



RETHINKING FOREST REGULATIONS

Summary Discussion

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SOME KEY FINDINGS

- Regulations governing forest use are very important for every stakeholder. They all want to know and be involved in shaping the regulations.
- It is critical to include all stakeholders in the discussion of the problems, the design of the regulation system and the monitoring in order to achieve success;
- Regulatory systems need to be flexible and regularly adapted because the rights and interests of the stakeholders change, as do ecosystems, markets and the political environment – and all stakeholders need to learn together how to make it work better.
- It absolutely necessary to empower the community landowners. Regulations have to be designed in a manner to respect and reflect the local culture.
- Governments can't do everything themselves. They don't have the capacity, the money, or the knowledge necessary to do it alone, and they can't find solutions themselves.
- Every agency, country and stakeholder face their own challenges (including Montana). For this reason there all need to find a way to work together and solve the problems.
- It is necessary to prioritize education and the proactive dissemination of information of all stakeholders, especially the landowners). All need to understand the regulations, be involved in the design and monitoring, and the adaptation to improve them.
- It is very helpful for stakeholders themselves to be organized. This helps each stakeholder group effectively cooperate with other groups. In Montana the loggers are organized in their own association, forest landowners are organized, and the American Indians are organized. This is a key reason why the Blackfoot Challenge is so successful. In this way each group develops trust within themselves, their leaders can effectively represent them to other groups, and they have a sense of direction regarding their rights and interests. All of this facilitates the potential of even larger groups coming together to address larger problems and have greater impact. But it takes time to build that trust.
- There also has to be attention to the implementation of regulations. In lots of countries there is lots of attention to the design of regulations but they are not implemented.
- The BMP system and the USFS Stewardship Contracts work well, and it seems that they provide lots of flexibility and can be built upon to address almost any type or scale of forest management problem.

- The credible threat of new or additional regulation – coming either from governments or from powerful NGOs – can stimulate more collaboration between stakeholders and voluntary action to solve problems.
- The Blackfoot Challenge demonstrates the importance of a “common enemy” between stakeholders, and how this can catalyze stakeholders to get together to solve the common problem, and how experience solving this problem can enable them to tackle other, different and larger problems.
- The willingness of different public agencies to collaborate is a key reason for success, and the lack of this willingness is a key reason why conservation is so difficult to achieve in many countries. When they are willing to collaborate they develop a common vision and this is very helpful to enable the collaboration with other stakeholders to get started and grow.
- Each problem (and area) demands its own regulatory solution and it is not recommended to adopt a model that was developed in another location, or to impose a model on other people or communities.
- When designing a new regulatory system it is best to find and build on existing collaborations/organizations and then gradually build to reach a bigger scale (rather than creating or imposing some completely new collaboration). It is important for different stakeholders to talk, learn about each other’s rights and interests and come to realize that they have common problems, and then to realize that they have a better chance of solving their problems when they work together.
- When confronting a lot of problems, it is important for society, all stakeholders, to identify a few, common objectives, and focus action on where they agree rather than where they do not agree.
- Many countries face similar challenges and are not alone in this struggle to find effective ways to improve forest management on private, public or Indigenous Peoples’ forest lands, and it is very helpful to share experiences and ideas on how to improve.
- A critical lesson is the importance of prioritizing to get results. The state of Montana, for example, recognizes that they have many of their own constraints and that they can’t achieve perfect forest management or conservation everywhere. So rather than try to achieve perfect management, they improved where they could. You should not make “the perfect the enemy of the good.” It is critical for the government to understand its limits and then decide to work only what is most important - keeping things in perspective.
- A key reason for success in Montana is that private landowners always have the opportunity to be part of the discussions regarding regulations, whereas in many countries the government makes the decisions and then tells the communities what to do. Governments need to give the people the freedom and the opportunity to participate in what affects their lands.
- More successful approaches to regulation are focused on educating all stakeholders and learning, and not strict compliance. A key purpose of the BMP audit is the education of all stakeholders.
- Conservation does not usually pay for itself and this is one reason why it is important to design systems that make sure that forest owners can benefit financially from their forests – to make sure that they have incentive in keeping and forest and managing it well.

- More successful approaches focus on designing the regulatory system to achieve desired outcomes (rather than inputs) and empowering stakeholders to achieve them.
- Regulatory systems work when they meet the needs of the stakeholders.
- It is important to have interdisciplinary teams, representing different stakeholder perspectives and disciplines, to resolve conflicts between landowners and the government.
- It is important to identify a few priority problems and a few, simple and practical rules to address them, and this indirectly leads to progress on other goals. For example, choosing a simple goal like improving water quality indirectly benefits forest management. This is advantageous because it would be too complicated to focus directly on it.
- High level commitment between agencies and stakeholders is important and can facilitate collaboration at a lower level.
- A key, essential, reason why the regulatory systems work in Montana is that property rights are clear. This clarity enables stakeholders to focus on improving forest management and addressing larger problems.
- It is important for governments to provide systems of education and incentives to support the people that are doing the right things. There should be more focus on the carrot more than on the stick.
- It is critical to ensure that there are viable forest enterprises because they create the financial incentive and ability for landowners to invest in and manage their forests. The entire forest management system does not function if there is no market to help raise the money to drive improvement.
- Transparent and inclusive monitoring is essential. The dissemination of results to all stakeholders enables education and builds trust.
- The Montana State Trust Land is very successful model (state managing public land for the specific goal of funding public education, and administering these funds in a separate trust.). This model could be considered by other countries who are now allocating their public domain.
- It is useful to have a common, minimum set of standards that apply to all types of forest land, and then enable different land owners to develop more or stricter regulations as appropriate.
- Governments often have the potentially conflicting goals of both raising government revenue from the forests, ensuring adequate investment in the management of forests and ensuring that local people benefit. These potentially conflicting goals are often a cause of conflicting and inconsistent policies and regulations.
- All regulatory systems need to respect the land rights and duties that come with each property type, and above the minimum standards there should be different regulatory systems developed for each tenure type.
- The best forest managers are those who want to own their land for a long time (such as Indigenous Peoples, as opposed to real estate developers). They develop a long-term vision of their land. This is a very important lesson for countries that are changing their tenure structure.

SOME KEY ISSUES AND HOW TO OVERCOME THEM

- Lack of collaboration between agencies and stakeholders. In many countries power is not balanced between stakeholders and sometimes one agency can block progress desired by all others. It is important for stakeholders to deal with this power issue. There is often a disconnect between people that make the decisions in the capitals and the people involved on the ground.
 - o Identify where agencies or other stakeholders are already collaborating and incrementally build from there – developing trust and experience.
 - o Try to balance the power between agencies or other stakeholders so they need each other and have to collaborate.
 - o The government can relinquish some power and include other stakeholders in the design and implementation, giving them more reasons to become involved in the solution.
 - o Increase communication between agencies and stakeholders – helping them learn of each other’s authorities, rights and interests.
- Challenge of identifying the priority when there are so many different problems. How to select between the priorities and set some objectives?
- Overcoming resistance to change within government and other stakeholder groups.
- How to scrap existing stock of regulations and start over?
 - o Example of the USA in the late 1970’s that established a high-level commission to review existing environmental legislation and propose a new suite of legislation.

SOME EMERGING PRINCIPLES

- Ensure transparency at every step of the problem analysis, regulatory design, monitoring and learning process.
- Ensure that regulations are applied fairly.
- Ensure the inclusion of all stakeholders at every step.
- Governments need to work proactively to ensure the inclusion and education of all stakeholders.
- Regulatory systems should be very simple and easy to understand and apply, and impose limited burden on landowners.
- Participatory monitoring is key to ensure that all stakeholders learn about effectiveness and are part of the development of new improvements.
- Property rights need to be clear for regulatory systems to work effectively.
- Regulatory systems need to respect and differentiate between different types of tenure.
- Education and active learning of stakeholders is central to success and education should be part of the process at every step.
- Respecting the traditional knowledge of the communities is key to success.
- There needs to be consistency between the forestry regulations and those of other sectors, such as mining, agriculture, energy.

- Regulatory systems need to be designed to deliver outcomes, rather than inputs to forest management.

NEXT STEPS WHEN WE GO HOME

What are the things that we'll try to begin to change? What do you want to do when you get home?

Indonesia:

1. Continue to promote the clarification of forest land tenure rights;
2. Shift regulations from input to outcome focus
3. Focus much more on education and monitoring
4. Improve transparency
5. Adjust regulations for different type of tenure type
6. Inventory existing regulations and scrap what's not necessary. Move towards a new regulatory framework.

Peru:

1. Share what was learned this week to contribute to the design of the new regulations for the recently passed forest law.
2. Explore potential collaboration for more technical assistance in this process to design the new regulatory framework.

Liberia:

1. Each participant will give presentations on what was learned in Montana to their respective agency.
2. Encourage and support the preparation of the land policy and the implementation of tenure reform.
3. In the tenure reform process start by recognizing community forest land and then after that is identified delimit what should remain as public forest.
4. Conduct a new process to identify all the stakeholders in forest management, and enhance collaboration with all stakeholders, especially to ensure higher level of cooperation and involvement of local communities;
5. Adjust the existing set of regulations to reflect what was learned in Montana.
6. Develop a mechanism for participatory monitoring and develop stakeholder capacity to participate in the field audits
7. Strengthen the national benefit sharing trust to improve implementation.

Mexico:

1. Begin to fix the inconsistent policies (real estate, mining, agriculture)
2. Develop joint monitoring by the government and the land owners

3. Provide more assistance to landowners to get access to the market
4. Better identify the stakeholders
5. Improve the transparency of the monitoring
6. Focus on continuous improvement.

China:

1. Write an article or report to share what is happening in Montana, and include the following points:
 - a. Government should be wise (emphasize of government designed regulations do not always work, need to better recognize their own constraints and the rights and interests of the stakeholders, and that there is a need to find new ways and approaches.)
 - b. Government should ensure transparency – design a system to involve the stakeholders in the decision making process and in the design of the policy.
 - c. Change the existing regulatory system to have different systems for different land tenures. Introduce more flexibility in the regulation so it can be adapted to various situations. Create a set of general principles on forest management for everybody and then design different regulatory systems for each tenure type.

RRI:

Tenure reform is obviously our priority but we know improved forests and livelihoods cannot be accomplished without reforming regulations as well. We will continue to work at the international level to draw more attention the importance of reforming regulations. We're open to hear ideas from participants about what more we can do in their countries to help them advance tenure and regulatory reforms.

RECOMMENDATIONS ON HOW TO IMPROVE THE WORKSHOP

- Target the participants.
- Think of inviting more CSO representatives.
- Give the list of participants to the speakers so they can know better what participants are looking for. And have them know what others speakers talked about to avoid redundancy.
- Not enough time for country presentations. And give room to CSO's point of view of the situation.
- More information about the legal dimension.
- Visit private landowners.
- Agenda too tight. => not enough time to talk.
- Have a list of topics that are going to be discussed during sessions.
- Follow up. Encourage the sharing of knowledge.