

Introduction: The Rights-Based Agenda in International Forestry

Thomas Sikor and Johannes Stahl

Rights have become a central concept in international forest policy and advocacy. Local people, forest communities, and indigenous peoples have long demanded tenure rights to forest, asserted cultural rights, and requested a say in their own affairs. Yet, it is only now that their individual demands as forest *people* and collective claims as forest *peoples* are finding recognition at national and global levels, with many governments enacting legislation to recognize customary tenure and governance; post-socialist governments in Europe and Asia restoring forests to their historical owners and distributing them to rural communities; the Inter-American Court of Human Rights ruling on cases dealing with forest peoples' collective rights to cultural and political self-determination; and negotiators for the United Nations Framework Convention on Climate Change (UNFCCC) making reference to the rights of indigenous peoples and the members of forest communities.¹

The increasing prominence of this issue at national and global levels attests to the emergence of a rights agenda in international forestry. Demands for rights include three elements. Rights activists call for equity in the distribution of forest benefits, often in the form of redistribution of forest tenure. They advocate the recognition of forest people's particular identities, experiences, and visions. They also promote the participation of forest people in political decision-making regarding their own affairs. The rights agenda thereby demonstrates a strong orientation towards the goal of social justice, similar to the environmental justice movement in the US and global organizing around land

and food rights (cf. Schlosberg, 2004). It involves issues of property, governance, and human rights, as highlighted in the title of this book.

The attention to rights in forestry differs from efforts to implement “rights-based approaches” in international development, water management, and biodiversity conservation (cf. Scanlon et al, 2004; Campese et al, 2009; Hickey and Mitlin, 2009). There are three crucial differences. First, redistribution is a central demand of activists in forestry, but not in the other fields. Many forest rights activists are calling for not only the redirection of benefit streams to forest people, but also the redistribution of forest tenure to them upon the background of entrenched historical inequalities. Second, the rights agenda in forestry emerges from longstanding demands expressed by forest people in numerous grassroots initiatives. These grassroots foundations set it apart from rights-based approaches in development and conservation, which typically derive their legitimacy from transnational human rights norms and are largely driven by international and national organizations. Third, forest rights activists attend to people’s individual rights as well as peoples’ collective rights. In contrast, rights-based approaches in the other fields tend to emphasize individual rights.

This book offers a novel look at the emerging rights agenda in international forestry, and seeks to answer three questions. What is the rights agenda in international forestry? What are the key conceptual and strategic issues encountered by rights activists? What lessons have been learned on how to promote forest people’s rights? To answer these questions the book brings together strategic analyses written by leading thinkers on international forest governance with a series of cutting-edge case studies contributed by young scholars. The chapters originate from Africa, Asia, Europe, Latin America, and North America, covering a wide variety of rights initiatives at local, national, and global levels.

In this introduction we begin with a brief description of the key demands made by forest rights activists, detecting unity in the diversity of concrete demands, actors, and actions constituting the rights agenda. This diversity, we argue, is due to the multiple origins of the rights agenda in organizing around tenure and indigenous rights, as well as recent human rights advocacy. Unity comes from a vision anchored in the goal of social justice shared by forest rights activists. Nevertheless, activists engage in vivid debates around four key issues, which we briefly synthesize here and which the contributions to the book explore in great detail: the kinds of claims to support; the sorts of actors considered to make legitimate claims; the types of authorities understood to recognize rights; and the political strategies serving state recognition of rights. The shared agenda, we conclude, puts activists in a strong position to confront global threats to forest people’s rights. Yet, the need for global action also presents rights activists with new challenges – in particular, the need to sustain their capacity for reflexive recognition.

Unity in Diversity

There is a discernible unity to the forest rights agenda because calls for forest people's rights center on the three elements of equity, participation, and recognition. First, rights activists demand equity in the distribution of forest benefits. This demand often takes the form of appeals for a redistribution of forest tenure to redress the historical exclusion of people from forests. For example, rights activists in India and many countries of Latin America and sub-Saharan Africa highlight the need to acknowledge forest people's customary tenure rights in national legislation. Eastern European and East Asian governments have transferred significant parts of previously state-owned forests to rural people as part of post-socialist property reforms. In addition, demands for redistribution also take the form of calls for equitable sharing of benefits from logging, payments for environmental services, community-company partnerships, and actions on reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests, and enhancement of forest carbon stocks in developing countries (REDD+).

Second, rights activists call for recognition of forest people's identities, experiences, and visions. This is often expressed in terms of group identities, as forest peoples see themselves as outside the cultural mainstream and find their group-specific identities devalued. Activists such as the Indigenous Peoples Network of Malaysia point to the loss of diverse cultures due to a growing monoculture and to the need for recognition of social and cultural differences to overcome the stigmas attached to forest peoples. Calls for recognition also highlight forest people's individual experiences of social status, as they often find themselves positioned at the lower end of economic, social, and cultural relations. They demand the recognition of forest people as individuals and as full partners in social interactions – for example, motivating efforts to overcome entrenched gender differences. Moreover, recognition demands respect for forest people's visions of desirable lifestyles, economies, and forest landscapes. This aspect finds illustration in the attention given to traditional knowledge, as exemplified by efforts in Southeast Asia to validate shifting cultivation as a sustainable practice of land management.

Third, rights activists promote forest people's participation in political decision-making in matters that affect their own lives. They demand forest policy-making procedures that encourage public participation, democratic control over forests, and the conduct of local affairs in ways that involve community participation. They criticize forest agencies for excluding forest people from decisions about forests and for their lack of accountability to them. These efforts take many forms at the local, national, and global scale. They include demands for decentralizing forest management to elected local governments throughout the world and for the recognition of customary authorities in many countries, particularly in Africa and Latin America. They comprise efforts by rights activists in India and Nepal to promote forest people's participation in

forest management. At the global level, they take the form of efforts to establish consultative forums for forest people's organizations regarding REDD+.

Rights activists often combine calls for equity, recognition, and participation. For example, the Forest Peoples Program connects advocacy for the recognition of forest peoples' distinct identities with demands to create particular avenues through which they can participate in political decision-making and to redistribute tenure. Many Indian activists tie actions aimed at recognition of forest people's low social status with efforts to get their demands for tenure redistribution acknowledged. Other rights activists focus their efforts on just one of the three above elements; for example, the Rights and Resources Initiative, a global coalition of advocacy, research, and philanthropic organizations, focused on the redistribution of forest tenure in its initial years.

Thus we find that there is a certain unity to the rights agenda in international forestry. Yet, this is unity in diversity, far from any uniformity. The concrete demands, actors, and actions constituting the rights agenda are tremendously diverse. This diversity finds reflection in this book, as the chapters provide abundant evidence for the variety of concrete demands made by forest people, peoples, and their supporters. The initiatives covered in the chapters involve many kinds of actors in support of forest people's claims, including international organizations, transnational networks, forest people's own associations, national governments, forest departments, social movements, professional non-governmental organizations (NGOs), and membership organizations. They also include various kinds of action in the pursuit of rights recognition, including direct action, everyday forms of resistance, advocacy, technical assistance, capacity-building, appeals to courts, regulatory reforms, legislative acts, law enforcement efforts, and administrative decisions.

Multiple Origins

The rights agenda in international forestry is so diverse in parts because the focus on forest people's rights stems from multiple origins. The agenda emerges from the confluence of three distinct sets of initiatives centered on calls for the redistribution of forest tenure, indigenous peoples' rights to self-determination, and human rights.

Forest activists have long advocated the equitable distribution of tenure rights to forests (e.g. Larson et al, 2010). They argue that the redistribution of forest tenure is necessary to redress people's historical dispossession from forests through nationalization and state management. The transfer of tenure to land and connected resources is the key strategy to overcome people's exclusion from forests. Tenure rights activists have included numerous civil society organizations, and their concerns have mirrored the central role attributed to tenure in academic research on forest management (e.g. Peluso, 1992). In their actions, activists have always maintained a strong connection with forest people's actions on the ground and the demands articulated by grassroots organizations.

The focus on local-level action finds reflection in the focus on providing practical support for forest people's claims on the ground, as illustrated by numerous "counter-mapping" initiatives. The call for transfer of tenure has recently gained significant momentum in many parts of the world, particularly in post-socialist countries and Latin America. How these successes may amount to a "tenure transition" is the subject of Chapter 2, contributed by William D. Sunderlin.

Indigenous peoples' organizations and their supporters have been demanding rights to political and cultural self-determination over the past three decades (e.g. Mander and Tauli-Corpuz, 2006). Their demands often include calls for the restitution of forest tenure to indigenous peoples, many of whom have used and managed forests historically. They also insist on indigenous peoples' participation in political decisions over their own affairs, including forest management. In contrast with tenure activists' strong focus on the grassroots, the proponents of indigenous peoples' rights have long-established strong associations, networks, and organizations at national and international levels. International NGOs such as the International Work Group for Indigenous Affairs, Almaciga, Rights and Democracy, and Tebtebba have played significant roles. Higher-level organizing has helped indigenous peoples and their supporters to lobby transnational bodies on indigenous rights, in particular the Permanent Forum on Indigenous Issues and the Inter-American Commission on Human Rights of the United Nations. It has also allowed them to successfully promote transnational agreements on indigenous rights, such as the 2007 United Nations Declaration on the Rights of Indigenous Peoples, and use transnational courts for their defense – for instance, bringing cases before the Inter-American Court of Human Rights. The prominence of legal advocacy in the indigenous people's movement is further discussed in Chapter 3 by Fergus MacKay.

The assertion of human rights is a more recent phenomenon in international forestry. Human rights activists and sympathetic conservationists seek to safeguard procedural and substantive rights in conservation. Procedural rights refer to a minimum level of participation in political decision-making, such as the right to information and access to justice. Substantive rights are about minimum standards of life that are considered commensurate with human dignity, including rights to life, health, food, housing, and work. References to human rights originate mostly from international organizations such as the International Union for Conservation of Nature (IUCN), and have relied on transnational bodies such as the now defunct United Nations Sub-Commission on the Promotion and Protection of Human Rights and the United Nations Human Rights Council. They focus on the formulation of "universal standards" and the development of global conventions, including legally binding human rights treaties (e.g. the International Covenant on Economic, Social, and Cultural Rights) and non-binding agreements (e.g. the United Nations Draft Declaration of Principles on Human Rights and the Environment). How human rights apply to forest conservation is discussed in further detail by Jessica Campese and Grazia Borrini-Feyerabend in Chapter 4.

All three sets of initiatives contribute to the emerging rights agenda in international forestry. Today's forest rights activists often have a background in organizing around tenure, indigenous peoples' demands, or human rights. Their demands reflect the claims made and experiences gained in all three fields. In consequence, the rights agenda in international forestry cannot be reduced to any of the three sets of initiatives. It goes beyond the call for tenure transfer, which has been the central rallying point for forest rights activists over many years, and extends to a larger set of forest people than those targeted by the supporters of indigenous peoples' rights. The rights agenda is also more encompassing than human rights-based approaches to conservation as it attends to the diversity of claims asserted by forest people and peoples at all levels.

A Unifying Vision of Social Justice

Forest rights activists have developed a unifying vision: activists of all kinds possess a strong commitment to social justice. Social justice provides a vision that helps them to bring together highly diverse demands, actors, and actions; to integrate multiple historical origins; and to make productive use of continuing debates among them. This vision prompts activists to demand the redistribution of forest tenure, forest people's participation in political decision-making, and the recognition of their identities, experiences, and aspirations.

Social justice provides the rights agenda with a powerful normative core that helps to keep centrifugal forces in check. Rights claims deserve recognition if they work towards "parity" as understood in an economic, social, cultural, and political sense (cf. Fraser, 2001). Forest people's claims find support if they help to overcome or reduce the entrenched inequalities characterizing forestry in many parts of the world. The principle of parity imposes requirements on the process through which claims are asserted and recognized as rights. Rights must result from democratic deliberative processes that are not skewed in favor of the interests of a dominant group. The principle also serves to distribute benefits, chances for recognition, and opportunities for political participation more equally. Claims and actors deserve support if recognition of their claims helps to ameliorate or erase some of the stark inequalities in the distribution of forest benefits. Similarly, forest rights activists appeal to particular authorities and employ certain strategies if these serve the recognition of claims asserted by the marginalized.

The focus on rights provides a unifying concept around which many activists and policy-makers can rally. Forest rights activists and policy-makers have successfully used the concept of "rights" for action at local, national, and global scales. Global activists call for the recognition of forest people's rights in the sense of a generalized notion of moral entitlement. Activists and policy-makers at the national level demand or legislate on the recognition of rights understood as legal relationships and procedures applicable in a uniform manner. Forest people and their supporters at the local level request concrete bundles of

rights to forest resources and functions reflecting particular local histories and specificities. “Rights” thus serve as a unifying concept that facilitates not only coalitions between activists at any particular scale, but also connections across scales. Due to the plasticity of the term, rights function as the glue that keeps together a highly diverse set of demands, actors, and actions – despite the inherent tensions and open debate among activists.

The focus on rights makes the emerging agenda distinct from other established paradigms seeking to promote social justice in international forestry. At the risk of overgeneralizing, one can identify three other paradigms centered on the notions of stewardship, interests, and needs. The rights agenda differs from these, despite some overlaps. Calls for rights recognition are different from management approaches such as community forest management, co-management, and adaptive collaborative management, which argue for forest people’s inclusion on the basis of their forest stewardship. The focus on rights also sets the rights agenda apart from efforts to increase forest people’s participation in forest management, such as participatory and multi-stakeholder approaches, on the basis of their interests in forests. Calling for rights is also different from justifications for forest people’s inclusion with reference to their needs under the overarching goal of alleviating poverty.

We even suggest that the focus on rights helps to avoid some of the conceptual and empirical problems confronted by the other paradigms. The rights agenda does not require the empirical assumption that local people are better forest stewards than other actors, which is difficult to uphold in practice (cf. Agrawal and Gibson, 1999). It puts the spotlight on the dramatic economic, social, cultural, and political inequalities characterizing international forestry, which often receive short shrift in approaches centered on the notion of multiple interests in forests (cf. Edmunds and Wollenberg, 2001). Neither does the focus on rights rest on problematic assumptions about the role of forests in poverty alleviation to justify forest people’s inclusion on the grounds of their needs (cf. Sunderlin et al, 2005).

Furthermore, the chapters of this book demonstrate how the centrality of rights provides activists and policy-makers with guidance on concrete policies and strategies. The emphasis on rights and efforts to overcome existing inequalities allows activists to judge the potential of particular policies and strategies to serve the overarching goal of social justice. It helps them to distinguish devolution policies redistributing rights to disadvantaged forest people from those serving to exclude marginalized actors. It allows them to differentiate whether decentralization programs strengthen or undermine forest people’s control over forests, and whether or not they enhance forest peoples’ rights to self-determination. It also points out the difference between policies recognizing customary authorities that promote forest people’s rights to political participation and those that reinforce the position of unaccountable leaders. The principle of parity also facilitates distinction between empowering and regressive forms of collaborative management.

Key Conceptual and Strategic Issues

Yet, forest rights activists also encounter challenging conceptual and strategic issues, issues that have been at the core of vibrant debates among activists about suitable ways to pursue rights recognition. In this book we highlight four key conceptual and strategic issues that underlie their debates. These issues have centered on four questions. What claims find support? Whose claims are considered to constitute rights? What authorities recognize forest people's rights? And what political strategies serve rights recognition by the state?

What claims find support?

There is no singular and uniform "right to forest". Instead, forest people assert a large repertoire of rights claims (e.g. Fortmann and Bruce, 1988). They demand rights as individual people, as various kinds of social groups and collectivities, as indigenous peoples, and as forest peoples. Their claims refer to specific forest resources, certain uses of forests, various kinds of environmental functions provided by forests, economic and cultural values associated with forests, or forests as a whole understood as bundles of resources and functions. They focus on legal tenure or extend this to the tangible and intangible benefits derived from tenure. Some emphasize demands for a minimum level of rights, whereas others call for egalitarian distribution or even request privileges for certain actors. This multiplicity of concrete claims poses a vexing challenge to activists and policy-makers, as there are many ways to translate the universal appeal to forest people's moral entitlements into concrete rights at global, national, and local levels. This multiplicity is the subject of Part II of this book, including contributions by Jesse C. Ribot and Anne M. Larson, Shaunna Barnhart, and To Xuan Phuc.

Whose claims are considered to constitute rights?

In many situations, multiple social actors assert their rights to forests (e.g. Colfer, 2005). Their claims may clash directly over certain forest resources, or they may be in conflict with one another as they relate to overlapping forest resources or functions (e.g. productive land versus protected areas versus indigenous territory). The claims may conflict at the local level as different kinds of social actors assert competing claims. New conflicts may arise over time as emerging new actors demand rights, or existing conflicts may lose relevance as some actors drop their claims. In addition, people and organizations located far from the forest may voice claims to specific forest resources or functions in competition with local actors. As a result, efforts to promote redistribution, recognition, or participation often require that activists and policy-makers make difficult choices about whose claims to consider to constitute rights, and whose justifications to support. These choices are discussed in Part III in the chapters by Moira Moeliono and Godwin Limberg, Victoria M. Edwards, and Beth Rose Middleton.

What authorities recognize forest people's rights?

Claims only become rights if they are sanctioned by authority (Sikor and Lund, 2009). Forest people reference their claims to a variety of institutions and procedures considered to possess authority, and often to more than one. Conversely, in most situations, plural authorities endorse claims to forests in overlapping or even competing ways. The institutions include democratically elected local governments, customary arrangements, central governments, courts, transnational conventions, and social norms. This pluralism of institutional authority challenges activists and policy-makers to identify the institutions and procedures that are most conducive to the recognition of forest people's rights. This is the focus of Part IV in the book, with contributions by Anne M. Larson and Peter Cronkleton, and Stefan Dorondel.

What political strategies serve rights recognition by the state?

Forest people and their supporters employ a variety of political strategies to promote redistribution, recognition, and participation. Their efforts involve tactical and strategic choices about the concrete rights asserted, the forums used to voice claims, the organizations and associations established to promote forest people's rights, and the coalitions to be formed in the pursuit of rights recognition. This wide repertoire of available strategies opens up many opportunities for activists and decision-makers to pursue rights recognition, yet it also forces them to identify the most promising strategies in specific political contexts. These strategies are the topic of Part V, including chapters by Neera M. Singh, Blake D. Ratner and Terry Parnell, and Peter Cronkleton and Peter Leigh Taylor. Global strategies are also covered in Chapters 2 to 4.

The debates led by forest rights activists around these questions attest to the vibrancy and relevance of the rights agenda in international forestry. The issues have provided the grounds for productive tensions among activists, becoming an important source of dynamism over recent years. These tensions have allowed the rights agenda not only to sustain its rich diversity, but also to maintain sufficient flexibility for context-specific engagement. They have only been productive, however, because activists have shared a capacity for reflexive recognition. Forest rights activists have not sought to resolve all the key issues once and for all. Instead, they have acknowledged differences among themselves and used these to sustain deliberative processes about forest rights and the strategies best employed to pursue rights recognition.

This capacity for reflexive recognition has opened up productive entry points for engaged scholarship. Research on forest rights, whether academic, policy-oriented, or applied, has made significant contributions to the work of forest rights activists. Forest rights activists' capacity for reflection also provides a key rationale for the present book. At the broadest level, we have conceived the book to contribute to critical and constructive reflection among rights activists. More specifically, it is intended to generate important insights for key

strategic choices faced by activists. Which claims deserve activists' support? Which actors should they assist? To which authorities should they appeal in their pursuit of rights recognition? Which strategies should they employ?

Challenges of Globalization

Rights activists increasingly face the need to respond to global threats to forest people's rights arising from changes in global commodity prices and regulatory regimes. The demand for cheap energy drives the conversion of large tracts of forestland to biofuel plantations. Payment for environmental services (PES) schemes attribute new market values to forests and make them available for individual appropriation. The inclusion of REDD+ in post-2012 climate architecture translates the carbon storage capacity of forests into monetary values. These market and regulatory changes transform the monetary values attributed to forests and assign new ones, raising the attractiveness of forests to powerful global actors as a potential source of accumulation.

Forest rights activists are in a strong position to counter global forces and to influence the appropriation of increased forest values in forest people's favor. They are well equipped to critically engage with ongoing market and regulatory changes at a conceptual and practical level. Conceptually, the rights agenda questions a preoccupation with efficiency in policy-making if this becomes divorced from concerns over distribution. It also calls into question the lack of attention to entrenched inequalities and political contestations over forests in market-based thought. At a more practical level, the rights agenda provides activists and policy-makers with strategic guidance on the potential of market-based policies to lead to socially just forestry. It allows them to critically engage the promotion of community-based enterprises, the commercialization of forest products, and integration within international commodity markets, as indicated in several chapters. In particular, the rights agenda positions activists in a strong position to encounter REDD+, as we seek to show in the concluding chapter.

At the same time, the urgency of developing global strategies challenges rights activists in many ways. At a conceptual level, they find themselves confronted with efforts to appropriate their agenda by actors who do not share the goal of redistribution, as has occurred in community-based natural resource management (Brosius et al, 2005). Attempts to appropriate the rights agenda in part originate from calls for forest tenure reforms advanced by international organizations (e.g. World Bank, 2003). While sharing the concern over forest tenure, these calls promote a narrow set of rights – typically, individual exclusive ownership – and deflect attention away from the inequalities entrenched in forest tenure. Attempts at appropriation also come from human rights approaches that focus on procedural rights, such as application of the principle of free, prior, and informed consent, or limiting substantive rights to a minimum level of livelihood benefits (e.g. Wilson, 2009). Rights activists will have to find ways to counter such attempts at appropriation by emphasizing the overarching

goal of social justice and stressing notions of rights and authority that are often incompatible with the interests of the powerful.

At a more strategic level, forest activists are increasingly facing global forces that operate at scales reaching far beyond the established forums for forest advocacy and policy-making. The focus on forest rights has lent activists significant strength due to a clearly focused agenda, in particular through the emphasis on the redistribution of a particular asset (forests). Recent experience with global negotiations over the role of forests in climate change mitigation, however, indicates the limits of such a specialized agenda. Forest rights activists watched from the sidelines as climate change negotiators turned to forests and put REDD+ back on the table, and they continue to be overwhelmed by the apparent expedience of forest-based climate change mitigation. Such experiences indicate the political advantages of a broader rights agenda that develops strategic alliances with related movements. Forest rights activists will face new debates about the value of potential alliances, particularly with broader agrarian movements and advocacy on climate justice.

Finally, the urgency of global advocacy challenges the core strength of the rights agenda in international forestry: the combination of unity with diversity. Efforts to counter global threats confront decisions about who gets to establish definitions of forest people's rights and represent these in global forums. Global activists see an increasing need to create processes of representation in order to develop capacities for global responses. At the same time, they recognize the inherent problems of attempts to represent a highly diverse set of concrete demands, actors, and actions at local and national levels. Global activists face the difficult task of representing forest people in global forums without ignoring these problems inherent in their representation. Activists at all levels face the challenge of instituting mechanisms that keep global activists accountable to forest people and activists at local and national levels without inhibiting or fragmenting global efforts.

The need to globalize thus challenges the capacity for reflexive recognition that has nurtured the vibrancy and relevance of the rights agenda in international forestry to date. Only by maintaining this capacity will activists be able to sustain unity in diversity. It is also here where engaged scholarship can make critical contributions to the forest rights agenda: illuminate key issues encountered by activists in their attempts to develop a global agenda. This book, therefore, presents scholarly analyses that engage practical concerns and take a constructive stance. It stands for scholarship that respects forest people's and activists' claims, enters into a dialogue with them, facilitates critical reflection on past experiences, and points out future possibilities. The underlying premise is that such scholarship is critical to the pursuit of socially just forestry.

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Note

- 1 Hereafter we use the term “forest people” to refer to the many kinds of people and peoples making claims on forests, for reasons of convenience. Our use of the term does not want to deny its unfavorable connotations in particular contexts or to ignore the actual diversity of actors, as the following discussion will make clear.

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