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Title: Country report on Forest Land Tuner Reform
Country: Lao PDR
Name: Bounchanh LATTANAVONGKOT

I. Introduction
Lao PDR predominantly a mountainous and land lock country with a relatively large area of 236,800 Km2 in relation to its small population of approximately 6 million, 17 provinces. People are poor by Asian standards; Per capita GDP is estimated at US$ 500. All most 70% of the total land area cover by mountain, forest covers only 41.50% or 9.8 million ha in the whole country (department of forestry, 2002).
Since 1940, the forest covered 70% of the total land area and reduced to 64 % in 1960s, 49% in1982s, 47% in 1992 and 41.50 % or 9.8 million ha in 2002. Forest fires always believe as the main. The current forest decreased from 11.2 million ha to 9.8 million ha with an average loss about 134,000 ha/ annum equivalent to 0.60 % of the total land area. Forests and lands degradation are the current issues for Lao PDR; shifting cultivation practices causes, in addition land use causes of rapid population increase and weak law enforcement.
Since the early 1990s, the Lao government has undertaken substantial land reform, challenging existing land access and farmer practices. As the constitutional landowner, the State differentiates between forest, from which farmers are in principle excluded, and farmland, which has been redistributed and is used under supervision; the conclusion reached is that this is not an effective policy tool.

II. The historical changes in Forestland tenure and drivers of Forest land tenure changes
1. Formative Years (1975 – 1986)
As the king of Laos was considered as the ultimate owner of all the land poor to 1975, land was managed according to customary rules at the village level. There were many types of land tenure and property rights concepts of land ownership depending on several dozen ethnic groups and region: no single rule, regulation and perception dominated the country in land property rights.
When Lao PDR was founded in 1975, land ownership was officially transferred from King of Laos to the people, represent by the state ( Ducourtieux et al, 2005). Initially, land collectivization became a national goal. Farmers were encouraged to cultivate their land collectively while the land was owned by the villagers in the same regions. The collectivization government was given up due to difficulties associated with collectivization, including a drop in rice production. Land was returned to their former owners in the villages. In 1986 the government of Laos started to shift towards a socialist market.
At the end of the 1970s, the Lao forestry sector aimed to utilize forest resources for capital regeneration, to rehabilitate forest resources by planting, and to invest the capital for forestry and agricultural industries. Thus, nine state forest enterprises (SFEs) were established in late 1970s. With donor assistance and government investment, many of the SFEs were equipped with modern logging machinery and wood processing facilities.

The first comprehensive forestry legislation after 1975 was the Council of the Ministers (CM) Instruction No. 74 on Forest protection, passed in 1979. It included provisions on national resource ownership, permission of forest conservation and logging, prohibition of shifting cultivation in watershed areas, traditional uses by local people, and promotion of planting for restoration and afforestation. During this decade, the 1979 CM Instruction was symbolic and forest resources exploitation of royalty revenues and foreign currency through SFEs were implemented.


Lao PDR has undergone a rapid economic transformation since the mid-1980s toward a market-driven economy. Providing secure land tenure land property rights become an important component in the early 1990s to promote investment and efficient use of land in the country.

At the Fourth Party Congress in 1986, first “New Economic Mechanism” was adopted, indicating a shift to the market-oriented economic management understated leadership. Secondly, the development plan describes shifting cultivation shall be stabilized not by order and force but by providing alternative crops and livelihoods instead. Referring to the two thirds of the population depend on shifting cultivation for livelihood in the country, the document acknowledged it as a most challenging. It addresses comprehensive forest management integrating non-timber forest products, legislation of forest protection, and other environmental service is required. It also notes that forest need to be managed in a sustainable manner and comprehensive plan should be based on the scientific analysis on forest management. Forest management with scientific bases was expected to serve purposes to be compatible with economic and environmental benefits in long run.

This affected their concern over forest exploitation which was ongoing without thoughts of protection at that time. After the Congress, no legislation for comprehensive forest management was enacted.


Deforestation emerged gradually in the country while abundant forest resources remained was believed by the time of First National Forest Conference in 1989.

Meanwhile, a week-long landmark conference was presided over by the prime minister and party secretary-general. Mr. Kaisorn Phomviharn, and attended by over 500 people from local governments and the private sector. Mr. Kaisorn Phomviharn stressed in his speeches, the importance and benefits of forest for both the economy and environment and the necessity of legislation for the comprehensive management of the forest including sound implementation. He also noted that illegal logging and exploitation of natural resources need to be redressed. The conference produced and outcome as a basis for forestry policy up to now.

Legislative response to the recommendation was quick such that the Council of Ministers issued two decrees: CM Decree No. 117, management and Use of forest and Forestland and CM Decree No. 118, management and Protection of Aquatic Animal,
Wildlife, Hunting and Fishing in October. Stabilization of shifting cultivation remained high on the conference agenda. Rationalization of forest use and accompanying alternatives were elaborated as follows:

- Allocate 2 to 5 hectares if forest and forest land to each household and 100 to 500 hectares to each village.
- Allow them to manage and use allocated forest as long as wood volume increases.
- Allow them to inherit or transfer allocates forest to others.
- Recognize ownership or individuals and groups to degraded land where they plant trees, regenerate, grow crops or raise livestock.

Tested in the following years, this new policy with some modifications was introduced nationwide in 1994. After SFE was established in all provinces (18 SFEs in 2002), provincial forest enterprises (PFEs) were setup for logging and processing, even to issue logging permits to private companies for revenues. On the other hand, SFEs operational function produced only a huge loss to the government due to lack of management skills and subsidies. Complying with the government policy of market-oriented economic management and separation of business from governments, SFEs and PFEs were dissolved or privatized soon after the conference. The conference also called for a ban on indiscriminate logging without technical management such as definition and delineation of products forest.


The government of Lao had identified poverty eradication as a priority and introduced land reform as a core policy to address this challenge. In line with emerging decentralization nationwide, the power was transferred from the central government to lower authorities in the political hierarchy. Thus, the government has reallocating financial resource to local authorities since 1996 to promote sustainable forest management, and Land and Forest Allocation (LFA) was attempt by the government to decentralize finance resources for sustainable forest management through local authorities (Fujita and Phanvilay, 2008).

Land allocation was introduced experimentally in 1990 in the Luang Prabang and Sayabury provinces, mainly with the support of the Swedish International development Cooperation Agency (SIDA), Asian Development Bank and FAO (Baird, 2007; Fujita and Phanvilay, 2008). In 1994, LFA became a nationwide policy with the signing of Prime Minister Decree No. 186, and the aim of the land allocation program was twofold: to increase land tenure security to enable farmers to invest their land; and to encourage village communities to protect the forest environment in a sustainable manner and by removing large portion of village’s land from the slash and burn cycle (Ducourtieux et al, 2005).

At the Fifth Party Congress in 1991, forest was again highlighted. Classification and delineation of all forest were called for as well as responsibilities and benefits for management of each forest type, acceleration of forest and forest land allocation, and provision of support with those who live in the mountainous area to shift to sedentary agriculture as a replacement of shifting cultivation.

After the congress, Prime Minister (PM) Decree No. 67, logging ban was issued. After SFEs were abolished, a logging quota system was set up. Despite this national quota and loges sales, reality was different on the ground. The PM Decree No. 67 declared a country-wide logging ban and ordered the Ministry of Agriculture and Forestry to
prepare measures not only to let forest management, logging, processing and trade follow in line with laws and regulations but also classify forest into categories of protection, conservation, regeneration and production. The logging ban went well in 1992, but it turned out in 1993 that logging was not decreased.

In 1993, two important decrees were issued: PM Decree No. 164, Establishment of National Conservation Forest, national biodiversity conservation area in English, and PM Decree No. 169, Management and Use Forest and Forestland. This first was epoch-making in the country in line with biodiversity conservation. The second, PM Decree No. 196, was a response to a logging ban and issued as new comprehensive forestry regulation to replace CM No. 117 issued in 1989. This decree, a basis for the 1996 Forestry Law, stipulated definition of forest, ownership, forest categories, forest management based on contract, and prohibition of development and forest activities in protection and conservation forests. Although it was repealed by 1996 Forest Law, it played an important role in the framework development land and forest allocation, officially started in 1996. There were three types of forest management contracts; the collective forest management contract for villages (between a district and a village on the use and management forests), the family forest management contract (between a district and household on the use of degraded of forest land for agriculture, tree planting, and raising livestock, with an incentive for households that long-term use right would be given after three years successful implementation of contract), and afforestation business contract.

Following PM Order No. 15 issued in 1994, on the reform of the control system for tree harvest, introducing a two-way quota system for the export of logs and processed products, the government issued PM Decree No. 186 on the delineation and allocation of land forest for tree planting and protection. It provided a basic legal framework to promote tree planting, ownership of planted trees, and exemption of a land tax from tree planting, and was replaced by the Forest Law in 1996.

5. Six Party Congress and Fourth Socio-Economic Development Plan

At the Six Party Congress, focus was shifted from forestry land use as follows:

- Wide implementation of land and forest allocation for local people to protect and use forests.
- Continuation of shifting cultivation stabilization with a focus on watershed area, rich forest area, and conservation forest area, while playing attention the provision of sedentary settlement and permanent occupation.
- Promotion of tree planting of various species for domestic use and commodity production.
- Strict control of the logging and wood business.

Although the Forest Law as a comprehensive legislation has been the governing legal document since 1996, it did not refer to two components; one is log harvest contracts and sales, and another is the extent of delegation while it notes that management authority shall be delegated to the provinces, districts, and villages. Meanwhile, consolidating relate older decree and instructions. MAF has issued regulations for implementation of the Forest Law.

Moreover, two important legislative documents were enacted in 1996: PM Order No. 3, on the continuous expansion of land management and land and forest allocation, and MAF Instruction No. 822, on land and forest allocation for management. They provided
a legal framework and implementation guideline on land and forest allocation. The area involved in shifting cultivation decreased from 1996 to 2000, but the number of household involved in the farming remains high (Kitamura).

The land and forest allocation has two components. First, one is the contract-based allocation of the degraded land to households for crop cultivation, tree planting or grazing. If performance is evaluated to be good, based on a contract of three-year land-use certificate, people are entitled to their land. Second, an agreement on the use of which forest type to use, production, conservation, and other areas, was signed after land allocation was introduced. Following several years’ pilot implementation, land and forest allocation was officially introduced in PM Decree No. 186 in 1996.

The system of land and forest allocation is based on human and financial capacity of each family to manage and cultivate. There is a limit of 2 ha per active laborer households, and over 330,000 house hold, equivalent to 50 percent of the total agriculture households, were allocated land. This one of the very few forest programs under clear clearly-defined policy objectives and detailed instruction for field implementation.

As for forest allocation, village forests are to be categorized into the five categories defined in the Forestry Law (1996), considering traditional use and discussions between villagers and local governments. In reality, however, most village forests area and designated for protection. It is said that, logging volumes growing domestic demands, overseas demands from neighboring countries, and local needs for cash income.

6. **Several Party Congress and Fifth Socio-Economic Development Plan**

   The MAF issued the regulation on village Forest Management in 2001. It repeats existing provisions on the classification of village forests and setting a legal regulation on collection and sale of NTFPs.

   In 2002, PM Decree No. 59, Sustainable Management of Production Forests was promulgated, which acknowledge participation of local villages in production forest management including labor, planning, sales, and benefit sharing based on contract between villages and local authorities.

7. **Forest Law**

   Forestry Law (2008) recently revised governs management and utilization of forest resources, and sets out forest in to three categories such as conservation forest, production forest, and production forest. Logging only in production forests with sustainable management plan and involving community management, according to quota system. All land in Lao PDR is controlled by the state, the Department of Forest under the Ministry of Agriculture and Forest handles forests, issues permits and controls harvesting of forest resources. Government is the sole owner and manager of forest resources in Lao PDR. However, the government supports and encourages an individual, households and organizations planting tree in the degraded land for environment enrichment and wood industry resources.

III. **Patterns of forest land tenure and ownerships (including both customary and official)**

   According to a case study of the impacts of the Land and Forestland Allocation policy on the local community in terms of traditional tenure systems and traditional use of their forest resources in two communities, both of which are located along the foothills
of Phou Khao Khouay National Protected Area in Vientiane province in order to understand that: How people in the community have used and managed land and forests before and after the Land and Forest Allocation Policy has been implemented?; How people have responded to land use adaptation and management practices due to the implementation of the Land and Forest Allocation Policy; and how Land and Forest Allocation Policy has affected the traditional tenure system and the food security of local community? The result of this case study showed that there has been very little movement of progress or change in the communities except for the indicator of household income, which has significantly increased. Natural resource management has changed significantly due to the clarification of boundaries that has been made between villages and the National Protected Area. This makes communities lose control over forest and natural resources, which they have held for years. Villagers retained rights to access forest and forest resources, which offer them opportunities to collect products from those forest resources to supplement their incomes.

The traditional tenure system has been replaced by state law, which means that all of the villager’s agricultural lands are officially recognized, offering so called “good security”, but customary land tenure practices actually remain hidden in the community. In these two study sites I found that the feeling of land security has not changed, and that villagers do not feel insecurity without legal documentation. Since the responsibility of natural resource and forest management within their community has been transferred, this research observed that villagers have yet to have an emotional sense of empowerment over this management responsibility. Some of them thought they are “sample people” that have no need or capacity to manage the resources. What is clear is their own and their households’ needs, and they look to see how their lives will improve. They have not really understood the aims of the policy.

IV. Impacts and consequences of forest land tenure system/reform;

Land and Forestland Allocation (LFA) Policy impacts to local people in term of increase farmers’ land tenure security and encourage involvement in intensive farming to improve livelihoods; eliminate “slash and burn” cultivation to protect natural resources and the environment.

The implementation of the land reform associated with forest zoning led to a change in the territorial perception of most villagers. Their new perception is of two mutually exclusive categories of space - where swidden is authorised and where it is not. According to their former space classification and beliefs, if swidden is not permitted on an area, then to them it is not forest, and consequently it does not require any specific protection from the community since it no longer belongs to them. It is similar with conservation campaigns that ban hunting activities: they are well perceived locally only if they have direct effects on increasing wildlife resources for future hunting purposes.

According to farmers, forests are defined according to their uses: wood and timber stock, reserve of future arable land, protection of spring for paddy field, wildlife reserve, and sacred or ceremonial purposes. If decision-makers want to encourage communities to take forest preservation into their own hands, these traditional uses of forests lands cannot be just ignored, as has been the case so far. Numerous conflicts between traditional land tenure and government land law have arisen as a direct result of changes in village territory perception, especially regarding Non-forest timber products gardens and grazing lands (Aubertin 2000). One of the new law’s objectives is forest conservation, but in fact the forest is currently under growing threats: opening of new swidden fields is
common, sales of land are recorded in many provinces, illegal logging is still flourishing, and shortage of arable lands is generating food insecurity and forcing people to rely more on forest products for their survival. Overall it can be said that so far the policy is a political failure, since deforestation is still increasing as a result of a direct confrontation between perceptions and uses. There are many potential benefits to land reform, but pitfalls have occurred almost everywhere it was implemented, with dramatic consequences for people and environment alike.

In the delimitation process of village territories, the local dynamics of resource management and use were not taken into account. The new village definition of territory is rather different from the former: management of forest and land for conservation has created a weakness in conservation purposes both institutionally and organisationally, especially in new migrant areas where forest management was not efficient or community controlled (Fujita 2003). In many provinces, new waves of migrants have been recorded subsequent to either village relocation or the implementation of land reform (Evrard 2004; Romagny & Daviau 2003; Jones 2004). Adequate ‘permanent’ livelihood substitutes have not been successful because many families were given unsuitable paddy land (poor soil or lack of water) and there was a lack of technical support. This failure to develop upland permanent cropping or paddy fields has resulted in further deforestation and increased cases of encroachment, and some cases of people fleeing the areas (ADB 2001). The increased deterioration and degeneration of forest resources and wildlife is a direct result of rice shortage, to the point that some species and NTFPs have been eliminated through over harvesting (Foppes 2000). In some areas, NTFP harvest grew to represent 40 to 60% of household income, rising up to 80% at certain times of the year (UNDP 2001).

For the villagers there is a direct equation between land allocation and poverty since the former is accompanied by ecological changes, together with epidemics of pests, and results in the latter. Land allocation has emerged as the main cause of poverty in Phongsaly province and in remote districts of neighbouring provinces. “In general villagers in the study felt that land allocation is unfair, and it thus emerges from the analysis as one of the main causes of poverty” (ADB 2001).

The land reform has also generated inequalities in land repartition and allocation. As the head of one surveyed village expressed: “After the land allocation was carried out, we began to be short of rice to eat. If they allocated us some of the paddy given to the Hmong that would have been better, because they have more than they need” (Kw_n villager in Bokeo, quoted in ADB, ibid).

The majority of poor villages trace their plight to a result of combined and sometimes directly related elements (relocation + land allocation + pests + natural disaster). Villagers claim that prior to land reform, their rice yields and agricultural production were sufficient. At that time, costs for health, education, and consumer goods were either low or nonexistent, but now farmers find themselves facing lower yields and higher needs. “To make up for rice deficiencies and to cover the costs of new costs, poor villages are more and more having to exploit new means of supplementing livelihoods” (ADB 2001).

There is a willingness to find alternative policies but examples are few. For example, the Lao Swedish Programme on Forestry challenged the way that reform was implemented but the adjustments and new goals it made were still aimed at the stabilisation of swidden and the separation of zones between agricultural and forest areas (Leuangkhamma, Sysomvang & Jones 2001). Policies are loosened when required to by people pressure, but are not intrinsically adjusted as they should be. There are also examples of local
adjustment, such as relaxing enforcement of swidden restrictions by local authorities if there is sufficient land for rotation systems to be maintained. Another field in which this reform has caused drastic changes is gender issues. The impacts of poverty and land allocation are more severe on women. Their workload has increased while the fruits of their labours are declining. Land problems rank high among the processes alienating and marginalising Lao women in the uplands and lowlands alike (ADB 2001). For example, with limitations on swidden rotations and the associated soil depletion, fallows consist mainly of grass, and cutting grass is traditionally women’s work. Girls are getting involved in various activities at younger and younger ages. This has an impact on their education, with most of them not attending school at all. Moreover, land allocation often neglects or ignores the importance of women in access to land as well as their role in the land tenure and inheritance process.

V. Future trend
The trend of Forest Land Tuner would be divide in to two different categorizes:
- First, the Forest Law: All natural forest land in Lao PDR is controlled by the state, the Department of Forest under the Ministry of Agriculture and Forest handles forests, issues permits and controls harvesting of forest resources. Government is the sole owner and manager of forest resources in Lao PDR.
- Second, tree plantation would be managed by individual, households and organizations due to forest law support to plant tree in the degraded land for environment enrichment and wood industry resources.
- Local stakeholders as well as local people would be the right to manage and get benefit from natural forest in case of Protection Forest and Production forest. Due to Forest Strategy 2020 asks for scaling up forest cover to 70 % in the year 2020, and Protection Forest is a main target to meet the FS2020 goal. The benefit of forest would be consider, in order to encourage local people to participate in management of forest; moreover, to support local stakeholder who taking care of forests REED+ may be an option.
INTRODUCTION

Malaysia is a country with an area of 330,000 square kilometres - Peninsular Malaysia 131,585 square kilometres, Sarawak 124,450 square kilometres and Sabah, 73,711 square kilometres - and a population of 26.0 million. Despite this, it has more than 125 land legislation other than the National Land Code. It is a federation of 13 states and three federal territories. The states of Selangor, Perak, Pahang, Negeri Sembilan, Kedah, Perlis, Johor, Kelantan and Trengganu, Malacca and Penang situated in Peninsular Malaysia and the two Borneo states of Sabah and Sarawak forming East Malaysia and the federal territories of Kuala Lumpur, Labuan and Putrajaya. Apart from the three federal territories that are administered by the federal government, the other states are governed by their respective state government. Peninsular Malaysia, which is about the size of England, consists of eleven states. Formerly referred to as the Federation of Malaya, it attained political independence from Britain on 31st August 1957, and was absorbed into the greater Federation of Malaysia on 16th September 1963. On the formation of Malaysia, Singapore and the British Protectorates of Sarawak and Sabah on the Borneo Island became constituent parts of the new Federation.

Approximately 80% of the population is in Peninsular Malaysia and 20% in Sabah and Sarawak. The Orang Asli are the indigenous minority peoples of Peninsular Malaysia, comprising just 0.5 per cent of the current national population. The term ‘Orang Asli’ meaning ‘first peoples’, is a collective term for the 18 ethnic subgroups officially classified for administrative purpose under Negrito, Senoi and Aboriginal Malay. The smallest among these three categories are the Negritos, comprising a little over three per cent of the Orang Asli population. The Senoi are the largest group, with about 54 per cent of the Orang Asli population and the Aboriginal Malays are the second largest group at about 43 per cent. The major groups in Peninsular in Malaysia are the Malays, Chinese and Indians, and others such as Eurasians, and Indonesian and Filipino migrants.

The majority population of Sabah and Sarawak are indigenous peoples. There are 39 indigenous groups and sub-groups in Sabah, with the largest being the Kadazan dusuns. In Sarawak, there are 37 different indigenous groups and sub-groups, the largest being the Ibans. Although they have distinct languages, cultures, lifestyles and livelihoods, they share one thing in common: a close physical, cultural and spiritual relationship with the land and forests. To the indigenous peoples in Malaysia, land and forest is a living entity, with spirituality and a sacredness of its own. This means that the land forest provides them with food, clothing medicines, fuel, and all materials necessary for their existence. Land and forest is also the school for the present and future generation, and the abode of their ancestors. Land and forests, therefore, gives life and meaning to their whole being, for it is in the land that their history and identity is contained.
FOREST RESOURCES

In terms of major forest types, it was estimated that in 2005 Malaysia had 15.97 million ha of dry inland forest, 1.36 million of swamp forest and 0.58 million ha of mangrove forest, with the balance of 0.40 million ha being forest plantation. The distribution of these major forest types by regions is as shown in Table 1. It is evident from the Table that the proportion of forest is much higher in Sabah and Sarawak than in Peninsular Malaysia which is more developed.

Table 1: Distribution and Extent of Major Forest Types by Regions in Malaysia, 2005 (million ha)

<table>
<thead>
<tr>
<th>Region</th>
<th>Land Area</th>
<th>Natural Forest</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>Percentage Total of Forested Land</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Dry Inland Forest</td>
<td>Swamp Forest</td>
<td>Mangrove Forest</td>
<td>Forest Plantation</td>
<td>Total Forested Land</td>
<td></td>
</tr>
<tr>
<td>Peninsular Malaysia</td>
<td>13.16</td>
<td>5.41</td>
<td>0.30</td>
<td>0.10</td>
<td>0.07</td>
<td>5.88</td>
<td>44.7</td>
</tr>
<tr>
<td>Sabah</td>
<td>7.37</td>
<td>3.70</td>
<td>0.12</td>
<td>0.34</td>
<td>0.20</td>
<td>4.36</td>
<td>59.2</td>
</tr>
<tr>
<td>Sarawak</td>
<td>12.30</td>
<td>6.86</td>
<td>0.94</td>
<td>0.14</td>
<td>0.13</td>
<td>8.07</td>
<td>65.6</td>
</tr>
<tr>
<td>Malaysia</td>
<td>32.83</td>
<td>15.97</td>
<td>1.36</td>
<td>0.58</td>
<td>0.40</td>
<td>18.31</td>
<td>55.8</td>
</tr>
</tbody>
</table>

On the plains and low hills, the dry inland forests which are mainly the dipterocarp forests predominate and form an almost unbroken canopy, but in the higher mountains the forests tend to thin out and exhibit considerable variation in flora. The high forests are replaced by swamp flora in the swampy areas and by mangroves along some coastal areas. The dry inland forests which represent 89.2 percent of the total natural forests, is characterized by the predominance of the family Dipterocarpaceae with many of the species of the genera Anisoptera, Dipterocarpus, Dryobalanops, Hopea, Shorea and Parashorea.

Furthermore, recognizing the crucial role of forests is not only in the production of timber, but more importantly in the conservation of soil, water and wildlife, as well as in the protection of the environment, Malaysia has a total of 15.30 million ha of forested land designated as PRFs which is under sustainable management. Approximately 12.19 million ha of the PRFs are production forests with the remaining 3.11 million ha being protection forests. The status of the PRFs in Malaysia by regions is summarized as in Table 2.

Table 2: Permanent Reserved Forests (PRFs) by Regions in Malaysia, 2005 (million ha)

<table>
<thead>
<tr>
<th>Region</th>
<th>Protection Forest</th>
<th>Production Forest</th>
<th>Total Land Area Under PRFs</th>
<th>Percentage of Total Land Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peninsular Malaysia</td>
<td>1.52</td>
<td>3.18</td>
<td>4.70</td>
<td>35.7</td>
</tr>
<tr>
<td>Sabah</td>
<td>0.59</td>
<td>3.01</td>
<td>3.60</td>
<td>48.8</td>
</tr>
<tr>
<td>Sarawak</td>
<td>1.00</td>
<td>6.00</td>
<td>7.00</td>
<td>56.9</td>
</tr>
<tr>
<td>Malaysia</td>
<td>3.11</td>
<td>12.19</td>
<td>15.30</td>
<td>46.6</td>
</tr>
</tbody>
</table>

HISTORICAL CHANGES IN FOREST LAND TENURE AND DRIVERS OF FOREST LAND TENURE CHANGES
Peninsular Malaysia
Peninsular Malaysia, historically known as Malaya before the new nation in 1963, is the largest of the three main regions that make up Malaysia. Large-scale rice cultivation, rubber, oil palm, and tin deposit areas are all found in Peninsular Malaysia.

The vegetation of Peninsular Malaysia varies from the swamp vegetation of the lowlands to the plush evergreen forests. The industrialization and growing economy are major influences of the different land uses in Peninsular Malaysia. Agriculture, logging and timber, and resettlement are all land uses that contribute to the deforestation of Malaysia. Shifting cultivation involves clearing land periodically, and with the expansion of agriculture this clearing expanded as well. Shifting cultivation, however, only accounts for a small percentage of the land use in Peninsular Malaysia. Production of agriculture was mainly for exports, since timber was a leading export for Malaysia. Agriculture expansion was booming from 1904-1932, slowed down for a time, but then increased again from 1966-1980’s. Because of the rapid land development in the 1960’s and clearing of forest, the suitable land for living on the peninsula was decreasing. The Federal Land Development Authority (FELDA), begun in 1956 by the British, was supposed to open new land area for cultivation and in turn was a major part of the clearing of forests. The FELDA has a strong influence on the land use in Peninsular Malaysia. Because of the changes in land use and the low government policies to control it, forest cover has been at a decline since the 1960’s.

Sabah
Sabah’s forests, which covered about 56.7% of the state’s land, are mainly made up of tropical evergreen and tropical rain forests. Although deforestation is a problem in Sabah, it has received less attention than that of the peninsula or Sarawak. The factors contributing to deforestation are agricultural expansion, land development, logging, and poverty. Many of these are the same as Peninsular Malaysia, but some are not. Poverty, for example, is often overlooked as a reason for forest degradation. Although it is difficult to make a clear tie between the two, poverty is often a cause for the clearing of forest area by government agencies to make affordable living areas. Access to this new land is often made possible by the new roads built and the growing logging system, which each in turn influence the forest degradation. Agricultural expansion in Sabah is dealing with shortages of suitable land available. This land conservations in Sabah, which in turn has led to land pressure because of the population density that is now a major reason for deforestation. Major tree crops are also a form of land use in Sabah and are seen to have long-term affects on the forest area. Due to Sabah continues to open new land for development, the FELDA, which had been interested in Peninsular Malaysia, began to pay more attention to the forest degradation in Sabah in the 1980’s.

Timber became Sabah’s most important export in 1958, and important to government revenue and state politics by the time Sabah became a state of Malaysia. Since the government’s concern is high revenue, it has little concern about conserving the forests, when the timber brings in one of the highest revenues for the country. Logging is again a major source of deforestation in Sabah, as in Peninsular Malaysia and will be in Sarawak. From 1966-1991, Sabah lost approximately 1.85 million ha of forest due to logging. The life of a forest depends on the re-growth of the logged forests. The deforestation of
Sabah’s forests depend on the re-growth of the logged areas.

**Sarawak**

The economic growth of Sarawak has been dependent on oil, gas, and timber, but forestry and agriculture also remain key revenue sources for the state. Both are also the largest employers in Sarawak. Timber plays the central role in Sarawak’s land use and economy, but the renewal of timber depends on the extraction practices, even though in theory it should always be a renewable source. Other growing land uses include agriculture and tree-crop plantations. Both practices involve forest clearing. In the timber area of land use, logging is a major exporting industry for Sarawak. Plantation development and resettlement are also ways that land is used, which can lead to forest loss. Each land use is a part of Sarawak’s economy, but in turn affect the forests. The major causes of deforestation in Sarawak are “in decreasing order of importance: logging, particularly in the rainforest; agricultural development and aquaculture in the coastal wetlands forests; plantation development; shifting cultivation; and dams and resettlement. The rate of deforestation does not occur from the cause itself, but because there are no regulations controlling the rate of each practice. Shifting cultivation was historically the main cause for deforestation, but that role has now been taken logging. Logging in turn is gradually being beaten by the acceleration in plantation agriculture and land development. Both processes include the removal of forest from Sarawak’s land. The revenue from the causes of deforestation is what makes it difficult for Sarawak’s economy to stop the degradation of the forests.

**POLICY AND LEGISLATION**

Under the Malaysian Constitution, forestry comes under the jurisdiction of the respective State Governments which are empowered to enact laws and formulate policy on forestry independently. The executive authority of the Federal Government only extends to the provision of advice and technical assistance, training, and the conduct of research.

In order to facilitate the adoption of a coordinated and common approach to forestry, as well as reconcile cross-sectoral policies that interface with the forestry sector, the National Forestry Council (NFC) was established on 20 December 1971 by the National Land Council (NLC). The NLC is empowered under the Malaysian Constitution to formulate a national policy for the promotion and control of utilisation of land for mining, agriculture and forestry. The NFC, chaired by the Deputy Prime Minister and comprising the Chief Ministers of the thirteen Malaysian states, the Minister of Natural Resources and Environment Malaysia and other Federal Ministers whose portfolios have an impact on the forestry sector, such as finance; trade; agriculture commodities; science, technology and the environment; and heads of the forestry services of Peninsular Malaysia, Sabah and Sarawak; serves as a forum for the Federal and the State Governments to discuss and resolve common problems and issues relating to forestry policy, administration and management, as well as to enhance co-operation between the Federal and State Governments, so as to ensure a coordinated approach in the implementation of policies and programmes related to forestry. All the decisions of the NFC have to be endorsed by the NLC. The responsibility for implementing the decisions of the NFC lies with the State Governments unless it is within the authority of the Federal Government.
In 1992, the National Forestry Policy 1978 was revised to include the importance of biological diversity conservation and the sustainable utilisation of forest genetic resources, as well as the role of local communities in forest development.

To ensure effective forest management and the implementation of the National Forestry Policy in Malaysia, various forestry enactments and ordinances were formulated and enforced by the respective state authorities since the early 1900s. These enactments and ordinances were further uniformised and strengthened in areas of forest management planning and operations through the adoption of the National Forestry Act and the Wood-based Industries.

In line with the revised NFP, the National Forestry Act 1984 was also amended in 1993 to incorporate additional provision for SFM, by way of including more stringent penalties for forest offences including, among others, the illegal felling of tree and to provide for mandatory imprisonment for convicted illegal loggers. The police and armed forces were given new powers of surveillance in the forestry sector, with the aim of curbing illegal logging, encroachment into forest areas and timber theft.

An act to implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora was approved by the Malaysian Parliament on 24 December 2007. The Malaysian International Trade in Endangered Species Act 2008 provides the legislation for the administration and management of international trade in wild fauna and flora to ensure that the trade does not threaten the survival of any species of wild fauna and flora in the country. Currently, the Ministry of Natural Resources and Environment is drafting the CITES Regulations.

Other legislation which are considered of major importance to the forestry sector apart from the National Forestry Act, 1984 (Amendment 1993) and the Wood-based Industries Act, 1984 are as follows:

- National Land Code 1965;
- Penal Code (FMS Cap. 45), 1948 (Amendment 1993);
- Criminal Procedure Code (FMS Cap.6) 1903 (Amendment 1995);
- Evidence Act 1950 (Amendment 1993);
- Financial Procedure Act 1967 (Amendment 1993);
- Water Enactment 1935;
- Land Conservation Act 1960;
- Protection Of Wildlife Act 1972 (Amendment 1976 & 1988);
- Malaysian Timber Industry Board Act 1973;
- Environmental Quality Act 1974 (Amendment 1995);
- National Park Act 1980 (Amendment 1983);
- Malaysian Forestry Research and Development Board Act 1985;
- Mining Enactment 1926;
- Local Government Act 1976;
PATTERNS OF FOREST LAND TENURE AND OWNERSHIP

The tropical rain forests of Malaysia are extremely complex ecosystems and are richer in tree species than in similar areas of Africa and South America. They are, in fact, the most species-rich plant communities known anywhere in the world and which have evolved over million of years. There are at least 15,000 species of flowering plants, of which 2,500 are tree species; 286 species of mammals; 600 species of birds; 140 species of snakes; 150 species of frogs and thousands of species of insects, many of which are still being documented. In addition, over 1,300 plant species have been identified as having potential pharmaceutical properties with some of them currently being used as traditional herbal medicine.

At the end of 2005, total land under forests in Malaysia was estimated to be 18.31 million ha or 55.8 percent of its total land area; lands under perennial agricultural tree crops such as rubber, oil palm, cocoa and coconut, and those under other land usage such as for settlements and infrastructural development totaled 5.55 million ha or 16.9 percent and 8.97 million ha or 27.3 percent of its total land area respectively, as shown in Table 3.

<table>
<thead>
<tr>
<th>Region</th>
<th>Land Area</th>
<th>Natural Forest</th>
<th>Forest Plantation</th>
<th>Agricultural Tree Crops</th>
<th>Other Land Uses</th>
<th>Total Forest Area</th>
<th>Percentage Total of Forest Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peninsular Malaysia</td>
<td>13.16</td>
<td>5.81</td>
<td>0.07</td>
<td>3.32</td>
<td>3.96</td>
<td>5.88</td>
<td>44.7</td>
</tr>
<tr>
<td>Sabah</td>
<td>7.37</td>
<td>4.16</td>
<td>0.20</td>
<td>1.50</td>
<td>1.51</td>
<td>4.36</td>
<td>59.2</td>
</tr>
<tr>
<td>Sarawak</td>
<td>12.30</td>
<td>7.94</td>
<td>0.13</td>
<td>0.73</td>
<td>3.50</td>
<td>8.07</td>
<td>65.6</td>
</tr>
<tr>
<td>Malaysia</td>
<td>32.83</td>
<td>17.91</td>
<td>0.40</td>
<td>5.55</td>
<td>8.97</td>
<td>18.31</td>
<td>55.8</td>
</tr>
</tbody>
</table>

In fact, together with the 5.55 million ha of perennial agricultural tree crops which are similar to reforested land and increasingly looked upon as alternative sources of wood supply, especially that of rubberwood, the total area under tree cover in Malaysia at the end of 2005 would increase to 23.86 million ha or 72.7 percent of its total land area.

IMPACT AND CONSEQUENCES OF FOREST LAND TENURE SYSTEM/REFORM

Policy And Institutional Framework

In the Malaysians Federation, the 13 states have jurisdiction over land, forests, fishery, agriculture, water resources and local authority areas. This means that individual states have power of decision over the use and allocation of resources. In the administration and management of forestry resources, for example, each State has its own Forestry Department and related agencies to implement forestry policies at state, district and local administrative levels. Constitutionally though, the federal government has the power to establish departments or ministries for resource conservation and inform local government of their plans. State agriculture and forestry departments are obliged, under the constitution, to refer to the federal counterparts on certain matters.
In practice, however, there are contradictions between federal and state policies on land, forest and the environment. The states have pursued their own land forest policies, even where they appear to contradict federal policies, and vice versa. In practice, too, there are two contrasting/conflicting views of the forests. On the one hand, forests are seen as physical and economic resources, controlled by the state, private logging companies and individuals whose main concern is in the commercial value of trees to generate revenue and income.

**Conflict With Indigenous People**

One the other hand, forests are generally seen by indigenous and forest-dependent peoples as a physical, social, cultural and spiritual resource, for livelihoods as well as the basis of beliefs, identify and survival. The state recognizes only that the forestry department is the ‘custodian’ of forest resources, and this being so, disregards that indigenous peoples have been stewards of the forests since time immemorial.

The development options, undertaken by federal and state governments, which view forests as a land resource for commercial agricultural development and timber extraction for domestic consumption and exports, have led to loss of land and livelihoods for indigenous and forest dependent peoples. In particular, the customary rights to land and forest of the Orang Asli (indigenous) communities have been revoked by such practices by states, which deemed it illegal and punishable to occupy, lands when legal certificates and titles are not issued to them by the states. As a result, indigenous peoples found accessing or traversing ‘state-owned’ forest areas have been evicted from their ancestral lands and resettled by the state. Indigenous women have been less power to defend their customary land rights and are often most affected when community access to, and control over, forest and land resources are prohibited or restricted by the state.

**Deforestation and logging**

Government surveys recorded Peninsula Malaysia as having approximately 7.86 million hectares of forest in 1966, which decreased to 7.24 million hectares in 1974 and 6.50 million hectares in 1984. These figures work out to a loss of about 622 thousand hectares between 1966 and 1974, and 733 thousand hectares between 1974 and 1984. In the 1990s, the annual forest loss fluctuated from a low of 7,847 hectares in 1995 to a high of 170,842 hectares in 1996. Overall, the annual forest loss for 1992–96 was 58,002 hectares, compared to 70,000 hectares in the early 1970s. In Sarawak, it was reported that the state maintains an annual log production of about 12 million cubic metres, with 60 per cent reserved for local processing mills and the remainder for export. Furthermore, Sarawak Forestry Department statistics show a decline in the total forest area by just over 10 per cent, or one million hectares, over the ten-year period of 1980 to 1990. The Sarawak government also claims that Sarawak still has 7.31 million hectares, or 59 per cent of land area under forest cover – Hill Mixed *Dipterocarpaceae* and Peat Swamp accounting for 1.25 million hectares or 10 per cent, and Mangrove and Nipah Swamp taking up 168,000 hectares or 1.3 per cent.10 In practice, however, the official statistics conceal the fact that 8.8 million hectares of forest (practically the whole forest area of Sarawak) had been licensed for logging by 1990. The same statistics show that the average area logged per year between 1983 and 1990 was about 220,000 hectares. Observers have noted that by 1999 only 2.26 million hectares of the licensed areas
remained, and this is only considering the absolute area logged, without taking into account any practices on the ground that result in major forest destruction and degradation. As for Sabah, its forests began to decline in the 1890–1930 period with the introduction of logging, tobacco and rubber plantations by the British colonisers. By 1953, natural forest covered 86 per cent of Sabah. Almost three decades later, by 1981, there was only 68 per cent of forests left and 63 per cent by 1984. Over a third of the natural forest had been lost in a century, most of this in the 1970s and early 1980s. The figures revealed that Sabah’s forests dwindled from an estimated 6.05 million hectares in 1966 to 4.2 million hectares by 1991. In other words, some 1.85 million hectares of forests were lost between 1966 and 1991, giving an average annual loss of 74,000 hectares. The total area of forest currently gazetted as forest reserves on the Sabah Forestry Department official website is about 3.59 million hectares.

In both Peninsular Malaysia and Sarawak, the forest area declined by almost 50 per cent between 1971 and 1989. In Sabah’s case, the area still unlogged in 1989 was less than 20 per cent of that available in 1971, indicating that Sabah had logged out most of its forests in the interim. Considering Malaysia as a whole, the FAO estimates Malaysia’s annual loss of forest between 1990 and 1995 at 400,000 hectares. In fact, logging is a major culprit of deforestation and forest degradation in Malaysia.

Livelihoods and Poverty
Three hundred and fifty million people live in forests and 1.6 billion depend on forests for their livelihoods and are often among the poorest, most marginalised people on the planet, both economically and politically. The links between deforestation and poverty are complex. The rural poor in many developing countries depend on forests for fuel, food, medicine, grazing and fertile soils, and these resources are particularly important in times of stress, for example during droughts or war. However poverty is also a cause of deforestation.

Biodiversity, Soil Erosion and Flood Risk
Forest and other habitat loss is the major cause of biodiversity loss. Tropical rainforests are the most diverse regions of the planet in terms of plant and invertebrate species. Forests also modify the quantity of water in rivers, its quality and the evenness of flow, and can reduce the severity of floods. In a similar manner, forests prevent soil erosion and landslides.

FUTURE TREND
To contribute to the achievement of the effective and efficient land resources management, land laws dealing not only with possession and ownership but also the rights and obligations of the owner and occupier is essential. Malaysia land laws are found in the National Land Code which consolidates the uniformity of law and policy regarding land tenure, registration of titles dealing with land right, land right transfer, leases and charges in respect of land and easements, and other rights and interests inland stipulated in Article 76(4) of the Federal Constitution. The National Land Code also ensures that land is managed sustainably for the present and future generations.
CONCLUSION

Land reform programs are bound to vary from country to country. Specific reform programs in any particular country need to be related to the problems presented by the social structure, economic and political background in which these problems are sought to be solved. Land tenure system reflects specific historic and geographical conditions, which may be unique to the particular country.

The main menu of the land reform is to improve the standard of living of the peasants, redistribution of land by introducing the new registration of land, redistribution of income through creation of employment and increased in productivity of agricultural product by using insecticide and fertilizers, open-up more land for example resettlement by building-up roads and also improve the irrigation channels. Malaysia is in the process of having all the legislations, policies and strategies that a country needs to achieve sustainable land resources management. During this process, strict implementation of whatever legislation, policy, or strategy that is in operation is very necessary otherwise the effort of the nation will not bear the desired fruits.
Forest Land Tenure System in Myanmar

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Forest Department, Ministry of Forestry
Myanmar

July 2010
1.0 Historical Changes in Forest Land Tenure and Drivers of Forest Land Tenure Changes

In 1856, Dr. Dietrich Brandis, German Botanist, came to Myanmar and initiated scientific forest management. He issued first and foremost forest regulations in October, 1856. It was mainly concerned with prohibitions and any statement relating to forest tenure was not found in this regulation. Dr. Brandis and Dr. Cleghorn formulated the Government Forest Act for the British Empire in 1865. Being British colony, Lower Myanmar also subjected to this Act. According to the Government Forest Act-1865, it was described that the land covered with trees, shrubs and forests could be declared to be State’s Forests without affecting rights and privileges of individuals or community. Therefore, it was learnt that rights and privileges of individuals or community had been legally recognized since then. In order to develop the more practicable Forest Act, due considerations were taken into account between 1869 and 1878. The main constraint to settlement is to which extent rights and privileges of the peoples who used the land and forests for a long time, would be recognized. By that time, the government well recognized the rights and privileges of the peoples. On the other hand, it needed to control these rights and privileges granted inside the reserved forest to be systematic use and production for the public benefits. In 1881, Forest Act for lower Myanmar was separately formulated. It was learnt that rights and privileges were not stipulated in Forest Act (1881). In order to be more practicable and modernized, the Burma Forest Act (1902) was developed based on the Forest Act (1881) and forests were managed by formulating Working Plans. According to the Working Plans formulated after 1900s, It was observed that some areas were demarcated as Karen areas and granted privileges for taung-ya cutting. In line with sustainable concepts, The Forest Law (1992) was formulated and it replaced the Burma Forest Act (1902). The Forest Law (1992), with respect to forest land tenure, encompasses not only the rights and privileges inside the forest land but also private and community participation in forest conservation and management. This leads to changes in forest land tenure system in Myanmar.

2.0. Current Governmental Policies and Legal Frameworks related to Forest Land Tenure

2.1 Forest Law (1992)

Stipulations related to use and access right of local people

It has been clearly mentioned in the section 6(b) and 6(c) of the existing Forest Law (1992) as follows:

“Section 6 b: The Minister shall in respect of constituting a reserved forest appoint a forest Settlement Officer to inquire into and determine in the manner prescribed the affected rights of the public on the relevant land and to carry out demarcation of the reserved forest.”

“Section 6 c: The Minister shall in respect of specifying a protected public forest delegate the Director-General to inquire into and determine in the manner prescribed the affected rights of the public which may arise under the prohibition contained in the declaration.”
Stipulations related to private land tenure
Concerning development and maintenance of forest plantation, it has been mentioned in Section 14 of Forest Law (1992) as follows:
“If permission is obtained from the Government:
(a) The government and any person or any organization have the right to carry out in joint venture;
(b) Any person or any organization has the right to carry out in accordance with the stipulation, cultivation and maintenance of forest plantations with exception of village owned firewood plantations cultivated by the villagers for their use.”

2.2 Forest Rules (1995)
“Forest Rules 6, 7, 8, 9 provide the detail explanation and procedures with respect to use and access right of affected people by constitution/declaration of reserved forest and protected public forest.”

“Forest Rules 41 explains in detail for joint venture in development and maintenance of forest plantation under Forest Law section 14.”

2.3 Community Forestry Instructions (1995)
Instructions related to communal land tenure
Forest Department issued Community Forestry Instructions (CFIs) in 1995 with a view to promoting active participation of rural population in planting trees in barren lands and in reforestation of degraded forests. The ultimate goals are for supporting the economic development of the country, regaining environmental stability and addressing basic needs of local communities.

According to CFIs, local communities are permitted to establish community forests in the following areas:

a) In degraded natural forests where natural regeneration is difficult
b) In areas where there is potential to meet the local demand for forest products

c) Areas suitable for the establishment of Community Forest and where there is need to conserve soil and water resources
d) Natural forests which for various reasons should be managed by the local community
e) Forest lands Traditionally managed y the local community

The local communities are initially granted 30-year period of land lease for establishing community forests and it is extendable after 30 years depending on the satisfactory performance and desire of the users’ groups. Also land tenure right is inheritable.

3.0 Pattern of Forest Land Tenure and Ownership in Myanmar

In Myanmar, all the lands are owned by the State. They are mainly administered by two responsible organizations: Settlement and Land Record Department under Ministry of Agriculture and Irrigation and Forest Department under Ministry of Forestry. Forest Department is administering forest lands and totally responsible for granting tenure rights inside the forest lands. Apart from forest land, the rest are under the administration of Settlement and Land Record Department.

According to the Forest Law (1992), Forest Land means land including reserved forests and
protected public forests. There are three major types of forest land tenure as mentioned below:

1) Use and access right granted to individuals
2) Land tenure granted to local communities
3) Land tenure granted to Private

3.1 Rights and privileges granted to individuals

Since colonial time, it had been recognized the rights and privileges of the individuals inside the reserved forests in Myanmar. At present, Myanmar has been implementing its Forest Policy (1995) to meet the national goal of forestry sector within the context of sustainable development of forest resources. Among others, expansion of reserved forests and protected public forests is a major activity and 30% of the total land is targeted to be constituted or declared as reserved and protected public forest. This might affect on the use and access of local people dwelling inside the proposed area. However, these rights and privileges are duly considered and legally granted to the affected people.

In line with the legal framework, standing order with respect to constituting reserved forest and declaration of protected public forest has been issued by Forest Department. According to the standing order, there are seven steps to be taken as described below:

Step-1 Preliminary survey and demarcation
Step-2 Submitting Proposal to DG
   The information to be contained in the proposal for constitution of reserved forest and declaration of PPF are:
   - General description of the proposed area
   - Conditions of forest
   - Historical background of the forest
   - Stakeholders
   - Rights and privileges to be claimed by local people
   - Objectives of the constitution of reserved forest and declaration of protected public forest
   - Forest utilization
   - Staff requirement

Step-3 Submitting proposal to Minister after clarification
Step-4 Declaration by Minister that the land is proposed to be constituted or declared as reserved forest and protected public forest
Step-5 Investigating claimed rights and privileges, and making decision on the rights and privileges to be granted by Settlement Officer (Director General of Forest Department in the case of PPF); boundary demarcation; preparation and submission of settlement forms (1-5). In order to investigate the claimed right, Settlement Officer has to issue a notice to claim the rights by affected people within the 90 days after issue of notice.
Step 6 Notification with approval of Cabinet
Step-7 Final boundary demarcation

In the above-mentioned standing order, use and access rights and privileges of the people are taken into consideration since proposed time and duly granted on rationale. The very common rights claimed by the people are use of land for growing orchard, taungya, grazing, collection of forest produces such as firewood, poles, posts and other non-timber forest produces etc.
3.2 Forest Land Tenure to Local Communities

Currently, a total of over 0.1 million acres of community forests (both plantation and natural forest) has been established throughout the country. The status of community forest establishment under 30-year land tenure is in detail provided in the following table.

**Community Forest Establishment under 30-year Land Tenure**

<table>
<thead>
<tr>
<th>No</th>
<th>State/Division</th>
<th>Reserved forest (Acre)</th>
<th>Unclassed forest (Acre)</th>
<th>Grand Total (Acre)</th>
<th>No. of Group</th>
<th>No. of Member</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>PLN</td>
<td>N/F</td>
<td>Total</td>
<td>PLN</td>
<td>N/F</td>
</tr>
<tr>
<td>1</td>
<td>Kayin</td>
<td>1260</td>
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<td>2</td>
<td>Kachin</td>
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<td>100</td>
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</tr>
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<td>3</td>
<td>Kaya</td>
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<td>4</td>
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<tr>
<td>5</td>
<td>Sagaing</td>
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</tr>
<tr>
<td>7</td>
<td>Bago(East)</td>
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<td>285</td>
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</tr>
<tr>
<td>8</td>
<td>Bago(West)</td>
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<td>298</td>
<td></td>
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<tr>
<td>11</td>
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<td>15</td>
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<tr>
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<td>788</td>
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<td>Shan (South)</td>
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<tr>
<td></td>
<td><strong>Total</strong></td>
<td>15116</td>
<td>34172</td>
<td>49288</td>
<td>11843</td>
<td>43015</td>
</tr>
</tbody>
</table>
3.3 Forest land tenure to private sector

Myanmar initiated formation of teak plantations as early as 1856 on a small scale using *taungya* method. Although re-afforestation got momentum in early 1960s, large-scale plantation forestry had not begun until 1980. More than 30,000 ha of forest plantations had annually been formed in the 1980s. Since then the annual plantation program has been intensified gradually till it has reached the present target of over 40,000 ha. This annual planting target includes over 30,000 ha planted by the Forest Department and about 10,000 ha planted by Dry Zone Greening Department (DZGD) for greening the Central Dry Zone of Myanmar.

Up to the 2006-07, all the forest plantations were developed by the government sector. Due to the shortage of man power and budget, it is questionable in the development and maintenance of vast area of forest plantations by government sector alone in the long run. Meanwhile, with the development of market-oriented economy, the government has been encouraging involvement of private sector in plantation forestry with profit-sharing between the government and private entrepreneurs/companies. Therefore, in accordance with Forest Law Section 14, Forest Department has launched private forest plantation programme since 2006-07. Depending on the division of authority, the private forest plantation can be categorized in two: private teak plantation and private non-teak other hardwood plantation.

**Private Teak Plantation**
The objectives of the establishment of private teak plantations are:

1) To conserve Myanmar as home of teak
2) To increase foreign earning with increase in profit sharing between government and private sector
3) To protect environmental stability and to improve livelihood of local communities through creation of job opportunity

According to the terms and conditions to establish private teak plantation, land lease for 30- year period will be granted to the private companies/entrepreneurs. The companies/entrepreneurs granted will have to abide by existing laws, rules and regulations relevant to environmental protection. The products could be sold not only in domestic market but also in foreign market in line with existing rules and regulations. 25% of the product or value of product has to be paid to the government as profit sharing.

Up to date, the cabinet has already approved to lease about 0.13 million acres of forest land to 160 private companies/entrepreneurs for the establishment of private teak plantation. The detail has been provided as follows:

<table>
<thead>
<tr>
<th>Sr</th>
<th>State/ Division</th>
<th>No. of Company/ Entrepreneur</th>
<th>Area Applied (Acre)</th>
<th>Area Approved by Cabinet (Acre)</th>
<th>Area Established (Acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kachin</td>
<td>6</td>
<td>37500</td>
<td>7500</td>
<td>4000</td>
</tr>
<tr>
<td>2</td>
<td>Kayah</td>
<td>1</td>
<td>100</td>
<td>100</td>
<td>0</td>
</tr>
</tbody>
</table>
Private Non-Teak Other Hardwood Plantation

The objectives of the establishment of private non-teak other hardwood plantation, are outlined as mentioned below:

1) To encourage growing and utilizing lesser use species apart from teak and other commercially valuable species.

2) To protect the environment

3) To supply the timber demand of the country

4) To boost the economic development with the investment of private sector in forestry sector

State and Division Forest Officer can permit the establishment of non-teak other hardwood plantation with the approval of Director General of Forest Department. The size may vary ranging from about 5 acres to hundreds of acres, depending on the interest and investment capacity of the individuals. So far, 35,928 acres of other hardwood plantation has been developed. Status of land tenure granted and establishment private non-teak other hardwood plantation is provided in the following table.

Status of Land Tenure Granted and Establishment Private Non-Teak Other Hardwood Plantation

<table>
<thead>
<tr>
<th>Sr</th>
<th>Stae/ Division</th>
<th>No. of Company/ Entrepreneur</th>
<th>Area Applied(Acre)</th>
<th>Area Approved by Cabinet (Acre)</th>
<th>Area Established (Acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Kayin</td>
<td>12</td>
<td>7211</td>
<td>2350</td>
<td>950</td>
</tr>
<tr>
<td>4</td>
<td>Sagain</td>
<td>7</td>
<td>10760</td>
<td>8060</td>
<td>6000</td>
</tr>
<tr>
<td>5</td>
<td>Bago(East)</td>
<td>85</td>
<td>148814</td>
<td>76486</td>
<td>8750</td>
</tr>
<tr>
<td>6</td>
<td>Bago(West)</td>
<td>10</td>
<td>11650</td>
<td>7100</td>
<td>5300</td>
</tr>
<tr>
<td>7</td>
<td>Magwe</td>
<td>8</td>
<td>7778</td>
<td>7193</td>
<td>1075</td>
</tr>
<tr>
<td>8</td>
<td>Mandalay</td>
<td>14</td>
<td>14228</td>
<td>3550</td>
<td>500</td>
</tr>
<tr>
<td>9</td>
<td>Mon</td>
<td>1</td>
<td>200</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>10</td>
<td>Rakhine</td>
<td>3</td>
<td>292</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>11</td>
<td>Yangon</td>
<td>4</td>
<td>5600</td>
<td>4100</td>
<td>100</td>
</tr>
<tr>
<td>12</td>
<td>Shan (South)</td>
<td>1</td>
<td>250</td>
<td>250</td>
<td>250</td>
</tr>
<tr>
<td>13</td>
<td>Shan(North)</td>
<td>2</td>
<td>5800</td>
<td>5800</td>
<td>800</td>
</tr>
<tr>
<td>14</td>
<td>Ayeyawady</td>
<td>6</td>
<td>9900</td>
<td>6100</td>
<td>4700</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>160</strong></td>
<td><strong>260083</strong></td>
<td><strong>128589</strong></td>
<td><strong>32425</strong></td>
</tr>
</tbody>
</table>
2 Kayah 420 420.00 260.00
3 Kayin 1,860.95 1392.45 998.45
4 Chin 621 381.00 371.00
5 Sagain 3,997.00 2707.00 3,917.00
6 Taninthayi 252 252.00 252.00
7 Bago(East) 7,811.10 4,521.50 4,521.50
8 Bago(West) 1,207.00 1058.00 988.00
9 Magwe 3,995.85 3922.85 2,270.85
10 Mandalay 8,824.44 7435.51 4,855.41
11 Mon 2,607.00 340.00 340.00
12 Rakhine 1,379.15 1,221.00 1,148.00
13 Yangon 4,629.60 1459.20 960.20
14 Shan (South) 1,994.00 1,307.00 1,559.00
15 Shan(North) 876.9 756.90 756.90
16 Shan(East) 122 122.00 122.00
17 Ayeyawady 878.73 866.73 705.73

Total 57,597.72 40,395.14 35,928.04

4.0 Impact and Consequences of Forest Land Tenure System

Recognizing and granting use and access right inside the forest lands could reduce the conflict between Forest Department and local people. In addition, this could support their livelihood by fulfilling basic needs of the people and as well as social, traditional and customary interests.

At present, community forestry is still under developing in Myanmar. It can be concluded that Ascare, for example in the Dry Zone of central Myanmar. But, the interest of local communities is seemed to be very low in the other parts of the country with still abundant forest resources. In order to make community forestry more developed, extension is very crucial. Meanwhile, it needs to be found out underlying causes that lead to delay development of community forestry and they should be properly addressed.

As it has been only for 4 years that private forest plantations was started , it is too early to assess the impact of this type of land tenure. According to the reports, the success of private forest plantation is so far quite satisfactory. Thus, it is expected to have significant positive impact on the national economy and development of forestry sector through the programme. In addition, the programme could create job opportunities for local people and improve their livelihood. On the other hand, it needs to be taken into consideration of negative impacts resulting from the programme as well. The size of the permitted should be within manageable limit of individual
company/entrepreneur in term of budget and man power. Other wise, it can lead to more deterioration of the existing forests and land. Another one is technical and environmental concern. The monoculture of forest plantation in large extent may have great chance to spread disease, fire hazard and soil erosion, and it can also alter the forest ecosystem. These issues need to be taken into consideration and addressed in collaboration with Forest Department, Forest Research Institute and private entrepreneurs.

5.0 Future Trend

Myanmar has been implementing its national forest policy that encompasses economic, social, cultural and environmental aspects. Forest Department believes that recognition and granting use and access right to the local people is very essential to achieve the goals of national forest policy. Thus, this type of forest land tenure system will remain status quo.

Although CFIs have been issued since 1995, the development is seemed to be slow due to the low interest of local communities particularly in the area where forest resources are still considerably rich, lack of awareness and other underlying causes. Thus, the trend of communal land tenure may be rising up, but at slow speed.

Since the time private forest plantation started, the area of land applied for this purpose become increased year after year. It has been recognized that most of the private companies and entrepreneurs become more interested in investing in this business because of persuasion through mass media. On the other hand, the timber demand is rising up with the growth of population and industrial development while the volume of timber harvested and the number of commercially valuable species from the natural forest are declining. In addition, forthcoming political environment would provide more favourable conditions for private investment in plantation forestry with the development of market-oriented economy and privatization of the businesses. For these reasons, this trend of the private forest plantation is likely to be going up for a couple of years in future and forest land tenure to private sector is likely to take a significant portion of the whole forest tenure system in Myanmar.
COUNTRY REPORT OF FOREST LANDS TENURE SYSTEM IN SRI LANKA

By N.R.P.WITHANA, Forest Department, Sri Lanka

Country Background

Sri Lanka is an island in the Indian Ocean, located between latitude 5°55_ and 9°51_ N and longitude 79°41_ and 81°54_ E. It is about 100 km southeast from the southern tip of the Indian subcontinent. It has a Maximum Length of 432 km (Devundara to Point Peduru) and Maximum Breadth 224 km (Colombo - Sangamankanda). The Land Area is 65,525 Sq. km. The Area Excluding the Inland Water is 62,336 Sq. km. The hills appear in the center and the south of Center.

Average mean temperature along the coast is 26.7 C (80 F) and 19.7 C (66.50 F) in the hill country. In Colombo, the commercial capital, situated on the west coast, the temperature varies from 26.4 C (79.5 F) to 27.8 C (82.12 F). Relative Humidity varies from 70% during the day to 90% at night. In the lowlands the climate is typically tropical with an average temperature of 27°C in Colombo. In the higher elevations it can be quite cool with temperatures going down to 16°C at an altitude of nearly 2,000 meters. Bright, sunny warm days are the rule and are common even during the height of the monsoon - climatically Sri Lanka has no off season. The south west monsoon brings rain mainly from May to July to the western, southern and central regions of the island, while the north-east monsoon rains occur in the northern and eastern regions in December and January.

Climatic and altitudinal zones of the country

<table>
<thead>
<tr>
<th>Climatic Zone</th>
<th>Rainfall (mm)</th>
<th>Altitudinal Zone</th>
<th>Altitude (m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wet zone</td>
<td>&gt;2500</td>
<td>Low country</td>
<td>0-300 m</td>
</tr>
<tr>
<td>Intermediate zone</td>
<td>&gt;1750-2500</td>
<td>Mid country</td>
<td>300-900 m</td>
</tr>
<tr>
<td>Dry zone</td>
<td>1000-1750</td>
<td>Up country</td>
<td>&gt; 900 m</td>
</tr>
<tr>
<td>Arid zone</td>
<td>&lt; 1000</td>
<td>Montane zone</td>
<td>&gt; 1500 m</td>
</tr>
</tbody>
</table>

The Sri Lanka’s population was around 20.217 million by mid-2008. Population growth has declined from 1.5% in during eighties to 1.1% in 2008. The population is projected to reach 23.1 million by the year 2031. The population is unevenly distributed across the country and nearly
60% is concentrated in the wet zone. Sri Lanka is one of the most densely populated countries in Asia with a density of 322 persons per square kilometer in year 2008. There are several ethnic groups in Sri Lanka. Sinhalese make up to 74% of the total population, Tamils are at 18%, Muslims and others make up 7% and 1% of the population respectively.

The service sector is the largest component of GDP at around 60%. In 2008, the service sector growth slowed to 5.6% from over 7% in 2006-2007. Telecom, trading, transport, and financial services were the main contributors to growth. Public administration and defense expenditures increased in recent years due to hostilities, expansion of public sector employment, and the expenses associated with maintaining a 106-minister cabinet. There also is a growing information technology sector, especially information technology training and software development.

The tourism sector has been impeded by the volatile security situation. Industry accounts for 28% of GDP. Manufacturing is the largest industrial sub sector, accounting for 18% of GDP. The construction sector accounts for 7% of GDP. Mining and quarrying account for 1.5% of GDP. Electricity, gas, and water account for 2% of GDP. Within the manufacturing sector, food, beverage, and tobacco is the largest subsector in terms of value addition, accounting for 44%. Textiles, apparel, and leather is the second-largest sector with 20% of value addition. The third-largest sector in value added terms is chemical, petroleum, rubber, and plastic products.

Agriculture has lost its relative importance to the Sri Lankan economy in recent decades. It employs 35% of the working population, but accounts for only about 12% of GDP. Rice, the staple cereal, is cultivated extensively. The plantation sector consists of tea, rubber, and coconut; in recent years, the tea crop has made significant contributions to export earnings. Domestic agriculture such as rice and other food crops is expected to improve significantly with the return of peace to the eastern and northern provinces.

**Historical changes in Forestland tenure**

Protection of nature has a strong tradition which dates back to the introduction of Buddhism in 246 BC. Prior to that, it is likely that hunting was enjoyed by at least the elite of society, but this practice changed under the Buddhist philosophy of reverence for all forms of life-killing was forbidden. One of the world’s first wildlife sanctuaries was established by king Devanampiyatissa in 246 BC. Succeeding kings continued to uphold Buddhist precepts: forests were protected by royal edicts, tree felling and collection of forest products were controlled, and fragile ecosystem of the wet zone forests were left practically undisturbed. Kings appointed *Kele Koralas* (forest officers), whose duties included prevention of poaching and protection of royal trees. In the 12th century King Keerti Nissanka Malla proclaimed that no animals should be killed within a radius of seven *Gav* (35.7km) of the city of Anuradhapura (Abeywickrema, 1987; IUCN, 1990). Changes in attitudes and land-use practices began with the onset of the colonial period. Until the early 19th century, however, most of the hill country and low country dry zone were forested; large tracts of forest remained in the north, east, and south-east; only the extreme south and south-west were generally cultivated, paddy fields and coconut plantations being common (Holdsworth, 1872).
From 1830, vast tracts of forest at middle altitudes were cleared for coffee, to be replaced by tea from 1850 after the coffee plantations were devastated by a leaf-blight. Forest clearance in the dry zone began around 1869, accelerating towards the turn of the century with the introduction of large colonization schemes. Shifting cultivation or *chena* also became more widely practiced contributing significantly to destruction of forest cover (Perera, 1977).

Such changes were facilitated by the introduction of the Wastelands ordinance in 1840 whereas lands were previously held by royalty, communities, temples, and individuals, this Ordinance vested all" forest, waste, unoccupied, or uncultivated land or chena..." in the British Crown, effectively safeguarding colonial forestry interests, while eroding local interests and rights in the forest.

The emphasis on timber production continued long after independence in 1948. The result of this policy, combined with the demands of an increasing human population, has been the rapid reduction of the forest cover. The human population has risen from 0.9 million in 1822 (the first census) to nearly 18 million inhabitants in 1994; the forest cover has declined from about 84% of the total land area in 1881, to 23.9% in 1992.

**Evolving conservation policies and legislation**

In 1873, concern about the complete denudation if forest land for coffee and tea plantations was expressed by the eminent botanists Hooker and Thwaites, and the then Governor of Ceylon, Gregory. That same year Joseph Hooker warned against the replacement of natural forests with plantations, in view of its serious impact on the climate, and advocated the complete protection of all natural forests above 5000 feet (about 1500 m) as climatic reserves (Jansen, 1989). This proposal was eventually incorporated in an amendment to the Forest Policy in 1938.

Preservation of indigenous flora and fauna has features consistently in forest policy, beginning with the country’s first policy statements introduced in 1929 by the British Governor, Sri Herbert Stanley, and continuing in the first comprehensive statement of national forest policy objectives in 1953. The policy objectives were reformulated in 1972 and 1980, the latter revision giving more emphasis to preserving the environment and including a new objective, to involve local people in forestry activities through a programme of social forestry. The first *comprehensive* national forestry policy with clear sectoral objective policy statement, and supporting strategies, was approved in early 1995.

Forestry legislation was introduced principally to protect national and community interests in forest resource by the reservation of state lands, as reserved forests and village forests, respectively. The Forest Ordinance as became “greener” through various amendments For example, activities such as bark stripping, tapping quarrying, burning lime or charcoal, collecting forest produce, and pasturing cattle were added to the list of activities prohibited in reserved forest under the Amendment Act No. 13 of 1966. The Ordinance, last amended by Act No. 84 of 1988, is now undergoing further revision to strengthen its provisions for conservation, as well as to improve
enforcement measures and raise penalties for forest offenses. Provision is made in the draft amendment for the establishment of conservation forests.

In order to overcome the weaknesses inherent in the Forest Ordinance, the National Heritage Wilderness Area Act was passed in 1988 to preserve unique or outstanding national areas in their natural state. Entry is by permit and activities are restricted to scientific research and observation of flora and fauna. Other conditions include the overriding of anything contradictory in the provisions of any other written law other than the Constitution. The Act was introduced principally to safeguard biodiversity in Sinharaja, the largest tract of rain forest remaining, which had been nominated the previous year for inscription on the World Heritage List as a natural property. Sinharaja was declared a national heritage wilderness area in 1988 and in that same year it was also designated a World Heritage Site.

Various legislation was introduced from 1890 onwards to control the unrestricted killing of wildlife, all of which was subsequently integrated under Act No. 1 of 1908. Proponents of the restrictions formed the Game Protection Society in 1894 – today the Wildlife and Nature Protection Society – and employed watchers to protect area reserved for game hunting. Similar initiatives were taken by the then Conservator of Forests. Two vast, uninhabited forests were declared as sanctuaries for the protection of wildlife under the Forest Ordinance No. 10 of 1885, namely Yala in 1900 and Wilpattu in 1905 (Kotagama, 1992).

In 1930 administration of the forests was placed under the Ministry of Agriculture and Lands. One of its first initiatives was to set up a Fauna and Flora Protection Committee to advice on the reservation of additional areas for the protection of Flora and Fauna. The Committee’s recommendation were accepted in 1935, and provided the basis of Fauna and Flora Protection Ordinance enacted in 1937 (Kotagama, 1992). This legislation as since been amended on several occasion. A significant provision in Amendment Act No. 1 of 1970 is the recognition of indigenous rights (i.e. rights acquired prior to the establishment of a national reserve or sanctuary), but such rights are deemed to have lapsed if not exercised for a continuous period of two years. The most recent Amendment Act No, 49 of 1993, provides for the establishment of several new categories of reserve and raises the penalties for infringements of the Ordinance, which had become grossly inadequate.

The need for a wildlife conservation policy has long been recognized as having a high priority. A National Policy for Wildlife Conservation has only recently been adopted, following its approval by the cabinet of Ministers in June 1990. The policy was formulated in response to the Sri Lanka National Conservation Strategy (CEA, 1988), approved by Parliament in 1988, and its objectives a based on those of the World Conservation Strategy (IUCN/UNEP/WWF, 1980).

Reservation of forests and protection of wildlife

Forest reserves were gazetted from 1850 onwards, but none was demarcated until 1885 and none notified with boundaries until 1890. Most of the network was established in the 1920s,
although a large number of smaller reserves were notified in the subsequent two decades. Many more reserves were proposed were during this period but never actually notified.

While there has been no appreciable growth in the reserve network since in the 1950s, there has been a significant shift in the function of forest and proposed reserves from production to conservation. This began in the mid-1970s with establishment of a network of 36 “Man and Biosphere” reserves by the FD within which timber extraction was not permitted. In last few years the network of forest conservation areas has expanded considerably, with the addition of 13 conservation forests in the wet zone and the Knuckles Conservation Forest in the wet and intermediate zones.

In the Wildlife subsector, the network of protected areas has grown progressively since the enactment of the Fauna and Flora protection Ordinance. The beginnings of this network are masked by the fact that game sanctuaries established from 1900 onward were subsequently abolished under the new Ordinance and declared as national reserves or sanctuaries. The network expanded considerably during the 1980s, mostly in the basin of the Mahaweli Ganga and adjacent areas, to protect water catchments and to provide refuge for animals displaced by the Accelerated Mahaweli Development Programme.

**Forest Land ownership and management authority**

Currently about 55 percent of the total area under natural forest is reserved and administered by the Forest Department. The rest belongs to the Department of Wildlife conservation. The extents of Designated Areas under the two departments constitute respectively 17% and 13% of the total land area. Designated areas under the Forest Department in 1995 comprised Forest Reserves, Proposed Forest Reserves and National Heritage and Wilderness Areas. The Sinharaja and Knuckles forests and a further 31 wet zone forests have subsequently been classified as Conservation Forests, thereby introducing a new category of Protected Area under the Forest Department. In addition, 20 mangrove sites selected for conservation and all of 42,000 ha of forests at elevations above 1500 m were proposed to bring under this category. The Protected Area network under the Forest Department thus includes all Conservation Forests and National Heritage and Wilderness Areas. The Forest Department has also demarcated 29 Man and Biosphere (MAB) Reserves within its forests to ensure that representative forest ecosystems are conserved, in addition to four MAB reserves in the wild life areas under the Department of Wildlife Conservation. The categories of Protected Areas within the jurisdiction of the Department of Wildlife Conservation comprise Strict Natural Reserves, National Parks, Nature Reserves, Jungle corridors and Sanctuaries. The category of forests collectively known as other state forests, which individually are less than 200ha (dry zone) or 20 ha (wet Zone) are managed by the Local Administrators. Mahaweli Authority belong small amount of forest areas.

According to the forest cover map prepared in 1992, Sri Lanka’s closed natural forest cover was 23.9% of the total land area which amounts to about 1.5 million ha. Including sparse forests, total
natural forest cover is 30.9% of the land cover which is around 2.0 million ha. The average rate of deforestation during the past few decades, both planned and unplanned, had been around 42,000 ha per year (Bandaratillake, 2001).

**Forest Resources in Sri Lanka (GIS Data 1999),**

<table>
<thead>
<tr>
<th>Forest type</th>
<th>Extent (ha)</th>
<th>Percentage of total land area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montane</td>
<td>3,099</td>
<td>0.05</td>
</tr>
<tr>
<td>Sub montane</td>
<td>65,792</td>
<td>1.00</td>
</tr>
<tr>
<td>Lowland rain</td>
<td>124,340</td>
<td>1.90</td>
</tr>
<tr>
<td>Moist monsoon</td>
<td>221,977</td>
<td>3.38</td>
</tr>
<tr>
<td>Dry monsoon</td>
<td>1,027,544</td>
<td>15.66</td>
</tr>
<tr>
<td>Riverine</td>
<td>18,352</td>
<td>0.28</td>
</tr>
<tr>
<td>Mangrove</td>
<td>9,530</td>
<td>0.15</td>
</tr>
<tr>
<td>Sparse Forest</td>
<td>471,583</td>
<td>7.19</td>
</tr>
<tr>
<td>Forest Plantations</td>
<td>96,250</td>
<td>1.40</td>
</tr>
<tr>
<td>Total</td>
<td>2,037,469</td>
<td>31.05</td>
</tr>
</tbody>
</table>

**Administration of FGR**

<table>
<thead>
<tr>
<th>Agency</th>
<th>Ext (ha)</th>
<th>% Total land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forest Department</td>
<td>1,192,370</td>
<td>17.6</td>
</tr>
<tr>
<td>Dept of Wildlife Conservation</td>
<td>845,099</td>
<td>12.4</td>
</tr>
</tbody>
</table>

**Some of community forestry program practice in Sri Lanka**

- Rural forest Plantation- Public participation through short term agreements (3 year) for establishment of new forest woodlots and regeneration forest plantation. Pay incentives for farmers for establishment and maintenance of forest plantation. After 3 years forest department hand over the maintenance activities. Farmer has not any right for timber.
- Co-operative forest plantation- grow forest seedlings parallel to the chena cultivation, FD supplies seedlings and incentives for farmers. After three years FD hand over the maintenance activities. Farmer has not any right for timber.
- Farmer Woodlots- there are two type of farmer woodlots which are established under two project in recent past
  - P.F.P- These plantations were established by participatory forestry project by forest department during 1994-1999 P.F.P plantations was established by local communities. In here agreement was signed between department and farmer.
  - F.R.M.P. Plantation – these plantations were established by forest recourses management project by forest department from 2000 to up to now F.R.M.P. plantations were established by local communities. In here agreement was signed between department and farmer. Incentives for farmers were given under farmers
woodlots. In the early stage of plantations farmer can practice inter cropping system and obtain extra income.

- Private forest Plantation – In here Department barren lands are leased for 30 years time period to private entrepreneurs for forest plantation. Guidelines and some conditions have been issued by department and regular monitoring is carried out by department officers. 90% of timber harvest belongs to lease holder and rest of harvest for FD.

- Aus-aid funded community natural resource management project- Evidence from existing Community forestry management sites indicate that in the vast majority of cases, the threats of deforestation and forest degradation have been substantially reduced in a short period of time, and the forest condition is showing signs of improvement as a result of fire aversion, enrichment planting, a reduction in unsustainable exploitation of timber and/or NFTPs, and the establishment of woodlots adjacent to the natural forest.

CFM approach has a number of positive environmental benefits, including

- Less damage form fire
- Re-vegetation of degraded forests
- An increase in forest cover and improved habitat for wildlife
- Reduced soil erosion and conservation of water resource, therefore improved water quality and quantity, resulting in less siltation or rivers.
- Improved capacity of carbon fixation
- Enhanced biodiversity

The CFM approach is well founded within GOSI policies and the development strategies of the current government. The forest department has strong support from the Ministry of Environment and natural resources for the expansion of community forestry sites in the dry and intermediate zones, and the forest department has shown, through the management of 79 sites since 2006, including 24 sites initiated by the Forest department in the past 3 years, that it has the technical capacity to implement the expanded CFM program.

Forest tenure reform has provided local communities with legal rights to the forest areas that they have traditionally depended on for their livelihoods. With appropriate support from external agencies (e.g. local authorities and development projects) to back up the realization of their newly-acquired rights, communities will be better equipped to protect allocated forests from unauthorized uses and to benefit from sustainable forest management.

-- END --
Forest Land Management

in THAILAND

For

TRAINING WORKSHOP ON FOREST LANDS TENURE SYSTEM
Kunming, China, 5 - 16 July 2010

By

Mr. Korn Manassrisuksi,
Director of Administration Division, Forest Land management Bureau,
Royal Forest Department.

Mr. Weerawat Sangkrajang,
Senior forest Officer, Forest Land management Bureau,
Royal Forest Department.
1. Introduction

Thailand covers a land area of 513,115 km². It shares borders in the northwest and west with Myanmar, in the northeast and east with Lao PDR, in the southeast with Cambodia and in the south with Malaysia. Thailand’s economy is predominantly agricultural and 70 percent of the population earns their living in agricultural or related enterprises. Bangkok is the capital city where all the central governmental and administrative headquarters are located. It is also the principal business and education centre of Thailand. The average population density of Thailand is about 125 persons/km² and about 21.8 percent (1999) of the population is urban-based. The climate is tropical; rainy, warm, cloudy southwest monsoon (mid-May to September); dry, cool northeast monsoon (November to mid-March); southern isthmus always hot and humid. Its population is 63,389,730 in year 2008.

2. The forests of Thailand

1) Tropical Evergreen Forest  52,679 sq. km. (10.25% of country area)  
2) Mix Deciduous Forest  87,445 sq. km. (17.01% of country area)  
3) Dry Dipterocarp Forest 18,570 sq.km. (3.61% of country area)  
4) Swamp Forest 304 sq.km. (0.06% of country area)  
5) Inundated Forest 256.8 sq.km. (0.05% of country area)  
6) Beach Forest 125 sq.km. (0.02% of country area)  
7) Pine Forest 462 sq.km. (0.09% of country area)  
8) Bamboo Forest  1,504 sq.km. (0.29% of country area)  
9) Mangrove Forest 2,463 sq.km. (0.48% of country area)

3. Assessment of forest areas in Thailand

3.1 Assessment of forest areas  
In 1973 the first report of assessment of existing forest area using interpretation of Landsat-MSS at the scale of 1:250,000 was published. It was reported that the existing forest area of Thailand in 1973 amounted to 221,725.00 sq. km or about 43.33 percent of the total area of the country. After the first successful existing forest assessment in 1973 the natural forest resources were conducted in 1976, 1978, 1982, 1985, 1988, 1989, 1991, 1993, 1995, and 1998 by the Forest Resources Assessment Division of the RFD. The results of forest assessment using visual interpretation of 1:250,000 Landsat imageries since 1973 to 1998 was shown in Table 1. It was found that between 1973 to
1998, the deforestation in Thailand was about 92,003 sq. km with the annual deforestation rate about 3,680 sq. km. Deforestation peak was in the mid-1970s, when the annual loss was about 11,596.50 sq. km.

Further assessment of forest areas has been made and the latest report from forestry statistics of Thailand 2008 showed that forest areas in 2000, 2004, 2005, 2006 and 2008 were as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Forest Area (sq. km)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>170,110.78</td>
<td>33.15</td>
</tr>
<tr>
<td>2004</td>
<td>167,590.98</td>
<td>32.66</td>
</tr>
<tr>
<td>2005</td>
<td>161,001.30</td>
<td>31.38</td>
</tr>
<tr>
<td>2006</td>
<td>158,652.59</td>
<td>30.92</td>
</tr>
<tr>
<td>2008</td>
<td>172,185.28</td>
<td>33.44</td>
</tr>
</tbody>
</table>

Source: Royal Forest Department, Forestry Statistics of Thailand 2551 (2008)

3.2 Responsibility Organizations

In 2002, there was an Bureaucratic Reform which divided RFD into 3 Departments namely: 1) Royal Forest Department (RFD) responsible for national reserved forests 2) Department of National Parks, Wildlife and Plant Conservation (DNP) responsible for national parks and wildlife sanctuaries 3) Department of Marine and Costal Resources (DWR) responsible for mangrove forests, marine and costal resources.

4. Cause of Deforestation

The factors which contribute to deforestation in Thailand is fairly extensive and complex, extending from population growth to expanding agricultural production for export. A study of deforestation in several Northeastern provinces cited population density, price of wood, poverty in term of real provincial GDP, road density, rice yield, and distance from the market as central factors contributing to deforestation (Panayotou and Sungsawan, 1989). A similar study in the same region cited poverty in term of real GDP per capita, population growth, and the real price of cassava as the main causes (Tongpan, et al., 1990). Yet another study showed that the demand for agricultural land, which helps to explain the conversion of forest to agriculture, is positively related to the price of main crops and the numbers of the farm population, and negatively related to agricultural productivity and degree of industrialization (Panayotou and Parasuk, 1990).
It appears probable that the two main underlying causes of deforestation in Thailand have been the increasing demand for land for agriculture to meet the needs of the growing population, and commercial logging. Demand for land depends on land prices, agricultural productivity, prices of agricultural product, alternative sources of off-farm employment and income, and population growth (TFSMP, 1993). The intensity of logging, whether legal or illegal, is influenced by wood demand and prices, forest accessibility, and population growth. The effects of these factors are probably as follows:

- **Land prices.** There are no proper market or market prices for forest land since it belongs to the state, but nevertheless land speculation is common close to growth centers. The implicit price of forest land is determined by the cost of clearing and transport, which the farmer would incur as long as the marginal cost is lower than the marginal benefits obtained from both the forest and the farm produce.

- **Land productivity.** As land productivity increases, the demand for land increases as forgers try to maximize profits. However, subsistence farmers need less land to meet basic food requirements. Conversely, if land productivity decreases, subsistence farmers need more land to support themselves, while profit-oriented farmers have less incentive to invest in new land. The aggregate of land productivity therefore depends on the proportion of subsistence farmers to commercial or profit-oriented farmers.

- **Crop prices.** Higher crop prices make it profitable to clear new land, some of which may have been economically inaccessible in the past. For commercial farmers, the effect of crop prices is similar to the effect of land productivity. Most of the agriculture expansion made possible by clearing forests has been aimed at increasing the production of upland cash crops.

- **Off-farm employment and income.** Industrialization of the economy provides alternative income-earning opportunities and reduces the demand for land. In an open, diversified cash economy, food can always be purchased and exchanged for other goods that are being produced.

- **Forest accessibility.** The accessibility of the forest affects both logging and land cleaning through the profit maximizing behavior of the logger and the farmer. The most easily accessible forest is logged or cleared first, and as time goes on, the remaining forest may simply become more and more economically inaccessible. This slows down deforestation, whereas the opening of new roads in connection with logging or infrastructure building increases the demand for new land.

- **Wood demand and prices.** High demand for tropical hardwood for industrial or indigenous consumption and high wood prices are likely causes of deforestation.
However, the areas harvested officially were not large enough to explain the high rate of deforestation, even if the logged-over areas had not been properly regenerated. Logging probably had a greater effect on deforestation indirectly, by the construction of roads where made the forest easily accessible.

- **Population growth.** Population acts as a demand shifter for new land or for more wood. In regions of high population density, one would expect the relative forest cover to be smaller, assuming the other factors to be equal.

## 5. Historical changes in Forest land management in Thailand

5.1 In the past, timber used to be an important export commodity and has played a significant role in Thailand’s economic development. Foreign timber companies have harvested teak from natural stands in the north since the end of the nineteenth century. In 1968, the RFD started to place all forestlands under management plans and prepared timber-harvesting schemes. This was necessary as the poor condition of many logged-over forests indicated overexploitation; forest stands had deteriorated faster and yields from the second cut were quite low. Forest management plans have been reviewed and improved several times to suit environmental conditions and economic situations. To protect the forest from overexploitation, in 1979 half of the forests that previously had been made available for exploitation were closed to timber harvesting and it was hoped that these forests would recover naturally to their original state. However, existing logging roads provided access for poor and landless people who converted forests to farmland. By 1990, an estimated 10 million people lived on reserved forestland without title to the land. The establishment of new villages on forestlands was beyond the control of the RFD. The only forests that remained were in remote and inaccessible areas or in national parks where protection measures were enforced more strictly. Finally, the Royal Thai Government (RTG) yielded to population pressure and provided forestland to these people through land allocation programs.

5.2 In 1993, due to pressure on demand for forest lands, Royal Forest Department had to transfer the reserved forests approximately 70,848 hectares to Department of Land Reform to provide these lands to the poor farmers or villagers who have no land for their existing living. Later in 1997, the cabinet approved Forest Resources Management Plan and Program which aimed to cope with the forest land tenure problem occurred nationwide. This program comprised 4 aspects namely: 1) to control forest land use 2) to protect forest lands 3) to rehabilitate forest resources and environment 4) to monitor and evaluate the program. To complete the first aspect RFD launched forest land tenure inventory which found that over 450,000 households occupied forest lands. Thus, the
cabinet has declared a cabinet decree on 30 June 2010 approved measurements and guidelines to solve forest land tenure problem.

The measurements and guidelines are as follows:

**Forest Resources Management Measure:**

1. *Reserved forests:* After transferring some reserved forests which are suitable for agricultural purposes to Department of Land Reform to distribute to the poor farmers in 1993, the cabinet indicated that some mentioned forest lands that proved not suitable for agricultural purposes such as land with steepness slope or existing forest found, had to transfer back to RFD. Then, RFD will be the agency to manage the forest lands with people participation approach by cooperation with District Administration Organization and Department of Land Reform (DLR). The farmers who received the lands under DLR must plant fruit trees or trees 20% on their areas. If the mentioned lands close to the forests, those farmers have to plant trees along adjacent forest boundary.

2. *Conservation forests:* Those conservation forests such as national parks, wildlife sanctuaries, watershed class 1 and 2 and mangroves will not be allowed to transfer to DLR. Forest land tenure inventory has to be conducted within the areas to be database for management. The occupation on any land in the areas has to be verified whether the forests were declared before the occupations or not. There are 2 cases: 1) If villagers are there before the forests, RFD will demarcate their household and lands and they are not permitted to expand their land anymore. Only existing substances can be provided. The vulnerable forest lands are under strictly protected by moving the villagers to appropriate lands and the villagers will be provided needed facilities, then, RFD has to rehabilitate the areas. 2) If it is found that villagers are in the forests after forest declarations, they have to be moved out and the lands will be rehabilitated. RFD has to demarcate the villagers’ lands that can not be moved out and has to control them from expanding their lands while waiting for their relocation.

**Forest Protection Measure:**

1. Strictly law enforcement has to be implemented. Any activities affected forest lands such as forest encroachment, tree cutting, environmental deterioration have to be minimized.

2. National Forest Committee will monitor government agencies and activities on forest control and suppression in order to integrate such activities and enhance efficiency.
3. Ministry of Agricultural and Ministry of Interior will cooperate to establish local administration organizations and communities to help to protect forests and environment from encroachment and deterioration.

4. RFD will launch Forest Land Resources Program to 1) control forest land use 2) protect forest lands 3) rehabilitate forest resources and environment 4) monitor and evaluate the program. The involved agencies have to support and cooperate with RFD to achieve these goals for sustainable forest management.

5. The involved agencies have to correct the problems of land tenure issuing or illegal land occupation for tangible result.

6. Bureau of Budget should support budget for the involved agencies to implement these measures.

5.3 The program which has been launched in 1997 namely “Forest Land Resource Management Program”, approved under National Economic and Social Development Plan (NESDP). The objectives of this program are as follows:

1. To set up forest land use management plan

2. To establish clear forest boundaries

3. To determine, manage and verify land right of villagers who live in and/or nearby forest.

4. To prevent forest encroachment and dispute.

The program comprises of 2 components: 1) Forest boundary setting 2) Management on villagers in forests. The activities in each component are as follows:

**Forest boundary setting**

This main activity is composes of 5 sub-activities;

1. Survey for forest boundary marking

2. Survey for boundary lines for pole setting

3. Pole setting along the boundary lines

4. Survey for boundary lines for fencing

5. Fencing along the boundary lines

Forest boundary setting tries to establish solid and clear forest boundaries, with the participation of local villagers at first stage of the activity. A committee to determine and conduct the activity has been formed. This committee comprises local forest officials, the
chief of national park or wildlife sanctuary or official who control the area and a delegate from local administrator (Tumbon Administration) who elected by local villagers.

This committee will approve the boundary lines to be used for pole setting or fencing, accordingly. Along with the determination of the committee, villagers meeting will be held to inform villagers for their understanding.

**Management on villagers in the forests**

This activity comprises 4 sub-activities as follows;

1. Inventory of villagers’ land holding and registration
2. Forest land use planning
3. Determine and verify villagers’ land rights.
4. Clear boundary setting

**6. Current governmental policies and implementations on forest land tenure**

Thailand has promulgated many forest laws which have been effective to control and define the processes for forest protection and forest resource management toward the stability and sustainable utilization of forest resources. At present, there are six forest laws being employed to regulate the forestry activities as follows:

- Forest Act B.E. 2484 (1941) and subsequent amendment B.E. 2532 (1989),
- National Park Act B.E. 2504 (1961),
- Wildlife Preservation and Protection Act B.E. 2535 (1992),
- Forest Plantation Act B.E. 2535 (1992),
- Chainsaw Act B.E. 2545 (2002).

All the forest laws are concerning forest land tenure. Most of them have the main objectives to protect the existing forests, only National Reserved Forest Act B.E. 2507 (1964) has some items to allow to utilize forest lands with conditions.

Forest encroachment by rural poor people is chronic. The Royal Thai Government (RTG) has yielded to pressure from the many people who inhabit state forestlands and provided official occupancy rights periodically. The principal policy of the Ministry of Interior implemented at provincial and district levels encourages rural people to have their own lands for living, producing crops and raising animals; but this conflicts with the policy of the Ministry of Agriculture and Cooperatives, implemented by the RFD (now, RFD is under Ministry of Resources and Environment), which tries to protect the existing natural forests. Reflecting on previous government resolutions to solve encroachment and
population pressure, the RFD had to give in and continuously reduce the area of reserved forestland. The RTG, by ministerial resolution on 4 April 1985, granted amnesty to all forest encroachers who had been arrested and prosecuted and allowed them to use the land that they had occupied formerly; this resulted in extensive forest destruction as there was no evidence to establish the exact land boundaries. Thousands of new forest encroachers discovered this loophole and joined forces in clearing more forests. There are no reliable data but it is estimated that the forest areas occupied by these people amount to two million ha. (Nalampoon, Anan. 2000)

Besides the 1985 resolution, the RTG tried to mitigate land pressure by launching the SOR-TOR-KOR program in 1982. This program planned to allot all degraded forests throughout the country to landless farmers or those who had insufficient land for their livelihoods; the allocation amounted to 2.4 ha for each family. This program continues today and millions of hectares of forest have been converted as a result. In 1997, a survey conducted by Agricultural Land Reform Office revealed that there were still approximately 0.6 million landless families in 44 provinces. This means that there are now more than one million landless families and many of them live on state forestlands. From 1992 to 1999 the number of landless families increased by two percent per annum (Report of Situation of Environmental Quality 2001). Forest encroachment will continue as long as offenders are not relocated to new settlements; these people also speculate that they have higher bargaining power than the government. The RTG’s forest zoning program of 1991 allocated 1.1 million ha of degraded forests, suitable for agriculture, to landless people. This is one of the RTG’s policies to provide lands for poor rural farmers and also to relieve land pressure.

In 1993, following government policy to provide deteriorated forest lands to farmers, RFD has transferred deteriorated forests to Agricultural Land Reform Office nearly 6.8 million hectares. Later, such lands were transferred back to RFD if found that not suitable for agricultural purposes or subject to landslide or heavy erosion.

7. **Patterns of forest land tenure and ownerships (including both customary and official)**

According to forest law and involving land laws, villagers in the forests have no land right and Department of Land (DOL) can not give land title to that farmers following MOU between RFD and DOL in 1991. The main objectives of MOU in 1991 are to verify the lands within and/or adjacent to forest boundaries using aerial photos. The two departments will work together with Department of Land Development (DLD) to ensure that local staff of DOL will not demarcate farmers’ lands cross the forest border lines. In case the farmers claims their right of their lands in the forest areas, ad-hoc working group of involving agencies will be established to verify these lands. If they got these lands before the forest declarations, then they got the right to their land title.
There are rules and regulations with surveying techniques under this MOU for the staff to follow before giving or acknowledging the farmers’ land occupations. Every annual year DOL will send their staff to survey and demarcate farmers' lands following the MOU. If the farmers stay outside the forests, they will be given land title. Villagers who live within forest areas will be surveyed and their lands will be plotted and allowed to live in their areas according to Cabinet Resolution on 30 June 1998, if not live in the vulnerable places of forests as mentioned before,

Lands under Agricultural Land Reform Office (ALR) will be provided to poor farmers using transferred forest lands or private lands bought by this office to distribute. The title for lands provided to the farmers under ALR rules and regulations are Sor Por Kor which can not be sold to non-farmer and only for agricultural purposes but can heritage to their youngster.

Mountainous areas in northern Thailand, there are many hill tribes comprising seven major tribes, Karen, Hmong (Meo), Yao, Lisu, Lahu, Lawa and Akha. Beside the 7 main tribes, their are also some rare and smaller tribes living in northern Thailand, such as the Palong, Khamu, Thins and Mlabri. The Hill Tribes people have traditionally practices shifting cultivation of rice corn, supplemented with hunting and gathering. Farmers who are under ALR will be allowed to occupy their plots not more than 8 hectares per household. Villagers in the forests who have got permissions to live in the areas will be allowed to occupy not more than 3.2 hectares per household.

8. Impacts and consequences of forest land tenure system/reform

Due to the pressure of land demand from high population, villagers encroached national forests nationwide. RFD launched measures and programs to cope with this problem. According to the law, RFD will allow farmers to cultivate their lands within forest areas as mentioned before. Still there is increasing demand for lands in the forests even some were not live in that area but bought the lands without any official document. The program is still on-going for covering the forest lands of the whole kingdom.

There are three main departments involving land tenure namely: RFD, DOL and ALR. Each organization has its own rules and regulations for granting the lands under their responsibility for the farmers within the laws. Comparison between farmers who got different land titles has occurs. Villagers who prefer land title rather than permission to use forest lands for their cultivation, always complain and not cooperative to continue the RFD’s program. Some are gathering into groups to negotiate with the government for their land rights.

Forest areas transferred to ALR made forest lands available for RFD to rehabilitate not possible, thus the aim to increase forest areas to 40%, according to National Forest Policy 1985, is hard to be achieved.
9. Future Trend

Many academes started to study the gap of forest and land laws or forest land management to try to find out the best practice for solving the forest land conflict problems. Still there are many conflict cases about demand on forest areas which are not easy to be solved even many laws are active.

Furthermore, RFD and other government agencies have to continue their own tasks with close cooperation among the agencies.

High technology and equipment such as remote sensing, GIS and GPS would be applied into daily work.

Training and cooperation for developing concern staff need to be done.

Reference


Vietnam Country report

By Khuc Van Quy
Forest Science Institute of Vietnam (FSIV)

Hanoi, 2010
Introduction

Vietnam is a tropical country in the Indochina peninsula of Southeast Asia. Its total land area is 33,038,000 ha, which is divided into 64 administrative provinces and municipalities.

The last two decades show radical changes in the forest sector of Vietnam. By 2008, nationwide forest area was 12.83 million ha, forest cover rate in nationwide was 38.2 percent. In contrast, in 1993 the forest area was 9.3 million ha, forest cover rate in nationwide was 30 percent. In addition, the quality of forest improved considerably, the different stakeholders participated widely in forest protection and management. Especially, the overall poverty rate reduced from 58.1 percent (1993) to 13.8 percent (2008). Such changes were driven by a rapid decline in the area of forest during the decade after unification, the ineffectiveness of state forest enterprise (SFE) forest management system, the state’s increased recognition of important role of local people in forest management and the success of the reform in the agricultural sector of the late 80s.

Over last years, many scientific workshop held in Vietnam at both national and regional scale over some years have came to the conclusion that it is Forest tenure reform, of which Forest Land Allocation (FLA) that is the one of the root activities, playing key role in contributing to the dramatic change in forest sector.

This country report present some following topics:
- The description in changes in forest land tenure and drivers of the changes in forest land tenure system/reform
- The current policies and the implementation in forest land tenure
- The pattern of forest land tenure and ownership (traditional and official scale)
- The impact and consequences of forest land system/reform
- Future trend

1. The description in changes in forest land tenure and drivers of the changes in forest land tenure system/reform

Since 1986, Vietnam initiated the economy reform known “Doi Moi” to aim to transfer centrally-oriented management to market-oriented economy under State management. One of the main contents is to reduce the role of Government to all

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1In Vietnam, the Party and State has given great attention to FLA related issues since the initial years during the 80’s.
economic sectors, promoting the responsibility of local authority to broaden the rights to do business in economic organizations and households.

In this context, forest sector also converted gradually to human-orientated forest sector from nature-based ones to aim at connecting harvesting, taking advantage of natural resource to investment of developing plantation forest; breeding natural re-generation; Broading agri-forestry method; complex business of current forest resource.

Nevertheless, in the first ten-years period of economy reform, the forest sector change slowly as most of forest land area, which is managed by State Forest enterprises according to land regulation of pre-Doi Moi period.

By 2007, nationwide forest area announced at the Decision No. 2159/QD-BNN-KL dated 17 July 2008 is 12,83 million ha (forest cover rate in nationwide is 38,2 percent) of which 10,28 million ha of natural forest and 2,55 million ha of production forest. They are classified by three type of forest, as below:

- Special-use forest: 2,07 million, account for 16,2%
- Protection fores: 4,98 million ha, 38,8%
- Production forest: 5,78 million ha, 45,0%

To promoting the development of forest sector, the Government has consistently carried out the policy on forest land allocation for over last 45 years, which make the structure of land use to aim at attracting organizations, households and individuals participating in forest protection and management.

Forest land allocation in Vietnam carried out since 1968 and experienced in many different stages, as below:

The period 1968-1982: This is period of development of state company and cooperative. In this period, the two main economic sectors including State forest company and cooperative, which are recognized and encouraged by the State. Forest land are allocated to two subjects, the people are done by themselves with the rights are not clear. The state forest company and cooperative are managed and used together a large area of natural forest area.

The period 1983-1992: In this period, forest land allocation is based on land planning. The ministry of forestry issued the Decision no 1171 LN/QD dated 30/12/1986 about the regulation on management of three type of forests: special-use forest, protection forest, production forest, decentralizing the management of forest, etc. Transfering subsidy mechanism to independent ones, from self-supply production to goods ones.

The period 1993-2005: The land law in 1993 passed the Assembly IX dated 14/7/1993 and came to effect on 15/10/1993 (this law replaced land law in 1987). Then, land law is supplemented, edited two times in 1998 and 2001. The main content show the huge policies of the Communist Party and the State to aim at specific article 17 and 18 the constitution of the Socialist and publist of Vietnam

Forest land allocation system is closely related to Land law to specific the rights in forest utilization and management. Besides, it is inherited and put in relevant policy context, as below:
The January 1981: The instruction No 100 CT-TW of Party Central Secretary Board on delivering product to labor group and individual.

November 1983: The instruction No. 29 CT-TW on promoting forest land allocation, forest generation and business organization according to argri-forestry method.

December 1986” Do Moi policy in nationwide party congress VI.

April 1988: The resolution No. 10-NQ/TW of Poliburo in agriculture economy management reform

August 1991: Law on Forest protection and development makes legal framework to aim at attracting local people and other economic sectors to protect and manage forest.

At present, Vietnam has two laws adjusting forest land and forest. Land law regulate relations on forest land allocation. Law on Forest protection and development, which adjusts relation related to forest allocation-one kind of recycle resource on land.

The November 2003: edited Land law, which confirms the land belong to whole people and the state only is subject on behalf of owner. The State give the right-use -land to land owner.

The December 2004: The Law on forest protection and development, which confirm that natural forest, forest planted by governmental fund belongs to the State ownership. The rights to use forest, which given by the State through object users.

2. Current governmental policy and implementation on forest land tenure

Over the last two and half decades, various legal documents have been issued in an effort to improve owners’ management of specific forests. There are now more than 100 laws and regulations relating to forest and management at different levels. The following is some current policies on forest land tenure:

a. Some current governmental policies on forest land tenure

1. Law


2. Decree by the Government


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3. Decree by prime minister

- Decision 202/TTg dated 2 May 1992: Contract based forest allocation for protection and forest rehabilitation

- Decision 178/2004/QD/TTg dated 12/11/2001: Right, responsibilities of HHs, communities in FLA

- Decision 186/2006/QD-TTg dated 14 August 2006: Issuance of forest management regulations (existing and replaced the regulation on management of special-use and protection forests. This decree was issued at the time of Decree 08/2001/QD-TTg dated 11 January 2001

- Decision 304/2005/QD-TTg dated 23 November 2005:

- FLA was trialed in communities, HHs in Central Highlands, which were the target groups of Decision 132 and 134.

- Other Decisions: Identification of contents, policies on FLA under programme 327 and project 661 (shorten statement: forest allocation for protection, protection fees of VND 50,000/ha)

- Regulations on land management according to the SFEs form.

4. Circular by MARD, Ministeral level agencies

- Circular 102/2006/TT-BNN dated 113 November 2006 by MARD: Guidance on implementation of some terms/points under the Decree 135/2005/ND-CP dated 08 November 2005 on allocation of agriculture, production forest land and wetland for aquaculture production development in SFEs

b. The implementation on forest land tenure

- Issuance of forest land use certificate (Red Book)

As indicated by the report numbered 93/BC-CP dated 19 October 2007 by the Ministry of Natural Resources and Environment, by 30 September 2007, the total forest land area allocated to organizations and individual households was 8,116,154 ha, including 4,947,070 ha to organizations, 3,169,084 ha to HHs, accounting for 62.1% of total land area planed to be allocated with red book (Table 1). 5,518 and 1,104,109 red books were provided to organizations and HHs respectively. The average land area allocated to each organization was
897 ha, and 3 ha to each HH. The outcome of red book issuance was shown in the following table

**Table 1. Red Book issued and Land allocated for forest land**

<table>
<thead>
<tr>
<th>Target groups</th>
<th>Number of red books issued</th>
<th>Area (ha)</th>
<th>On Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organization</td>
<td>5,518</td>
<td>4,947,070</td>
<td>897 ha/red book</td>
</tr>
<tr>
<td>Individual household</td>
<td>1,104,109</td>
<td>3,169,084</td>
<td>3 ha/red book</td>
</tr>
<tr>
<td>Total</td>
<td>1,111,032</td>
<td>8,116,154</td>
<td>62.1% of the local demand</td>
</tr>
</tbody>
</table>

- **Status of forest allocation:**

As indicated in the forest inventory results according to Decision 2530/QQD/BNN-KL-LN dated 27 August 2007 by Ministry of Agriculture and Rural Development (MARD) in 2006, there was 12,873,850 ha of forest nationwide, including 10,410,141 ha of natural forests and protection and management purpose as follows:

- Households: 2,866,261 ha (22%)
- State enterprises: 2,504,852 ha (19%)
- Protection forest management board: 2,155,967 ha (17%)
- Special-use forest management board: 1,743,259 ha (14%)
- Joint venture business: 97,756 ha (1%)
- Cooperatives: 591,768 ha (5%)
- Armed forces: 360,531 ha (3%)

**Graph 1. Forest area allocated fore to owners**
Table 2. Forest land forest area managed by local communities up to 31 December 2007

<table>
<thead>
<tr>
<th>Forest land managed by local communalities</th>
<th>Protection and specialuse forests</th>
<th>Production forests</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Natural forest</td>
</tr>
<tr>
<td>2792956.3 Total</td>
<td>1968500.4</td>
<td>1404829.4</td>
</tr>
<tr>
<td>1643254.1 Allocated</td>
<td>1164515</td>
<td>803191.6</td>
</tr>
<tr>
<td>247029.5 Not yet allocated</td>
<td>146338.7</td>
<td>107093</td>
</tr>
<tr>
<td>902662.7 Contract based</td>
<td>657646.7</td>
<td>494544.8</td>
</tr>
</tbody>
</table>

Table 3. Transference of production forest land use right for HHs and individuals

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of HHs allocated with forest land according to area (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of HHs</td>
</tr>
<tr>
<td>Nation wide</td>
<td>1849</td>
</tr>
<tr>
<td>Northern mountainous</td>
<td>908</td>
</tr>
<tr>
<td>Northern delta</td>
<td>28</td>
</tr>
<tr>
<td>Northern Central</td>
<td>160</td>
</tr>
<tr>
<td>South Central</td>
<td>4</td>
</tr>
<tr>
<td>Central Highlands</td>
<td>43</td>
</tr>
<tr>
<td>South East</td>
<td>134</td>
</tr>
<tr>
<td>Mekong delta</td>
<td>272</td>
</tr>
</tbody>
</table>

Major factors influencing the outcomes of Forest Land Allocation:

**Positive factors:**
- Liberalization of and increase in agricultural outputs (Sikor 2001)
- Availability of new technologies (Sikor 2001)
- Support from donor-led initiatives (Neef and Schwarz 2001; Nguyen 2005; Phu Loc Forest Protection Unit 2000; Roth 2005; Vo 2000)
- Market opportunities for fruit trees, cash crops, and plantations (Roth 2005; Sikor 2001)
- Response to the needs of local people (Nguyen et al 2004; Nguyen 2005)

**Negative factors:**
• Unclear policies and guidance (Dinh and Research Group of VFU\textsuperscript{2} 2005; MARD\textsuperscript{3} 1998, 1999)
• Incompatibility with local practices (Nguyen 2006b; Sikor 2001; Sunderland and Huynh 2005; Tran and Sikor 2006)
• Lack of coordination among concerned agencies (Neef and Schwarzaier 2001)
• Lack of economic incentives (Nguyen 2006a; Sikor and Nguyen 2007; Sunderland and Huynh 2005)
• Poor or inaccessible forests (MARD 1998, 1999; Sunderland and Huynh 2005)
• Lack of follow-up support (MARD 1998, 1999; Sunderland and Huynh 2005)

3. The pattern of forest land tenure and ownership (traditional and official scale)

a. Official scale

• Forest conservation and local livelihoods in Bach Ma National Park, Thua Thien Hue

Bach Ma national Park\textsuperscript{4} in Thua Thien Hue province, where the management board’s most important task is to protect the area of forest under its responsibility for biodiversity, conservation and environmental purposes. The important of protecting this forest makes it an attractive investment for national and provincial government and international donors. However, local people suffer from the strict protection policies applied in the park, despite their awareness of the environmental importance of these policies. People’s use and collection of forest resources from the park hamper the environmental goals of the park’s protection work, but may be justified by subsistence needs and lack of alternatives.

In its original form, forest contracting has the potential not only to improve forest resources but also to contribute to poverty alleviation. With the announced rate of dong D\textsuperscript{5}50 000/ha per year, a household protecting 30 ha can earn as much as D1.5 million a year, or 125 per month, which a significant amount for poor upland households whose annual incomes are no more than D1 million per capita. In addition, the collection of NTFPs under the forest canopy can provide extra income or materials for home consumption. Nevertheless, poor households are not often selected as forest contractees because they do not have the necessary resource (labor) for the extra work

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\textsuperscript{2} VFU: Vietnam Forestry University
\textsuperscript{3} MARD: Ministry of Agriculture and Rural Development
\textsuperscript{4} Bach Ma national Park\textsuperscript{4} is situated 40 km southeast of Hue city. The park covers a total area of about 43 331 ha, of which 22 031 ha is the core area and 21 300 ha the buffer zone. Bach Ma National Park is identified in Vietnam’s Biodiversity Action Plan as one of the last remaining primary forests. The Park includes about 19 percent of the flora and half of the fauna species in Vietnam. It was created officially in 1991. There are various investment projects related to the Park. As well as national and provincial programmes, donor-funded projects have also been implemented.

\textsuperscript{5} D: đõng
demanded by the contract. In addition, there is confusion regarding ownership of the protected forest. Local people are not clear about their rights to the forest, particularly about their possibilities for benefiting from the forest in the future. As a result, local people become dependent on State funds, protecting the forest when these are available and not when they are not.

**Forest protection in Ea H'leo State Forest Enterprises, Dak Lak province**

Ea H’leo SFE was set up in 1992, based on a forest resource exploitation brigade. The SFE has three main tasks: to manage, protect and develop the allocated forest resources; to carry out agricultural and forest production and commercialization; and to harvest and process forest products. It was allocated 32 700 ha of forest- 22 500 ha of which is natural forest- in three communes as fixed assets. Of this area, 12 700 ha is protection forest and 20 000 ha production forest. Ea H’leo SFE has 24 staff members. Forest protection is considered to be the most important activity of Ea H’leo SFE. Since its establishment, the enterprise has established three branch offices in three communes, each of which has a staff of four. The main task of the branch offices is to detect and penalize the illegal use of forest resources-forest land, timber and NTFPs. In recent years, the expansion of pepper cultivation has led to increasing demands for timber poles, resulting in high pressure on timber collection from the forest. The forest protection task of branch offices has therefore been strengthened, and their daily activities focus on patrolling the forest under their responsibility and monitoring the use of local forest resources. In addition, local SFE staff help local villages to develop village forest protection regulations and evaluate the implementation of these. In cooperation with communal authorities, the SFE carries out awareness raising and information activities on the importance of forest protection. It has drawn up forest protection contracts with 65 households to protect 5000 ha of forest under Programme 327. Other activities performed by Ea H’leo SFE include exploitation and processing of around logs, enrichment of natural forest, plantation of protection forest (through contracts with local people) and plantation and tending of tree crops (rubber and coffee)

*Source: Lam truong Ea H'leo, 2002; Nguyen, 2005b*

**Forest management by individual households in Quang Binh province**

Between 1998 and 2002, with support from the intergraded Food Security project, more than 40000 ha of forest land was allocated to more than 11 000 households in 16 communes of the Minh Hoa and Tuyen Hoa district of Quang Binh province. Forest devolution at such a large scale was very progressive at the time, considering the political uncertainty about the allocation of forest land to local stakeholders. Forest land allocations were distributed equally among the individual households, which received narrow strips of forest setting from the foothills to mountain ridges; in some cases, allocations were split into two or three smaller areas at different locations. However, the consequences for forest management were not taken into account during the forest devolution process, and most local households can identify the boundaries barren land, but not allocated forest area.

Very few conflicts have broken out since the allocation of forest land, but there is an inherent potential for conflict concerning specific forest land allocations.
At present, there are no conflicts about allocated natural forest because of the open-access situation that resulted from forest owner’s inability to identify the boundaries of their forests. Even when the boundaries of individual plots of natural forest can be distinguished, households are unlikely to have sufficient resources to manage and protect their forests individually.

Local households of all economic statuses have planted forest trees on the allocated barren and shrub land. Major plantation species are Acacia, Cinnamon, and Eucalyptus. Acacia seedling short-rotation plantations for livelihood improvement. However, no technical training was offered, resulting in poor-quality plantations can be sold to the provincial paper factory. The tree planting induced a high demand for seedling, despite the province’s provision of Acacia seedling, and some households have set up their own nurseries, producing mostly Acacia and Eucalyptus. Although the seedlings from these private nurseries are of low quality, the nursery owners are still able to sell them to local households.

b. Traditional scale

A example of traditional “forest Ownership’ in Cham B village as considered as a typical example of the pattern of forest land tenure and ownership at traditional scale in Vietnam:

Similar to many other indigenous villages of Vietnam’s Central Highlands, Cham B villagers have been living in close connection with the forest for generations. Villagers still maintain a traditional system of ownership to forest resources despite the forest designated state property. The allocated forest is locally recognized as having belonged to the village for generations. For Cham B villagers, access to arable land in this forest area is regulated by their local institutions. Farmers whose parents used to farm in this forest area can go back and place their claim on this land. As a tradition, when someone first cleared a patch of forest for cultivation, he would plant several mango trees in the field to mark to ownership. After the land was left fallow, the mango tree would become a symbol of “land ownership’ recognized by all villagers.

Similarly, local people also have a traditional way of claiming ownership on timber trees, which is based on a “first see, first own’ basis. Households seeking timber for their houses set their on a tree by making a clear and visible mark on the tree trunk. A tree in the forest with a mark on the trunk means it has been “owned”. Only the person who made the mark has the right to take the tree home. Violation is determined by traditional rules, with a traditional village headman deciding punishment. This headman is also responsible for settling disputes in accordance with customary law.

4. The impact and consequences of forest land system/reform

National reforms in forest policies during the 1990s changed the focus of forestry at the local level from exploitation to protection and afforestation, and prompted a shift from state forestry to more people-centered forestry. However, the process of devolving forest management to local people has been very

6 Cham B village belong to Dak Lak province, Central Highlands, Vietnam
slow and had mixed results (MARD 1998, 1999; Sunderlin and Huynh 2005). Despite a large number of guidelines and instructions on forest land allocation, their vagueness in directing the implementation procedures at the field level caused general confusion among responsible officials (MARD 1999;198). This confusion has contributed significantly to slowing down the implementation of the FLA at the field level. In some cases, policies on the allocation of forest to individuals and households were not even implemented at all (Le 2006).

The approaches to FLA implementation during this period strongly influenced the outcomes of the program. A lack of coordination during the allocation process between the General Department of Land Administration (responsible for issuing land-use certificates), the Department of Forestry, and Forest Protection Department (in charge of forest land allocation and forest protection contracts) contributed significantly to the failure of the FLA program. In other instances, local officials dominated the FLA process and influenced the outcomes of the FLA program (Nguyen 2006; Sikor and Nguyen 2007; Sunderlin and Huynh 2005).

The gap between state policies and actual practices by local people was another important factor in the poor implementation of forest land allocation in the 1990s. In Son La province, a study by Sikor (2001;7) found that the implementation of the FLA policy did not achieve the expected success because “land allocation did not imply a shift of control towards villages, but had the potential to weaken villagers’ control [over the land]”, and as such, was resisted by local people.

a. Positive impacts

- Improving considerably the economy condition of household to contribute to poverty reduction in mountainous area. The poverty rates in Vietnam is 58.1% in 1993 decreased to 19.5% in 2004.
- Creation of small and medium farm owners
- Contributing to changes from shifting cultivation into permanent settlement
- Bringing about changes in cultivation practices, from forest exploitation to forest establishment and rehabilitation
- Making the community ethnically diverse, improve techniques and promote trade
- Contributing to gender equity

b. Negative impacts

Beside positive effectsives, there still remained negative impacted in the FLA programme

- Creating land conflicts in some places, especially in Northeast and Central Highlands
- Creating gender inequity in land utilization
- Contributing to changes/differentiation in development process of upland ethnic minority group
- Limiting poor HHs access to natural resources and changes to the traditional
cultural areas for activities
- Creating conflicts between traditional practices and law on land management
and utilization.

5. Future trend

A lot of researchs on forest land tenure carried out over last some years in
Vietnam, which show several trends in forest land tenure. With Vietnam’context, the trends in Red Book for production forest are
considered as the main concern presented as below:

The first trend:
The Red Book was maintained, and production activities were carried out
on the allocated land. Among 804 HHs surveyed, 33.21% (276 HHs) of
HHs did not make any change for their Red Book. The HHs either
implemented for had not yet implemented any forest activity on the
allocated land. Only 97 HHs (35%) out of 267 HHs carried out production
activities on the allocated land. The remaining HHs only collected fire
wood, and bamboo shoots from the allocated land. The reason was due to a
lack of capital, and technical advice, as a consequence local people did not
know what they should do on the allocated land and forests. It could be
concluded that the land allocated was not effectively used.

The second trend:
Leasing or purchasing another Red Book for expansion of production
forest land area. 42 HHs out of 804 HHs in the 16 surveyed communes
leased other pieces of land, and the land area lease was about 189 ha. On
average, each HH leased 4.5 ha. There were 89 HHs purchasing land (red
book) with the land amount of 718 ha, approximately 3.8 ha per HH on
average. The main target groups of leasing and purchasing land were from
the better-off and medium HHs. In addition, almost 127 HHs (15.8% of
total number of HHs surveyed) conducted joint business activities with
forest enterprises or forest company. Concluding that each type of HH made
best use of their own advantages, for instance better-off HHs often used
money to purchase or lease land, meanwhile those with large pieces of land
often conducted joint business activities with others.

The third trend:
Leasing or selling the red book. The number of HHs leasing the red book
was 64 (2.8 ha/HH), and the number of HHs selling the red book was 63
HHs (2.5 ha/HH), selling their red books from the different target groups
were; poor HHs 79, medium (42HHs) and better-off (6 HHs). The
Better-off HHs sold their land because they wanted to further invest on their
tea plantations in Phu Tho province. This showed the development trend of
the market oriented economy and the status of forest production in the rural
uplands. However, the common trend found in the surveyed communes was
the joint business effort (15.8% of total HHs) employed with forest
enterprises. This created jobs for local people, helped people maintain their
land and offered good conditions for forest enterprises to develop their
investment activities.
Apart from these three main trends, HHs were also allocated with forest and/or land for protection and management purpose (contract based allocation) from forest enterprises. HHs used their allocated land as collateral for mortgage.

**The fourth trend:**
Prior to the 2004 Land Law the terms ‘village’ and ‘community’ were not legal units. So far although they has been known as legal units, there are several rights which are not recognized by Government. It is the lack of comprehensive legal framework about village and community that results in inefficiency of forest land management in Vietnam in some area. Therefore, along with the progress in managing forest land tenure system as well as the higher awareness of people, it urges policy-makers to create more appropriate policies that meets the requirement of new conditions. As a result, communities would have more rights to protect, use, and manage forest. Besides, these *Huong Uoc* ⁷ or *Quy Uocs* would be adapted within the legal frameworks to focus on natural resource management.

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⁷ Huong uoc or quy uoc made by villager, which has been a long time.
Bangladesh Country Report

On

Forest Land Tenure System

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Bangladesh Forest Department.

23 June, 2010.
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Acronyms

AD  After Death of Jesus Christ
AF  Acquired Forest
BBS  Bangladesh Bureau of Statistics
BFIDC  Forest Industries Development Corporation
CHT  Chittagong Hill Tracts
FD  Forest Department
FIDC  Forest Industries Development Corporation
FSP  Forestry Sector Project
GDP  Gross Domestic Product
GED  Government Engineering Department
GOB  Government of Bangladesh
HF  Homestead Forest
LGED  Local Government Engineering Department
m  Meter
NF  Notified Forest
PCR  Project Completion Report
PF  Protected Forest
RF  Reserve Forest
ROR  Record of Rights
SATA  State Acquisition and Tenancy Act
SRF  Sundarban Reserve Forest
Sq. Km.  Square Kilometer
TE  Tea Estate
USD  United States Dollar
USF  Unclassed State Forests
VF  Vested Forest
Forest Land Tenure System

Bangladesh Country Report

1. Introduction

This is the Bangladesh country report on Forest Land Tenure System. Bangladesh is a sovereign country in South Asia. It is bordered by India all three sides except for a small border with Myanmar to its far South East. The Bay of Bengal is situated all along its Southern border. Its geographical location is between 20° 34' and 26° 38' North latitude and between 88° 01' and 92° 41' East longitude. It has a territory of 147570 Sq. Kms. Bangladesh is a tropical country with a mild winter from October to January and hot and humid summer from March to June. The average annual rainfall is about 2000 millimeters, concentrated during the monsoon months of May to September. Very often the country faces natural disasters, especially cyclones and tidal bores. Bangladesh is a low-lying deltaic country at the confluence of the two mighty river systems namely the Ganges and the Brahmaputra. Being deltaic in origin the land is mostly deep, fertile and at the same time flat. Most parts of Bangladesh are less than 12 m above the sea level while the highest point is about 1,052 m high. It has a population of about 151.41 million (BBS 2008). Though in year 2008 the per capita GDP has been estimated (BBS 2008) to be about USD 322.8 (Taka 22597); over 20% (GED, GOB 2005) of its population are ultra poor (living on a dollar a day).

Land tenure, basically refers to the relationship, legal or under the prevailing “norms”, among people and the land (including water). Land Tenure refers to the association with a piece of land, either of the state or of a proprietor, under some specific terms and conditions.

Land tenure is generally categorized as:

- **Private**: The assignment of rights is to a private party who may be an individual, a group of people, or an organization. For example, within a community, individual families may have exclusive rights to residential parcels, agricultural parcels or certain trees over a land parcel.

- **Communal**: A right of a community where each member has a right to use independently the holdings of the community. For example, members of a community may have the right to graze cattle on a common pasture.

- **Open access**: Specific rights are not assigned to anyone and no-one can be excluded. Examples are marine tenure where access to the high seas is generally open to anyone; tenure of rangelands, forests, etc. where free access is permitted.

- **State**: Proprietary rights are with the state.
Forest land generally refers to land that are either under a tree cover or are legally designated as such. This country paper will thus limit its discussions on forest land tenure system.

2. Historical background

In the past, though forest lands in this region were under the control of Rulers but can be used by local peoples for their purposes. During the period of 800-1400 A.D., Bengal (Present Bangladesh is the most part of it) came under the rule of the ‘Pals’ (Pal Dynasty) as the Indo-Bangladesh region was divided into a large number of individual sovereign states (Dwivedi 1980). Forestry was administered at the state level by respective Forest Sectors. In those days there was no forest management except collection of revenue from the forest harvests. Throughout this period, conversion of forestlands to agricultural land was the major target. During the ‘Mughal’ period (1526-1700) individual states were brought under central control and administered as “Suba”. This tract of Bangladesh was under the Suba of Bengal. During this period as well, the tenure system for forestlands continued as before with priority on agriculture and conversion of forestlands to agricultural lands.

At the fall of Mughal dynasty, the British took over and gradually established the British rule on Indo-Pak subcontinent as a whole. They ruled this tract from 1757 to 1947 AD. During the early part of the British rule the forestland tenure system continued as before, wherein the goal was to earn revenue (royalty) from the collection of forest resources by establishing ‘forest toll stations’ very often along the important river banks, while the conversion for forestlands to agricultural lands continued mostly through settlements granted to the members of the public.

In 1793 Charles, Earl Cornwallis brought a revolutionary change in the overall land tenure system by granting chunks of lands to Zaminders (land lords) on a fixed revenue on a permanent basis, which is well known as ‘Permanent Settlement’ of Bengal. This brought in private ownership of forestlands. The forestlands within the given land grant of a land lord became ‘private forestland’. Since a land lord had to pay the fixed revenue (or tax or rent) to the Government (the Crown), he found that the revenue earnings from the forestland by selling the forest products were far below the per unit average tax. Thus the conversion of these private forest lands to agricultural land continued to remain significant and important to its owner (the land lords) and thereby to the prevailing administration.

In 18th century, vast tracts of this territory (present Bangladesh) had extensive forest cover of true wilderness which can be designated as ‘Forestland’. In those days all of these forestlands used to be owned by the British Crown. Expansion of agricultural land was one of the major goals to the people as well to the Crown since the people had the desire to have more agricultural lands for growing more crops while the Crown had the desire to have more and more of the land under agriculture for
expanding their revenue earning through land tax. Though all the land used to be legally owned by the Government, the user rights had the state recognition, especially for realizing the taxes. Under that situation the people could get settlements of forestlands especially for converting them into agricultural lands. Thus the tenure system of many of the forestlands changed from public to private mostly for conversion of forestlands to agricultural lands. Records indicate that the northern part of the Sundarban Reserved Forest (SRF), almost equal to that of the existing SRF was forestland even in mid 19th century, which has become agricultural and rural habitation now. Similarly most of the land of greater Sylhet and Chittagong districts was forestlands in 19th century which have become tea estates and human habitations now.

The British crown for the first time promulgated Act VII in 1865 in connection with the Forests and Forestry and established a rule of law in this sector. This was the first forestry related act for this part of the world. Many tracts of forestland within the territory of Bangladesh were declared as “Reserved Forests” under this act and were placed under the control of Forest Department for scientific management. Most of the existing Sundarban was notified as reserved forests during 1875-76. Many of the forestlands in the greater district of Sylhet were declared as 'Reserved Forest' under Assam Forest Regulations. Similarly many of the forestlands of Chittagong and Chittagong Hill Tracts were declared 'Reserved Forests' in early 20th century. The British Government initiated Forest Management in this part of the tract.

In 1945 ‘Bengal Private Forest Act’ was promulgated by the then British Government which led to the clearing of the private forestlands at an accelerated rate to retain the tenure rights of those lands. Thus this Act had a significant impact on the change of the tenure aspects of forestlands.

In 1950 the then Pakistan Government promulgated the ‘State Acquisition and Tenancy Act’ (SATA 1950) in this tract of land. Many of the proprietary rights such as keeping of tenants, right of owning villages, market places, forestlands, ghats, etc. of the zaminders (land lords) were acquired by the Government. The tenants of the land lords became the tenants of the Government. All of the non-retainable properties became the khas property of the Government. Under the provisions of this act all the forestlands (land of more than 10 acre in size with trees may be scattered) that had been under the private ownership of the land lords became Government khas lands. The tenure of these privately owned forestlands changed from private to government under the impact of the SATA 1950. Government later decided to get these forestlands through the FD Government as acquired forest. Small parts of these were later declared RF and thereby the tenure status of those changed to a different type of forestland.

This tract of land (present Bangladesh) was under British rule from 1757 to 1947. It emerged as a wing of Pakistan, in 1947 as an independent country for the Muslims,
and was designated as East Pakistan. It was liberated as Bangladesh in 1971 as an independent sovereign country.

3. **Drivers of forestland tenure change**

The above historical background has thrown some light on the changes of the tenure of forestlands over a period of couple of centuries in this country. Herein however, attempts are being made to identify the drivers of forestland tenure changes, as they were during the last 50 to 60 years, in this tract of Bangladesh. The major drivers are as under.

3.1 **Prevailing policy of the Government**

Government promulgates number of policies for the purpose of administration and control. The tenure of forestlands is largely affected by major policies of the Government such as those on Land, Land Use, Water Bodies and Forestry.

In forties and fifties the land lords had to pay a fixed amount of revenue to the Government. Since the per unit forestland used to fetch smaller income to the landlord, as against that of agricultural land, forestlands were converted to agricultural land. This led to the large scale conversion of forestland to agriculture and thereby changed the forestland tenure.

During fifties and sixties, under the prevailing policies of the then government, leasing of the forestland for use other than forestry, used to be viewed to be more beneficial for the nation. Under that situation many of the forestland that were under the administrative control of the Government as “Khas Land” but not the under the FD, were leased out for uses such as agriculture, horticulture, rubber garden, etc. whereby the forestland tenure got changed from forestry to otherwise.

In seventies, large chunks of forestlands (USF), especially in CHT which were under the administrative control of the district administration, were leased out for establishing rubber gardens. Under this process till date (year 2010) over 13,660 Ha of such forestlands (USF) have been leased out to private individuals for establishing rubber gardens. These forestlands under such policy action got its tenure status changed from ‘khas’ to ‘private’. Similarly around the same time many of the plain land people were allotted forestlands (USF) in CHT, approximately at the rate of 5 acres per family, for establishing homesteads, orchards, gardens, agricultural fields, etc. Under this policy action approximately 7570 ha of forestlands got its tenure status changed from ‘khas’ forestlands (USF) to ‘private’ land. In almost all such actions the forest cover on that parcel of land got lost.

Besides these, during seventies and eighties, over 14575 ha of RF land was transferred to FIDC for establishing rubber plantations. These forestlands, though continued to have a tree cover, got its tenure status changed since use-rights changed from forestry use to ‘Rubber Garden’ oriented use.
All the newly accreted lands along the coast are ‘khasland’\(^8\) as per the prevailing law of the land. The Government in eighties decided to undertake afforestation of these new accretions and launched a big program for afforestation of these lands all along the coast of the country. Over 165 thousand ha coastal land were afforested under such action of the Government and thereby the tenure status of these land changed from others to forestlands. The Government has recently decided to retain 50% of these afforested forestlands permanently as RF and release rest of the afforested lands for agriculture, except for a few exceptions. Thus under such policy decision (action) the tenure status of about 81 thousand ha forestlands will again shift from forestland to others.

Many of the RF lands were given away to other land tenure state especially on the plea of strategic considerations especially to the military. So far thousands of hectares of forestlands (RF) have been handed over as such. Thus the forestland tenure status of these lands changed to others because of such actions of the Government.

In seventies and eighties when the shrimp farming cropped up as a highly profitable proposition, many of the influential personnel successfully got hold of many of the mangrove forestlands in their names under the cover of so called lease etc. Under such situation the Government yielded and gave away over 8 thousand hectares of Reserved Forest lands of Chokoria Sundarban mangroves to private ownership. Thus these RF lands lost its tenure status of forestlands to shrimp farms. Similarly, many of the khas-land mangroves, especially in the greater districts of Chittagong and Khulna, were leased out for shrimp farming, whereby these forestlands, under the khas possession of the Government but not RF, went under private ownership as shrimp farm lands. This action changed large chunks of khas mangrove forests from its status of forestland to farmland.

3.2 Administrative decisions and bureaucracy

The land use policy was declared in 2001. This policy prohibits the change of land use status of forestlands. But inspire of that, the district administrations lease out forestlands (since they are recorded as khasland) for uses other than forestry. The recent decision of the Government to release 50% of the coastal forestlands for agriculture is contradictory to the prevailing land use policy.

The natural mangrove patches all along the coast of the country are khasland. Since these are khasland, the district administration keeps on granting lease of these land parcels to private individuals. Though leasing of this sort of land is contradictory to the prevailing land use policy of the country. The government bureaucracies, in this part of the world, often overrule such policy bindings.

\(^8\) The term “Khasland” is a legal term which means that for the given parcel of land government has all the proprietary right and title.
3.3 Economic perspectives

Infrastructure development, especially the construction of roads through forestland, very often causes change in the tenure status of the forestland. With the construction of new roads through forestland, the later get easily accessible. Such enhanced accessibility, especially when the forestlands are high lands, allures the influential and powerful persons of the society to grab these forestlands to establish industries of various types. This has happened to large chunks of forestlands of Dhaka Forest Division. By now over 2025 ha of such forestland has fallen prey to such circumstances and are going to lose their tenure status of forestland. Large number of title suits is pending on these lands in the court of law.

At times with the discovery of valuable mine like products in forestland, causes the transfer of forestland to different agencies for different type of land use. With such transfer of forestland, their tenure status changes from forestland to others. Examples are forestland of Shahjir Bazar (under grater district of Sylhet) gas field, stone quarry sites under Sunamgonj of grater Sylhet district, etc.

3.4 Population pressure

Population density is one of the highest in Bangladesh. The pressure on land is extremely high. The overflow of people from rural areas, especially following river erosions, finding no alternative for shelter, often encroach upon the forestland. This is a regular phenomenon in Bangladesh. This process takes a regular toll of the forestlands impairing its tenure status of forestland. Though the legal status of the land continue to be government owned forestland, the site get denuded and get converted to homesteads, agricultural fields, orchards, etc. and loses it status of forestland. At times however, the local influential people use the poor rural people to grab forestlands for uses other than forestry. Under a series of such events over decades large chunks of the “Sal” forest land went under encroachment. Thousands of people were involved over large tracts of forestland. The Government of Bangladesh under this given context, decided to launch a “Social Forestry” on those so called forestlands of Dhaka, Tangail, Mymensingh, Dinjpur and Rangpur, involving these so called encroachers as participants. The program was highly successful and in about 10 to 12 years of social forestry program, more than 35,100 Hectares (PCR of FSP 2008) of land was brought back under tree cover and successfully recovered its status of forestland and thus its tenure status as well.

Besides these on many forestland of Bangladesh especially on those of the government, encroachments are very common. The high population pressure is the root cause of such events. Encroachment of forestland thought do not officially change the tenure status of the land, the land use pattern get changed and from technical view point the forest tenure aspect of the given parcel of land get altered.
4. Current governmental policies and implementations on forestland tenure

The tenure of a parcel of land as “forestland” refers either to its record exhibiting ‘forestland’ or to its physical status of having a forest or tree-cover. Majority of such forestlands in Bangladesh are under the control of the Forest Department. The legal nomenclatures of such forestland are about eight in number. The table below elucidates these.

Table: Legal nomenclatures of forestlands

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Legal Nomenclature</th>
<th>Area in Million Hectares</th>
<th>Percent of Total Land Area of Bangladesh</th>
<th>Ownership vests with</th>
<th>Management vests with</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Reserved forest (RF)</td>
<td>1.246</td>
<td>8.62</td>
<td>Forest Department (government of Bangladesh)</td>
<td>Forest Department</td>
<td>Proprietary right of the government. Nothing is allowed without prior permission of the FD (government of Bangladesh)</td>
</tr>
<tr>
<td>2</td>
<td>Notified forest (NF)</td>
<td>0.224</td>
<td>1.55</td>
<td>District Administration (government of Bangladesh)</td>
<td>Forest Department</td>
<td>Some tree species are declared reserved</td>
</tr>
<tr>
<td>3</td>
<td>Protected forest (PF)</td>
<td>0.037</td>
<td>0.25</td>
<td>District Administration (government of Bangladesh)</td>
<td>Forest Department</td>
<td>Not supposed to be leased out for a certain period</td>
</tr>
<tr>
<td>4</td>
<td>Acquired forest (AF)</td>
<td>0.008</td>
<td>0.05</td>
<td>District Land Administration (government of Bangladesh)</td>
<td>Forest Department</td>
<td>Non retainable under SATA 1950. To be managed as RF &amp; under the process of reservation</td>
</tr>
<tr>
<td>5</td>
<td>Vested forest (VF)</td>
<td>0.003</td>
<td>0.02</td>
<td>District Administration (government of Bangladesh)</td>
<td>Forest Department</td>
<td>Do</td>
</tr>
<tr>
<td>6</td>
<td>Unclassed state forest (USF)</td>
<td>0.730</td>
<td>5.05</td>
<td>District Administration (government of Bangladesh)</td>
<td>District Land Administration</td>
<td>The ethnic people has the right of slash and burn agriculture</td>
</tr>
<tr>
<td>7</td>
<td>Homestead forest (HF)</td>
<td>0.700</td>
<td>4.84</td>
<td>Private</td>
<td>Private</td>
<td>Private owned</td>
</tr>
<tr>
<td>8</td>
<td>Tea estate forest (TE)</td>
<td>0.070</td>
<td>0.48</td>
<td>Private</td>
<td>Private</td>
<td>Do</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>3.018</strong></td>
<td><strong>20.86</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Management Planning Unit, Forest Department, Government of Bangladesh, June, 2010.

The major government policies that affect the forestland tenure are

- Forest Policy
- Land Use Policy
- Industrial Policy
- Environment Policy
- Agriculture Extension Policy and
- Water Policy

The prevailing Forest Policy was promulgated in 1994 and is a well drafted one. It has incorporation of all the necessary aspects for the improvement of forests and forestry in Bangladesh, including the incorporation of social and participatory forestry.
Afforestation and enhancement of forest cover to 20% of the land area of the country are its highly appreciable features.

The land use policy of Bangladesh was declared on June 13, 2001. This is good and well drafted one and has clearly advocated against the conversion of forestlands to other land use. Though it has a built in approach of conservation of natural resources, very often it not followed with that spirit, especially by the Deputy Commissioners under a cover of bureaucratic hierarchy (Biswas & Choudhury 2004).

The Industrial and Agricultural Policies though do not have any contradiction, as such, to forestland tenures, very often forestland are converted for uses such as for industries and/or agriculture. Very often it is observed that the shifts of forestland tenure are either to agricultural uses or industrial uses.

5. Patterns of forestland tenure and ownerships

Ownership is the most important feature of the tenure and forestland tenure is no exception. But in case of forestland besides ownership the user rights of the communities especially when involved with the forest management accrues some sort of right that may be designated as tenure rights on those forestland. The land, on which participants have been involved, through an agreement, to share the benefits, even if continue to have the proprietary right of the government (FD), a right get accrued in favor of the participant. This right can be termed as a tenure right of the participant on that parcel of the forestland. Besides these in some forestland some rights have been accepted. Examples are the right of slash and burn agriculture in USF lands, the right of easement through a forestland to his farmland (as in many Sal forestlands), etc. Thus for forestlands two different patterns are seen, which are as under.

i) Private ownership and
ii) Government ownership.

Private ownership: In such case the ownership of the forestland is in favor of the private individual or organization. Privately owned homestead forestlands, privately owned forestland, privately owned rubber gardens, privately owned tea estates, etc. examples of this type and pattern. The tenure of these forestlands is clear and fully and completely in favor of the person in whose favor the land record has got established.

Government ownership: In such case the government is the owner of the land. As far as the record goes, the proprietary right is in
favor of the government. But very often the tenure is not fully or completely in favor of the government. The adjoining locals and communities living nearby over generations, develop some sort of unwritten rights. These, though not recorded in black and white, affects the tenure of the given parcel of forestland. This sort of rights is more significant when the communities are involved with the forestry operations, mostly as participants under social forestry programs or co-management programs.

6. Impacts and consequences of forestland tenure system

In the past, though forest lands were under the control of Crowns but local peoples had their user right. In 1793, the Permanent Settlement was introduced by the British Rulers in India. Under the regulations of the Permanent Settlement, Zamindars had the proprietary right in land. Thus Permanent Settlement system brought a radical change in the land tenure system where Zamindars appeared as proprietors of land with all forms of property rights and the cultivators lost their past/previous property rights and relegated to the position of tenant-at-will under Zamindars. As a result discontent and resentment developed gradually among the tenants.

Under this permanent settlement, a land lord had to pay the fixed revenue (or tax or rent) to the Government (the Crown). He found that the revenue earnings from the forestland by selling the forest products were far below the per unit average tax. Thus the conversion of these private forest lands to agricultural land was preferred & remains significant and important to its owner (the land lords) and thereby to the prevailing administration.

In order to mitigate this conflict the Pakistani rulers introduced the State Acquisition and Tenancy Act, 1950 (SATA) abolishing private ownership of forest lands and prohibiting sub-letting and acquired all types of intermediary rent receiving interests that existed between the government at the top and the tenants cultivating the land at the bottom. But as a result of State Acquisition and Tenancy Act, and to avoid acquisition some Zaminders cleared their forests and made it agricultural land.

Equally remarkable was the provision for retention of certain categories of land including forest land under khas possession and under management of the government. These types of lands are declared non-retainable by any tenant or ex-rent receiver. But later on, under the prevailing policies of the then government, forestland that were under the administrative control of the Government as “Khas Land” but not under the FD, were leased out for use other than forestry whereby the forestland tenure got changed from forestry to otherwise.

The tenure system basically revolves around the ownership of the land parcel, of which forestland tenure is no exception. Governments of Bangladesh under the prevailing land regulations maintains a record of rights (ROR) and keep on updating it on a regular basis on the basis of land registration and land transfer, etc. At the same time the Government of Bangladesh updates the land records through physical field survey.
The tenure of forestland is no different than that of the regular tenure system of the country. This is a type land-tenure with a use aspect incorporated in it, which is the use of this parcel of the land on forest and forestry. The use aspect of the land is often get neglected while dealing with the tenure of the land. Thus in most case the forestland tenure has no provision to be dealt with any specialty. However, the Forest Policy and Land Use Policy has provisions where under forestland deserve special treatments. In view of that it is expected that the tenure aspects of the forestland will continue to remain forestry biased. But exceptions are many and it may not very wrong to opine that in view of the tremendous population pressure, the forestry use aspects of forestland in general may not receive that attention which will be necessary for the desired conservation. Thus adverse consequence of the forestland tenure is likely to be eminent.

7. Future trend

Mustafa (2002) has rightly identified that in Bangladesh two interrelated trends with respect to Forest Policy is surfacing. These are

i) state-sponsored commercialization of forestry and

ii) progressive alienation of forest based communities from use of forest resources to forest management

Since the trend of forest policy has a direct relation with the forestland tenure, it is expected that forestland tenure will exhibit a trend close to these observations.

The existing visible aspects related to forest management and the hopes and aspiration of the people at large indicate that the followings are going to be eminent in future.

- The participants under social forestry will create pressure, directly or indirectly, for a bigger slice of share of the benefits.
- As the co-management of Protected (Conservation Sites) Areas progress further, the community organization will approach for securing the total management responsibilities of these sites so that the Government do not continue to have any say on the management and benefit sharing issues of these locations.
- The adjoining communities, at forest sites that have not yet been brought under co-management, are likely to come up with a demand for handing over the management aspects of those sites, especially the revenue management or revenue collections from the recreation aspects.

Under these anticipations it is expected that the future trend of forestland tenure will have an approach of allowing more and more rights and privileges for the adjoining communities including social forestry participants.

8. Conclusions

The land tenure system of the country is based on set of rules and regulations that has evolved over decades, rather centuries. The forestland tenure is one of its
components. There is very little scope to view forestland tenure as a separate or independent entity. However, since the forestlands serve two very important aspects of environment, namely biodiversity and conservation of ecosystems, it is necessary to have an eye on the tenure aspects of the forestland so that at least these values of the forestland are not jeopardized because of flows of land tenure system of the country. The government agency that has the mandate to take care of this aspect is the Forest Department. Under this situation the capacity of the personnel of the FD involved with these need to be built and enhanced on a regular basis so that the forestland tenure under the prevailing land tenure system of the country successfully up-keeps the required under the rightful legal banner.

9. References

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Forest Lands Tenure System

By Nuestro, Edna D.

I. MANDATE & ORGANIZATIONAL PROFILE

Pursuant to Executive Order No. 192 of June 1987, the Department of Environment and Natural Resources (DENR) is mandated to be the primary government agency responsible for conservation, management, development, and proper use of the country’s environment and natural resources, including those in reservations, watershed areas and lands of the public domain, as well as licensing and regulation of all natural resources utilization as may be provided for by law in order to ensure equitable sharing of the benefits derived there from for the welfare of the present and future generations of Filipinos.

Structurally, under the Department, the Forest Management Bureau (FMB) is the one responsible for providing support for the effective protection, development, occupancy management of forest lands and watersheds. Among its functions, the FMB recommends policies and/or programs for the effective protection, development, occupancy, management and conservation of forest lands, watersheds, including grazing and mangrove areas, reforestation and rehabilitation of critically denuded/degraded forest reservations, improvement of water resource use and development, ancestral lands, wilderness areas and other natural reserves, development of forest plantations, including rattan, bamboo and other valuable non-timber forest resources, rationalization of the wood-based industries, regulation of utilization and exploitation of forest resources including wildlife, to ensure continued supply of forest goods and services.

II. TRENDS IN FOREST POLICY (Historical changes in Forestland tenure and drivers of changes)

Looking back, forest policy accounted for the massive deforestation that depleted the tropical rainforests of the country. Historical records from 1950s to 70s (table 1) showed a logging boom with no restriction on exploitation. With the results of several decades of forest utilization, the decline of the forest resources was addressed and policy reform has been instituted, as has a shift in the direction of forest management. By the year 70s, the Marcos Regime introduced the people-centered forestry through the Forest Occupancy Management (FOM), Family Approach to Reforestation (FAR), Communal Tree Farming (CTF) and Program for Forest Ecosystem Management (PROFEM).
The destruction of forest in the country resulted in the decline of the 17.8 million ha of forest cover reported in 1934 to only about 5.4 million in 2000. However, the forest assessment study conducted by FMB and the National Mapping and Resources Information Authority (NAMRIA) in 2003 showed that the total forest cover was actually 7.17 million ha.

From being a major log exporter in the 1960s-1980s the Philippines has become a net importer of logs. The country imported about 0.165 million cu m of logs in 2005 while exporting less than 1000 cu m of plantation logs.

Table 1: History of Forest Policy and Trends

<table>
<thead>
<tr>
<th>Year</th>
<th>Era/Events</th>
<th>Policy</th>
<th>Trends/Paradigms of Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1521 to 1800s</td>
<td>Spanish colonization</td>
<td>Spanish Royal Decrees Cortes de Magera or large-scale felling of trees with forced labor and technology</td>
<td>Gain revenue, supply timber to Spanish Navy</td>
</tr>
<tr>
<td>1860s</td>
<td></td>
<td>Inspection General de Montes became a bureaucratic system for forest concessions</td>
<td>Open up virgin forests to give concessions lands and transact business on lands and forests</td>
</tr>
<tr>
<td>1890s</td>
<td></td>
<td>Royal Decree</td>
<td>Laws and regulations governing the operations of the Philippine Forest Service</td>
</tr>
<tr>
<td>1900s</td>
<td>US Colonial Rule</td>
<td>Bureau of Forestry Forest Act of 1904 (Act 1148) by US Congress encourage rational exploitation of the forests by instillation of an appropriate regulatory environment to prescribe fees and taxes and conversion of forest land to agriculture.</td>
<td>First law of Export of Forests and first long-term Timber licenses issued</td>
</tr>
<tr>
<td>1900s</td>
<td></td>
<td>Forest Law of 1917 or Act No. 2711 Communal forest and pastures for communities</td>
<td>First law of Export of Forests and first long-term Timber licenses issued</td>
</tr>
<tr>
<td>1910s</td>
<td></td>
<td>Forest Law of 1917 or Act No. 2711 Forestry School in UP established</td>
<td>First law of Export of Forests and first long-term Timber licenses issued</td>
</tr>
<tr>
<td>1930s</td>
<td>Commonwealth period</td>
<td>Regalian Doctrine of the 1935 Constitution stipulated the principle that all timberlands belong to the State</td>
<td>First law of Export of Forests and first long-term Timber licenses issued</td>
</tr>
<tr>
<td>1940s</td>
<td>Japanese occupation, Post independence era</td>
<td>Forestry Administrative Order No. 14-1</td>
<td>Forest as a source of capital</td>
</tr>
<tr>
<td>1950s</td>
<td>Large scale logging to meet market demands for timber in Japan and US.</td>
<td>Philippine Selective Logging System (PSLS) on dipterocarp forests imposed Policy of ‘Land for the landless’, Homestead Act</td>
<td>Forest as a source of capital</td>
</tr>
<tr>
<td>1960s</td>
<td>Marcos Era</td>
<td>Granting of Timber License Agreements (TLAs) FAO 11 of 1970 – the duration of TLAs was extended to 50 years</td>
<td>Logging and Concessions soared</td>
</tr>
<tr>
<td>1970s</td>
<td>PD 705 LOI 1260, FOM, FAR, PROFEM</td>
<td>Shift to People-Oriented Forestry Ban of Logging in Critical Areas</td>
<td>Logging and Concessions soared</td>
</tr>
</tbody>
</table>

-- 73 --
Revised Forestry Code or PD 705, as amended guided the overall forest management since 1975. Lands of the public domain which are 18% in slope and above cannot be classified as A%D nor any forestland 50% in slope or over as grazing land. As amended, its strategies focus on management of productive forest through selective logging reforestation of degraded areas, support to upland communities through issuance of tenure instruments and strict protection of critical watershed.

### III. CURRENT GOVERNMENT POLICIES AND IMPLEMENTATIONS ON FOREST LAND TENURE

A major turning point in the history of the country and of forest policy was the People Power event in 1986. Dominating the policy development, changes began with much greater input from non-government organizations and other interested groups. As such, this gave way to the concept of decentralization, recognition of people's participation in resource tenure that moved into the mainstream of policy formation. The restoration of a democratic Philippine government placed the issue of social justice and equity at the center of the country's forest policy agenda. In 1987, the Aquino Administration promulgated the new reforestation policy through the National Forestation Program (NFP) offering market incentives and involving communities, families, non-government organizations (NGOs), and corporations in the management, implementation, and evaluation of reforestation projects.

Presidential Decree 705 as amended still guides the overall forest administration system. However, many provisions of the Code are no longer relevant as manifested by policy shifts of DENR with respect to forest resources allocation, disposition and management. Except for the PD 705, most of the policies were enacted after 1986.

#### Table 2: Current forestry policies of the Philippines

<table>
<thead>
<tr>
<th>Policy</th>
<th>Major focus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revised Forestry Code- Presidential Decree No. 705 of 1975</td>
<td>Creation of the Bureau of Forest Development (BFD) with line authority. Adoption of multiple use, land classification and delineation of forestlands, key conservation and reforestation strategies, census and initial recognition of forest occupants.</td>
</tr>
<tr>
<td>The 1987 Philippine Constitution</td>
<td>Confirmation of the Regalian Doctrine; the State may undertake on the development and utilization of natural resources or enter into co-production, joint venture, or production agreements.</td>
</tr>
<tr>
<td>Local Government Code (LGC)- RA 7160 of 1991</td>
<td>Partially devolved some functions of the DENR to the LGUs.</td>
</tr>
<tr>
<td>National Integrated Protected Area System (NIPAS)- RA 7586 of 1992</td>
<td>Allocation of forest resources to protected area systems for biodiversity purposes, preservation of habitats, watershed protection, and maintenance of ecological balance.</td>
</tr>
<tr>
<td>Executive Order No. 263 of 1995 on Community-based Forest Management</td>
<td>Adoption of CBFM as the strategy for sustainable forestry and social justice.</td>
</tr>
<tr>
<td><strong>Indigenous People’s Rights Act – RA 8371 of 1997</strong></td>
<td>Creation of the National Commission on Indigenous Peoples and recognition and protection of the rights of indigenous people. Through IPRA, ancestral domain was recognized in legislation the notion of state ownership over all classified forest lands. Indigenous peoples can apply for a Certificate of Ancestral Domain Claim (CADC) or Certificate of Ancestral Land Title (CALT) to certify their ownership of the land.</td>
</tr>
<tr>
<td><strong>Executive Order No. 318 of 2004</strong></td>
<td>Promoting Sustainable Forest Management (SFM) in the Philippines to adopt the following guiding principles: 1) Delineation, classification and demarcation of state forestlands; 2) Holistic, sustainable and integrated development of forestry resources; 3) Community-based forest conservation and development; 4) Incentives for enhancing private investments, economic contribution and global competitiveness of forest-based industries; 5) Proper valuation and pricing of forestry resources and financing SFM; and 6) Institutional support for SFM.</td>
</tr>
</tbody>
</table>

**The 1987 Philippine Constitution**

The 1987 Philippine Constitution provides the framework for policy and lawmakers in the Philippines. It provides the framework for general reorientation of natural resource management policies in favor of co-production, installed the CBFM as the main framework for forest resource management which made communities the main implementers of SFM strategies and programs. In the area of forest management, the following constitutional principles are applicable: 1) Policy on Resource Utilization and 2) Policy on Due Process and Participation.

*Policy on Due Process and Participation.* The constitutional principles under this policy include the right to due process, the right to information, the right to just compensation, and the rights of various sectors to participate in nation building.

*Policy on Resource Utilization.* The Regalian Doctrine is the principal legal concept that the government relies upon to control the utilization and management of natural resources. It states that “All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With exception of agricultural lands, all other natural resources shall not be alienated.” (Article XII, Section 2, 1987 Constitution).

With Article XII, Section 2 forest policy has shifted from the issuance of harvesting permits and licenses to exploration, development and utilization by the State itself, or by the State entering into co-production, joint-venture or production-sharing agreements with Filipino citizens of corporations or associations at least 60% of whose capital is Filipino-owned.
Phasing out of TLAs to Joint Venture, Co-Production, Production sharing

Reflecting a general reorientation of natural resource management policies, since 1987 some dramatic reductions in the awarding of concessions have been made. The shift from TLA regulated system to production sharing or joint venture between state and private sector, and based on figures a total of 376 TLA holders in 1977 covering 10 million ha with an authorized AAC of 21 million cu m, downturn at present to only 6 remaining TLAs covering an area of 325,310 ha.

Conservation and development of natural forests

There are two types of natural forests, i.e., primary (old-growth) forests and secondary forests. Primary forests are under permanent protection and could not be logged in the Philippines. These include forests above 50% slope and 1000 m ASL. Under the existing government policy, these areas have been declared as ‘protected areas’, to be managed solely for biodiversity conservation. The local communities are therefore expected to protect these forests and no utilization is allowed.

Ban on logging in Primary or Old-growth Protection Forests

In perpetuation of our remaining natural forests, a policy decision to ban all logging in old growth forests was implemented in January 1992. Since then, all timber production was shifted to residual forest.

Republic Act No. 7586 or the NIPAS Act.

Concurrent with the ban on logging in old-growth, all old growth forest, national parks and other protected areas were placed under the Integrated Protected Area System (IPAS) by virtue of the Republic Act No. 7586 of 1992 or the NIPAS Act with the aim of preserving biodiversity and environmental values. Recently, this was strengthened with revised implementing rules and regulations (DAO 2008-26) detailing and integrating all processes of concerned government institutions in establishing, managing, and de-establishing all protected areas under the law. These policy initiatives can support the institutionalization of the PES financing mechanism.

Tenure Instruments in Production Forests

In production areas, the private sector is encouraged to engage in forest management through the Integrated Forest Management Program (IFMP). Tracts of lands of the public domain are awarded to individuals/private corporations through a production sharing contracts - either Integrated Forest Management Agreement (IFMA) or Socialized Industrial Forest Management Agreement (SIFMA) - which give them the right to develop, manage, protect and utilize a specified area of public forestland and
forest resources. Various tenure instruments for private sectors are Community Based Forest Management Agreement (CBFMA), and Forest Land Grazing Management Agreement (FLGMA).

a) Integrated Forest Management Agreement (IFMA)

Corporate sector investment in the growing of industrial plantations is encouraged though Industrial Forest Management. Having recognized the need for ongoing supply of forest products has accepted that these will have increasingly come from plantations. An IFMA is a production sharing contract entered into by and between the DENR and a qualified applicant wherein the DENR grants to the latter the exclusive right to develop, manage, protect and utilize a specified area of forestland (from 500 to 40,000 hectares) and forest resources therein for a period of 25 years and may be renewed for another 25-year period, consistent with the principle of sustainable development and in accordance with an approved Comprehensive Development and Management Plan (CDMP), and under which both parties share in its produce.

b) Socialized Industrial Forest Plantation Management Agreement (SIFMA)

The Socialized Industrial Forest Plantation Management program is a modification of the Industrial Forest Plantation Management program. Areas available under the program are grasslands, brush lands, and open and denuded forest lands under the jurisdiction of the DENR, including those within government reforestation projects that are otherwise to be classified under the NIPAS, CADC, CALC vested rights, licenses, permits or management agreements. The area coverage is from 1 to 10 hectares for individuals/single family and up to 500 hectares for association or cooperatives.

c) Forest Land Grazing Management Agreement (FLGMA)

Agreement designed to individuals, associations and corporation to make grazing lands sustainable by improving carrying capacity and productivity through improved forage and pasture grasses, proper management practices and breeding technology and provide security of tenure and incentives.

d) Community Based Forest Management Agreement (CBFMA)

Executive Order No. 263 of 1995 mandated the adoption of CBFM as the national strategy for sustainable forestry and social justice. It recognizes the need to enter into long-term agreements with communities and the indigenous people for the protection, rehabilitation, development, conservation, and management of forestlands. The Government has to respond to the communities’ need for long-term tenure and resource-use rights provided they employ low-impact and labor-intensive harvesting methods. It allows organized communities to harvest timber from plantations and
second growth forests subject to existing regulations on timber harvesting, on the condition that the area will be protected and managed according to the principles of sustained-yield forest management. The community must also use a portion of the income derived from harvesting to protect, renew and improve the forest resources and also to engage in alternative sources of livelihood. The incentives for CBFM Program include: right to occupy, possess, utilize and develop the forestlands and its resources and claim ownership of introduced improvements therein; allocate to members and enforce the rights to use and manage forestlands and resources therein; exempted from payment of land rent and forest charges on timber and non-timber products harvested therein; and to receive all income and proceeds from utilization of forest resources therein.

The institutionalization of CBFM is the main government strategy towards the restructuring of the once corporate-controlled timber industry (Ramos, 1993). Timber licensee agreements (TLAs) used to control one-third of the country’s total land area of 30 M ha from 1971 to 1977. With the shift in the government’s forest management approach in favor of CBFM, starting from the 1980s, TLA areas gradually declined to the present figure of less than a million hectare owing to the cancellation of erring licensees and non-renewal of the expired ones. The 1997 DENR strategic action plan for CBFM envisioned that 9 million hectares of forestlands mostly under the existing and potential open access areas would be placed under community management. At present, there are 1,783 CBFMA issued with 321,638 households over an area of 1.6 million hectares of forestlands.

These key programs and policies over the last three decades influenced tenure reform in forest lands. The historical overview indicates the acceptance of local people as forest managers and the increasing recognition of their rights over forest lands and resources through different tenure instruments was an outcome of negotiation, accommodation, and contestation among many actors with diverse interests at various levels – international, national and local.

IV. PATTERNS OF FOREST LAND TENURE AND OWNERSHIPS (INCLUDING BOTH CUSTOMARY AND OFFICIAL)

Role of Tenure holders

The DENR has been mandated to manage the forestlands and resource of the country. However, because of the extent of forestlands which more than half of the land area of the country, the DENR and its predecessor agencies has co-opted other stakeholders in the management of forestlands and resources. In the early years, the TLAs were given the task of protecting the forest as part of their responsibility in addition to obligations that were added later on. The TLA is being replaced by other forms of tenure that are consistent with the Constitutional mandate that access to natural resources is through joint venture, co-production or production sharing.
agreements. The TLA is neither of these. The new forms of tenure are the CBFMA, SIFMA, IFMA and Forest Lands Grazing Management Agreements (FLGMA), tree farm lease and agroforestry farm lease. Tenure holders have accompanying responsibilities, such as to protect their forest areas in addition to developing forest plantations as well agroforest areas. There are about 3.42 million ha under tenure by the aforesaid agreement holders.

Indigenous people by virtue of the provisions of RA No. 8371 were given the right to possess and own (to title) ancestral lands and domains. As of September 20, 2007 there were 5.9 million ha covered by certificates of ancestral land/domain titles (CADT/CALT) 2. A large part of these areas has been transferred to the IPs and the DENR has been assisting them in the preparation of forest management plans. The DENR in cooperation with the NCIP, the agency mandated to assist in the affairs of IPs, has to build the capacities of IPs in forest management otherwise the areas under their care will be subjected to harmful activities.

**Management of protected areas**

Several stakeholders participate in the management of protected areas through the Protected Area and Management Board (PAMB). The PAMB reviews and endorses the DENR's management plan and management manual for the PA; decides on planning, resource protection, and general administration of the area; approves proposals, work plans, guidelines for management of the PA; delineates the Pa boundaries; buffer zones and ancestral domains within the PA; promulgates rules and regulations to promote programs and projects on biodiversity conservation; and ensures implementation of the management plan.

The day-to-day operation of the PA is the responsibility of the Protected Area Superintendent (PASu). His functions among others, are: to serve as chief operating office for implementing the management plan for the PA; establish partnership with local communities; develop and implement park information, education and the visitors program; enforce rules and regulations to protect the area; and seize and confiscate illegally collected forest products.

**Management of forestlands by Government Owned or Controlled Corporations (GOCCs)**

About 685,000 ha of forestlands, particularly watersheds, are under management of government owned or controlled corporations. These are basically energy generating corporations such as the National Power Corporations such as the National Power Corporation (NPC) (EO No. 224, 1987) which is operating geothermal power plants. The National irrigation Administration (NIA) also has jurisdiction over watersheds supplying water to dams and providing water irrigation systems.
These three agencies are mandated to protect and rehabilitate the watershed under their jurisdiction. They are also required to provide assistance to settlers within their watersheds. The GOCCs are aware of their responsibilities. The NPC is currently issuing invitations to consultancy companies for the preparation of watersheds under its responsibility.

Role of Non-Government Organizations

Non-government organizations (NGOs) do not manage forestlands and resource directly. They assist in the training of families and communities during community organizing. The involvement of NGOs in forest management started during the implementation of the DENR of the ISFP (DAO No. 97, 1988). Under the program the NGOs were called upon to provide assistance in the conduct of census of forest occupants, community organizing, information and technology dissemination, and in monitoring and evaluation of agro-forestry projects. They also assisted the communities in sourcing markets for their products, social services such as health services, initiation of livelihood projects and in sourcing credit.

They also serve as members of the PAMB and assist in the formulation of the management plans and in the monitoring of the implementation of such plans of protected areas. As members of the Multi-sector Forest Protection Committees, they are responsible for gathering and providing information to relevant authorities including the police and the DENR about illegal logging and transport of illegally cuts logs and other forest products.

Role of Local Government Units in forest protection, conservation and management

In addition to their role in the management of protected areas, RA 7160 or the Local Government Code provides that LGUs share with the National Government in the management of forest resources (RA No. 7160, 1991). Furthermore, the Code provides that municipalities implement community based forestry projects which include integrated social forestry programs and similar projects subject to the supervision, control and review of the DENR. The provincial governments are tasked with the enforcement of forestry laws limited to community-based forestry projects and other laws for the protection of the environment subject to supervision, control and review of the DENR.

Pursuant to these provisions of the Local Government Code, the DENR devolved the Integrated Social Forestry (ISF) projects to LGUs excepts those that were partially or wholly funded by foreign donors and those that were located in protected areas and critical watersheds (DAO No. 30, 1992). Along with ISF project, Community Development Officers (CDOs) and Community Development Assistance (CDAs) of the DENR were also devolved in addition to the budgetary appropriations for the
projects.

LGUs have also entered into Memoranda of Agreement with the DENR and communities in the management of watersheds. They are also providing training programs to People’s Organizations on livelihood projects and in some instances provide capital to start livelihood projects. Pursuant to their duties as provided for in the Local Government Code in enforcing forestry laws, LGUs have also issued ordinances on the protection of forests and watersheds and imposing penalties on illegal logging and slash and burn activities.

**Role of civil society organizations**

Civil society organizations (CSOs) are assisting the government to implement forest laws and regulations. The DENR has initiated the organization of multi-sector Forest Protection Committees (MFPCs) which include representatives from the church, academe, the military/police, the LGUs, NGOs and CSOs. They have been successful in lowering the incidence of illegal logging in some parts of the country. However, the organization is hampered by the lack of logistical support to carry out its mandates.

**V. IMPACTS AND CONSEQUENCES OF FOREST LAND TENURE SYSTEM/REFORM**

Policy evolution and changes reveal the impacts and consequences of forest land tenure system/reform. The government has instituted structural reform of democratization of access to forest resources. Organized upland communities are granted authority to manage and protect the forest in the belief that communities will manage the resources well specially when granted permission to harvest forest products from them. The government also supplanted the TLA as an instrument of commercial access to forest resources with the issuances of IFMA and the SIFMA in pursuance of the mandates of the Constitution that access to natural resources can be through production sharing agreements.

Results of various studies made assessment of the socio economic and environmental impacts of forest tenure reform particularly at its dynamics and the associated policy and related changes in terms of livelihood, income, forest condition and equity of different tenure instruments, in particular CBFMA, CADT/CALT and Co-management for devolution of forest governance through local government units. Co-management agreements have been forged with local governments in the forestlands. All proved to be a good strategy compared to the former TLA system. However, upland communities need technical and financial support to develop their areas more effectively. More than the tenure itself, it is the financial, technical and livelihood support that is availed of by the POs and usually goes hand in hand with the tenure shift that provided greater effects on the livelihood and income of the recipient communities.
Establishment of commercial tree plantations by the private sector has been slow. Given the current pace of about 10,000ha developed annually it will take years before the area of plantations needed to meet the local demand for logs will be established. More incentives should be provided such as stable policies on forest plantations, reduced transactional costs and assistance in the identification of available areas.

On protected areas, the country continues to proclaim protected areas and there is a need to have a functioning PAMB or a designated Protected Areas Superintendent (PASu), the on-site manager of the PA. A few of the Pas are able to generate their own funds for operation and management. Through the Integrated Protected Area Fund (IPAF), protected areas will be able to plow back the income that they have generated for the protection and development of the area.

VI. FUTURE TREND

The above discussion traced the evolution of forest policy in the Philippines from the colonial period to the present highlighting the trend from a highly regulatory, centrally controlled and industry-biased towards a more decentralized, participatory and people-oriented approach. And at the core of these shifts is the tenure reform in the forest communities through the adoption of the community based approach. Thus, tenure reform has been promising in uplifting socio-economic and consideration for environmental impacts through transfer of rights to these communities that promote access, use and control of forest resources. On the basis of the situation that will likely occur in the next two decades the following will take place regarding the forest cover situation:

1. Policies supportive of forest plantation development will be adopted and will be beneficial to smallholder plantations including those in private lands.

2. Incentives for forest plantation development are expected to be formulated and put in place including possibly micro-financing for smallholder plantation farmers.

3. More confidence is generated from investors to invest in forest plantation development including joint ventures with community-based forest management and people’s organization providing options for development of CBFMA areas.

4. More funds will be provided by the government to rehabilitate and better manage watersheds.

5. It will take some time before an effective population program will take effect, meantime migration into the forestlands will continue in the term and destroy part of the natural forest cover.
6. More watersheds will be rehabilitated as a result of more funds allocated as a result of the rice and energy crises.

7. Part of the forest will give way to plantation development of biofuels.

8. Better monitoring of forestlands and resources will result in better protection of these resources.

9. Policies on payment for environmental services in forestlands will be implemented.

On the whole, there may be a decrease in the natural forest brought about by continued poaching for fuelwood, illegal logging and conversion to crop production and productions of biofuels but there will be a total net increase in forest cover due mainly resulting tenure reform of CBFMA, CADT/CALC, Co-management, PA establishment and plantation development by smallholder farmers with contributions by corporate plantation development as well as through the rehabilitation of watersheds by large tenure holders such as the NPC, PNOC and NIA.

VII. CONCLUSION

The development of forest policy in the Philippines highlights the trend from a highly regulatory, centrally controlled characteristic of the colonial period, towards a more decentralized, participatory and people-oriented approach that has typified the direction of policy over the last three decades. Our forest cover has been reduced from 17 million ha in the 1930s to 5.4 million ha in 1997 but increased to about 7.2 million ha in 2003. A number of different stakeholders have played a crucial role at various levels in formulating policy that has placed increasing emphasis on community involvement in forest management.

The Philippines will continue to be dependent on natural resources and demand for wood and other forest products will increase. Secure land tenure and property rights should also take into account appropriate and sustainable livelihood opportunities as well as market support, such as infrastructure, capital, assistance in product identification and development, market information, etc.

Given the shifts of shaping of forest policy over the past years may be considered radical and whether such initiatives will persist and eventually lead to sustainable development remains to be seen in the coming years.
Forestland Management in Cambodia

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Deputy Director, Department of Forest and Community Forestry, Forestry Administration, Cambodia

I. Introduction

Cambodia locates in Southeast Asia and shares the border with Thailand, Vietnam and Lao PDR. The total country land areas is 181,035 Km², and country administrative categories such as 01 Capital (Phnom Penh), 23 Provinces, 185 Districts, 1,621 Communes and 14,073 Villages. The population is 13,388,910 in 2008, population density: 75/Km², annual population growth: 1.54%, total forest areas: 10,730,781 ha (59.09%) in 2006, currency: Riel, race: Khmer (minority ethnic 10%), official language: Khmer, religions: Buddhists 95% and other 5%.

The National forests cover is more than half of the country's total land area show a significant renewable natural resources. The Cambodia is located at varying altitudes under differing climatic conditions, forests is not only playing important roles to protect a balance of natural ecosystems and environmental quality, but are also of critical importance to contribute the socio-economic development of the country.

Figure 1: Regional and national map
II  Forestland Management and Classification

The forest resources are the government's public property as stated in Article 58 of the Cambodian Constitution and Article 15 of Cambodian Land Law. This has been managed by three government agencies such as permanence forest estate (PFE) are under the purview of the Forestry Administration (Ministry of Agriculture, Forestry and Fisheries), flooded forests including mangrove forest are under the purview of the Fishery Administration (Ministry of Agriculture, Forestry and Fisheries) and protected areas (23 areas) such as national parks, wildlife sanctuaries, protected landscapes and multiple-use areas are under the management of the Ministry of Environment (Article 3 of the Forestry Law).

PFE consists of permanent forest reserves and private forests. For local communities living within or near the permanent forest reserves, the state recognizes and ensures their traditional user rights. Any individuals who plant trees on private land or on state forestland where they have been granted user rights, have the right to maintain, develop, use, sell and distribute their products.

The planting of trees within state forest land is done directly by the FA, community forestry or people via their user rights to state forest. The rules on granting rights to use state forestland to plant trees is stated in Sub-Decree No. 26 dated 25 March 2008 of the government on rule of granting rights to use state forestland to plant trees. The forest plantation may exist under the economic land concessions for quite a long time on degraded forestland under the agreement between the government and investors based on Sub-Decree No. 146 dated 27 December 2005 of the government on economic land concession.

The state provides access to permanent forest reserves for local communities to manage, and conserve and develop based on the Forest Law, sub-decree on community forestry management and guidelines for community forestry. To date, the FA in cooperation with relevant government agencies, local authorities, local communities and development partners has established the community forestry in permanent forest reserves.

PFE is registered based on Sub-Decree No. 53 dated 01 April 2005 on the procedures, establishment, classification and registration of the permanent forest estates. The process of forest demarcation has been started since 2007 followed by Joint Monitoring Indicator between the government and development partners.

2.1  Forest cover change

It is shown that from 1965 to 2006, the forest cover of Cambodia has been decreased from 13.2 million ha (73%) to 10.73 million ha (59.09%). The annual rate of forest
cover change is estimated as 0.34% from 1965 to 2006. The main causes of forest cover change are as follow:

- Forest land clearance and encroachment
- Forest fire
- Population pressure and poverty
- Exceed timber demand for regional dynamic
- Economic development
- Limited capacity and funds to implement sustainable forest management

<table>
<thead>
<tr>
<th>No.</th>
<th>Forest Types</th>
<th>Forest Area</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Evergreen forest</td>
<td>3,668,902</td>
<td>20.20</td>
</tr>
<tr>
<td>2</td>
<td>Semi evergreen forest</td>
<td>1,362,638</td>
<td>7.50</td>
</tr>
<tr>
<td>3</td>
<td>Deciduous forest</td>
<td>4,692,098</td>
<td>25.80</td>
</tr>
<tr>
<td>4</td>
<td>Other forest</td>
<td>1,007,143</td>
<td>0.20</td>
</tr>
<tr>
<td></td>
<td><strong>Total forestland</strong></td>
<td><strong>10,730,781</strong></td>
<td><strong>59.09</strong></td>
</tr>
<tr>
<td>5</td>
<td>Non Forests</td>
<td>7,429,893</td>
<td>40.91</td>
</tr>
<tr>
<td></td>
<td><strong>Total country land area</strong></td>
<td><strong>18,160,674</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

### Table 1: Forest cover in 2006

2.2 Forestland uses

- Protection Forests: 4,534,032 ha (25%)
  - Protected areas: 3,100,000 ha (17 %)
  - Protected forests: 1,434,032 ha (8 %)
- Production Forests: 6,196,749 ha (34%)
  - Forest concessions: 3,068,888 ha (17%)
  - Community forestry: 309,354 ha (2%)
  - Other forests unclassified: 1,919,225 ha (10%)

![Figure 2: Forest cover changes from 1965 to 2006](image-url)
- Land economic concessions: 899,282 ha (5%)

![Figure 3: Forestland uses](image)

**III Government Policies on Forestland Management and Implementation**

**3-1 Government policies on forestland management**

The forestland belongs to state property in accordance with the national constitution, land law, and forestry law. The RGC has set up the policies as follows:

- Forestry sector reform of the RGC on 22 October 1998 to manage forest resources sustainably.
- Declaration No. 06 dated 25 September 1999 of the RGC to curb land encroachment.

![Picture 1: Community forestry participation](image)
National policy statement of the RGC on forestry sector in July 2002. The objectives of this policy are forest resource conservation, good governance, socio-economic development and poverty reduction.

Sub-decree No 19 dated 19 March 2003 of the RGC on social land concession.

Sub-decree No 79 dated 02 December 2003 of the RGC on community forestry management.

Decision No 32 dated 02 June 2004 of the RGC on establishment of the national committee for prevention, elimination and suppression of forest cutting, burning, clearing and occupying forest lands for properties in provinces and municipalities of Cambodia.

Order No. 01 dated 09 June 2004 of the RGC to combat forest land encroachment and land grabbing.

Sub-decree No 53 dated 01 April 2005 of the RGC on procedures, establishment, classification and registration of the permanent forest estates.

Sub-decree No 118 dated 17 October 2005 of the RGC on state land management.

Sub-decree No 146 dated 27 December 2005 of the RGC on economic land concession.

Sub-decree No 168 dated 15 March 2006 of the RGC on appointment of composition of national authority to resolve the land conflict.

Order No. 01 dated 10 May 2006 of the RGC on preventing all types of forest land clearance for real estate.

Circulation No. 02 dated 26 February 2007 of the RGC on illegal encroachment of state lands.

Promulgation of the rectangular strategy Phase I in 2002 and rectangular strategy phase II in 2008 of the RGC to support the state reforms of the RGC and its action plans including forestry reform.

Sub-decree No 26 dated 25 March 2008 of the RGC on rule of granting rights to use state forestland to plant trees.

Sub-decree No 1146 dated 16 October 2008 of the RGC on appointment of composition of national authority to resolve the land conflict.

3-2 Forestland management implementation

Government has withdrawn 246,672 ha of grabbed forestland by offenders. This forestland has managed as forest plantation, protected forests, social land concessions and economic land concessions.

Forestland demarcation for security has been carried out since 2006 which collaborated with cross-sector agencies. The demarcation is according to forestland classification (Community Forestry, protected forest, forest plantation…). The results have shown forestland demarcation in amount of 5,856 poles (approx.933km) from
2006 to 2009.

![Forestland demarcation](image)

**Figure 3: Forestland demarcation**

![Forestland demarcation](image)

**Picture 2: Forestland demarcation**

IV Patterns of Forestland Management

4.1 User rights of forestland

The user rights of indigenous people on forestland in according to Forestry Law and Sub-decree on land registration of indigenous people. The community forestry has the right to manage and use the forestland for daily subsistent to contribute the rural poverty alleviation and sustainable forest management based on the laws and relevant regulations.
4-2 Issues and Challenges in Forestland Management

The main issues and challenges in forestland management are as follows:
- Forestland encroachment and land grabbing
- Conflict interest among local people and other from outside
- Incorporate and unclear vision on forestland demarcation among relevant stakeholders
- New approaches for forestland conversion for other purpose to be effected on forest cover.

V Future Vision on Forestland Management

The FA has the visions for forestland management in following:
- National forest program (nfp) includes forestland demarcation program to ensure state forestland will be classified and demarcated
- To be planned forestland demarcation at lest 1,000 km/year
- Strengthening forest management to contribute maintaining forest cover 60% of country land area in 2015 followed by Millennium Development Goal of the government.
- Reviewing and improving land economic concession management
- Strengthening forest law enforcement to combat illegal forest activities and its associated trade including land encroachment and land grabbing
- Providing social land concession to whom without land
- Community forestry promotion for sustainable forest management and poverty alleviation

VI Concussion

The forestland management is very crucial key for sustainable development that needs a lot of Laws, relevant regulations and mechanism for implementation. The forestland tenure is also contributed for sustainable forest management, improvement of rural livelihood and social economic development.
COUNTRY REPORT

FOREST RESOURCES TENURE AND INSTITUTIONAL ARRANGEMENTS IN MONGOLIA

Dr. BAATARBILEG Nachin,
(Department of Forest Sciences, National University of Mongolia)

1. Introduction

Mongolia is situated in central Asia bordered the north Russian Siberia, to the East and south by Chinese territory of Inner Mongolia and to the west by the Chinese province of Xinjiang.

Mongolia has a population of about 2.7 million people. At 1.5 persons per km², Mongolia has one of the lowest gross population densities in the world, but this figure is somewhat misleading since about 57% of people now live in urban centers. About 40% of the population is thought to live below the poverty line, however, counter-balancing this sobering statistic, the life expectancy is 64 years and the literacy rate at age 15 is 97%, surely one of the highest in the highest in the developing world.

With a land area of 1.656 million km², Mongolia is about six times the size of Great Britain or about the same size as the U.S. State of Alaska. Average elevation is 1.580m from the sea level, however, over 80% of the country lies above 1000m. The lowest point is 518m and highest point is 4374 m. It spans the major transition zone between the deserts of central Asia and the Boreal Taiga of Siberia and comprises six broad biogeoclimatic zones, reflecting a general trend from drier and warmer at lower elevations in the south to moister and colder in the north and higher elevations. These six zones, from lower latitudes and elevation to higher latitudes and elevations, are;

- Desert  (largely un-vegetated);
- Desert steppe (short-grass prairie with sparse shrubs and scattered small trees);
- Steppe (tall-grass prairie with a significant forbs component);
- Boreal Forest (coniferous forests with a variable deciduous broad-leaved component) and
✓ Montane (mixed sub-alpine coniferous forests, krummholz, alpine meadows and tundra)

Last three zones all exhibit varying depths and distributions (from continuous to sporadic) of permafrost. Mongolia is situated on a major continental watershed that is aligned roughly east-west. North of this line, rivers flow either to the Arctic Ocean (Selenge and Orkhon) or the Pacific Ocean (Onon, Kherlen and Khalkhyin Gol). South of the line all rivers flow to the Central Asian depression, which has no outlet. Climate is extreme dry continental, with marked variations in both seasonal and diurnal temperatures. Most of the precipitation occurs in the summer months between June and August.

2. FOREST AREA, TYPES AND CONDITION

The area of forest land in Mongolia is estimated 17.8 million ha (11.4 % of total land area). The main forested areas are located in the northern parts of the country along the Russian border at the southern edge of Siberia's vast taiga forest, the largest continuous forest system on earth (closed forest: $920 \times 10^6$ ha (ECE/FAO 1985)). The Mongolian forest forms a transition zone between the Siberian taiga and the central Asian steppe. The elevation varies between 800 and 2500 m above sea level. Closed forests covers 12.8 million ha, open forest 3.6 million ha, and non-forest 1.4 million ha (UNDP 1998). The MNET forest report records about 140 species of trees and bushes in Mongolia's

The main species are 61 % Siberian larch ( Larix sibirica ), 8 % Siberian pine ( Pinus sibirica ), 7 % Birch ( Betula platyphylla ), and 4 % Scotch pine ( Pinus sylvestris ).

The area of potentially exploitable forest is estimated to be between 5 to 6 million ha, which are located in nine northern central provinces (aimags in mongolian), comprising two-thirds of the total forest resources of Mongolia. The average growing stocks in the northern forests vary between 54 and 79 $m^3$/ha in the whole forest area, and between 100 and 154 $m^3$/ha in the exploitable forests. The total growing stock is 1.3 billion $m^3$ and the exploitable volume 600 million $m^3$ (Jaakkoo Pöyry 1995).

This is a fragile ecosystem whose many essential functions include collecting and regulating river flow, protecting soil from erosion and degradation, mitigating climate change, absorbing greenhouse gas emissions, creating favorable conditions for flora and fauna, preserving permafrost, and maintaining the natural balance.

The Mongolian Law on Forest divides forest resources into two categories as the primary basis for management: protected zones occupy 93.2 percent of total forest area, and utilization zones 6.8 percent. In protected zones, restrictive green areas are established for 5 km around the headwaters of major lakes and rivers, 3 km on each side of major rivers, 1 km on each side of railways or major roads, 80 km around large cities, and 30 km around smaller towns. Protected zones also include forest on slopes of more than 30°,
forest areas of less than 100 ha in area, forests within 50 m of a harvesting block, and saxaul forests. Regulated collection of domestic fuelwood and non-timber forest products (NTFPs) are the only forms of exploitation permitted.

This category also includes the strictly protected zones of the old forest law, which include forest areas classified as sub-alpine and those within special protected areas, national parks, nature reserves and cultural monuments. Very limited exploitation in some of these areas is allowed for local fuelwood needs and designated NTFPs. The utilization zone is a default category covering remaining forest areas, which are designated for commercial timber harvest subject to permits and government fees.

The natural regeneration of Mongolian forest is slow, and the harsh climate causes frequent forest damage by fire and insects. It is estimated that over the last 30 years, unregulated logging, forest fire and insect invasion destroyed 1 million ha of natural forest area. Over the same period, the scarcely forested and logged area increased ten- to 15-fold, and burned forest area three- to fourfold. These areas of scarce, burned and logged forest, as well as that of reforestation, have increased as a result of external factors. Global warming and the negative impact of human activities over the last ten years have increased the drought area of Mongolia by 3.4 percent, resulting in desertification. The area under severe desertification has increased to become up to 5.4 times as great as it was. Mongolia lost approximately 4 million ha of forest over the last century, averaging 40 000 ha/year, although the deforestation rate increased during the 1990s to approximately 60 000 ha/year (World Bank, 2006). The major hazards to forest are climate change, wildfires, pests and unsustainable timber harvesting. This last causes a particularly large share of forest resource depletion.

3. STAKEHOLDERS IN FOREST MANAGEMENT

According to Mongolia’s Constitution, forest resources are State property held on behalf of the Mongolian people. The Mongolian Law on Forests (MLF), the Mongolian Law on Environmental Protection and the Mongolian Law on National Protected Areas grant forest resources management rights to three main types of stakeholder: government (MNET, local authorities and the Ministry of Industry and Commerce); private (enterprises, individuals and community groups); and other (international donors, buffer zone councils, non-governmental organizations [NGOs], research and scientific institutions, and local environmental organizations).

As the owner of most forest land, the government grants forest tenure to national protected areas (NPAs), private enterprises, and community groups (Table 1).
Table 1. Forest tenure distribution in Mongolia

<table>
<thead>
<tr>
<th>Stakeholders</th>
<th>Type of management</th>
<th>Duration of contract</th>
<th>Estimated total forest area (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Protected areas</td>
<td>Unspecified</td>
<td></td>
<td>3332000</td>
</tr>
<tr>
<td>Private enterprises</td>
<td>Contact</td>
<td>Up to 60 years</td>
<td>160000</td>
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<tr>
<td>Community groups</td>
<td>Contract</td>
<td>Up to 60 years</td>
<td>343691</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>3823691</strong></td>
</tr>
</tbody>
</table>

4. STEAKEHOLDERS AND TENURE REFORM

Ministry of Natural Environment and Tourism (later MNET), the State Professional Inspection Agency (later SPIA), communities, NGOs and international donors are the groups most likely to support forest tenure development, which is still in its early stages. The main priority is to establish agencies with trained personnel to increase community awareness of tenure issues.

Other stakeholders that may support tenure change include Parliament (Ikh Khural), the Cabinet Ministry, local governments and the Ministry of Industry and Commerce, but the interests of these entities may be conflicting, depending on whether they give priority to economic development or nature conservation. Government agencies tend to support industrial and infrastructure development without paying much attention to its undesirable side-effects on nature.

Stakeholders that are likely to resist or distrust tenure changes include small scale logging enterprises, mining companies, illegal loggers and small-scale mining operations. All of these groups benefit from short-term uncontrolled exploitation of forest natural resources, and do not welcome forest tenure changes that focus increasingly on the need to conserve forest resources and work with local communities rather than local governments.

5. FOREST MANAGEMENT RIGHTS AND RESPONSIBILITIES

**Ministry of Natural Environment and Tourism:** Through its Forestry Division, MNETT is responsible for all aspects of forest management, including legislation, policy-making and implementation. It determines annual harvest volumes for forest resources, and carries out monitoring. The newly established National Forestry Agency provides technical support and organizes forest land transfers.

**Local governments:** Mongolia is decentralizing management power and responsibilities—including for forests—to local government at the city, province (aimag),
Most environmental legislation grants the authority for natural resources management to local governments, making them responsible for implementing forest legislation, monitoring forest management and leasing forest resources to private and community bodies.

**National protected areas:** At the United Nations Earth Summit in Rio de Janeiro in 1992, Mongolia committed to putting 30 percent of its territory into protected areas by 2030. A protected area system was established in 1994 by the Law on Special Protected Areas, which recognized four protected categories: 1) strictly protected areas; 2) national parks; 3) natural reserves; and 4) natural and historical monuments.

Protected area management concentrates on biodiversity conservation, ecotourism promotion and traditional livelihood supporting activities in cooperation with local government. NPAs are established for unspecified periods, but Parliament can remove some areas from protected status to meet critical development needs, or change the protection regime.

At present, the country has 61 NPAs, covering a total of 21.8 million ha, or almost 14 percent of the national territory. Of these, 35 NPAs have forest area, covering 3.32 million ha, or almost 17 percent of the country’s total forest area: 1.77 million ha of this is coniferous and 1.54 million ha saxaul forest. Some 12 percent of the forest area is under strictly protected forest management (MNET, 2003).

**Community groups:** Forest Communities are voluntary associations of local people with common interests. In Mongolia, more than 300 Forest Communities it is involving 4 224 families and 8 793 members, lease 343 691 ha of forest area. The first Forest Communities were established in the late 1990s with support from international donor projects. Their basic goal was nature conservation and the sustainable use of natural resources.

According to the Law on Environmental Protection and Mongolian Law of Forest (MLF), these groups have the right to lease natural forest areas for up to 60 years, with possible extension. Each community group can lease a maximum 6 000 ha of forest area, and use timber and other natural resources from this area in accordance with a forest management plan (FMP). The law also provides Forest Communities with ownership rights to community group any forest resources they plant themselves. In exchange, Forest Communities are responsible for providing annual reports on the status of their forest areas, enforcing relevant environmental legislation, carrying out rehabilitation and reforestation activities, and recruiting volunteer rangers and conservation managers to protect against wildfire, pest infestation, forest degradation, etc.

**Private enterprises:** Logging companies account for most private involvement in forest resources management, but available data on this vary and are conflicting. The Tax
Department reports that of 678 private companies operating in the forest sector nationwide, 89 are logging companies. Parliament banned the export of timber in 1999, so these companies can operate only in internal markets. In 2006, 574,800 m³ of timber was harvested. Timber companies do most logging in Selenge, Bulgan and Tuv provinces, where infrastructure is relatively well developed and market demand high. Private companies manage forested area according to 60-year leases or management concessions, which have to be renewed every year. The 60-year limit can be extended if the forest has been properly managed. In general, the rights and responsibilities of private enterprises are similar to those of Forest Communities, but their annual budgets include reforestation and other environmental rehabilitation expenses. They also have to pay local taxes.

MNETT reports that 164 private enterprises have licences for forestry operations. Nine of these have leased 160,000 ha of forest.

**Academic and research organizations:** National universities and research organizations lease 10,500 ha of forest, but Mongolian legislation does not specifically provide for these organizations to lease land for research and training purposes.

**Other actors:** The Ministry of Industry and Commerce’s Mineral Resource Authority leases some forest territories to mining companies, in coordination with local governments.

### 6. MANAGEMENT AGREEMENTS

Under Mongolia’s current legislation there are three main types of forest resource tenure: public, leasehold (community or private corporate) and private.

**Public forest:** Although only a few district forestry agencies have been established so far, local governments have clear authority over the forest resources allocated to them by the State for unspecified periods. This authority includes the right to reallocate forest resources to private and community management. Government organizations do not pay taxes on the forests they manage themselves, and the State provides a budget for their operation.

**Community leasehold forest:** The New Forestry Law of 2007 provides greater opportunities for community involvement, by allowing citizens to form voluntary partnership groups – Forest Communities. In forest areas, a forestry group must have at least 30 individual or 15 family members; in steppe and gobi (semi-desert) areas the minimum is 20 individuals or ten families. At least 80 percent of the community group members must be permanent residents of the local administrative division. Forest Communities have the right to lease forest areas near their homes. Lease applications should be approved at local government meetings, after which the community group should approach the local governor, who issues the Nature Conservation Community
group Certificate.

To guarantee sustainable forest management (SFM), the community group submits an FMP to the Provincial Environmental Management Department for approval, and provides annual reports on implementation of this plan to the local authorities.

**Private corporate leasehold forest:** Private companies follow similar forest resources leasing procedures to those of Forest Communities. As already noted, most of these companies are profit-oriented logging companies, which have contracts with the local authorities. Large areas are allocated to logging companies.

**Private forest:** Private enterprises, community groups and individuals have the right to own any forest they plant, but no forest areas have yet been privatized.

### 7. FOREST MONITORING

Day-to-day monitoring and inspection of forest resources is the responsibility of the local authorities and local branches of MNETT and SPIA, to which law enforcement authority was transferred in 2005. MNETT has established Nature and Environmental Units in every province, and these supervise district-level rangers while MNETT monitors databank management and FMPs. FMPs are monitored annually, based on the forest inventory.

### 8. RECENT DEVELOPMENTS

Since 2005, an amendment to the Law on Environmental Protection, MLF (2007) and MNETT Order 114, along with new contracts and certificates for community-based natural resources management, have clarified the rights of Forest Communities and established some basic requirements. Article 4.1 of MLF provides ownership rights to planted forest, stating that "A forest planted by a citizen on the land in his/her ownership or possession, or by a partnership (community group), economic entity or an organization on the land in their possession, using their own means, can become their property in a manner prescribed by law". Forest Communities can therefore own the forests they have planted themselves, and are also granted more NWFP and timber use rights, including AACs based on their FMPs. The new regulation is expected to bring more positive outcomes in the future.

These legal changes help to balance the rights and responsibilities of forest users, by granting Forest Communities the rights to: 1) conduct the activities identified in the FMP; 2) utilize the timber and non-timber resources extracted from their tenured forest according to the FMP and license, and market excess resources; 3) formulate project and programme proposals for national and local budget funding, and participate in tenders; and 4) participate in management and professional skills building and training activities.
Legal milestones:

• Constitution of Mongolia (1992)
• Protected Area Management Law (1994)
• Forest Law (1995)
• Government Resolution 125 (1998)
• National Forest Programme (1998, 2001)
• Amendment to Environmental Protection Law (2005)
• Nature and Environmental Minister’s Order 114 (2006)
• Forest Law (2007)

9. COMMON OBSTACLES TO IMPLEMENTING NEW TENURE SYSTEMS and CONCLUSIONS

The situations described in the following paragraphs all decrease leaseholders’ will to invest in forest resources.

- **Conflict between NPAs and Forest Communities:** The sudden establishment of an NPA tends to produce hostile and negative reactions from community members, rather than cooperation. In addition, MNET cannot manage these huge NPAs properly with its small share of the national budget. Mongolia’s NPAs are “paper parks” that lack real protection and management.

- **Little political will to diversify or develop new forest tenure types:** Weak government support for CPGs is the most urgent problem. Although the national government, including Parliament and MNE, are designing and passing legislation in support of community-based forestry management, province and district governments and representative meetings are not doing enough to promote local community rights by establishing community groups and leasing forest areas. Although local government officials do not openly oppose them, they hold community group requests for longer than the legal time limit and do not provide financial support.

- **Limited rights to use forest timber:** Mongolia’s forest is rich in NTFPs, but timber generates higher economic profits. Forest resource users are therefore very interested in exploiting timber, but do not always receive the shares of AAC indicated in their FMPs. This leaves leaseholders with insufficient financial gains, which prevents them from managing and utilizing their forest resources properly. Community group and private leaseholders are therefore unable to fund conservation measures and improve their own and others’ livelihoods.
CONCLUSIONS:

1. COMPLETE THE FOLLOW-UP WORK ON FORESTRY LEGISLATION: In today’s unpredictable world, private and public sector management depends on speedy adaptation. The private sector has its own updating mechanism based on competition, income generation, marketing and customer demand. This sector cannot survive unless it can monitor these market signals.

The public sector faces the challenge of responding to different demands from different groups of society. In Mongolia, public servants tend to steer rather than serve public interests and opinions. Training and public awareness activities should therefore be directed to not only communities or private companies, but also – and in the first place – to the government officials delivering public services. It is vital that government staff fully understand and correctly interpret legislation and regulations, and is willing to implement them.

2. STRENGTHEN MANAGEMENT OF NPAs: Mongolia’s protected areas face an uncertain future, owing to the lack of funding, capacity, environmental awareness and incentives for ecosystem management. The government does not have the economic resources to invest in increased staff and equipment for NPAs: “paper parks” do not protect natural resources. To break the cycle of poverty and environmental degradation, Mongolia must involve local communities in the long-term conservation of protected areas. New socio-economic and socio-environmental partnerships are needed to maintain the country’s NPAs and the biological wealth they harbour.

3. SETTING THE PRIORITY FOR FOREST TENURE: Mongolia faces a major dilemma regarding natural resource management. In the past, corrupt and weak governance allowed private industry groups to benefit from natural resources without control, transparency or accountability. Mongolia now has to find the right balance between utilization and conservation. Today’s degraded forest simply cannot survive any more inadequately controlled utilization pressure from stakeholder groups, including communities and private companies: the situation is unsustainable. However, Mongolia does not have sufficient financial capacity to subsidize the environmental management activities of community groups. Sustainability depends on generating enough economic benefits from forest resources to motivate leaseholders to invest in conservation and expansion of forest resources. Community groups, private companies and NPAs will then have sufficient income to fund afforestation, pest and wildfire control, prevention of illegal logging, etc.

4. PREPARE COMMUNITIES TO MANAGE FOREST RESOURCES: For a long time, environmentalists have sought to separate humans from nature, through methods and
approaches that diminish people’s role in environmental management. Humans have managed or steered the environment. Scientists have focused on ecosystems as the measure of success for environmental management. Today, this approach is no longer viable. In a world of increasing human population and decreasing natural resources, it is difficult to implement environmental programmes and achieve environmental goals without considering the human aspects. Environmental management now needs to focus on not just the ecosystem but also human factors.

5. Thus land-use and land tenure issues can only be solved if human well-being and livelihoods are simultaneously brought into the equation. Co-management may hold the greatest promise for improving governance and management of forest land, since there is both a clear need to draw on the knowledge and experience of local herders, and to obtain their support for any regulatory regime, and a need and desire (on the part of herders) for local government to take a more active role in regulating pastoral land use. While tenure formalization may be compatible with this approach, much can be gained by focusing on the regulatory institutions that govern where and when livestock move, rather than who has what kinds of rights. Specific case study on forest land tenure related with community forestry is needed near future.
COUNTRY REPORT (INDIA)

Mr. MOHAN LAL

(AIG Forest, Ministry of Environment and Forests, India)

During Colonial period most of the forests and forest land used to be the property of local rulers /princes and were managed as per their wishes. After independence Government abolished the Zamindari rights and under the provisions of Private Forest Act 1946 the forests were taken over by the State. It acquired all the forests as a result all the forests and forest land came under the control of Government. In India the forest land is a Government property and as such no forest land tenure system exists here. Most of the present day Wildlife Sanctuaries and National Parks used to be hunting ground for ex-rulers.

History of Forest Management

In India organized forest management started in latter part of the 19th century. Management included protection, regeneration and utilization of forest produce under the framework of working plans based on the principles of sustained yield. The government was the chief beneficiary. The local communities were granted some rights and concessions but their aspirations were not mainstremed in forest management.

In 1870 foundation of the Forest Department was laid down and regular forest service began to function in the country. It is indeed the forest policy that specifies certain broad principles for the use of a nation's forest resources. In India the first regular policy statement regarding forestry was issue in 1894.

Forest Policy of 1894

It had the following prescriptions.

(1) The sole object to which the management of forest is to be directed is to promote the general well being of the country and

(2) The maintenance of adequate forest is dictated primarily for the preservation of the climatic and physical condition of country and secondary, to fulfil the needs of the people.

The 1894 Forest Policy classified the entire forest into following four categories:-

1. First Class Forest (Preservation Forest)
2. Second Class Forest (Forest for Commercial Purpose)
3. Third Class Forest (Minor Forest)
4. Fourth Class Forest (Pasture Land)

The table below gives the ownership and rights as envisaged in the 1894 Forest Policy.

<table>
<thead>
<tr>
<th>Class of Forest</th>
<th>Ownership</th>
<th>Rights admitted for public/community</th>
<th>Objective of management</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Class Forest (Preservation Forest)</td>
<td>Government</td>
<td>No right</td>
<td>Preservation of climate</td>
</tr>
<tr>
<td>Second Class Forest (Forest for Commercial Purpose)</td>
<td>Government</td>
<td>Very limited rights of uses</td>
<td>Supply of valuable timber for Commercial purpose</td>
</tr>
<tr>
<td>Third Class Forest (Minor Forest)</td>
<td>Government</td>
<td>Managed for supply of small timber and fuel to the population of the tract</td>
<td>Supply of small timber, fuel at nominal cost to local Population</td>
</tr>
<tr>
<td>Fourth Class Forest (Pasture Land)</td>
<td>Government/Community</td>
<td>Rights of grazing fully admitted and regulated by even levying grazing fee (servitude)</td>
<td>Providing of grazing ground for Communities</td>
</tr>
</tbody>
</table>

Thus, it is apparent that the bulk of the ownership of Forests was with Government and the community was provided only a limited range of rights for certain use in the form of servitude (limited rights) and not as full owner or absolute owner.

Subject to the guidelines issued by 1894 Forest Policy, permanent cultivation should come before forestry. The satisfaction of the needs of the local population at non-competitive rates, if not free, should override all considerations of revenue. After fulfillment of the above conditions, realization of maximum revenue should be the guiding factor.

At the beginning of the twentieth century there was progress in different fields of forestry. In 1906 the Imperial Forest Research Institute was established. But during the World War I, the use of forest resources for different war purposes gave a big jolt to Indian forest conservation. The time span between the two World Wars saw the advent of destruction of Indian forests and the situation continued to deteriorate during the period of the second World War.

**The 1952 National Forest Policy**

The forest were owned mainly by Government and only in some cases by individuals (private forests). But there was a clear cut attempt in the policy as well as through abolition of the Zamindari Act, to bring private forests under the control of the Government. The 1952 National Forest Policy with regard to private forests says that, the owners of private forests should in the first instance be provided with an opportunity to manage their forests in accordance with an approved working plan. It
further says that, in case the owners of private forests are tempted to sacrifice their capital for immediate gain, the management of their forests should be made to vest in the Government by the due process of law. Hence, this has been a clear attempt to bring privately owned forests under the ownership of the Government. Even before this policy, under the Indian Forest Act, 1927, there are provisions under sections 35 to 38, to bring private forests under the control and ownership of the Government.

The 1952 National Forest Policy classifies the forests in following four categories:

1. Protection Forests
2. National Forests
3. Village Forests
4. Private Forests and tree land

Table below gives the ownership and rights as envisaged in the 1952 Forest Policy.

<table>
<thead>
<tr>
<th>Class of Forest</th>
<th>Ownership</th>
<th>Rights admitted for public/community</th>
<th>Objective of Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection Forests</td>
<td>Government</td>
<td>No right</td>
<td>Preservation of climate</td>
</tr>
<tr>
<td>National Forests</td>
<td>Government</td>
<td>No right</td>
<td>Maintained and managed to meet needs of defence, communication and industry</td>
</tr>
<tr>
<td>Village Forests</td>
<td>Government/village community</td>
<td>Managed for supply of firewood and small timber for people and for grazing</td>
<td>Maintained to meet the local requirement of small timber fuel wood and for grazing</td>
</tr>
<tr>
<td>Private Forests and tree land</td>
<td>Individual</td>
<td>Full rights (ownership) belongs to individual owner</td>
<td>Owned by individual, but the owner is not permitted to sacrifice capital for immediate gain</td>
</tr>
</tbody>
</table>

Therefore, to restate, it is evident that the 1952 National Forest Policy did not encourage private ownership of forests by community. The Policy even attempts to bring privately owned forests under the control and ownership of the Government. Only servitude (limited rights) was provided to communities in certain class of forests only.

The 1988 National Forest Policy

There is no major shift in the concept of ownership and rights in the 1988 National Forest Policy. The ownership of forest largely vests with the Government and certain rights have been provided to tribal people and local communities in form of servitude.
The principal aim of National Forest Policy 1988 is to ensure environmental stability and maintenance of ecological balance. Forest land or land with tree cover is treated as a national asset and has to be safeguarded for providing sustained benefits to the entire community. The 1988 National Forest Policy emphasizes that the rights and concessions should remain related in accordance to/or limited to/or within the carrying capacity of forests. Hence the 1988 Policy puts further restrictions even on servitude provided to communities within the carrying capacity of forests.

Para 4.2.3., of the 1988 Policy encourages providing certain ownership rights over trees to be grown on village and community lands for persons belonging to weaker sections of the society e.g. landless laborers, small and marginal formers, scheduled castes and scheduled tribes.

Hence the 1988 National Forest Policy also lays emphasis of ownership of forest in favor of the Government only. Certain rights and concession have been recognized under Para 4(6) of National Forest Policy, which recognize a symbiotic relationship between tribal people and forests. Policy says about involving tribal people for protection, regeneration and development of forests as well as for providing gainful employment to people living in and around the forests. Therefore, the 1988 Forest Policy also does not recognize ownership over forests either for communities or individuals residing in the around the forests.

The table below gives the ownership and rights as envisaged in the 1988 Forest Policy.

<table>
<thead>
<tr>
<th>Class of Forest</th>
<th>Ownership</th>
<th>Rights admitted for public/community</th>
<th>Objective of management</th>
</tr>
</thead>
<tbody>
<tr>
<td>State owned Forests</td>
<td>Government</td>
<td>Generally no rights are admitted. Only certain rights are admitted within carrying capacity of forest as servitude</td>
<td>Maintenance of environment stability, through preservation and restoration of the ecological balance. Area to be worked as per approved working plan.</td>
</tr>
<tr>
<td>Forest Land or Land with tree cover</td>
<td>Government</td>
<td>Providing sustained benefit to the entire community</td>
<td>Forests land should not be diverted for non forestry purposes. Forests land to be maintained as a national asset for providing sustained benefit to the entire community.</td>
</tr>
<tr>
<td>Village and Community Lands</td>
<td>Government /Community</td>
<td>Ownership right over tree to be given to weaker section like landless, Scheduled caste and Scheduled Tribes people</td>
<td>To provide usufruct right to poor people belonging to weaker sections of society</td>
</tr>
<tr>
<td>Private forests or tree lands</td>
<td>Individual</td>
<td>Full right (ownership); belongs to individual owner</td>
<td>Owned by individual but the owner is not permitted to sacrifice capital for immediate gain</td>
</tr>
</tbody>
</table>
The Forest Policy 1988 provided an excellent initiative for people’s participation in forest management and is now being pursued with varying degrees of enthusiasm across the country. The salient achievement have been in respect of reduction in forest fires and in reduction of forest encroachments and/or illicit fellings. Field functionaries feel that it must give an opportunity to them to enter into productive dialogues with the local people and in creation of conducive environment primarily for forest protection, which also at times leads to adoption of agro forestry practices by the people as a spin off of this process. The most salient aspect of this initiative has been the recognition of environmental role of the forests and ecosystem services, which were always ingrained in the rural ethos but needed to be rekindled at times. In a broader sense, it could be said that people living in or around forest areas do not look at the forest as a commodity, but they see it more as a provider, particularly in difficult times. These initiatives have to adopt a direction that not only earns and maintains the trust of people but that it reinforces it at every opportunity through transparency and continued progress. As a nation, our dependence on forest goods and services is of a very high magnitude. Therefore, the imperatives are to provide facilitative environment wherein growing of trees on farmlands becomes more like growing and owning agricultural cops. Trees on farmlands should be looked upon more as an insurance to meet the monetary needs.

The first initiative of this kind may be seen originating in the forest Policy of 1988 and the start was with JFM. Some of the salient features of JFM (Joint Forest Management) are given below;

- The conceptual framework introduced in 1990 for JFM was mainly based on the NFP, 1988 which emphasized development of partnerships with forest fringe people especially with women, customary rights holders and the tribals.

- The first guidelines in JFM were issued by GOI on June 1, 1990 and subsequently for strengthening partnership with the communities


- The guidelines were further updated during 2002 focusing on management and utilization of NTFPs and they also stipulated co-ordination with Panchayati Raj Institutions at the village and district levels.

- Currently, there are 1, 06,479 Joint Forest management Committees (JFMCs) managing and extent of 22.02 million ha (of forest area) involving 21.99 million people.

- To complement this initiative, a new scheme of National Afforestation Plan (NAP) was launched during 2002-2003. Under the scheme, an extent of 9.24 lakh hectares is being covered by 23,750 JFMCs under 715 FDAs in 28 States.
(1) Background: Forest and Tree Cover Monitoring in India

India places a great commitment on protection, regenerating and growing its forests.

India’s Forest Conservation Act, 1980 is one of the most progressive forest conservation legislation in the world, which puts severe restrictions on the diversion of forest land for non-forestry purposes. The National Forest Policy, 1988 lays out clear direction and guidelines for forest conservation and afforestation. The pressure on India’s forests continues to be very high, with more than 200 million people being dependent on forests for livelihood. The rapid growth of the Indian economy puts additional demand on forests for infrastructure and industrial development. There is an ever increasing demand for diverting forest lands for construction activities like dams, roads, power stations, township etc.

In this context, scientific monitoring of the country’s forest and tree cover is an important national priority.

India has been undertaking a regular systematic programme for monitoring its forest cover since 1987, using remote sensing techniques. Remote sensing technology has provided an appropriate and cost effective method of monitoring our forests. While providing a synoptic view of a large area, it also captures bio-physical properties of the land features through the reflected electro-magnetic radiation, often called signature in the remote sensing parlance.

The Forest Survey of India (FSI), an organisation under the Ministry of Environment and Forests, is responsible for monitoring the forest and tree cover of India.

FSI has been regularly assessing the forest cover of the country every two years since 1987. This is the eleventh State of Forest Report produced by the FSI. As there has been rapid advancement in the field of remote sensing in the last two decades, FSI has kept pace with these advancements in making its assessments. Accordingly, suitable improvements in the methodology of forest cover mapping have been made by the FSI. Assessment of tree cover, which includes smaller patches of plantations and scattered trees, also started following a sampling based approach since 2001.

Biennial cycle of forest and tree cover assessment: the rationale

India is among very few countries in the world have an operational system for wall-to-wall mapping of forest cover on a cycle of two years. The work involves interpretation of over 300 satellite images, each covering about 20,000 km² area. Besides a series of steps of digital interpretation, the mapping includes ground truthing on a large number of points spread across the country. Tree cover assessment is a sampling based exercise using data of about 10,000 sample plots. The enormity of the process makes the period of two years just adequate for the assessment.
The two-year cycle of forest cover at the national level is considered sufficient for the purpose of policy and planning as the changes in periods shorter than this are unlikely to be significant.

(i) **Key Results**

The following are some key results of India SFR 2009 (the result are based on the interpretation of satellite data of the period Oct 2006-March2007):

- Forest & tree cover of the country as per this assessment is 78.37 million ha in 2007, which is 23.84% of the geographical area and includes 2.82% tree cover. This becomes 25.25%, if the areas above tree line i.e.

- The net increase in the forest & tree cover between current and previous assessments (2 year data interval) is 0.18 million ha (0.23%)

- The decadal increase, i.e., the increase in the forest cover between 1997 and 2007 is 3.13 million ha (4.75%).

- The growing stock of India's forests and trees outside forests is estimated as 6,098 million m$^3$ in 2007.

- The increase in forest cover is particularly significant in hill and tribal district, where the forest cover has increased by 66,300 ha and 69,000 ha respectively compared with the previous assessment. Mangrove cover in India has increased by 5,800 ha of forest cover as compared to the previous assessment of 2005.

(ii) **Forest Cover in Different Density Classes**

The forest cover assessed is classified into three canopy density classes:

- Very Dense Forest (VDF) with canopy density more than 70%,
- Moderately Dense Forest (MDF) with canopy density between 40-70%
- Open Forest (OF) with canopy density between 10-40%.
- Scrub, which is a degraded forest land with canopy density less than 10%, is not considered a part of forest cover.

### Forest & Tree Cover of India in 2007

<table>
<thead>
<tr>
<th>Class</th>
<th>Area (million ha)</th>
<th>% of Geographical Area (G.A.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forest Cover</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Dense Forest</td>
<td>8.35</td>
<td>2.54</td>
</tr>
<tr>
<td>Moderately Dense</td>
<td>31.90</td>
<td>9.71</td>
</tr>
<tr>
<td>Open Forest</td>
<td>28.84</td>
<td>8.77</td>
</tr>
<tr>
<td><strong>Total Forest Cover</strong></td>
<td><strong>69.09</strong></td>
<td><strong>21.02</strong></td>
</tr>
<tr>
<td>Tree Cover</td>
<td>9.28</td>
<td>2.82</td>
</tr>
<tr>
<td></td>
<td>Total Forest &amp; Tree Cover</td>
<td>23.84</td>
</tr>
<tr>
<td>------------------</td>
<td>---------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>Non-forest</td>
<td>78.37</td>
<td></td>
</tr>
<tr>
<td>Scrub</td>
<td>4.15</td>
<td>1.26</td>
</tr>
<tr>
<td>Non-forest</td>
<td>255.49</td>
<td>77.72</td>
</tr>
<tr>
<td>Total G.A.</td>
<td>328.73</td>
<td>100.00</td>
</tr>
</tbody>
</table>

In India the forests are under the control of State (Provincial) Government and are being managed by the State Governments according to various central Acts and guidelines issued by Government of India. Some state Governments have modified central Acts. In case of any conflict the will of Government of India prevails.
Status of Forest and Tree Cover: Analysis

The National Forest Policy, 1988 aims to achieve one third of the land area of the country under Forest/Tree Cover (FTC). As per the State of Forest Report 2005, published by the Forest Survey of India, the forest and tree cover is 76.87 m ha i.e 23.39 percent of the geographical area leaving a gap of about 31 m ha to achieve the national goal. Of this, about 5-6 m ha would be available for afforestation within the recorded forests and the balance area has to be located on non forest lands. Although the forest cover has stabilized during the last two decades, change in the quality of forests is a matter of concern. The area under Very Dense (VDF), Moderately Dense Forests (MDF) and Open Forests(OF) constitute 2.54, 9.71 and 8.77 percent respectively.

Current Initiatives

National Afforestation Programme: The major afforestation programme of the Central Government is the National Afforestation Programme which supports regeneration of degraded forests through people’s participation. The scheme is attempting inclusive forest management wherein the Joint Forest Management Committee (JFMC) are implementing agencies and this process links livelihoods with the resources regeneration as strategy for conservation and development of forests. However, the means available and the spread of the programme mainly in degraded forests limit its utility for achieving the targeted increase in FTC. The embedded activities of afforestation in the schemes of the M/o Agriculture and M/o Rural Development do facilitate the process but the focus of those programmes is not enhancing FTC.

Convergence of NREGA and NAP: NREGA while augmenting wage employment strengthens natural resource management through works that address causes of chronic poverty like drought and so encourage sustainable development. The enormous task of achieving the goal of one third land area under tree planting can not be achieved by the Ministry of Environment and Forests alone. Hence, the recent attempt of convergence between NREGA with Afforestation programmes in general and NAP in particular would bring in synergy in governmental efforts in enhancing FTC. National Mission for a “Green India”: Yet another initiative of the government in the context of Climate Change threat is greening under the National Action Plan on Climate Change and mooring the National Mission for a ‘Green India’. About 6 m ha of degraded forests are to be treated under the mission.

CAMPA Funds: Further the monies received under the compensatory mechanism for diversion of forest land and NPV etc collected thereon under the Forest (Conservation) Act, 1980 would be utilized for protection and regeneration of forests of the country. Guidelines for forming the State CAMPA Authority and modalities of utilizing the funds have been recently issue.

Gram/Panchayat Van Yojana: A new scheme, Gram/Panchayat Van Yojana, is
being formulated to put unutilized non forest land under temporary tree planting through FRIs. This aims to meet forage, energy, and other livelihood needs of the rural community. It would not only enable achieving the task of afforestation but also build capacity of these institutions and integrate these to livelihood of dependent community through developing Small and Micro Forest Enterprises.

**Accelerated Programme of Restoration and Regeneration of Forest Cover:**

The union budget has introduced a new scheme under the state plan for restoration and regeneration of forests. An allocation of Rs. 500 crore has been made during current financial year.

**Past Analysis:** The past efforts along with current initiatives have helped in stabilizing the forest cover in the country around 20% despite the ever increasing demand on the forestry resources. India is one of the few countries in Asia to have stabilized/ increased the FTC during the last decade. Even though the achievement of afforestation in the country since the Xth Plan is about 1.50 m ha per year as monitored under the Twenty Point Programme, the extent of afforestation done is not reflected in the FTC assessment by the FSI. This is partly due to younger plantations not being accounted in the assessment but mainly on account of large scale recorded unrecorded removal from the forests for consumption. Hence, the interlinked issues need to be addressed and a significant push given for afforestation to stop deterioration in the quality of forest as well as the cover.

**Strategy:** There are five interlinked issues with regard to sustainable forestry development. They are:

a. Protection of Existing Forests.

b. Improving their Productivity.

c. Demand Management – especially that of rural energy and fodder.

d. Strengthening Institutions and Policy.

e. Enhancing Forest Cover.

Without addressing all the interlinked issues attempting just enhancement of FTC would not be successful.

**Synergies:** The Green India mission document identifies these strategic and interrelated issues and hence, provides comprehensive interventions. The interventions are based on a landscape approach and site specific micro plans. It takes in to account the resources available under CAMPA fund, convergence with other sectoral programmes especially with NREGS and institution building and democratic decentralization envisaged under the National Afforestation Programme.
PROTECTION OF FORESTS IN THE CONTEXT OF THE IMPLEMENTATION OF “THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006”

(1) **Act**: “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, while recognizing the traditional life styles of forest dwelling communities, empowers them for the sustainable utilization and management of forests, wildlife and environment, in their respective forest area of habitation/livelihood. The recognition and vesting of secured rights of the Forests Dwelling Scheduled Tribes and Other Traditional Forest Dwellers, regarding land and/or livelihood related traditional rights, will not only give them sustainable livelihood resources including conservation of bio-diversity leading ultimately in strengthening the conservation regime of the forests. There are considerable expectation from the Act. Its speedy implementation will stabilize the relevant administrative mechanisms for ensuring Forest Protection.

(2) **The implementation of the Act**: Ever since the Act was notified for operation, with effect from 31/12/2007, many States are enthusiastically implementing the provisions of the Act and the Rules framed there under and are at various stages of implementation.

At the central government level, the Ministry of Tribal Affairs (MOTA) is the nodal Ministry to facilitate the implementation of the Act. The MOTA has institutionalized a Web-based Management Information System (M.I.S) for online monitoring of the implementation of the Act on website [http://forestrights.gov.in](http://forestrights.gov.in). As per the information collected from the States till 30th June, 2009, more than 21.48 lakh claims have been filed and more than 2.71 lakh titles have been distributed. More than 1.35 lakh titles are ready for distribution. Most of the States hope to complete the process in 2009.

- Identification and declaration of the critical wildlife habitats in national park and Wildlife Sanctuaries.
- Institutionalization of a mechanism and issue of orders for setting up a simplified procedure for diversion of forest land up to one hectare for undertaking development activities as provided under section 3(2) of the Act,
- Initiating action with State Government, after individual rights have been vested, for conversion of forest villages/habitation into revenue villages.
- Processing for giving access to such villages under Forest conservation Act, 1980.
Implementation Issues:

(1) The issue of shifting Cultivators: the conferment of Forest Rights to the individuals/ communities practicing shifting cultivation is a highly complicated issue due to the very nature of cultivation and considerable socio-economic variations in the concerned states.

As per the draft report of Inter-Ministerial National Task Force on Rehabilitation of Shifting Cultivation Areas constitute by MoEF, the trend appears to indicate decrease in area under Shifting Cultivation specially where investments have been made in the Social Sectors and for settled cultivation.

There is no specific mention of shifting cultivation under the Act, i.e. it is not specifically recognized as a Forest Right.

The issue of recognition and vesting of rights of STs and OTFDs practicing shifting cultivation under he Act was considered in the meeting of Core Group held on 24.3.2009 in the Ministry of Tribal Affairs, wherein it was decided that, on a formal reference from any State, the view of the Government should be as under:

"In the context of the preamble of the Forest Rights Act, shifting cultivation, considered to be environmentally unfriendly, should not be encouraged. So, if there are any claims filed by shifting cultivators, either individually or as a community, our aim should be to settle these rights as per the provisions of the Act. The specific local circumstances would be relevant for Gram Sabhas to recommend or not recommend vesting of these rights. Simultaneously, it would be necessary for State Governments to focus existing programmes on these, "to be settled" shifting cultivators so that they are able to optimize their investments and minimize the adverse impacts of such cultivation on soil and water".

(2) Fool-proof systems of Rights Recognition: Use of modern technological support i.e. satellite imageries etc. The state of Maharashtra has established systems, worth re-looking at!

(3) Real time help to the STs and OTFDs: Through system of social modulators to facilitate in their application process, etc. – the Andhra Pradesh, Model!
(4) Post Right Conferment, Long-term issues regarding Forest Protection:
The bigger role and challenge for this Ministry and the State Forest Department will come, once the Forest Rights have been conferred. The challenge will be how to institutionalize the systems and how to involve the right holder individuals and communities in the task of Sustainable Utilization of available forestry resources and protection of forests. This issue is dwelt upon, in the perspective of each individual Forest Right intended to be conferred, in the following paras:

- **Land Rights:** While, the Act envisages responsibilities for the forest right holders and the forest village communities for the protection and conservation of the bio-diversity in the village and surrounding forests, the Act also confers the right for conversion of forest villages into revenue villages. This dichotomy, once the status of forest villages gets converted into revenue village and in effect the land within a village cease to remain the forest land, may lead to highly conflicting situation to the detriment of forests in the area. This is specially true about the Western Ghat States, the Himalayan States and the North-Eastern States where the Forest Dwelling communities occur in a mosaic pattern i.e. are intermixed with the well preserved forest area and do not occupy contiguous patches of Forest Lands. This issue needs deliberations.

- **Right of MEP Ownership, Collection, Use and Disposal and other Community Rights like Fishing Grazing etc.:** The role of the forest department regarding forestry resources including land, water bodies, plant/animal diversity and MFPs has been as a custodian, in the spirit of Public Trust Doctrine. However, the Act, transfers the ownership of MFPs, from the realm of Public goods, to the individual properties. The Act also assumes that the MFPs and other community forestry resources will be sustainably used by the right holders through their traditional practices. This paradigm shift in the field of MFPs/ other natural forest resources will be sustainably used by the right holders through their traditional practices. This paradigm shift in the field of MFPs/ other natural forest resources etc. will need considerable thought process and management guidance from the side of forest departments so that the sustainable upkeep of MFPs/ other natural forest resources becomes ingrained among the new institutions and systems to be established/evolved.

Similarly, the Right given to the local forest communities to protect the community forest resources which they have been traditionally protection, admits that these communities have a fundamental responsibility towards forest protection. Forest Departments have to realize that, with this provision, their duties of forest protection now get shared by legislatively empowered bodies of local communities. Due to this Participatory Forest Management Models, can really mature into independent and empowered institutions in the long run.
As such, Speedy evolution of State/UT specific models for capacity development of the communities as well as government functionaries is called for so that by the time the rights are settled, secure systems to ensure protection and conservation of forest in the area are in place. Convergence of forest villages/forest right holders with the Institutions of Forest Development Agencies (FDA)/ Joint Forest Management Committee (JFMCs), which will in effect bring necessary heterogeneity among stakeholder community, has to be the approach to initiate the forest protection and sustainable resource utilization responsibilities among the forest right holders.

● **The need for speedy completion of the procedure with regards to the “Critical Wildlife Habitats”** The Rights Act provides that no resettlement in context of the areas identified as “Critical Wildlife Habitats” shall takes place until facilities and land allocation at the resettlement location as per the promised package are completed. In order to safe guard the inviolate nature of these areas, therefore, it is highly necessary that the identification and notification of the Critical Wildlife Habitats and the resettlement proceduralities for the same are taken up by the States/UTs on a war footing.

**Forest Management in India in General**

1. The Forests are a National Property and owner is Government

2. They are being managed as per prescriptions of Working Plans approved by Government of India

3. The country has 661 Protected Areas (99 National Parks, 515 Wildlife Sanctuaries, 43 Conservation Reserves and 4 Community Reserves) covering about 4.8 % of the geographical area of the country.

4. PAs are managed by the prescription of management plan duly approved by Government of India.

5. According to National Forest Policy 1988, 33% area of the Country should be under Forest and Tree cover.

6. At present 78.37 million hectare (i.e. 23.84%) area is under Forest and Tree Cover. In order to fulfill the Policy objective 30.11 million ha area is to be brought under Forest and Tree cover.

7. To fulfill this objective numbers of initiatives like(i) National Afforestation Programme , (ii) Plantation of degraded Forest under State Plan (iii) National Mission for a “Green India” , (iv) Plantation of degraded Forest area under NREGA, (v) Gram/Panchayat Van Yojana

8. Van Mahotasava Organization to create awareness among common people about importance of tree plantation and to motivate them to take up plantation on a massive scale on agricultural land, premises of school/college buildings, Government campuses, Homestead lands, river banks, canal banks, road side plantation, etc.
9. People have the customarily rights on the forests. Their rights have been recognized by Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights ) Act, 2006.

10. To make forestry as a people friendly programme the approach of participatory forest management has been adopted (Joint Forest Management).

**Joint Forest Management (participatory Forest management)**

In order to protect, regenerate and manage the Govt. Forest in an effective manner Government has adopted Joint Forest Management (JFM) method. Under this pattern forest are managed jointly by forest department and local communities.

- JFM committees have been formed in all the villages situated in and around the forest areas
- All the people above 18 are members of the JFM committees.
- The chairman of the JFM committee is elected by organizing a meeting in presence of forest officials.
- The tenure of the chairman is of 2 years.
- Foresters of the forest department are ex-officio Secretary of the committee.
- Chairman holds meeting with forest officials to discuss the problems regarding forest management.
- He also discusses with forest department regarding the ways to improve forest cover, plantation on blanks/ degraded forests and above all protection of the existing forest
- All the developmental activities in such villages are taken up after consultation with JFM Committee
- JFM method has shown very positive results in (i) Effective forest protection(ii) fire control (iii) Hunting control (iv) rehabilitation of degraded forests (v) natural regeneration of forests
- People are given right of NTFP collection.
- The method has induced transparency in financial transactions and auditing of accounts.
- As a result of JFM there is increase in forest cover of the country in successive years.
1. Executive Summary

Area Statement

Papua New Guinea has a total land area of 46.284 million hectares of which some 9.437 million hectares is estimated to contain forest cover. A broad Land Classification is as follows:

- Total Land Area – 46.284 million ha
- Forest Cover – 29.437 million ha
- Other wooded Lands – 4.474 million ha
- Inland water bodies – 0.998 million ha
- Other Land – 11.375 million ha

*Note: These figures will be subject to changes as new information from remote sensing is available.*

Vegetation Classification of PNG

Papua New Guinea is situated 6 degrees south of the equator and thereby falls within the moist tropical rainforest zone on the world. Due to its location, the country in general gets an average of 3,000mm of rainfall per year that influences the vegetation to a large extent. Despite this high rainfall, there are some parts of the country that receive less than this.

PNG’s vegetation is currently classified by the PNG Forest Authority based on the structural formation of the vegetation. Six classes have been distinguished and these are:

- Forests
- Woodland
- Savanna
- Scrub
- Grassland
- Mangroves

*Note: the area statements associated with this vegetation classes shall be made available once the remote sensing work has been completed.*

Within these 6 structural formations, 59 vegetation classes have been differentiated.
Main Forest Tree Species

There are estimated to be between 15,000 to 20,000 higher order plant species of which over 2,000 are tree species and furthermore over 400 of these are utilised in one way or another including harvesting for commercial use such as timber production or log exports.

Some of the main commercial tree species that are exported are; Homalium, Pometia, Calophyllum, Eucalyptus, Terminalia, Dillenia, Toona, Buchanania, Canarium, Anistoptera, Endospermum, Octomeles, Instia, Syzgium, Celtis, Burckella, Mastixiodendron, Dracontomelont, Canarium.

These forests are complex in composition, structure and function. The PNG Society is complex with only six million people but has over 800 languages and tribes and a wide diversity of social and land ownership arrangements with 97% of land belonging to the customary owners and 100% of forests belonging to the people.

The system varies, for example, there are matrilineal and patrilineal societies, and it is further characterized by flexibility and a corporate nature where the landholding unit, namely the tribe or the clan or extended family owns the land as corporate body.

Fig 1.0 shows the PNG’s Resource Base and Fig 2.0 shows the locations of the forest resources.
2. Historical changes in Forest Land Tenure.

1925 – Lane Poole recommended a forest policy.

1948 – After World War II, John McAdams approved the forest survey to be conducted.

1957 – Paul Husluck issue a policy statement on forestry.

1971 – Forestry Private Dealings (Chapter 217) 1971 was enacted and broke government's monopoly over timber access right. Under this Act, application could be made to the Minister for Forests for declaration of an area as a Local Forest Area, whereupon the customary owners could sell their timber to any person by following the procedure set out in the Act. Basically, this meant getting a declaration by a prescribed authority of who was entitled to dispose of the timber as the customary owners, and the Minister's approval of the dealing. The Forestry (Private Dealings) Regulation set out the powers and duties of the agent appointed to act on the customary owners' behalf, and required the operator to forward monthly returns to the Department of Forests.

1973 – Forestry Industries Council Act (Chapter 215). The Act established that body (Forest Industries Council) to promote the interests of the major forest industries in PNG, giving it various functions in the grading and marketing of forest products. All major forest products operators (i.e., those engaged in the logging, milling or marketing of major forest products) had to be registered under the Act, and operate in accordance with the conditions of their registration, as well as pay a levy to the Forest Industries Council. The Forest Industries Council Regulation made further provision for registration and the levy.( FAO Legal Papers Online June 2002).
National Forest Policy was issued in September 1991, by the National Executive Council (NEC) for forest management, industry, research, training and education, organization and administration.

In 1992, the Forestry Regulation No.15 was issued followed by an amendment in 1993. In the same year the National Forest Guidelines were issued.


3. Drivers of Forest Land Tenure Changes.

The customary land in Papua New Guinea is central and essential to our lives, thus, any reforms relating to land issues is very much emotional and sensitive. However, due to changes introduced by modernity and the cash economy in particular, some of the uses of customary land have changed. Customary land use is changing and in some parts of our country, they are changing very fast.

For instance, we no longer in some parts of the country, use slush and burn shifting cultivation but we are now increasingly using our customary land to make commercial plantations of planting cash crops such as coffee, cocoa, oil palm and rubber to enable us to meaningfully take part in cash economy.

Due to such land use being largely for long term use and exclusive in nature, there are now tensions and signs of strains and signs on customary land tenure. Consequently we are now witnessing deaths amongst relatives over disputes over the use of customary land.

In order to address the above problems, the government of PNG has a responsibility to ensure that it makes the necessary intervention to ensure that social and economic changes that are spontaneously occurring do not bring disunity and other social problems but rather peace and prosperity to all.

In 2008, the Constitutional and Law Reform Commission recommended the following:

- Incorporating land groups with the injection of appropriate accountability mechanisms and management processes for transparent and effective governance and management of Incorporated Land Groups by causing appropriate amendments to the existing Land Groups Incorporation Act.

- Subsequent voluntary customary land registration utilizing the ILG as the corporate body or vehicle for perpetual ownership for and on behalf of the all the customary land owners by causing appropriate amendments to the existing Land Registration Act.

4. Current governmental policies and implementations on forest land tenure.

Approximately 97% of the country (and 99% of forest lands) is held under customary ownership. What this means in practice is that boundaries are not surveyed, title has not been registered and the applicable law is customary law. The precise nature of this ownership varies from one culture to another, but generally title is communal and in the
hands of traditional clans. Following Independence in 1975, this form of ownership was guaranteed under the Constitution, Section 53 (protection from unjust deprivation of property). In this context, a major challenge associated with economic development is to identify the membership of customary landowning groups and thus determine the owners of any particular forest area. Disputes between governments (The PNG Forest Authority), forestry companies, and landowner groups have often come down to whether the PNG Forest Authority and the companies entered into contractual relations for the use of land with the true owners. Incorporated land Groups (ILGs)

A major innovation concerning customary ownership took place with the enactment of the Land Groups Incorporation Act of 1974. This Act empowered landowners within a group to form a single legally constituted body, the Incorporated Land Group (ILG). An ILG formally identifies itself by listing current members and membership criteria, supported by genealogies. Membership lists can be reviewed on an annual basis to allow flexibility in group membership. Each ILG is required to identify its properties, which must be verified through consensus with neighboring clans (Holzknecht, 1996). While the Act does not register land in the ILG’s name, it does record the ILG’s interest in, and control of, the properties listed in its constitution (including named land areas, forests and rivers). None of these measures interfere with the customary arrangement of temporary access rights to land resources for certain individuals.

The Act describes an Incorporated Land Group in these terms:

the Registrar may recognize as an incorporated land group a group consisting only of incorporated land groups if he is satisfied that –

(a) The member groups possess common interests and coherence independently of the proposed recognition, and share or are prepared to share common customs; and

(b) The association between the groups represents a customary form of Organization as a corporate body.

Secondly, in March, 2009, the following two Act; Land Groups Incorporation (Amendment) Act, 2009 and Land Registration (Customary Land ) (Amendment) Act, 2009, were passed.

These Acts mark one of the first small steps towards reforms in customary land tenure – primarily as a measure to empower customary landowners in the whole of Papua New Guinea to access their customary land for economic development in a fair, equitable and convenient manner under a legal system that is designed and structured to ensure that at all times, the customary landowners do not part with ownership of their land but continue to have control of their land through their collective corporate vehicle – ILG.

Unfortunately, under the prevailing arrangements currently, the access to and use of customary land is not all that fair and equitable because the economically and physically weaker members of the land owning social unit do not enjoy much economic benefits, if any, derived from the use of their collective customary land by the other fellow customary land owners who may be in stronger economical, political and physical situation.
Therefore, these reforms now found in the Land Groups Incorporation (Amendment) Act, 2009, and the Land Registration (Amendment) Act, 2009 are designed to enable Papua New Guineans to be in control through their respective land owning social unit via their Incorporated Land Group and then develop their customary land in a fair and equitable manner that must not disadvantage any fellow member of respective landowning social unit.

For smaller scale forest development, forest acquisition is applicable by way of Timber Authority (TA). Usually, the term of operation is one year with an annual harvest of 5,000 cubic metres. *The TA confines to the rights to harvest the natural forest and does not relate to the use of land.*

The types of TA currently available are; Domestic harvesting, Road line TA, Plantation Forest, Minor Forest Products and Large Scale Agriculture Project where forest clearance is inevitable for the follow up cash crop project development such as rubber, oil palm, etc.

**5. Patterns of Forest Land Tenure and Ownerships.**

The slow progress relating to forestry development in PNG is being constrained largely due to the land tenure system in which 97% is under customary ownership. It is the basis upon which over 80% of the people live of and from.

Before the inception of Forestry Act 1991, the acquisition of the forest resources in PNG was by way of Timber Rights Purchase Agreement (TRPA) in which the then Department of Forests acquired the rights over the timber only and not the land from the customary owners for subsequent development. The land rights still remained under the customary ownership.

Under the TRP System, the agreement is approved on the basis that over 75% of the adult members of the clan group have given their consent to transfer their rights over the timber to the State while they still have ownership over their land.

The Forestry Act, 1991, repealed the TRP System of acquiring the Timber Rights from the customary owners with the inception of the Forest Management Agreement. The only difference is the legal recognition given to the customary land group under the Land Group Incorporation Act, 1974.

The initiative by the state land agency – Department of Lands and Physical Planning was adopted and incorporated into the Forestry Act, 1991, *whereby customary owners prior to executing the forest acquisition agreement with the State through PNG Forest Authority* must formalize their land group with the Department of Lands and Physical Planning

The land tenure for forestry purposes under FMA is no better than TRP System so long as the land ownership remains under the customary group. *It was intended initially that execution of FMA with land group, now legally recognized, should resolve numerous land issues as the ownership is vested with the incorporated land group.*

About 3% of the land tenure is controlled by the State by way of outright land purchase for 99 year lease agreement. A few forest plantations have been established and managed by the PNG Forest Authority on the State Land. The strategy on sustainable forest management activities is conducive under this category of land whereby land title and
ownership is vested with the State.

Other forest plantations are either owned by organizations or the community. The table below shows the plantations in the country since the 1960s.

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>PLANTATION</th>
<th>YEAR STARTED</th>
<th>AREA (HA)</th>
<th>SPECIES</th>
<th>OWNERSHIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central</td>
<td>Brown River</td>
<td>1955</td>
<td>1,266</td>
<td>Teak</td>
<td>Community</td>
</tr>
<tr>
<td></td>
<td>Kuriva</td>
<td>1985</td>
<td>738</td>
<td>Teak</td>
<td>State</td>
</tr>
<tr>
<td>Milne Bay</td>
<td>Ulaibo</td>
<td>1985</td>
<td>1,465</td>
<td>E. deglupta</td>
<td>Community</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>T. brasii</td>
<td>State</td>
</tr>
<tr>
<td>Morobe</td>
<td>Bulolo/Wau</td>
<td>1985</td>
<td>12,000</td>
<td>Hoop, Klinki, P.</td>
<td>State</td>
</tr>
<tr>
<td>Madang</td>
<td>Gogol/North Coast</td>
<td>1975</td>
<td>12,375</td>
<td>A. mangium, E. deglupta</td>
<td>Community</td>
</tr>
<tr>
<td>NIP</td>
<td>Kaut</td>
<td>1986</td>
<td>200</td>
<td>E. deglupta</td>
<td>State &amp; community</td>
</tr>
<tr>
<td>WNBP</td>
<td>SBLC</td>
<td>1972</td>
<td>12,000</td>
<td>E. deglupta, T. brasii</td>
<td>Company</td>
</tr>
<tr>
<td>ENBP</td>
<td>Korevat</td>
<td>1950</td>
<td>2,385</td>
<td>Teak &amp; Balsa</td>
<td>Community</td>
</tr>
<tr>
<td></td>
<td>Open Bay</td>
<td>1972</td>
<td>12,000</td>
<td>E. deglupta, T. brasii</td>
<td>Company</td>
</tr>
<tr>
<td>EHP</td>
<td>Kainantu</td>
<td>1976</td>
<td>962</td>
<td>Pinus patula</td>
<td>State</td>
</tr>
<tr>
<td></td>
<td>Fayanuma</td>
<td>1981</td>
<td>1,200</td>
<td>Pinus patula</td>
<td>State</td>
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<tr>
<td></td>
<td>Lapegu</td>
<td>1963</td>
<td>2,723</td>
<td>Pinus patula</td>
<td>State</td>
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<tr>
<td>WHP</td>
<td>Waghu</td>
<td>1962</td>
<td>2,143</td>
<td>E. grandis, P. patula</td>
<td>Community</td>
</tr>
<tr>
<td>SHP</td>
<td>Iahbu</td>
<td>1972</td>
<td>240</td>
<td>P. patula</td>
<td>State</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>62,277</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6. Impacts and consequences of forest land tenure system/reform

As mentioned earlier, 97% of the land in Papua New Guinea is customary owned whereas the natural forest is 100% customary owned.

With the inception of the reforms in the land registration and land groups' incorporations, the government aims to address and reverse some of the negative consequences of the past policies that had made the people in the rural areas as spectators in their forest development and involve them more in managing their forests and land in partnership with the government.

With the new customary land reforms in place now, the government anticipates to see that all landowners have access to the use of their forest for both domestic and commercial outcomes from 2010 and onwards.

7. Future trend.

The government aims to see the following changes taking place in the future as a result of the reforms:

- That with the spontaneous socio-economic changes brought to us by the modern economy resulting in significant changes to land use – from short term to longer term, more and more individualistic use – so that the government responds in a proactive...
way to guide these massive socio-economic changes and so by doing address resultant law and order issues.

- Unlocking the vast economic potential that is locked up in the customary land due to legal and administrative constraints relating to the application of customary land to modern economic enterprise and so by doing, empower customary landowners to do business with the rest of the world on their customary land but at the same time ensuring that the ultimate interest of the customary land owner’s to their customary land concerned and secured and protected.

- Intends to achieve equitability in customary land use whereby the interest of the weaker and vulnerable members of the land owing social unit (clan etc) are protected by ensuring that the economically stronger and politically well connected members of the same clan or such other landowning social unit access and do business on their common customary land fairly and equitably.

- Inject greater security of tenure for all parties who may wish to access customary land for economic development and wealth creation. Establish an effective and efficient legal system which will then enable customary landowners to utilize portions of their customary land for economic development activity should they desire and wish to.

8. Comments and conclusion.

In Papua New Guinea forest resource ownership is unique unlike many other parts of the world. This is closely associated with the Land Tenure system where land is owned and managed by customary landowners (tribal clan groups). It is estimated that 97% of the total land area of the country is customary owned while the remaining 3% is owned either by the State Government.

Due to the land tenure system, the forest that grows on it is by default owned by the clans and tribal groups. In order to carry out any forest related operations such as harvesting of timber or other forest produce and or reforestation, extensive consultations must take place between the State Agencies including the PNG Forest Authority and the landowners often referred to as the resource owners.

References:
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2) FAO Legal Paper Online 2002 24
3) Recent changes to the Law on ILGs and Voluntary Customary Land Registration.
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