



Land and Resource Tenure and Carbon Rights

Session 11

Paula J. Williams, FCMC

9 November 2012



WHAT IS TENURE? WHAT ARE CARBON RIGHTS?

- What is land tenure?
- What are resource tenure?
- What are carbon rights?
- Why and how are they related to climate change issues?



Resources

Use Rights

2

Session 11 – Land and Resource Tenure and Carbon Rights



WHY TENURE IS RELEVANT TO REDD+

- Rights to land are often contested
 - National REDD+ efforts face huge challenges to address land rights during implementation.
- Types of land vary
 - It is not enough to say that local communities should receive benefits.
- Rights to land is more than title (bundle of rights)
 - REDD+ relies on parties having the rights and capacity to manage land for carbon benefits.
 - Rights with primacy vs. subsidiary rights



Session 11 – Land and Resource Tenure and Carbon Rights

3



WHY TENURE IS RELEVANT TO REDD+



- **Stakeholders**
 - *Those with customary or statutory rights to land are legitimate stakeholders in forest carbon activities.*
- **Right to participation**
 - These stakeholders should have the right to “full and effective participation,” per the UNFCCC; “free, prior, and informed consent,” per UNDRIP and UN-REDD; or “free, prior, and informed consultation,” per the World Bank.
- **Rights to benefit**
 - May arise through law (benefit sharing), or through contracts.
- **Establishing responsibilities**
 - Entering into forest carbon activities presents new management and constraints on profit making and traditional activities.

4

Session 11 – Land and Resource Tenure and Carbon Rights



TENURE IN CURRENT STANDARDS

UNFCCC Cancun Agreements: “Requests developing country Parties...to address...land tenure issues, gender considerations...ensuring the full and effective participation of relevant stakeholders...”

Clean Development Mechanism: “A description of legal title to the land, rights of access to the sequestered carbon, current land tenure and land use.”

Verified Carbon Standard: “Project participants shall define the project boundary at the beginning of a proposed project activity and shall provide the geographical coordinates of lands to be included...[L]and administration and tenure records (are required).”

Climate, Community, and Biodiversity (CCB): “Description of current land use and customary and legal property rights including community property ... identifying any ongoing or unresolved conflicts...and describing any disputes over land tenure that were resolved during the last ten years.”

Plan Vivo: “Must be secure (land tenure or use rights) so that there can be clear ownership, traceability, and accountability for carbon reduction or sequestration benefits.”

5



RIGHTS TO LAND, TREES AND CARBON

- Begins with understanding the range of beneficiaries & tenure system
 - *e.g. rights and benefit distribution will differ among activities related to:*
 - *Planting forests on private land*
 - *Reducing encroachment in indigenous territories*
 - *Private concessionaires giving up rights to extract timber on public land customarily managed by local communities.*
- Requires understanding of the opportunity costs, power and responsibilities of each beneficiary
- Consideration of legal approaches to secure rights:
 - Legal reform through explicit or implicit law
 - Contract-based approaches

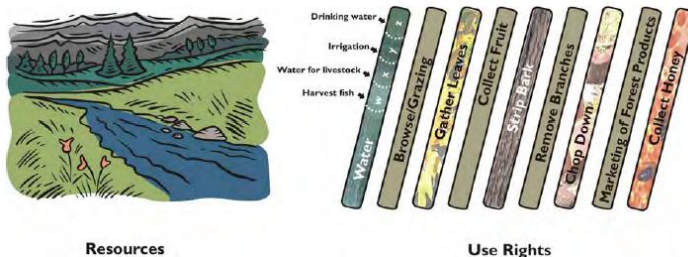


6



WHAT ARE CARBON RIGHTS?

- Rights to physical carbon stored in biomass
 - Sequestered carbon and sequestered potential (management rights)
- Rights to benefits that arise from transferring property rights through trading schemes
- Why are carbon rights of interest?



7

Session 11 – Land and Resource Tenure and Carbon Rights



REDD + AND RESOURCE TENURE

REDD +: Reducing Emissions from Deforestation and Degradation

Who owns carbon rights?

Mechanism: International Convention (UNFCCC) for developing countries to be financially rewarded for reducing forest-related emissions or increasing forest carbon sequestration.

Social Dimensions of REDD +: How to promote “no-harm” and promote “co-benefits”? Who captures benefit streams from direct cash payments, direct provision of goods and services, indirect benefits (greater tenure security, better governance...). How should carbon rights be attributed and clarified?

Tenure Issues: “Carbon Rights” at center of debate

Scenario 1: Devolution of full ownership rights to local communities

Scenario 2: Co-management or limited devolution to local communities

Scenario 3: No legal recognition of community forest rights

Session 11 – Land and Resource Tenure and Carbon Rights

8



EFFORTS TO ADDRESS TENURE IN SE ASIA

It has to happen for successful REDD+ implementation

- Asia's forest estate is growing (FAO 2010)
 - But some countries shrinking
 - 21% of Asia's forest estate = plantations
- Community forestry provides some rights
- Drivers of tenure reform vary among countries
- Costs -- and benefits -- of tenure reform implementation are huge
- Use rights & benefit sharing efforts are important, but not by themselves adequate to generate political will



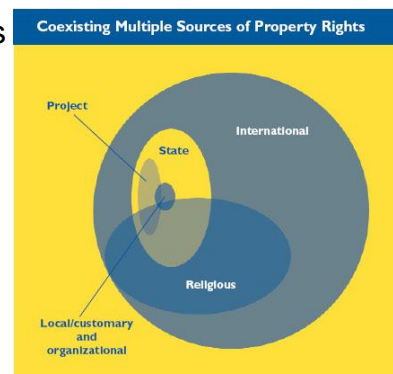
9

Session 11 – Land and Resource Tenure and Carbon Rights



RISKS IN ADDRESSING TENURE AND CARBON RIGHTS

- Women and vulnerable populations marginalized
- New responsibilities placed on populations with limited capacity
- Opening up historical wounds
- Expedient solutions to complex problems
- Centralization of forest governance
- Engagement with wrong actors
- Partial rights

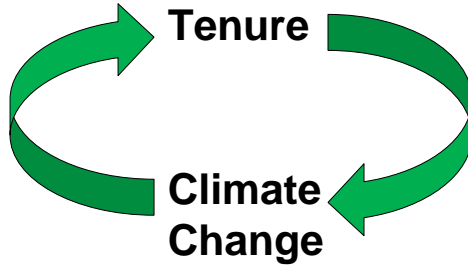


10

Session 11 – Land and Resource Tenure and Carbon Rights



Feedback Loops



Session 11 – Land and Resource Tenure and Carbon Rights



IMPACTS OF CLIMATE CHANGE ON TENURE IN YOUR COUNTRY?



Session 11 – Land and Resource Tenure and Carbon Rights



THE LITANY OF CLIMATE CHANGE WOES...

Erratic Rainfall
Rising sea levels
Shifting rainfall patterns
Receding Glaciers
Coastal Flooding
Water shortages
Melting Icecaps
Biodiversity losses

Impacts on Resource Tenure and Property Rights?

Session 11 – Land and Resource Tenure and Carbon Rights

13



CLIMATE CHANGE IMPACTS ON TENURE REGIMES

Implication # 1. Dramatic changes in land and natural resource-based asset values

Implication # 2: Displacement and Migration

Implication # 3: Further marginalization of the disenfranchised

Implication # 4: Transformation of resource management institutions

Implication # 5: Equity and the distribution of carbon payment benefits

Session 11 – Land and Resource Tenure and Carbon Rights

14



CLIMATE CHANGE & TENURE: CONTESTED SPACES, CONTESTED RESOURCES



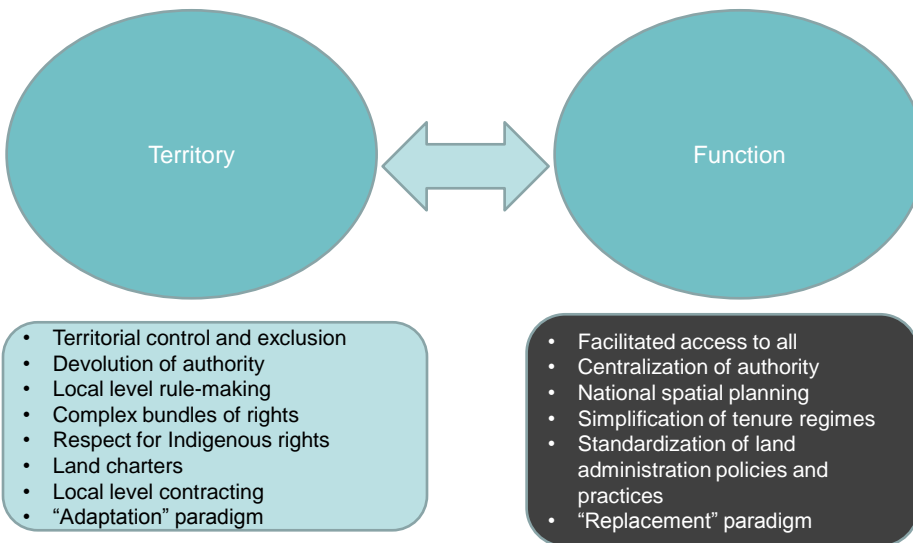
What type of land administration systems for an emerging era of climate change?

Session 11 – Land and Resource Tenure and Carbon Rights

15



INNOVATIONS IN LAND ADMINISTRATION IN AN ERA OF CLIMATE CHANGE?



Session 11 – Land and Resource Tenure and Carbon Rights

16



CONCLUSIONS

1. Tenure is a central feature of REDD+ and often is a basis for other elements of SES: (e.g. who participates, who receives benefits).
2. “Carbon Rights” are ill-defined; efforts to clarify must create common understanding.
3. Tenure reform processes are underway. REDD+ will not be the primary driver of reform; additional political is required.
4. REDD+ tenure efforts must consider systems impacts and avoid approaches that negatively impact vulnerable populations.
5. A focus on the **process** of clarifying tenure is necessary.

Session 11 – Land and Resource Tenure and Carbon Rights

17



OPTIONS TO PRIORITIZE TENURE IN REDD+

- As a precondition to implementation?
- As a benefit emerging from REDD+ engagement?
- As an incremental process with incremental funding?

Session 11 – Land and Resource Tenure and Carbon Rights

18