



# Public Forest Reform: Rationales, Experiences, Questions

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# What Explains Distribution of Forest Land Rights Today?

## Political history:

### Colonialism/imperialism

- domination of customary ownership with assumption of *terra nullius* (e.g. Central Africa, Canada, Indonesia)

### Revolution

- e.g. Mexico (1910), China (1950)

### Reform – redistributions of rights recognized by the state

### Combinations of the above

- e.g. Brazil, US, India (colonial + revolution + reform); China (revolution + reform)

# Observations on History

- Tenure - Reflection of political power at a certain point in time
- Prudent governments recognize underlying currents in society and take proactive action to prevent conflicts
- Post-conflict period is used as an opportunity to re-craft land relationships
- A social/political process, not a rational/technical undertaking
- Not usually led by the Ministry of Forestry, though Ministries can play key roles
- Takes time to establish tenure security
- “Tenure security” a product of many other elements (e.g judicial system that defends rights, strong constituencies to constantly defend rights; landowners knowledgeable of their rights etc.)

# What drives reform today?

1. Assertion by local and indigenous communities for full expression of their human rights.
2. International legal obligations: eg UN Convention Human Rights, UNDRIP
3. Pressures from different sectors and constituencies that Ministries struggle to deal with
4. Recognition that reform is necessary for economic growth, attracting investments, providing incentives for local stewardship and production
5. Risk of conflict

# Different Approaches

1. Brazil: committed to recognizing community and IP rights 20 years ago, incrementally restituting/allocating public domain to: 1) indigenous people; 2) communities of settlers; 3) national parks; then 4) national forest system; 5) private settler households (2010)
2. Canada: 1) IP claims go through court system; 2) pragmatic governments, private companies, indigenous groups cutting interim deals – while waiting for courts (general national sympathy for IP )
3. China: incremental policy experimentation - collective forest reforms began in 1980's official policy support in 2009;
4. India: forest rights act in 2009 – “historical justice”, implementation blocked/dragging

# Some reflections

1. No one ownership form is optimal (state, private, community, individual)
2. Critical to reform the regulatory framework too – or local people can't benefit from reform, and land is captured by more powerful;
3. Misguided to zone land use before reforming land rights (e.g. renewed conflict in Liberia)
4. Most important: 1) is a social/political debate over what should be done, and, 2) morality and rationality intersect
5. Tenure reform does leverage many positive outcomes: local empowerment/action/production/conservation

# Questions for Discussion

1. Reflections from countries that have undertaken major, national level reforms: why did they do it; what did they learn?
2. Reflections from countries that have not undertaken national-scale reforms: what is the debate in their country – who for and who opposed, and what is the role of the forest agency in this debate?