

# Land and Forest Tenure Reform: TFD dialogue stream 2018-2020

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Forest  
Peoples  
Programme



# TFD Dialogues

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## Three phases of TFD

1. Identifying the fracture lines in forest policy
2. Seeking consensus on how to resolve or accommodate differences
3. Acting to bridge differences and ensure SFM

# Tenure in previous TFD dialogue streams

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- **Forests and Biodiversity**
- **Certification Systems**
- Illegal logging
- Intensively Managed Planted Forests
- Forests and Poverty
- Forests and Climate
- REDD Readiness
- **Financing REDD+**
- Investing in Locally-controlled forests
- Free, Prior and Informed Consent
- Food, Fuel, Fibre and Forests
- Women in Forestry
- Understanding Deforestation Free
- Tree Plantations in the Landscape

# The importance of tenure

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## Lack of tenure security

- Accelerated deforestation
- Short termism
- Peoples made vulnerable
- Land grabbing
- Impoverishment
- Conflicts
- Human Rights abuse

## With tenure security

- Avoid conflicts
- Equitable benefit-sharing
- Encourages investment
- Alleviates poverty
- Curbs forest loss
- Limits illegality
- Mitigates climate change
- Upholds human rights

# The challenge of reform

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- Forest tenure reform is needed **BUT**
- Companies can't secure communities' rights on their own
- Effective reforms require action by governments and legislatures
- **How do we secure government agreement on the need for reform?**
- **How do we get legislatures to make this a priority?**



# Intergovernmental agreement

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- Inter-Governmental Panel on Forests,
- Intergovernmental Forum on Forests
- UN Forum on Forests;
- FAO Planted Forest norms and VGGT
- UNREDD
- World Bank and PROFOR;
- Convention of Biological Diversity
- Sustainable Development Goals (UN GA)
- Interlaken Process, Global Call for Action and Land and Forest Tenure Facility

# Main conclusions of IGOs

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- Insecure tenure ‘underlying cause’ of deforestation and forest degradation
- Need agrarian reforms to lessen pressure on forests from landless farmers
- Need forest tenure reforms in order to achieve:  
SFM, address poverty, improve livelihoods and rural development, improve forest governance, ensure food security, reduce carbon emissions, realise rights, conserve biodiversity
- Need action by Collaborative Partnership on Forests/  
InterAgency Task Force on Forests (CBD, UNDP, World Bank, FAO, CIFOR)

# Academic validation?

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## Caveats

- Types of tenure varied (bundle of rights approach)
- Tenures often layered (eg family rights within communal rights)
- Institutions that manage lands and forests are the key
- Wider governance also determines outcomes (eg hard to get good outcome where there is no rule of law/ narcotrafficking)

## Findings

- Some agrarian reforms target forests ('safety valve')
- Where forest peoples' rights are protected:
  - Better conservation than PAs
  - Deforestation slows
  - Forest restoration
  - Better livelihoods
  - Carbon sequestration
  - Equity
  - No tragedy of commons as long as institutions strong



# Human Rights norms coincide

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- Human rights bodies (treaties and jurisprudence and SRs) concur that tenure security is important:
  - Human rights protection, property rights, self-determination, subsistence and survival
  - Local food security, improved livelihoods, stop evictions
  - Biodiversity, env'tl sustainability, conservation
  - Climate change mitigation
  - Customary rights do not depend on an act of the State
  - IP rights -> Tribal rights -> Peasants Rights
- UN Guiding Principles on Business and Human Rights: companies have a responsibility to respect HRs even where national laws don't require it.

# Histories of marginalization

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- Historically more equitable tenure systems?
- Empires and slavery
- Feudal tenures
- Colonial expropriations but search for legality
- Reducing the extent of customary rights
- Treaties and concessions

# Why are forests denuded and Forest Peoples landless?

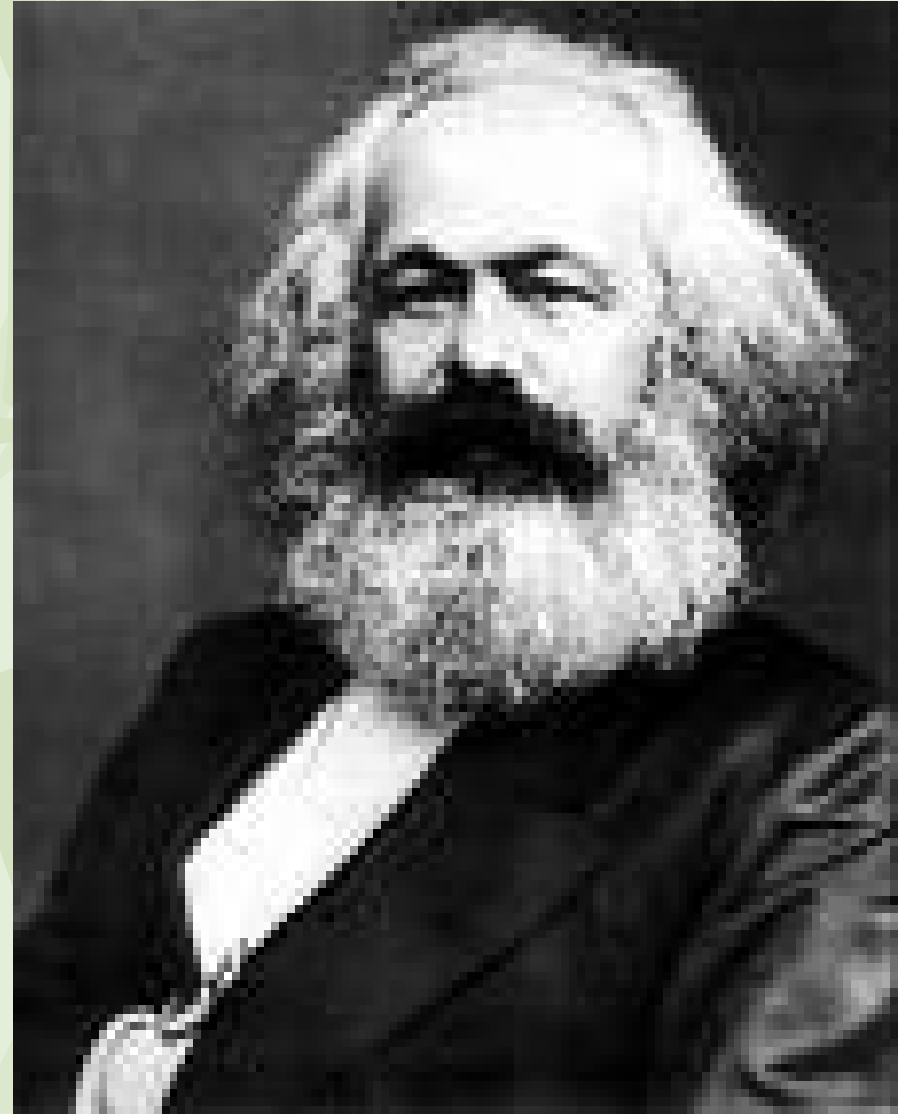
- Emperor Charlemagne first instituted 'forestry' laws in Europe
- England's first 'forest', the New Forest, was created by the Norman conquerors as a royal hunt (1079).
- Some 3,000 peasants were torched out of their houses to clear the 'New Forest'
- By Henry II 25% of England was 'forest'. Less than half this 'forest' was in fact wooded.
- In law and history, 'forests' are not vegetation types, they are (royal) **jurisdictions**.
- Robin Hood symbolises this struggle between the Saxon people and Norman forests



# ‘Scientific Forestry’

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- ‘Scientific forestry’ developed in the C18th
- Forest reserves were established to reserve forests for strategic industries and restrict popular use
- Young Karl Marx was radicalised by his MA study of the impact of forestry law on the rural poor in Germany





# Colonial Forestry

- European-style **forestry** was imposed on the tropics in the colonial era
- Native people were evicted
- The forests were allocated to companies
- Logging soon became enmeshed in corruption
- After independence forestry typically became a means of elite enrichment and for party political campaigns (**Iron Triangle**)
- ‘Sustainable Forest Management’ is rarely achieved. Little has been certified in the tropics.





# The concession system

- Forest landscapes dominated by allocations to companies while local peoples' rights are overlooked
  - In law
  - In planning
  - In outcomes
- Forest law reforms blocked by vested interests.
- Only with strong social (IP and CSO) movements are reforms better



# No room for people





# Social Forestry

- Forests for People 1978 – FAO
- Social Forestry
- Community forestry
- Agroforestry
- Soft tenure reform: community leaseholds in State forests
- Complex management



- Slow shift in tenures in tropics towards community forestry: between 11% and 25%

# Fracture lines

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- State lands and forests (owned or managed)
- Denial of rights
- National laws curtail or extinguish rights
- Imposed forest and plantation concessions
- Limited profit sharing
- Conflict management and repression
- Indigenous territories & local community lands
- Rights asserted
- International laws recognise rights
- Denial of livelihoods, evictions, top-down nego
- Local impoverishment
- Protests, blockades, litigation and suffering

**High costs for all**

# Fracture lines (2)

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- Company offers of employment
- Provisions favour male heads of households
- Untransparent allocations/ investments
- Corruption and illegal money flows
- Collusive relations between forestry and companies
- Low wages, loss of access to forests
- Females lose control of lands and forests
- International laws require transparency
- Elite capture and divided communities
- Voice of communities denied/unheard





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LETAK JAWATAN

TANAH  
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# Breaking the Iron Triangle?

- Market demand for conflict free and deforestation free goods (NDPE pledges)
- Investor caution re. risk
- Market access difficult
- Certification requires respect for rights
- Certification faltering where rights not upheld by law
- Conflicts affect profits & then reputations
- HCV and HCSA systems depend on community management



(NDPE = No Deforestation,  
No Peat, No Exploitation)

# Can companies still make profit with devolved tenure?

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- Mondi in **South Africa**:
  - large plantations in apartheid era
  - Land Restitution Act
  - Profit sharing and leases
  - Slow process
- Stora Enso in **Laos**:
  - Laws do not recognise customary rights
  - Company treats people as land owners (supervised)
  - Benefit sharing and assist.
- New Britain Palm Oil in **Papua New Guinea**:
  - 97% inalienable customary land
  - Lease-lease back option
  - Joint venture
  - Wider malfeasance
- **Liberia** reforms:
  - Asian model conflicted
  - Less than 10% planted
  - New model being tried
  - Legal reforms in process

# Proposed questions

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- What are the main obstacles to devolving tenure to local communities and indigenous peoples?
- What governance failures or vested interests are blocking land transfers and the recognition of rights?
- How can overlapping, competing and multiple claims to land/forests be resolved?
- What can be done to break the deadlocks?
- Once lands are transferred what institutional and technical incentives are needed to encourage sustainable land use?
- How can investors and business get enough security to avoid risk and get enough benefit?
- What are outcomes for community livelihoods and welfare?
- What role should private sector play in land tenure reform?





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Thank you





# Indonesia

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- **Context:** 70% of Indonesia is classed as State Forest Area; 30,000 villages overlap forests; 10 m ha of imposed pulpwood plantations; 1000s of conflicts; Presidential initiative targets recognition of indigenous rights and 12.7 m ha of social forestry. Constitutional Court recognises customary forests.
- **Proposed Location:** Tapanuli, Lake Toba near Toba Pulp Lestari concessions and Batak indigenous peoples. President and Forest Minister just excised 5,000 ha of community resin forests from TPL and given them (back) to Batak.
- **Proposed hosts:** Aliansi Masyarakat Adat Nusantara
- **Hoped for outcomes:** Programme for progressive restitution of other Batak lands: elucidation of legal reforms needed in land and forest laws.

# Guyana

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- **Context:** 90% of population lives on coast; indigenous peoples who make up majority in the interior: only ¼ claims are titled; State Forests leased to loggers untransparently and without consultation with customary owners; VPA is ignoring indigenous land claims. New government is revising Amerindian Act and seeking to strengthen indigenous land rights.
- **Location:** Field visits to Northwest and Linden area then dialogue in Georgetown
- **Hosts:** Amerindian Peoples Association
- **Hoped for outcomes:** Conflict free timber; clarification of legal reforms needed; inclusion of indigenous rights in VPA; greater market awareness of current realities.

# Cameroon

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- **Context:** State claims ownership of all lands and forests; administrative norms recognise customary chiefs but not customary rights to resources; inequitable relations between forest-farmer villages and indigenous foragers; government seeks rapid expansion of oil palm plantations; investors wary owing to high risks of land disputes. Government reviewing: land use zoning; community forestry and; agrarian reforms.
- **Location:** Kribi, near area of oil palm plantation expansion
- **Hosts:** Okani (Indigenous Peoples organisation)
- **Hope for outcomes:** Clarification of reforms needed; awareness raising among government that companies also wish for conflict-free development and of market's demands for conflict- and deforestation-free palm oil.





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Thank you