

Whatever the net outcome, one should not place too much weight on its importance: forestry is not the fountain of jobs that many within New Zealand perceive it to be. The average number of persons employed in overseas-owned agriculture, forestry and fishing enterprises in New Zealand is 19. While this is certainly greater than an average of three for domestic enterprises in the same industries, it is a long way off the average for overseas-owned enterprises in the communication services industry, for example, which is more than 300 (Figure 7).

Furthermore, the larger numbers of people employed on average by overseas enterprises are insufficient to prove that privatization has led to net employment increases. In the case of forestry, at least, more plausible explanations include the larger sizes of overseas enterprises and that forestry contractors with profits below NZ$ 30,000 are excluded from the official statistics.

Figure 7: Average number of full time equivalent persons per economically significant enterprise

To plant or not to plant?

When the government first announced its intentions to privatize its forest assets, there was a considerable debate regarding whether a condition of ownership should be the reforestation of logged areas.

The first round of sales in 1990/91 excluded any replanting requirements (unless conservation or other objectives deemed such necessary). The prevailing school of thought was that the new owners should be free to put the land to its most profitable use. Given the land was already in forests and, at the time, forestry was proving itself to be a profitable activity, reforestation and
afforestation were expected to be attractive options. Furthermore, the government was concerned not to include any sale condition that could result in a discounted price for its assets.

By the second and third round of sales (in 1992 and 1996, respectively), the political sentiment had swayed. A condition of these sales was that the land be replanted unless the forest owner intended to convert the land to some other government approved sustainable use. This provision was not introduced because planting levels had declined, rather it was introduced to provide assurances to the advocates of reforestation. Such assurances were, arguably unnecessary as a range of factors (tax changes, forest product price increases, hype) culminated in the 1990s to encourage replanting and caused afforestation levels to surge to new historical heights (Figure 8).

![Figure 8: Annual planting area (in ha)](image)

Source: Ministry of Forestry (1998)

**Processing**

The New Zealand Forestry Corporation was constrained in its ability to process the wood derived from its forests. Some argued that its contractual supply arrangements with processors did not provide sufficient resource security to enable processors to expand their operations or establish new facilities. Privatization, many argued, would overcome both these impediments.

Others were not convinced. Independent processors were concerned that existing supply arrangements, however imperfect, would be threatened. Others still argued that the new owners would export logs to provide an immediate cashflow to cover their purchase costs and have little intention of processing the wood within New Zealand. The government paid increasing attention to these concerns with successive sales:

- No supply constraints or processing requirements were a condition of sale in 1990/91. As with replanting, it was argued that the purchasers should be free to put the resource to the uses they judged to be most profitable.
- Rayonier New Zealand, which purchased state forests in 1992, was required to honor five-year supply arrangements with existing clients.
• The 1996 sales process required potential tenders to first pass a hurdle whereby they demonstrated their intention to add value to the resource within New Zealand. Public pressure was judged sufficient to hold the new owner to its intentions. Regulations were regarded as unduly restrictive on commercial flexibility, and difficult to police.

What has been the reality? All new forest owners have, or intend to, invest in value-added processing. This includes the establishment of an MDF plant by Rayonier New Zealand. This is significant, as when the company first brought forests it had no intention of processing; it was up-front about its plans to export logs. Of the NZ$ 1.6 billion of announced intentions to invest between 1990 and 2005, 90 percent is attributable to the purchasers of state forest assets.

Figure 9: Announced wood processing investment intentions (in New Zealand dollars millions)

![Graph showing announced wood processing investment intentions](image)

*Source: Ministry of Forestry (1998)*

While processing intentions have picked up in the late 1980s, a large and increasing volume of logs continues to be exported (Figure 9). As New Zealand's wood supply grows, it is very likely that log exports will continue to increase. Between NZ$ 4 billion and NZ$ 6 billion has been estimated as the investment necessary to process the wood within New Zealand. Investment intentions are nowhere near these levels. The debate is continuing why this is so: is this the optimal market outcome, or are there market failures (such as investment information gaps or the like) standing in the way of more domestic processing?

**Conclusion**

Devolution, i.e. privatization, was a natural and logical change in the way New Zealand managed its planted forestry resources, consistent with the maturing of the industry. In some areas of the industry, however, different considerations have proved themselves to be prevailing. For example, the Crown continues to lease Maori land for wood production. Treaty partnership considerations explain its continued role in this respect. Changes in political sentiment and the commercial operating environment shaped outcomes, and include:

• The rights of New Zealand's indigenous people to claim land that is rightfully theirs is preserved in legislation. However, the process of advancing these rights has been slow.

• The profitability and competitiveness of forestry has been positively influenced. Devolution can claim part, but certainly not all, of the credit for this.
• Whether devolution has led to a net gain or loss in employment levels remains unclear. However, given the very low labor intensity of forestry in New Zealand, this is more of a perceived than real issue.
• Market fundamentals rather than policy prescriptions have seen investment in afforestation surge to new historic highs.
• On-shore processing has been facilitated. However, the level of investment is far short of the supply-determined potential. Whether it accords with the market potential is debatable.

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Issues Relating to the Reform of Forest Management in China

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Introduction

Since the foundation of the People's Republic of China in 1949, the government has formulated and issued numerous policies, laws, rules and measures designed to achieve a flourishing economy and gradually enhance people's living standards. In the late 1970s, China began a period of unprecedented reform.

Reform has taken place in all sectors, and in the forestry sector a range of policy reforms and incentives for farmers has transformed forest management. Prior to the late 1970s, forest management was based on two operational modes: government managed forestland and collectively managed forestland. Even though the country always stressed that both development and protection were at the heart of forest resource management, the reality on the ground was an overwhelming emphasis on timber production. This type of management progressively led to a decrease in forest resources.

Since the 1970s, the government has implemented a number of programs to shift control of forest management from the central level to the local government level. Subsequently, forest management principles were diversified and operational modes experienced significant alterations. It is during the last 20 years that the greatest achievements in forest resource reconstruction have been achieved. This paper briefly describes some of the important reforms and outstanding issues.

Distribution of Hilly Forestland to Individual Families

Between the late 1970s and early 1980s, the government transferred management rights of large areas of the country's barren lands to individual families. On one hand, these measures aimed to address the shortages in forestland for fuelwood and other on-farm needs. On the other hand, the transfers sought to encourage farmers to afforest and protect barren hills. Up to 1984, some 50 million families were granted management rights to a total of 31.33 million ha of barren hills and about 40 million ha of so-called "responsibility hills" - usually forested (Newsroom of China Forestry Yearbook 1987). This contracting of responsibility changed the face of Chinese forest management and gradually led to greater forest production and protection. However, in some areas the initial effects of the policy were mixed. In many instances, farmers continued to neglect forest areas because they feared a reversal of such unprecedented policies. To assure farmers of their newly gained rights and reinforce incentives, in March 1981, the government issued the so-called "Three Clarifications" to stabilize forest management responsibilities and use rights and further encourage farmer participation.

The Three Clarifications

The Three Clarifications addressed the stabilization of ownership of, and management rights to forests and hills, the distribution of Forest Lands for Family Needs (FLFFN), and the formulation of a responsibility system for forestry production. The following policy measures were stipulated by the Three Clarifications. First, forestry department staff were directed to prepare an inventory of state-owned and collective forestland, private forest area and forestland where use rights could
be granted to individuals. Second, local governments at the county level issued inventory-based use right certificates, which clarified the tenure systems on FLFFN and "responsibility hills". Whereas the collectives retained ownership of FLFFN (usually barren hills), farmers assumed long-term use rights. Third, for the period under which families were granted use rights, those rights could be inherited or transferred through a market-based system. Fourth, management rights to forested "responsibility hills" owned by collectives were distributed to individual families, which are to manage them according to assigned responsibilities, usually expressed as specific tasks, criteria and duration. Income from the "responsibility hills" is to be divided between farmers and collectives at a predetermined ratio. Farmers who fail to fulfill their responsibilities lose their management rights. Usually the use-right terms for "responsibility hills" is shorter than for FLFFN areas because the forested hills usually regenerate quicker.

The effects of the Three Clarifications in general have been beneficial, and forest area and production has expanded because:

- a direct link was made between production and producers' material benefits;
- the management of collectively owned hills was decentralized to the local managers with real use rights; and
- specific responsibilities were attached to the newly acquired rights and the fulfillment of these responsibilities was based upon incentives and material benefits.

**Cooperative Shares System**

Even though the Three Clarifications have encouraged farmer participation, a number of problems have arisen. In some areas, single families manage entire hills, in other areas hills have been subdivided into a number of small plots, and yet in other areas families manage plots on several different hills. These complexities create problems of inadequate investment, small-scale operations and inefficient production. In order to address these shortcomings, the Cooperatives Shares System was created. This new arrangement has two distinct management mechanisms.

The first mechanism emerged in the late 1980s in the collective forest regions of South China, where families’ hill forests (including FLFFN and "responsibility hills") were converted into shares and cooperative operations and contractual management agreements were introduced. In other areas of China, management rights were not transferred to families but were retained by the collectives that managed the forests through a representative organization. The second mechanism consisted of converting entire collective forest areas into shares and then distributing those shares to individual families. Collective operations and contractual management systems were established in both instances and the redistribution of profits, rather than actual forests, was emphasized.

One of main differences between the two systems is that the second mechanism did not distribute forest use rights to individual families. Another difference is that under the first system ownership and use rights are linked (families decide on management questions), while in the second system they were separated (shareholder committees determine the nature of management and employ forest managers through a public bidding process).

Production can be contracted not only to a group of families but also to individual families. This type of arrangement is essentially of a cooperative nature, with respect to labor, capital and other production inputs. The cooperative shares mechanisms resulted in expanding production, improved forest protection, and direct linkage between development and utilization.
Contractual Management in State-owned Forests

Another area that underwent major reform were the state-owned forest enterprises. In order to improve the performance of state-owned forestry enterprises, in 1984 the government initiated a contractual management system which gradually linked rights, responsibilities and benefits to the market economy. Based on the separation of ownership and management rights, employees were allowed to contract projects from their enterprise, which determined duration, product criteria, production tasks and bonuses. This generated positive incentives for increased production, augmented staff salaries, and enhanced the quality of reforestation activities.

Adoption of market principles in forest management

Formerly, state forest enterprises integrated all production stages and transferred raw and intermediate products between them at no cost. The primary shortcomings of this system were the inefficient use of forest resources and equipment. From the late 1980s to the early 1990s, these problems were gradually addressed through the introduction of independent sub-enterprises for reforestation, harvesting, transportation and processing. Intermediate products were now bought and sold within a market-based system at the time of transfer to the next production stage within the company. Thus, afforestation units "sold" their allowable cut to harvesting units at prices based on planting costs, which then "sold" the wood to transportation units at prices based on harvesting costs. Transactions were handled by the company's internal bank. In addition, previously fixed wages were complemented by performance-based bonuses.

These innovations drastically changed the forest economy as each sub-enterprise was forced to keep careful account of its operations. The main effect of these measures was more efficient resource utilization (particularly on the part of the reforestation units) which helped generate higher quality forests and enlarge reforested areas.

Transfer of Forest Resource Ownership through the Market Economy

In the late 1980s, the transfer of forest resource ownership through a market-based system was introduced nationwide. The transfer of forest resource ownership also meant that young and middle-aged stands could now be sold and thus, some of the notorious difficulties which stem from the slow pace of forest capital maturation were relieved. Forest managers are able to recover initial capital outlays and obtain profits much earlier than hitherto possible. This early realization of benefits has provided forest managers with much greater flexibility in dealing with evolving needs and changing economic conditions. The effects of this innovation have greatly improved farmers' attitudes towards forest cultivation and protection, and encouraged more individuals to participate in reforestation projects.

Auctioning of use rights for wastelands

A large share of the country's wastelands (including barren hills, gullies, and undeveloped waterways) consists of lands designated for forestry use. In 1992, some local governments introduced a competitive auctioning system for the use rights of these lands. Under the new system, management rights to previously unallocated, or long unused, wastelands (and the resources on them including sparse trees, grass slopes, dykes and dams) were auctioned to individuals (mostly farmers), and organizations using a process of competitive bidding.

Through the initiation of such transfers, the government encouraged the use of idle capital in wasteland development. According to recent statistics, about 1.92 million farmers have bought
use rights to wastelands, and about 106,000 laid off personnel in 14 provinces have invested in the improvement of wastelands (Yongjian 1998). At the same time, farmers’ incomes increased through the sale of products from greened wastelands (such as fruit and bamboo), collectives benefited materially from the sale of use rights, and society at large gained from an improved environment. These examples show that the auctioning of use rights for wastelands has proven to be an effective means both for mobilizing society to take part in forest conservation and for encouraging farmers to generate wealth from reforestation activities.

**The Comprehensive Development of Mountain Areas (CDOMA)**

In China, mountains and hills make up nearly 70 percent of the whole country, and the population in mountainous areas represents about 57 percent of the population. Of China's 58 million poor people, 90 percent live in mountainous areas. In 1994, the government initiated CDOMA to improve the environment, living conditions, and alleviate rural poverty through soil improvement, harnessing of waters, reforestation, road construction, and generation of electric power.

CDOMA has been carried out through pilot projects, and at present, 114 counties participate in these pilot projects. In the last two years, some of the main achievements include:

- improvement of about 168,000 ha of low and middle-yield fields;
- construction of 170,000 hydro-engineering units;
- reforestation of 325,000 ha of land (of which economic forests were 130,000 ha);
- construction of 12,000 kilometers of rural roads; and
- construction of more than fifty small-scale hydraulic power plants.

In these pilot projects' areas, the average farmers' net income has increased by more than 10 percent, and now exceeds the average farmers' net income in surrounding counties by more than 20 percent (Lei 1998).

**Forest Ecological Programs**

In 1978, the government initiated the world's largest shelterbelt forest program in the wind erosion-prone regions of the North. Nine other large-scale ecological programs were successively initiated to address a variety of ecological problems. These ten shelterbelt programs cover a total of 7.06 million km² or 73.5 percent of China. Collectively, they constitute the basic framework for the national forestry ecological program. More than 20 million ha are designated for reforestation. By the end of 1995, 18.51 million ha had been reforested under the "Three-Norths" Shelterbelt Development Program, and forest coverage increased from 5.05 percent to 8.28 percent. Due to the establishment of these shelterbelts, more than 4 million ha of deserts have been greened and more than 1.3 million ha of sandy lands transformed into good farmland, pastureland and orchards. In addition, more than 12 percent of desert areas have been improved and desertification checked on another 10 percent (Newsroom of China Forestry Yearbook 1995). Soil erosion has decreased to varying degrees on 8.8 million ha, and grass harvests on 8.93 million ha of recovered grassland increased by over 20 percent (Newsroom of

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5 They include the Program on Soil and Water Conservation Forests along the Upper and Middle Reaches of the Yangtze River; the Coastal Shelterbelt Development Program; the Plain Farmland Shelterbelt Development Program; the Taihang Mountain Afforestation Program; the National Program to Combat Desertification; the Shelter-belt Program to Comprehensively Harness the Valley of Huaihe River and Taihu Lake; the Shelterbelt Program to Comprehensively Harness the Zhujiang River Valley; the Shelterbelt Program to Comprehensively Harness the Liaohe River Valley; and the Program on Soil and Water Conservation Forests along the Middle Reaches of the Huanghe River.
One-third of the land in the "Three-Norths" region has sufficiently improved for agricultural use. Several of the ecological programs, begun after the "Three-Norths" Shelterbelt Development Program, have already generated significant ecological benefits.

The extensive flooding in 1998 prompted the government to focus on arresting ecological deterioration in the Yangtze and Huanghe river valleys. Aside from accelerating progress in the ten shelterbelt programs, the government has recently decided to initiate the Protection Program of Natural Forest Resources. This policy will force wood-based industrial enterprises in the ecologically fragile river valleys to abandon harvesting and processing and switch to reforestation and forest protection. The phasing-out of harvesting from natural forests has started in parts of the provinces and autonomous regions of Southwest and Northwest China.

This program will require the redeployment of a large number of workers and staff after harvesting is completely phased out; a burden the central government announced it will share with local governments through the provision of necessary funds (Yongjian 1998). On the other hand, local protection programs will be supported exclusively by local government finances. In concrete terms, workers and staff will be able to choose among four options:

1. Forest resource protection, where they will be organized as an institution funded by the central and local governments;
2. Plantation of ecological forests (government financing) or commercial forests (financed through low-interest national forestry loans);
3. Diversified management including crop farming, livestock breeding, mining and tourism evolving around the utilization of non-timber forest products (financed through low-interest national forestry loans); or
4. Staff who cannot be redeployed will be listed in the local insurance system.

Conclusion

China's extensive forest management reforms over the past twenty years have produced several tangible results. According to the data of the fourth national forest resources inventory (1989-1993), both forest area and volume of forest stands have increased and forest growth has exceeded consumption. Compared with data from the previous forest resources inventory (1984-1988), forest area has increased from 120 to 130 million ha, standing volume from 10.6 to 11.8 billion cubic meters, of which forest stock has grown from 9.141 to 10.137 billion cubic meters, and forest coverage from 12.98 to 13.92 percent.

References

Introduction

The Lao People's Democratic Republic (PDR) has a total land area of about 236,800 km² and a population of about five million people. Much of Laos is mountainous, which restricts access, communications and the development of modern irrigation systems. The country is divided administratively into 17 provinces and one special zone. These are in turn divided into 138 districts, 11,640 villages and 748,529 households (MAF 1997). About 83 percent of the population lives in rural areas, and some 66 percent rely on subsistence agriculture. The incidence of poverty is greatest in the upland rural areas and varies between regions as follows: central region (33.6 percent), northern region (26.5 percent), and southern region (16.2 percent) (World Bank 1998). Based on the poverty incidence measures, more than two million people are considered "poor" in absolute terms.

Agricultural production in upland areas is still dominated by subsistence cropping under a shifting cultivation or swidden (slash-and-burn) farming system. Shifting cultivators in the upland areas can only produce enough rice for seven to nine months of their annual consumption. Rural poverty in the uplands is directly linked to land degradation which results from inappropriate agricultural systems. The challenge of stabilizing shifting cultivation and conserving the environment in the upland areas cannot be met unless the issues of poverty alleviation, provision of alternative sources of livelihood, food security, and security of land tenure are addressed simultaneously.

To address the diversity of upland livelihood and socio-cultural systems, the Government of Lao PDR has devised a "focal site" approach to support sustainable decentralized forest management in the uplands. This paper presents the on-going development process in Lao PDR including the efforts of the Ministry of Agriculture and Forestry (MAF) to develop new approaches and mechanisms in supporting decentralized rural development interventions. It also looks at some of the new strategies undertaken among major central line agencies, and between central agencies and local governments to respond to the real needs and expectations of local communities.

The Main Thrust of Decentralized Forest Management

Decentralized rural development policies have long been recognized as a key to alleviating poverty and improving the socio-economic well-being of rural people. Decentralization is one of the eight national priority development programs in Lao PDR. Government policies for improved social and economic systems are largely geared towards efforts to stabilize shifting cultivation. Implementation of these policies is constrained by many factors, including the

6 Shifting cultivation is the agricultural system involving an alternation between cropping for a few years on selected and cleared plots (of forest land) and a lengthy fallow period when soil is rested. With a long fallow period (10 to 20 years) to restore soil fertility by accumulation of biomass, it is a sustainable agricultural practice in mountain environments. However, in areas with increased population density, the length of fallows has been reduced to 4-6 years, causing rapid deterioration of soil conditions.
remoteness of most upland areas, lack of roads, diversity in livelihood and socio-cultural systems, a predominant barter economy, limited access to credit, and the continuing dangers of unexploded ordnance left from past military activities.

To ensure that the rural poor benefit and greater efficiency in planning and implementing upland development programs is achieved, the government established a National Leading Committee for Decentralized Rural Development in 1994, which was subsequently reorganized in 1996 and 1998. The main role of this Committee is to ensure concerted interventions to designated sites called "focal areas or focal sites". Because agriculture and forestry are still the major sources of livelihood for rural people, MAF and the State Planning Committee (SPC) are the leading agencies in planning and implementing upland rural development programs.

Developing the lowlands for irrigated agriculture was the main tool for overcoming the practice of shifting cultivation. This approach was considered feasible in the upland rural areas of the central and the southern parts of the country due to a relatively higher proportion of flatter lands. However in the northern region, this approach is not viable as the topography is much more mountainous. Thus, policies have shifted to in situ stabilization of upland forest land use, through a gradual reduction of unsustainable (short fallow) shifting cultivation practices. In this adjusted policy, the government strongly supports an integrated and decentralized approach to resource use and management, where the shifting cultivators are considered the central actors in resource management and development.

**The essence of the "focal site" approach to decentralized forest management**

The focal site approach is an area-based livelihood systems approach to decentralized rural development in which interventions are tailored to the area's specific needs. Such an area-based approach is geared toward promoting locally owned "centers for change and learning". The main goal is to increase food and commodity production, to create employment opportunities, and develop the conditions for improved living standards. The success of the focal site approach is dependent not only on an enabling policy framework, but also on the way the districts and local institutions are empowered, human resources are developed, and capacities are built for public management and participatory community development.

Thus, development is being concentrated in these focal sites (at the district level) within each province, so that limited human and financial resources are not spread too thin. Likewise, this helps to foster cooperation amongst ministries and harmonize allocation of resources. The main thrust is to ensure integration of macro and mezo-plans so that activities from different sectors can converge at the district level, and respond to the diversified needs of local people. Moreover, the focal site strategy emphasizes the devolution of power to the district-level administration so that development activities and the management of natural resources are directly overseen by local institutions. This strategy views shifting cultivation more positively, meaning that it recognizes improvements of livelihood systems within existing settlements as more sustainable and more socially acceptable alternatives to the development of the uplands.

The main legal framework for decentralized forest management is found in the Land and Forest Laws and corresponding Decrees 40 and 131 (1994 and 1996, respectively). These support the devolution of the responsibility for planning and implementation of rural development and management of agricultural and forestland to provincial and district authorities with required advisory and technical assistance to be provided by the concerned central agencies.
The laws and decrees also strongly support increased participation of villagers in the development process. The government support of decentralization for resource use and devolution of management to local authorities and communities is also contained in Decrees 169 and 186 (1993 and 1994, respectively). In addition, Decree 102 (1993) identifies the "Organization and Management of the Villages", a formal document underpinning the rights, duties and responsibilities of village communities in the use and management of natural resources within their domain. A draft decree prepared by MAF also attempts to clarify the exercise of customary rights as they apply to the use of forest resources.

**On-going institutional changes within MAF**

The acceptance of a focal site strategy for managing upland forest resources has necessitated that improvements be made in developing a policy framework and structure of governance based upon holism (complexity), spatial variations (diversity) and recognition that there is a need to work both with individual farm families, the communities, and existing local institutions.

Holism implies a recognition that agencies need to coordinate development programs. The focal site approach is not the task of a single agency. Thus, there is a need to shift to an area-based livelihood systems approach to develop planning and programming of resources (such as staff, financial, aid, and credit).

Spatial variation implies the effort is decentralized to provinces and districts. Districts should be able to determine "what is possible where" and are the coordinating points for combined efforts among concerned agencies. Projects need to fit into such frameworks and not create their own separate "super-structures".

Greater community participation implies partnerships between government line agencies and communities, building upon what is already there (e.g. indigenous land-use systems/technical knowledge and local regulatory systems). This suggests flexibility in implementing rules and regulations and the need to adjust to national programs and regulations.

As a result, the following structural adjustments are being implemented in MAF to ensure a more integrated approach to decentralized forest management in the uplands.

**Establishment of a supportive policy framework**

**Creation of lead coordinating bodies for harmonizing planning, development aid and extension within MAF**

MAF has established a number of lead coordinating offices for harmonizing planning, development aid and extension activities among concerned technical departments and between the central departments and the provincial/district agricultural and forestry offices. This allows MAF to integrate strategic plans and programs at central and provincial levels and, facilitate the convergence of sub-sectoral activities at the micro-level (district level) tailored to specific recommendations. It is hoped that this approach will assist government-supported programs and projects (including international assistance) to be more effective and ensure more coherence in the provision of aid assistance to the target areas, groups and individuals. At present, all concerned technical departments are "obliged" to coordinate and develop more responsive integrated upland forest land-use programs that better reflect the diversity of present livelihood systems (this means "breaking down walls" among departments).
Streamlining of local resources and aid coordination within MAF in parallel with the upgrading of local capacity to manage development programs

Most donor projects in MAF are developed in relative isolation and tend to superimpose "effective" organizational structures and administrative procedures on the prevailing Lao system. Past and present development efforts and activities were, and are still, directed through parallel structures (e.g. project offices) created alongside existing district offices and services (see Figure 1). This often has the effects of taking resources from existing systems. These so-called "superstructures" do not strengthen local people's ability to manage their own resources.

Efforts have been initiated to strengthen existing local organizational units responsible for development support. This includes improving local capacity to plan and implement development programs at the district level with increased human and financial resources. At present, resource allocation (including foreign aid) is broken down into three intertwined levels of management: central/MAF, provincial and district levels (Figure 2). To the extent possible, all development activities are to be directed through district offices, utilizing and improving upon existing services. The technical departments and the concerned provincial offices are to play an advisory and facilitating role, which includes provision of technical services, coordination of financial support and credit schemes, training, technical innovations, market information, and developing the necessary marketing channels and systems. The key objective is to ensure that these services are effective, reliable and compatible with local people's aspirations.

Figure 1: Build in a planning and aid coordination body within MAF to promote an “area based livelihood system approach to development
Efforts to devolve decision making and resources to provinces and districts allow for the relatively scarce financial resources (both local and foreign-funded) to respond effectively to the needs of specific focal sites. It is now the duty of the coordinating bodies in MAF, in collaboration with the technical departments and concerned aid agencies, to ensure that this happens through a clear strategic plan for the sector.

Figure 2: Decentralized organizational structure in rural development (focal site strategy)
Implement research and development activities through existing grassroots institutions

Different mechanisms and modalities have been devised so that research and development activities are geared towards improving shifting cultivation-based livelihood systems in the context of sustainable forest use. This includes various forms of agroforestry development executed through existing grassroots institutions (such as village forestry programs and local political institutions) which take into account traditional resource use and management regimes. In the past, the ability of development agencies to deal with communities and farmers as groups was weak because of the individual household orientation of most technology transfer approaches. Given the fact that common property and open access systems play a pivotal role in upland areas, development agencies have learned to deal with problems of collective decision making (Figure 3).

Figure 3: Working though local institutions to develop community-based land management systems
Current pilot agroforestry research and development activities are entrusted to village organizations (rather than to individual farmers) consisting of the village authority, the party and the mass organizations (representing different interest groups). Guidance and support are provided by the district office. The emphasis is to strengthen the managerial capacity of village organizations, groups and individuals to use resources efficiently. This includes upgrading organizational and managerial efficiency, skill enhancement through village-based development programs, development of local enterprises, and promotion of capital formation to undertake new ventures that the traditional subsistence economy did not allow (e.g. micro-finance support programs). This approach to development will fit better into the existing collective management system that characterizes most Lao villages. It is believed that cooperative behavior can be ensured in circumstances where the state, community and individuals are on equal footing. The key objective is to avoid interventions that promote one-sided or overly individualistic outcomes that could undermine the effectiveness of local regulatory systems.

**Developing sustainable upland land-use and management practices by grafting exogenous land-use practices onto viable indigenous land-use systems**

Current forest management policies take into consideration the fact that the real forest managers are the communities who use and manage the land. To be effective, forest management and land-use planning must involve communities in the planning process and provide incentives for long-term sustainability.

Different mechanisms and modalities are being developed and tested to support the move toward flexible approaches to forest management. This approach combines indigenous knowledge of sustainable forest management with appropriate land management technologies. The government, in collaboration with international agencies such as the World Bank, ADB, IFAD, SIDA, DANIDA, FINNIDA and the Dutch Government, is testing various approaches.

Implementation of existing strict land-use regulations (where forestland with slopes over 25 percent are not to be farmed) has proved impossible in many places because of the lack of gently sloping land. Thus, while criteria for upland forest use are needed, such criteria should be flexible and take into the account the local context. Given the large variations in local production conditions, rotations over larger areas (e.g. over 6-7 fallows) are still permitted, especially where smaller areas (that is under four fallows) are unable to secure a reasonable level of productivity and stability. The present forestland allocation program allows shifting cultivators to farm up to 23 ha of land, depending on the types of farming enterprises and availability of land resources (e.g. in livestock-based farming systems larger land holdings are allowed per household). High priority is also given to develop appropriate technologies and land management practices in upland areas, including technologies and management interventions to improve the present practice of shifting cultivation. The government recognizes that it is unreasonable to strictly enforce regulations on shifting cultivation until viable alternatives are available.

Most importantly, the government strongly supports the co-existence of different property rights regimes in the same community (state, corporate/collective and private ownership). The tradition of resource sharing among neighboring villages is also considered as one viable resource management strategy and such customary practice is protected by legal recognition and incentives.
Developing appropriate approaches and tools for classification of "type areas"

As mentioned above, an area-based livelihood systems approach is used to guide present and future research and development activities. This approach implies the identification and classification of "type areas" in the upland zones. These are based on spatial variations which serve as a basis for more detailed analysis of farming and livelihood systems, and for planning, programming and developing the required research and development interventions. These interventions need to respond to each recommendation domain for the effective allocation of financial and material resources (including foreign aid).

A model for classifying "type areas" (at district and village level) has been developed by MAF in terms of resource use, socio-economic conditions and the local regulatory system. Broad development recommendations by "type-areas", to which research and development interventions need to respond, can be based on the profiles of diversification and development opportunities (Table 1).

The methodological tool for analyzing both the existing situation and the sustainability of the technical and managerial adjustments made in upland systems by local communities and external assistance consists of a simple table of inquiry. This focuses on understanding the behavior and important properties of concerned farming and livelihood systems in a particular district and village, using only a few key functional relationships. Accordingly, the concept of the agroecosystem analysis and the farming systems research approach are employed. These are slightly modified so that resource assessments are set in a much wider framework, including social and economic factors such as market access, alternative employment opportunities and local implementation of national policy measures. The emphasis is thus based more on livelihood systems, rather than on the farm or the family as a farm management unit.

Developing technical interventions within the established framework

Technical inputs are also necessary after the policy framework is provided. Specific technical interventions, and delivery of technologies need to take into consideration the existing traditions of community solidarity in resource management. Thus, mechanisms and arrangements need to be developed which aim to combine group (and individual) oriented approaches to technology transfer. The group-oriented approach is especially important for resources of corporate ownership and for actions where group efforts are more rewarding (such as marketing groups, credit groups, handicraft production groups, labor exchange groups, and cattle and goat herd management groups).

The village communities and concerned interest groups and individuals should be advised on the range of possible alternatives and given the freedom to select the type(s) of technical assistance that matches their needs and aspirations. This could be one specific technological option or a technological package. For example, in Phoukout District (Table 1), the most pressing technological needs are increased forage supply from the communal grazing land (especially in the dry season) and establishment of individual backyard forage and group-based animal health service units. Cross-farm visits have been encouraged so that farmers can learn from each other's experience in upland farming. It has been found that this approach is quite successful for the immediate transfer of technology.
Issues and Future Trends

The Government of Lao PDR considers decentralized forest management a key national strategy to alleviate poverty in the upland areas. A number of policy and legal frameworks and decentralized land management approaches have been formulated, adjusted and tested to support these efforts. However, there are still a number of constraints to filling the institutional vacuums that have emerged from this decentralization process.

One major deficiency is the limited capacities at the provincial and district levels for carrying out management and development activities. Continued training and establishment of support services are needed at provincial and district levels. This needs to include training on the interpretation of data and information collected to allow the identification and classification of "focal sites" to form the basis for developing forest land-use management and plans that are tailored to the local context.

Training is also needed for implementing, monitoring and evaluating programs on a regular basis. Documentation is necessary to assess whether the strategy and corresponding plans are progressing in the manner envisaged, and whether modifications of the original ideas are justified. It is believed that district and village organizations and program implementers (MAF technical departments and Provincial Agriculture and Forestry Offices) will be mutually responsive to each other's aspirations and interests as confidence grows and successes are achieved. Change in strategies and approaches, whether at the policy level or at the local level, is inevitable in the course of maturation, and careful monitoring and evaluation will ensure sound judgement.

The present stability in the Lao political system allows the government to gradually consolidate its efforts and make flexible adjustments to the on-going process of decentralization. These changes are not only based on approaches developed in Laos, but also on lessons and experiences from other countries in the Asia-Pacific region and around the world. It is believed that gradually strengthening the capacity of local government units and village organizations will play a pivotal role in ensuring long-term stability of shifting cultivation-based livelihoods and contribute towards a more individualistic and semi-commercial economy. In order for this to happen, the "area-based livelihood systems approach" needs to be based upon the concepts of holism (complexity), spatial variation (diversity) and decentralization (recognizing the roles of local institutions in the process of development).
Table 1:
Profile of diversification and development opportunities for improving the swidden-based livelihood system by spatial variation

<table>
<thead>
<tr>
<th>Representative District Types</th>
<th>Socio-economic status</th>
<th>Luang Prabang</th>
<th>Viengkham</th>
<th>Vienthong</th>
<th>Phoukout</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mountainous</td>
<td>Mountainous</td>
<td>Mountainous</td>
<td>Pine-based grasslands with mountainous areas</td>
<td></td>
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<tr>
<td></td>
<td>High population density</td>
<td>Low population density</td>
<td>Low population density</td>
<td>Low population density</td>
<td></td>
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<tr>
<td></td>
<td>Strict local rules for land use</td>
<td>Relatively flexible local rules</td>
<td>Relatively strict local rules</td>
<td>Flexible local rules</td>
<td></td>
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<tr>
<td></td>
<td>Good access and market opportunities</td>
<td>Very difficult access and barter economy</td>
<td>Difficult access and barter economy</td>
<td>Difficult access but a access market centers</td>
<td></td>
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<tr>
<td></td>
<td>Several support services, poorly managed</td>
<td>Lacking support services</td>
<td>Lacking support services</td>
<td>Lacking support services</td>
<td></td>
</tr>
<tr>
<td>1. Poor</td>
<td>1. Improve practice of Hai* &amp; Hai-Na, where possible, open more Na**</td>
<td>1. Improve practice of Hai</td>
<td>1. Improve practice of Hai &amp; Hai-Na, where possible, open more Na</td>
<td>1. Improve practice of Hai, where possible, open more Na</td>
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<tr>
<td></td>
<td>2. Increase HG for sale (in the more areas)</td>
<td>2. Increase cattle production (in weight)</td>
<td>2. Increase cattle production (in weight)</td>
<td>2. Increase cattle production (in weight)</td>
<td></td>
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<tr>
<td></td>
<td>3. Increase non-farm activities (in the more accessible areas)</td>
<td>3. Increase pig &amp; poultry production</td>
<td>3. Increase pig &amp; poultry production</td>
<td>3. Increase pig &amp; poultry production</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Increase pig &amp; poultry production</td>
<td>4. Increase fish production</td>
<td>4. Increase fish production</td>
<td>4. Increase fish production</td>
<td></td>
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<tr>
<td></td>
<td>5. Stall-feeding cattle or increase goats to replace cattle</td>
<td>5. Increase goat production</td>
<td>5. Increase non-farm activities</td>
<td>5. Increase non-farm activities</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Increase fish production</td>
<td>7. Increase off-farm employment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Average</td>
<td>1. Improve practice of Hai-Na and Na-Hai, where possible, open more Na</td>
<td>Same as above</td>
<td>1. Improve practice of Hai-Na &amp; Na-Hai, where possible, open more Na</td>
<td>1. Improve practice of Hai &amp; Hai-Na, where possible, open more Na</td>
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<td></td>
<td>Same for 2 to 7</td>
<td>Same for 2-5</td>
<td>Same for 2-5</td>
<td>Same for 2-5</td>
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<tr>
<td>3. Better off</td>
<td>1. Improve practice of Na-Hai and Na-Hai-Na, where possible, open more Na</td>
<td>Same as above</td>
<td>1. Improve practice of Na-Hai &amp; Hai-Na, where possible, open more Na</td>
<td>1. Improve practice of Hai &amp; Hai-Na, where possible, open more Na</td>
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<td>Same for 2 to 7</td>
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<td>Same for 2-5</td>
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</tr>
</tbody>
</table>

Required support interventions
- Improve the land tenurial system, to recognize the local regulatory system
- Strengthen the community-regulated resource use system
- Strengthen the community-regulated resource use system
- Strengthen the community-regulated resource use system

References