



# Why Tenure is Key to Fulfilling Climate and Ethical Goals in REDD+



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Although REDD+ proponents have worked hard to clarify and change tenure arrangements in subnational initiatives, they are falling short of their goal, and need support from robust policies.



## READ THIS BRIEF IF...

- You want to understand why tenure is important in REDD+.
- You want to know why it has been challenging to create an appropriate tenure foundation for REDD+.
- You want ideas on what to do to overcome the challenges encountered.



## KEY MESSAGES

- REDD+ is being established in places where tenure contestation and conflict are common.
- Project proponents must pay prior attention to tenure for five reasons:
  - » To create a performance-based reward incentive
  - » To ensure REDD+ interventions do not unduly harm existing rights and livelihoods
  - » To enable and motivate forest custodianship (apart from a performance-based reward)
  - » To provide a legal basis for the exclusion of external claimants
  - » To integrate forest protection effectively into national land-use planning
- Considerable challenges in establishing a tenure foundation for REDD+ have emerged.
- Policy change on tenure is necessary if REDD+ is to meet its objectives.



## LEGACY OF FOREST TENURE IN TROPICAL COUNTRIES

REDD+ is being implemented in countries where forest tenure is often rife with contestation and lack of clarity. This is partly because, centuries ago, states appropriated formal control and rights over forests, for such reasons as the expansion of colonial resource extraction (e.g. timber), commercial agriculture and mining into remote areas, and the suppression of traditional forest management activities viewed as "backward." Instruments of control included statutory state ownership over forests and

fiscal forestry (the creation of cadastral systems for taxation). The legacy is a situation where the state formally owns vast areas of forest, customary tenure claims to the same forests by local people often go unrecognized, and forest dwellers often feel like trespassers in their own home. The past 40 years have seen a process of devolution of forest tenure rights to local people, although the process has been very uneven among countries and is far from complete (Sunderlin 2011).



## REASON 1 FOR ATTENTION TO TENURE: CREATION OF A PERFORMANCE-BASED REWARD SYSTEM

Organizations establishing REDD+ on the ground (“proponents”) must identify the legal local holders of the right to the future stream of REDD+ rewards (e.g. through the sale of forest carbon offset credits). These right holders will bear responsibility for assuring that local forests are kept standing and/or restored. This formal linkage of rights and responsibility is the key performance-based mechanism in REDD+ (Sunderlin et al. 2014a).

“ A binding global climate change agreement through the UNFCCC would provide a strong motivation for making progress on tenure ”



## REASON 2 FOR ATTENTION TO TENURE: ENSURE NO HARM DONE BY REDD+ INTERVENTIONS

As in Integrated Conservation and Development Projects (ICDPs), REDD+ aims to restrict access to and conversion of a portion of local forests in exchange for livelihood benefits.<sup>1</sup> If the process of identifying set-aside forests is not done carefully or in full consultation with local people, it risks violating existing customary rights and unduly threatening local livelihoods and well-being. This tenure clarification process often involves participatory mapping, land-use planning and discussion of

alternative livelihood scenarios. Furthermore, the marketing of forest carbon credits intends to be a benefit to the community, but it can conceivably end up being a liability. Access to forest carbon benefits can induce competition, and it is clear from experience that local elites and/or outsiders can monopolize the benefit stream when a new forest commodity is marketed (Sunderlin et al. 2014a). Clear and firm tenure rules are essential for preventing this outcome.



## REASON 3 FOR ATTENTION TO TENURE: ENABLE AND MOTIVATE FOREST CUSTODIANSHIP – ABOVE AND BEYOND PERFORMANCE-BASED INCENTIVES

It is well established that strong forest tenure rights at the level of the community can be associated with good forest custodianship, and conversely, that weak rights can be associated with poor forest management and deforestation (e.g. FAO 2011). This is one reason why governments have been devolving tenure to the local level in the last four decades

(Lawry et al. 2012). And it is a key reason why many REDD+ proponents want to build REDD+ on the basis of community forestry (Hagen 2014). Under some circumstances the recognition and securing of local tenure alone will be sufficient to enable forest protection and achieve forest-based climate change mitigation (Stevens et al. 2014).



## REASON 4 FOR ATTENTION TO TENURE: PROVIDE A LEGAL BASIS FOR THE EXCLUSION OF EXTERNAL CLAIMANTS

The forests that REDD+ aims to protect are under threat not just from local stakeholders, but also, in many cases, from external claimants on local forests. These external claimants can be neighboring villagers, seasonal migrants, colonists, ranchers and industrial enterprises of various kinds (e.g. soy in Brazil and oil palm in Indonesia). Research from CIFOR’s Global Comparative Study (GCS) on REDD+ in 71 villages at REDD+ sites in five countries found that in almost two thirds of the villages there was current external use of local forests, and in almost a fifth there were unsuccessful efforts to exclude outsiders (Sunderlin et al. 2014a). It is essential to have enforceable rights of exclusion because the whole idea of REDD+ rests on not just the incentive but also the legal means to protect forests from outsiders. These rights of exclusion are also essential for protecting local

livelihoods. Rights of exclusion can be sought through such instruments as legal title for smallholders, and through tenure categories such as *hutan desa* (village forest) (Intarini et al. forthcoming) and Ecosystem Restoration Concession (ERC) in Indonesia, used to deflect industrial claims (Indriatmoko et al. forthcoming).

“ Many proponents have not succeeded in establishing a secure tenure foundation for REDD+ ”

<sup>1</sup> In ICDPs, the livelihood benefits are not conditional. In REDD+, at least conceptually, they are.



## REASON 5 FOR ATTENTION TO TENURE: INTEGRATE FOREST PROTECTION EFFECTIVELY INTO NATIONAL LAND-USE PLANNING

Forest tenure arrangements at the landscape level have tended to favor the interests of actors that convert forests to non-forest uses. These arrangements reflect a long legacy of providing privileged access to forest land and resources to powerful actors such as logging, agro-industrial, livestock and mining companies, and of fulfilling state imperatives for economic and infrastructural development (Sunderlin 2011). It is necessary to review and revise these arrangements for reasons

of forest conservation, climate change mitigation and equity. Various countries are beginning to address the destructive environmental consequences of this legacy. Examples are Brazil's Forest Code (Tollefson 2011) and Rural Environmental Registry (Duchelle et al. 2014), and Indonesia's One Map Policy (UKP4 2013) and the Indonesia Forest Moratorium (Murdiyarso et al. 2011).



## REDD+ PROPONENTS FALLING SHORT DESPITE DETERMINED EFFORTS

CIFOR's research shows that tenure is the number one challenge for proponents, even more so than the (currently) disadvantageous economics of REDD+ (Sunderlin et al. 2014b). This stands to reason not just because proponents are on-site witnesses to the legacy of forest tenure in tropical countries, but also because they are aware of the five key reasons for addressing tenure listed above. The motivations of proponents for addressing tenure are instrumental (means to an end) in the sense that they can only fulfill their environmental objectives if they do so, and also ethical (an end in itself).

Nevertheless, our research has shown that proponents in many cases have not yet succeeded in establishing a secure tenure foundation for REDD+ (Larson et al. 2012, 2013; Sunderlin et al. 2014a; Sills et al. 2014). Among the major obstacles to progress are the persistent power of political and economic interests (both in the private sector and in government) that are tied to the conversion of forests and non-forest uses (Larson et al. 2012). This is even the case in Brazil, where tenure insecurity is pervasive even though proponents can collaborate directly with government on tenure regularization (Duchelle et al. 2014).



## WHAT NEEDS TO HAPPEN

Establishing a clear and secure tenure foundation is essential not just for fulfilling the climate change mitigation goals of REDD+, but also, and just as importantly, for protecting the livelihoods and rights of its stakeholders. Although there has been notable progress toward creating this foundation, much remains to be done.

A binding global climate change agreement through the UNFCCC would provide a strong motivation for making progress on tenure. But given the possibility that such an agreement will not be reached soon, and given the long lead time needed for resolving forest tenure issues, it is imperative that countries continue and invigorate current efforts. Such efforts should involve:

- forest tenure reform such as the kind being undertaken in Indonesia<sup>2</sup>
- linkage of forest tenure and environmental compliance mechanisms such as in Brazil
- institutionalization of participatory mapping in national land-use decision making
- resolution of longstanding contestation between customary and statutory forest land claims
- review of existing and planned industrial forest land concessions in light of concurrent plans for forest conservation, afforestation, reforestation, and REDD+
- clarification of rights to forest carbon.



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<sup>2</sup> In May 2013, the Constitutional Court of Indonesia recognized indigenous populations as the rightful owners of a portion of the national forest estate (Ekahurani 2013). Realization of these ownership rights still requires procedural follow-through by government officials at the national and subnational level.

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