

## The poverty of forestry policy: double standards on an uneven playing field

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**Abstract** Can policies designed to maximize exploitation by elites benefit the people who live in forests? Forestry policy throughout the developing world originates from European “scientific” forestry traditions exported during the colonial period. These policies were implemented by foreign and local elite whose interest was to maximize and extract profit. In spite of reforms since the end of the colonial period, policies on the environment usually remain biased against rural communities. Even when more recent policies are fair, the rural poor face severe biases in implementation. In addition, they must compete on an uneven playing field of ethnic and other social inequities and economic hurdles. This article examines how forestry policy and implementation maintain double standards on this uneven playing field in a manner that permanently excludes the rural poor from the natural wealth around them—producing poverty in the process. Change that would support poverty alleviation for forest-based communities requires a radical rethinking of forest policy so as to counterbalance widespread regressive policies and structural asymmetries.

**Keywords** Community forestry, Forestry, Honduras, Policy, Poverty alleviation, Senegal

**Introduction** Local community participation in forest management and in forest ownership is increasing (White and Martin 2002).<sup>1</sup> Nevertheless, forest-based communities still live in a disabling environment of policy and practice that overrides some of the positive effects of increased “participation” and ownership. Forestry and broader regulatory policies continue to favor urban-based and local elite access to forest resources or resource benefits at the expense of local smallholders and the poor (Ribot 1998). Patterns of partial or biased policy implementation also systematically disadvantage local populations. This policy-backed marginalization of rural populations is deepened even by so-called “neutral” or seemingly “fair” policies, because of unequal access to capital, labor and credit, rooted in class, identity and social relations (Ribot and Peluso 2003; Larson et al. 2006a). Together, these factors slant the access playing field, fettering community competition with more powerful actors. Efforts to increase the rural poor’s benefits from forests cannot rely on “neutral” policies if they are to enable local producers to access forest resources, forestry markets and the profits of this lucrative sector. Governments have long mediated forest access (Thompson 1977; Scott 1998). Sunderlin et al. (2005, p 1390) describe how “forestry laws and regulations in many countries were written to assure privileged access to timber wealth and to prevent

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<sup>1</sup> We use here the term “community” to mean “local populations” following its usage in the community forestry and agroforestry literature. We occasionally use “communities and smallholders” to emphasize both communal and private land owners. The paper does not discuss differentiation within communities—which raises an additional set of issues with regard to access—but rather highlights the differences between wealthier and more powerful outsiders, often logging companies, for example, and those who live in or near forestland have more limited livelihood resources.

counter-appropriation by the poor.' In Africa, the colonial antecedents of many of today's forestry policies were unapologetic in favoring Europeans over Africans (Ribot 1999a). Writing on Ghana, for example, the colonial historian R.L. Buell reported that "before 1924, natives held [forest] concessions and sold wood upon the same basis as Europeans. But the competition became so keen ... that in a 1924 administrative order, the government declared that a native could not cut and sell wood except for his own use without making a deposit with the government of twenty-five hundred francs—a prohibitive sum" (Buell 1928, p 256). Over 80% of the world's forests are on public lands, and the state is often the first gateway to forest access (FAO 2006).<sup>2</sup> Forestry authorities are still using many exclusionary strategies. This article shows that current forestry policies and the ways they are selectively implemented continue to reproduce the double standards and conditions that disadvantage, create and maintain the rural poor.

The World Bank (2002) estimates that 1.6 billion people depend on forests for livelihoods (see also Kaimowitz 2003). At least in some countries, there is an important positive correlation between forests and poverty<sup>3</sup> (Blaikie 1985; Peluso 1992; Dasgupta 1993; Taylor et al. 2006). Communities living in and near forests suffer from outsiders' commercial exploitation of forest resources (see Colchester et al. 2006a for a list of studies and consequences; Ribot 2000; Oyono 2006), and it is clear from commodity chain and forest-village studies that vast profits are extracted through many commercial forest activities, yet little of these profits remain in local hands (Blaikie 1985; Peluso 1992; Dasgupta 1993; Ribot 1998, 2006; Oyono 2005). Retaining forest benefits locally may offer options for improved well-being in these areas. Indeed, the great commercial and subsistence value of forests is drawing increased attention to their potential role in poverty alleviation (Kaimowitz and Ribot 2002; Oksanen et al. 2003; Sunderlin et al. 2005), although there may also be tradeoffs between forest conservation and poverty alleviation (Wunder 2001; Tacconi et al. 2006).

Many environmental groups are experimenting with community inclusion in forest management programs and in the benefits from the surrounding resources. Much of the emphasis of development agencies on local inclusion in forest benefits, however, has been on the indirect route of decreasing illegality to increase state revenues and, thereby, government spending, rather than on increasing direct commercial and subsistence benefits from forests to communities (Colchester et al. 2006b). Neither approach has begun to remove the deep asymmetries that enable outsiders to profit while excluding poorer local people.

While forestry policies are not redressing economic inequalities, they are also a poor set of tools for protecting forests. Illegal wood worldwide is estimated to be well over half of all timber traded (Colchester et al. 2006b), while deforestation is estimated at some 13 million ha per year (FAO 2006). Over-exploitation, while often blamed on local users, is often due to the actions of wealthy outside traders (Ribot 1998; Colchester et al. 2006b). Local communities, excluded from legal exploitation and trade, may contribute to illegal

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<sup>2</sup> FAO (2006) reports that 84% of forests were publicly owned in 2000. Another study found that in developing countries, 71% were owned and administered by governments, and 8% were publicly owned but reserved for communities (White and Martin 2002). Only in Central America are private forests (at 56%) more economically important than public ones (FAO 2006).

<sup>3</sup> There are many ways to measure poverty and well-being, and rural communities, particularly indigenous communities, often resent the "poverty" label and have their own understandings and definitions of poverty. The use of the terms "poverty" and "poor" here should be seen as a convenient shorthand and not an unquestioning acceptance of imposed definitions.

commerce as their only way of entering the market (European Commission, in Colchester et al. 2006b); greater legal access could provide them with an incentive to monitor the activities of outside actors. Colchester et al. (2006a) point out that there is no evidence that current forestry management policies are better than local exploitation practices—legal or illegal—and they are probably worse, given that they are formulated for the maximizing of extraction (also see Ribot 1999a). Indeed, many “forestry” or environmental policies, although justified on environmental arguments, have no ecological functions (Ribot 1999b).

This article takes an “access” approach, described below, to policy analysis by analyzing the political economy that shapes the distribution of benefits from forests under a particular policy regime. The access approach is consistent with the policy sciences approach (Ascher, this volume). We focus on the real-world problem that forest policies and/or policy implementation systematically exclude various groups from forest benefits. In doing so, they often impoverish and maintain the poverty of these groups. Poverty is not just about being left out of economic growth; it is also produced by the very policies that enable some to profit. We argue that forest policy should promote poverty alleviation—just as it has promoted extractive profit and related marginalization to date. This reflects our value commitment to rural well-being, while recognizing that the national forest policies we refer to in this article reflect a variety of goals and priorities. While the discourse behind forestry policy addresses many concerns, the cases we present show that ecological and equity goals are at best secondary to their primary extractive economic functions.

The article examines the national context and processes of forest policy and broader regulatory frameworks that—intentionally or unintentionally—limit community and smallholder access to forest resources and to commercial opportunities. We show that double standards are widespread and systematic, and argue that in order to provide benefits to communities, forest policies and regulations must explicitly redress access asymmetries. It is not enough to tweak or enforce existing “rights,” which are generally held by the rich. Positive change will require a radical rethinking and dismantling of forestry regulation and management in addition to establishing and strengthening substantive rights of forest-based communities. The remainder of this article is organized into three sections. The first frames our approach; the second presents case studies in Honduras and Senegal; the third synthesizes the findings and is followed by our concluding observations.

### **From disabling to enabling policies: rights with access**

Is it any mystery why and how policy processes produce poverty? Since the mid-1800s, the European model of “scientific forestry”—the prevailing model not only in colonial Africa but also in post-independence Latin America during the same period—justified excluding local peoples from the forest (Colchester et al. 2006a). As these policies spread around the world, they were implemented by elite whose interest was to maximize, and in some instances sustain, production and profit (Guha 1989; Peluso 1992; Scott 1998; Ribot 1999a). Taxes were introduced to support the colonial state. Concessions were established to assure that “natives” would not compete with colonial merchants (Buell 1928). Licenses and quotas were created to enable governments to allocate production and use rights (Ribot 2001). The net result is a sector dominated by a great extractive policy infrastructure. Although the discourse has evolved and laws have begun to change, the local poor remain at a substantial disadvantage in comparison with outside commercial interests. Over the past two decades there has been a wave of reforms

designed to increase local participation and the benefits for forest dwellers. Numerous authors argue that forests can play a potentially important role in poverty alleviation and in the improved well-being of poor, rural communities. Kaimowitz (2003) emphasizes the numerous direct and indirect ways in which communities benefit from forests through forest products, small enterprises, wage employment and environmental health. Dubois (2003) uses the sustainable livelihoods framework to argue that forests contribute to livelihoods, not only as natural but also financial and political capital, and serve social and spiritual needs. Sunderlin et al. (2005) specifically examine the poverty-alleviation potential of forests, particularly through community forest management, tree planting, non-timber forest products and environmental service payments (also see Ndoye and Tieguhong 2004).

Studies of community forestry in Mexican "ejidos" (Bray 2005) and Guatemala's Petén (Gomez and Mendez 2005; Taylor 2006) have demonstrated substantial economic and other livelihood benefits, such as increased income, greater human and social capital, natural resource conservation, decreased vulnerability, greater equity, democratization of power and empowerment. Community forestry in Cameroon and Nepal has also significantly increased income to forest villages (Agrawal 2001, 2005; Oyono 2004, 2006). However, relatively few such studies are available precisely because communities rarely have policy-supported access to forests and/or to the resources that are valuable in them, or to the capital and markets that would make increased income possible (Ribot 1998, 2004). These experiments in inclusion are important trail blazers toward more progressive and pro-poor forestry, but they still represent only small drops in the bucket in terms of implementing change in the vast sea of forestry practice.<sup>4</sup>

Serious efforts to solve problems in the forest sector have focused on illegal logging while including concerns about the rights of forest-based populations; for example, the World Bank-supported Forest Law Enforcement and Governance (FLEG) process (World Bank 2006). This attention to illegal logging, however, is predicated on two implicit and questionable sets of assumptions: first, that "illegal is unsustainable" and "legal is sustainable" (Colchester et al. 2006b) and, second, that the illegal is merely a matter of disrespecting laws that are otherwise appropriate. Legal forestry and forestry laws, however, are not always based on criteria of sustainability, and even if diligently followed, many regulations would not result in sustainable management (Ribot 1999a, 2006). Further, forestry laws define the boundaries of the "legal" domain—a domain that may not be realistic or just. Since forestry laws discriminate against small and collective forest-land and resource users—often banning their access to necessary goods—these users are driven to illegal practices. The FLEG process approaches these issues from a different perspective. The World Bank (2006) emphasizes stopping forest crime and identifying poverty as one of its drivers. Hence, reforming land tenure and biased regulations that produce poverty is necessary to "help address the poverty-related driver" (World Bank 2006, p 11). Therefore, an emphasis on forest governance that explicitly addresses the ensemble of means by which these groups are excluded and specifically supports inclusion may also help to reduce illegal logging. As Colchester et al. (2006b) argue, FLEG initiatives should address all of the laws affecting forest-dependent peoples (not just forestry laws), adopt a rights-based approach and be linked to governance reform processes that promote broad-based participation, accountability and transparency in natural resource management.

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<sup>4</sup> Many forestry projects claim to increase local income. This article is not drawing on the literature on projects, as projects are not state law or policy.

Colchester et al. (2006a) point out that many governments have signed numerous “soft laws,” such as international agreements, that, among other things, recognize indigenous land rights and customary resource management practices but that these have rarely been incorporated into forestry legislation. In cases where land rights have been granted, this does not necessarily include rights over trees or forest management.<sup>5</sup> Where laws have been passed granting communities greater access to land and/or forests, these have often been adopted through processes outside the realm of forest policy specifically, such as in Nicaragua’s autonomous regions or Panama’s indigenous “comarcas,” although there are exceptions, such as Bolivia (Larson et al. 2006a). For their part, forest policy frameworks tend to be developed with a significant bias that demonstrates the influence of timber interests as well as those of the state and multilateral financial institutions, but less often, despite the widespread discourse, with the effective participation of community or indigenous groups (Silva et al. 2002). It is no surprise that forest policy usually reflects multiple interests—at the expense of these under-represented forest-dependent actors.

How do we explain the paradox of increasing recognition of rights on a broad scale alongside the failure to guarantee basic access in practice? The rights-based approach to livelihoods emphasizes the importance of grounding development in human rights legislation, based on international norms and laws. It is attempting to repoliticize development and bring in normative, pragmatic and ethical issues by empowering people to make claims against their governments and demand accountability (Nyamu-Musembi and Cornwall 2004; compare Ferguson 1996). But how are such rights to be translated into practice? Why is it that legislating new rights rarely translates into greater benefits for average rural citizens?

In their “theory of access,” Ribot (1998) and Ribot and Peluso (2003) contrast the common formulation of property as a “bundle of rights” with their conception of access as a “bundle of powers.” For rural citizens to gain access to forest resources, guaranteed property rights—either temporarily, such as short- or long-term contracts for concessions, or permanently, such as land titles or constitutional guarantees<sup>6</sup>—are a necessary first step; however, the power to act on those rights depends on the negotiation of a number of complementary access mechanisms. The access approach highlights the role of power, emphasizing that many people gain and maintain access through others who control it. Thus, on state forest lands it is usually the central forestry authority that determines who has (legal) access rights to the forest, and on these as well as private, including collective, forest lands, it is the central forestry authority that determines who will have access to permits for the (legal) use and/or sale of forest resources. In the cases we present below, regulations and the authorities who implement and enforce them systematically favor logging companies and create multi-layered access barriers to communities and smallholders—even when those communities and smallholders hold secure rights to the forest resource itself.

The access approach complements the rights-based approach. Rights-based approaches, if practiced according to their original conception, aim to alter the power

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<sup>5</sup> In Colombia, Peru and Venezuela, the state still apparently granted concessions to third parties on indigenous and community lands as of 2006 (Taylor et al. 2006).

<sup>6</sup> Such as for indigenous communities and quilombos (colonies formed by runaway slaves) in Brazil (Taylor et al. 2006).

dynamics of development (Nyamu-Musembi and Cornwall 2004). In this framework, gaining rights, such as those established through the signing of international treaties, is only a first step. The next small step is when these rights are embodied in national legislation. However, rights only truly take effect when implemented in practice—a political process that will likely challenge vested interests at every step. At the ground level, then, a rights-based approach is successful when the power dynamics of access are altered and access to livelihood assets are improved for formerly excluded and marginalized groups.

## Case studies

In this section we present two case studies to illustrate the dynamics of access. Each case examines how resource and market access are skewed both in law and in practice. In the first case study, a pathetically inadequate legal and institutional framework foments a climate that excludes smallholders and forest-based communities through its maintenance of double standards and rampant corruption and its failure to grant secure land titles. In the second case, these exclusions are introduced through the implementation of a set of well-crafted fair laws. The result is the same in both cases: forest control and market access remain concentrated with the forest service and large-scale or urban-based merchants.

### Honduras: social forestry under corrupt oligopolies

Honduras is sometimes referred to as a “forestry country” because of the high proportion of its land area (80–87%) classified as apt for forestry rather than agriculture or ranching. Institutionally, however, forestry concerns have always been subsumed under agriculture, and an estimated 40% of the rural population lives on these lands, many of which are highly degraded and have some of the country’s highest poverty indicators (Vallejo and Guillén 2006). As in many countries, forests have been subject to two main sets of policy goals—building a productive and profitable logging sector and conservation with the creation of protected areas—without adequately addressing the competing problems of poverty and smallholder agriculture.<sup>7</sup>

In practice, Honduran forestry can be characterized as having a substantial portion of forests declared as protected areas, without state management capacity, in which rampant corruption and illegal logging, an increasingly bold environmental movement and a largely marginalized agroforestry sector all play a role. An undercover investigation by the Center for International Policy in 2005 found the Honduran timber industry to be controlled by a few key actors and tainted with widespread, systematic and high-level corruption; this was all presented in a scathing report that swung the presidential election that year (EIA/CIP 2005). Although there is no necessary contradiction between logging and conservation, the Honduran context has led to a severely polarized discourse and vision: environmentalists have even received death threats for speaking out against powerful logging interests.

There are three main laws governing forestry. The Forestry Law that is currently in force (Decree 85) was passed in 1971 and is seen as largely out of date. (A reform project has been underway since about 1998, but debates have continued into 2007.) A 1974 law

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<sup>7</sup> This article refers more specifically to laws in practice rather than a formal national forest policy, which has not played much of a role in shaping the legal or institutional environment. An official policy for 2015 was written in 1996 but was replaced 4 years later by another; this version was then ignored by COHDEFOR, which pursued its own policies outside of either of these documents (Vallejo and Guillén 2006).

(Law 103) nationalized the country's forests and placed them under the control of the newly founded Honduran Forestry Development Corporation (COHDEFOR). Forests were then allocated by concession. In 1992, however, the Law for the Modernization and Development of the Agricultural Sector (Decree 31–92) reversed the nationalization of forest lands and returned the ownership of the forest to the land owner. Forests on private lands became the property of private individuals and on municipal “ejidos” (lands owned by the municipality) they became the property of the municipalities. The best rough estimate is that 36% of the nation's forests are on national lands, 28% are on “ejidos” and 36% are private (Vallejo 2003).<sup>8</sup> COHDEFOR continues to administer national lands directly and to oversee the regulation of private and municipal forests.

In addition to these laws, about 20 additional norms and laws—including the Constitution, Penal and Civil Codes, laws on concessions, renewable energy incentives, the environment and tourism—also affect the forestry sector, sometimes in contradictory ways. Research on forestry in Honduras argues that the resulting confusion—and the failure to pass a new, updated and more coherent forestry law—enables continuing and deepening corruption while discouraging sustainable management (Vallejo 2003; EIA/CIP 2005).

The Social Forestry System, established in 1974 in parallel to existing forestry laws, was aimed at encouraging peasants and indigenous groups to form cooperatives to gain access to forests, primarily for resin production, although later other timber products were also made available. As of 2002, there were 261 such groups in Honduras, with about 8500 associates; an estimated 40,000 people benefit directly from these activities (Vallejo and Guillén 2006). Of the 261 groups, 169 were selling timber commercially in 2004 in a total area of about 182,000 ha<sup>9</sup> (Vallejo and Guillén 2006). About 80 agroforestry groups, mainly pine resin cooperatives, are affiliated with the Honduran Federation of Agroforestry Cooperatives. Despite the fact that the Social Forestry System was launched as a means for greater inclusion of local actors in forest benefits, the office did little more than foster clientelistic relations with the cooperatives (Larson et al. 2006b; Taylor et al. 2006).

### ***Double standards in forest access: if not title, then what?***<sup>10</sup>

In Honduras, communities are actively demanding the right to forest tenure. The forestry law, however, maintains that forestland<sup>11</sup> cannot be titled—although private titles to some of these areas already exist. This legal obstacle has generated tensions between rural populations and the state. Communities both with and without longstanding historical claims are asking for secure rights to forests they live in and near; others demand more secure rights to forests for which the government has granted them temporary concessions. But, to no avail.

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<sup>8</sup> Another study presents very different figures, with 63% national, 14% municipal, and 23% private (Wells et al. 2004).

<sup>9</sup> Honduras' total forest area is about 4.6 million ha (FAO 2006). This area thus represents about 4% of the total.

<sup>10</sup> In comparison with Asia and Africa, Latin America leads in the shift of forest control to local communities (White and Martin 2002). This transfer is largely in response to the demands of indigenous groups for legal recognition of their historic lands and territories (Taylor et al. 2006). Latin America also has highly skewed land tenure regimes, placing land distribution and titling among the main concerns of grassroots struggles, an issue that is not present in the Senegal case below.

<sup>11</sup> Over 80% of Honduras is considered forests, although only 41.5% has forest cover (FAO 2006).

Honduras has signed ILO Convention 169, which recognizes “the rights of ownership and possession” of indigenous peoples over the lands they have traditionally occupied or used (Article 14). Nevertheless, titling to indigenous people and ethnic groups has been very limited. Many of Honduras’ indigenous and ethnic communities have been unsuccessfully demanding titles to their historic territories for years. In the resource-rich Mosquitia territory, in particular, the government has titled lands to COHDEFOR that indigenous people consider theirs; in the Tawahka Asangni Biosphere Reserve, only 5100 ha out of 230,000 were titled to the Tawahka people; the rest was titled to COHDEFOR (Grunberg 2003).

Without title, communities have limited rights to forest resources. According to a 1996 Regulation Governing the Rights of the People on National Lands with Forest Potential, local communities have rights only to the “traditional uses” of the forests in which they live, thereby limiting them to harvesting “fuel wood from trees that have died a natural death or to extract[ing] timber after thinning out and culling operations, resin, oil, latex and seed extraction, grazing, recreation, harvesting medicinal plants, hunting and fishing” (Wells et al. 2004, p 15). At the same time, forestry authorities have the right to grant logging contracts to third parties. Local communities have no power to intervene.<sup>12</sup> In response, many communities have instituted an informal “tax” on logging companies, which they exact through protest and threats when the company arrives.

To gain more secure rights, communities or groups can form agroforestry cooperatives. Prior to the 1992 Agricultural Modernization Law, agroforestry groups could obtain commercial access rights to forests—on national, municipal or private lands—by obtaining a concession from COHDEFOR through the Social Forestry System. When the 1992 law returned forest ownership to landowners, agroforesters who had concessions on private or municipal land faced a new challenge. As their contracts expired, private and municipal owners in particular were unlikely to renew them. Most municipalities, which have had very low budgets until recently,<sup>13</sup> have preferred to give contracts to logging companies that can exploit larger areas and quantities of wood and pay more up front (Ordonez, personal communication, 16 March 2005). Hence, agroforestry groups have lost out.

For example, the community forest management experience in the municipality of Lepaterique is probably the most renowned in the country, but even there local management has deteriorated as increasing municipal control has gradually restricted local timber resource access.<sup>14</sup> In 1992, community-based logging enterprises were established on municipal lands with the support of a Finnish project; between 1992 and 1997, household income for those participating in logging doubled (Nygren 2005). Over time, however, municipal government administrations established an advance payment of 50% of the value of the timber to be logged in order to cover COHDEFOR’s

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<sup>12</sup> A draft forestry law is still being discussed in Congress as this article goes to press. Some of the following provisions may be included: the right to concessions, if desired, to communities living in or near forests, gradual titling of agricultural land inside forests, and concessions to logging companies in areas away from communities and where the latter do not have a stake in forest management (M. Vallejo, personal communication, 24 January 2007).

<sup>13</sup> Although the Municipalities Law established the transfer of 5% of the national budget to municipal governments, this was not enforced until 2004 (Larson et al. 2006a).

<sup>14</sup> A local cooperative still manages the production of resin and firewood (M. Vallejo, personal communication, 24 January 2007).

administrative fees.<sup>15</sup> Small loggers, who do not have legal title and thus have difficulty accessing bank loans, are unable to pay. By early 2004, nine individual contractors had taken over the majority of the logging that was previously undertaken by 12 to 15 community microenterprises (Nygren 2005).

The situation in national forests is somewhat better, but not without problems. As of 1992, rights to exploit resources in national forests are now acquired by auction—with an exception: community agroforestry organizations were granted the benefit of not having to participate in national bidding processes to access forests but rather through direct negotiation of usufruct contracts with the Social Forestry System. This benefit does not come without drawbacks, however; in addition to quota limits that will be discussed below, the social forestry system has received diminishing support over the years, and the length of usufruct contracts have decreased from 30 or 40 years (Wells et al. 2004) to 5 or 10 years (L. Ramos, personal communication; M. Vallejo, personal communication), thereby providing virtually no future security, as well as increasing costs due to more frequent renewal applications. The rules appear to change with each government administration. Indeed, the 1998–2002 government established the Forest Management Agreements that expired when it left office (Wells et al. 2004).

***Double standards in market access: limits to commercial opportunities***

Even when agroforestry groups obtain usufruct contracts for logging, they face extraction limits not placed on logging companies. Regardless of the annually permitted cut established in the forest management plan, these groups are only permitted to extract a maximum of 1000 m<sup>3</sup> per organization per year in pine forests and 200 m<sup>3</sup> in broadleaf forests—a provision established by the implementing regulations of the Agricultural Modernization Law (del Gatto, date unknown; del Gatto, personal communication, 27 June 2007; Wells et al. 2004). Many argue that these limitations barely make logging worth the effort because it is virtually impossible to set up a significantly profitable enterprise. In addition, the remainder of the annually permitted cut can then be auctioned to a logging company (del Gatto, date unknown). As might be expected, since there is minimal oversight, such a system can wreak havoc on forest resources.

At the same time, logging company intermediaries have taken advantage of the Social Forestry System to obtain additional permits, which they use to make illegally extracted wood appear to be legal—and even establish their own producer organizations (Wells et al. 2004). Wells et al. (2004) argue that such activities would not be possible without the collusion of high-level officials in COHDEFOR. According to the undercover investigation of illegal logging mentioned earlier, even the “small fraction of forest extraction [that is] ostensibly carried out by local cooperatives in community forests, who are supposed to benefit from local sustainable logging... are widely influenced, directed and/or co-opted by the large national timber businesses” (EIA/CIP 2005, p 8). Even laborers are usually contracted from outside and are, in any case, paid very poorly (EIA/CIP 2005).

Industry control of the forestry sector is facilitated by the cost and overwhelming bureaucracy faced by agroforesters. Though by law the management plan is the responsibility of the land owner, including COHDEFOR in the case of national lands, in practice community foresters must pay for this. In addition, the government requires an

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<sup>15</sup> Municipal authorities complain that the local enterprises do not invest money in advance and see no reason to support them. On the other hand, “municipal authorities find it difficult to deny the requests of powerful timber contractors, whom they often need for strategic alliances,” and the demands of outside loggers on Lepaterique is very high because it is one of the few municipalities that has a valid management plan (Nygren 2005, p 646).

additional plan—a social diagnostic for communities in national lands that it does not require from the private sector (M. Vallejo, personal communication). Community foresters must also pay municipal and state taxes prior to extraction, and while occasionally they are able to obtain funds from non-government organizations (NGOs), credit and savings cooperatives or banks, most often they must turn to a logger for credit, with whom they have little negotiating capacity. An even greater problem is the very slow approval process for the forest management plan, which affects also affects ability id community foresters to make marketing agreements, since it is never clear when the logging will actually take place or if the timber will be available when buyers need it (Molnar, personal communication). In spite of the fact that COHDEFOR's regulations establish a sixty-day limit for decisions, the process has been known to take up to 3 years (Contreras-Hermosilla 2003).<sup>16</sup>

Logging interests, on the other hand, “are able to bribe local community leaders and bend the rules” (EIA/CIP 2005, p 4) and “officially circumvent... official processes and regulations” (EIA/CIP 2005, p 8). The Center for International Policy investigation found that commercial logging interests fix auction rates in secret meetings, cut trees without management plans and log outside of designated areas, including in protected and other prohibited areas, at least some of this in collusion with COHDEFOR and other public officials. In any case, this criminal activity is not punished (EIA/CIP 2005).

Markets for both timber and resin are controlled by oligopolies. In the former, three or four large timber companies dominate the market and fix the price; in the latter, three resin industries affiliated with the Resin Fund fix pine resin prices (Vallejo and Guillén 2006). For example, the total production costs per barrel of resin range from about 750 to 880 lempiras; the companies pay 900 per barrel. Resin producers consider these earnings to be significant because they have little other opportunity for cash income, so they tolerate an income less than the value of their labor.<sup>17</sup> Further, credit for all necessary production inputs is usually provided by and reimbursed to the company (Vallejo and Guillén 2006).

With regard to logging, one Honduran timber baron, Jose´ Lamas, was named in a lawsuit by a U.S. timber company that accused him of conspiring to exclude the U.S. company, thus allowing him to continue to control prices (EIA/CIP 2005). According to EIA/CIP (2005), that same company was implicated in the takeover of community-based logging in the municipality of Lepaterique mentioned above: the nine contractors who were managing operations as of 2005 had a clandestine agreement to obtain credit from Honduras' “biggest sawmill operator” in return for selling him all their timber (Nygren 2005).

Honduras' policy and regulatory framework is unclear, complex and unrealistic (Wells et al. 2004). The failure to grant communities land-tenure rights over forests increases the vulnerability of the populations that are already the most vulnerable. The procedures for gaining more substantial rights are unwieldy, costly and largely ineffective, and in all cases result only in limited benefits. Rules are only applied to those too weak to circumvent them—the poor rural majority (Nygren 2005). In the end, the policy and

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<sup>16</sup> Clients rarely demand compliance with the sixty-day limit; however, the fear does exist that this could affect forest access in the future (M. Vallejo, personal communication, 24 January 2007).

<sup>17</sup> In essence, the producers are subsidizing the process with their labor by working for less than subsistence wages.

regulatory framework both facilitates and reflects concentrated power and institutionalized corruption.

### **Senegal: rural councilors and the charcoal quota**

There is a certain complicity of the Forest Service—it is not against us, it is for the interest of the patrons.

(Elected Rural Council President, 14 Feb 2006 at Tamba Atelier.)

Until 1998 the system of forest management in Senegal remained highly centralized— orbiting around the system of licenses, permits and quotas allocated by the National Forest Service. A national quota for charcoal production was fixed by this same Forest Service each year, with Forest Service officials and agents claiming that the quota was based on estimates of the total national demand for charcoal and the potential for the forests to meet this demand. However, in actual fact these estimates were neither based on surveys of consumption nor on inventories of forest productivity. Indeed, there was (and still is) a persistent gap between the quantity set for the quota and the much higher figures from statistics on consumption (Leitmann 1987; Madon 1987; ESMAP 1989; RPTES 1994, p 22; MEMI 1995, p 5; PROGEDE 2002, p 59; Faye 2003 pp 56–59). In practice, the quota is based on the previous year's quota, which is lowered or raised depending on various political considerations. Over the past decade, the quota has been lowered almost every year—regardless of demand, thus increasing illegal production (since demand was always met) (Ribot 2006).

Prior to the new decentralized forestry laws, the nationally set quota was divided among some 120–170 enterprises—cooperatives, economic interest groups (GIE—a kind of for profit collective business) and corporations— holding professional forest producer licenses delivered by the Forest Service. Allocation of quotas among these entities was based on their previous year's quota with adjustments based on whether or not the enterprise had fully exploited its quota and had engaged in positive forest management activities, such as reforestation. Some patrons did plant trees by the side of the road to demonstrate such efforts—they called these plantations their "chogo goro" or bribes— since these helped them get larger quota allocations from the Forest Service. During this period, new professional licenses were also allocated most years (enabling new cooperatives to enter the market).

Each year after the allocation of quotas, the Forest Service and Ministry of the Environment held a national meeting to "announce" the opening of the new season. They passed a decree listing the quotas for each enterprise and indicating in which of the two production regions, Tambacounda or Kolda, these quotas were to be exploited. Soon after, the Regional Forest Services then called a meeting in each regional capital to inform the recipients of the location they would be given to exploit their quotas. Sites were chosen based on standing wood. The forestry agents organized the zone into very loose rotations and chose sites by eye, such that some areas that were considered exhausted would be closed, while others that had not been official production sites for a time would be reopened. There was no local say in the matter.

Progressive legal changes giving the rural populations new rights occurred under decentralization reforms in the late 1990s. Senegal's 1996 decentralization law gave Rural Communities (the most-local level of local government) jurisdiction over forests in their

territorial boundaries. The Rural Council (the elected body governing the Rural Community) was transferred jurisdiction over "management of forests on the basis of a management plan approved by the competent state authority" (RdS 1996a, article 30), and the 1998 forestry code (RdS 1998) gave the council the right to determine who will have the right to produce in these forests (article L8, R21). Further, even the more general framing law of the decentralization gives the council jurisdiction over "the organization of exploitation of all gathered plant products and the cutting of wood" (RdS 1996b, article 195). Finally, the forestry code states that "Community Forests are those forests situated outside of the forested domain of the State and included within the administrative boundaries of the Rural Community who is the manager" (RdS 1998, article R9). The forested domain of the state consists of areas reserved for special uses and protection (RdS 1998, article R2), and most of Senegal's forests are not reserved. In short, under the new laws, most Rural Communities control large portions of the forests—not all of the forests—within their territorial boundaries.

To protect their rights over these forests, the forestry code requires the Forest Service to obtain the signature of the Rural Council President (PCR, elected from among the rural councilors) before any commercial production can take place in their forests (article L4). For their part, PCR presidents play an executive role and cannot take action prior to a meeting and deliberation of the council whose decisions are taken by a majority vote (RdS 1996b, articles 200, 212). In short, the new laws require a majority vote of the Rural Council approving production before anyone can produce in Rural Community forests.

The radical new 1998 forestry code changed everything—at least on paper. The amount of production would be based on the biological potential of each Rural Community's forests rather than by decree in Dakar and the regional capital. The enterprises to work in a given forest would be chosen by the Rural Council rather than by the National Forest Service in Dakar. If implemented, the new system would empower Rural Councilors to manage their forests for the benefit of the Rural Community. The law allowed a three-year transition period from the quota system to the system based on Rural Council involvement. The quota system was to be entirely eliminated by 21 February 2001 (RdS 1998, article R66).

However, despite all of these new Rural Community rights, as of 2006 little has changed. The Forest Service continues to manage and to allocate access to the forests via centrally allocated licenses, quotas and permits. The biggest change is the requirement of the PCR's signature. Even this point is still largely meaningless, however, as will be seen below.

The Rural Council's new rights to decide over forest use are being attenuated by double standards concerning forest access and market access. These attenuations are not built into the policies but rather emerge in implementation. The new laws give the PCR rights over forests, but the Forest Service refuses to transfer the powers. Rural populations in Senegal lose out due to two key double standards: access to forests and access to commercial activities are both skewed against them. These are discussed below.

#### ***Double standards in forest access***

The PCR has the legal rights to grant access to forests, but foresters do not allow him to exercise his prerogative. Foresters argue that villagers and councilors are ignorant of forest management and that national priorities should trump local ones. They treat the

PCR's signature as a requirement rather than as a transfer of powers or change in practice.

The Forest Service has deeply entrenched biases against implementing local forest management as required by current laws. The Regional Forest Service deputy director was asked, "Given that the majority of Rural Council Presidents do not want production in the forests of their Rural Communities, how do you choose their Rural Community as a production site?" He replied with a non-comprehending look on his face, "If the PCRs have acceptable reasons, if the local population would not like...?" He then stated, "the resource is for the entire country. To not use it, there must be technical reasons. The populations are there to manage. There is a national imperative. There are preoccupations of the state. This can't work if the populations pose problems for development." (Interview, Deputy Director of the Regional Forest Service, Tambacounda, 3 December 2005.)

Nevertheless, the deputy director did understand the law that he was breaking every day. When asked to explain the function of the PCR's signature, he replied, "the PCR signature must come before the quota is allocated, before the regional council determines which zones are open to exploitation." In short, Rural Councils are asked for their signature, but are not allowed to say no. Their argument—that the population they represent opposes production—is not respected or even understood. The foresters simply expect Rural Councilors to come to a decision based on the same criteria that they use and on the assumption that production is necessary.

In the four Rural Communities where donors have set up forest management projects, the new forestry laws are being applied—albeit selectively. In project areas, rural people do have the opportunity to participate in forest exploitation, but only if they engage in forest management activities required by the Forest Service. The ecological evidence indicates that few measures are necessary since natural regeneration in the zone is robust (Ribot 1999b). Forest villagers know this and do not see the need for most management activities. Nevertheless, to be allowed to manage their own forests, rural communities must use management plans created by the Forest Service. In addition, villagers are required to produce charcoal using the ostensibly more-efficient Casamance kiln (which most producers do not believe is more efficient and do not like using) rather than traditional kilns. That is, whereas urban-based merchants install migrant laborers in non-project areas where they use traditional kilns and have no management plans, villagers wishing to engage in charcoal production must do so under strictly supervised and highly managed circumstances. (Ironically, even in these areas most of the PCRs and councilors did not want production, but were forced to sign off under pressure from the Forest Service—similarly to PCRs in non-project areas).

By creating a spatially limited implementation zone for existing policies, the projects serve as an excuse not to implement the laws more generally. Foresters argue that the projects represent cutting edge practices that are being tested before expanding to other sites, but this argument does not justify prohibiting forest villagers outside of the production areas from producing charcoal while allocating their forests to the migrant woodcutters of the urban-based merchants.<sup>18</sup> In fact, the project areas serve as a decoy. When

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<sup>18</sup> In fact, there is no reason to believe that the migrant's methods are any better than no management at all. There is also no evidence that the "management" used in project areas is better than no management or the migrant woodcutter practices.

donors come to visit the forests, they are shown project areas where management—or rather, the labor to implement management obligations imposed by the Forest Service—is decentralized. They do not see the rest of the forests where forest service activities have barely changed since colonial times. The project in this case reduces the progressive 1998 forestry laws to a territorially limited experiment.

### ***Double standards in market access***

The Forest Service requires all those wishing to trade in the charcoal market (called charcoal patrons) to be members of a registered cooperative, GIE or a private enterprise in order to be able to request from the Forest Service a license (Cart Professionnelle d'Exploitant Forestiere) in the name of their organization (see Ba 2006). Despite the elimination of the quota in 2001, production and marketing remain impossible without quotas, since permits are still only allocated to those with quotas.<sup>19</sup>

Upon receipt of this “professional card,” the member's organization is allocated a portion of the national quota in the annual process of quota allocation. In 2004, the national quota of 500,000 Qx was divided into 462,650 Qx initial quotas and 37,350 Qx of encouragement quotas (7.5%) (RdS 2004d, pp 11–12). In a process described by Ba (2006), the initial quotas are allocated at the beginning of the season, and the encouragement quotas are allocated at the discretion of the Forest Service and Minister of the Environment later in the season.

Each year new cooperatives and GIEs are added to the market. In 2005 there were 164 organizations (RdS 2005), up by 18 new organizations from the 147 organizations in 2004 (RdS 2004d: 12). The number of organizations increases each year, yet all of the peasant cooperatives we have spoken with who have requested professional cards have been refused.

Nevertheless, the quota per patron is shrinking, and many patrons believe that new licenses are being allocated to relatives and political allies. “The registration of new entities is due to the officials: the president of the national union and the state. Most of the entities are family businesses— brothers and sisters.” In particular, they are the brothers and sisters of other already registered patrons. According to older patrons, some of the new organizations do nothing but resell their quotas to others (Patron 2, 25 December 2005). As one patron told us in disgust, “most of the large quota people are new entrants into the market” (Interview AMD, Cooperative president, Patron Charbonnier, Tamba 26 December 2005).

In recent years, the Forest Service, upon the recommendation of the President of the National Union (UNCEFS), has been allocating licenses and quotas to women (interview, national union president, 22 February 2006). This is a new phenomenon.<sup>20</sup> In an interview with one such woman, we learned that she was the wife of an established patron, and the formation of her own cooperative would appear to be a strategy to increase her husband's quota (interview by Salieu Core Diallo, February 2006). Other patrons are not happy with this. One told us “[the national union president] was given a supplementary quota (officially called an “encouragement” quota). They give quotas and

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<sup>19</sup> Like the quota, the license too is illegal under Senegal's current laws (see RdS 1995).

<sup>20</sup> In the 1980s, the only woman merchant in the market took over the business after her husband had died (Ribot 1990).

supplementary quotas to women. These women are behind [the national union president]” (interview, PCR on 14 February 2006 workshop).

Over the past several years, Rural Councilors and other rural community members have requested licenses so that they could get quotas.<sup>21</sup> In one case a rural GIE president went to the Director of the Forestry Service in Dakar to request the card. He explained:

“We put together a GIE in 1998 with its own forest production unit. We filed our registration papers at Tamba [the regional capital]—it went all the way to Dakar. I saw the dossier at Hann [National Forestry Office]... We asked for cooperative member cards and for a quota. We were discouraged. We went to Hann and to Tamba. In Dakar, they wanted to give us quotas as individuals. I said “no” in solidarity with the rest of my colleagues with whom I was putting together the GIE.” (Interview, elected rural council member, Tambacounda Region, 22 Dec 2005.)

A similar story was recounted by a GIE president in Missirah (interview December 2005).

The Forestry Service explains their refusal to give professional cards to local GIE by saying “they need to be trained” and explaining that “if we let them produce, they will learn the bad techniques of the *surga* (migrant woodcutters)” who work for the current patrons [interviews with two Regional Inspectorate of the Forest Service (IREF) officials in Tamba December 2005 and three officials of the Technical Agency of the Forest Service (ATEF)]. The community has first to be organized into village committees and trained to manage and survey forest rotations and to use the Casamance kiln (these are all requirements within project areas but not requirements under the law). Meanwhile, however, the Forest Service continues to admit new cooperatives that have no knowledge of production whatsoever and to hand out quotas to patrons who are producing without any training or management within managed and non-managed zones.

After the initial and encouragement quotas are allocated, illegal production and transport fill in the gap between legal supply and actual consumption. However, these illegal activities can only be carried out by those who hold licenses and quotas—since license and quota holders can use their licenses to obtain supplementary permits and can hide extra charcoal with their legal loads. This is how the gap between the quota and consumption is filled. The market—legal and illegal—is tied up in the hands of a small privileged group of elite well-connected patrons. (Ribot 2006, 1990.)

## Discussion and analysis

The case studies from the Honduras and Senegal demonstrate some of the typical ways that double standards are written into policy and even how fair laws are transformed in practice. In both case studies—as in much of the world—the playing field is already highly skewed against local communities due to economic and social disadvantages. Rather than seeking to even out the playing field, however, policy and/or implementation practices skew it even further. Although forest policies must reconcile multiple goals and interests in the forest sector and not just the interests of the poor, political patronage and corruption intertwine to reinforce disadvantages and systematically favor elites. Even when communities have rights to forests, conditions set

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<sup>21</sup> “The PCRs organized to demand their own quotas. Patron X was our point man. E&F [the Forest Service] said no, because decentralization is for protecting the forests, not to exploit them.” (interview, President of UNCEFS, 9 July 2004).

for actually exercising those rights in practice are often far more onerous than the procedures for outside commercial interests to establish and make their claims. This section examines the main lessons of the case studies and links them to other cases around the world.

### **The uneven playing field: asymmetries among actors**

**Technical and bureaucratic hurdles** In both the Honduras and in Senegal, management plans are required by law for all forest exploitation. For communities, the management plan represents a substantial investment, for which they have neither the capital nor the access to fair credit. In Honduras, these costs bind communities to the same logging companies that obtain the logging permits for the rest of Honduras' forests. Contributing to their lack of independence is the overwhelming bureaucracy and long and unpredictable approval process that makes it very difficult to sign contracts with any other entities, while corporations can negotiate the system due to their expertise and contacts. Further, in Honduras, communities are required to submit an additional plan the social diagnostic plan—not required from the private sector.

**Ability to pay** Three kinds of ability-to-pay problems tilt the playing field. First, municipalities in the Honduras prefer to give rights to larger logging companies who can exploit more and pay more up front. For example, some have established a 50% payment up front, thus excluding the lower-budget agroforestry groups. Second, also in Honduras, community foresters are required to pay municipal and state taxes prior to logging. These up-front payments are reminiscent of colonial concession practices (Buell 1928). Third, management plans also constitute expensive up front payments, as do the labor and other costs to initiate logging.

Similar dynamics come into play when small producers attempt to gain market access. In Senegal, charcoal producers cannot pay for transport before selling their product, but without cash the transporters will not take them. On arriving in the markets, the small vendors do not have the cash to purchase the product. These obstacles systematically favor wealthy operators.

These financial problems are linked to double standards in law. As was seen in the Honduras, no title means no loans from the bank. Loans for forestry are almost nonexistent in any case. This engenders a secondary reinforcement of unequal relations. Inter-locking credit-labor arrangements are common, in which small producers take loans from larger producers or traders on the condition that they will sell the product to the lender at low pre-fixed prices (see Ribot 1998).

**Information** Merchants in Senegal have more information about prices and costs than do primary producers in the villages. The merchants always claim that they are not making any profit and that the price in Dakar is low. They use these arguments to leverage down the producer price. Their profit margins, however, are substantial (Ribot 1998, 2006).

### **Double standards in policy: different rights for different folks**

**Use rights as double standards** Local people's rights are often relegated to non-commercially valuable forest products (Ribot 2001), even if they have lived in the forest for generations. Local peoples in Honduras are limited to such usufruct rights, while commercial rights are allocated by the state to logging companies. In Senegal, local

people have use rights, and commercial rights are devolved to their local representatives. Senegal's Forest Service does not interfere with use rights, but it actively blocks the legally attributed rights to commercial production. The results in both cases are similar, although the paths differ.

***Different criteria for different actors*** In Honduras, communities can gain commercial rights if they organize as community forestry or agroforestry associations, but for logging, the laws only permit them to take out a small portion of available timber no matter what permissible amount has been established in the forest management plan. In contrast, logging companies can log the full amount, and they can even be given concessions in the community forestry areas to log the remaining timber. In Senegal, as discussed below, forest villagers are required to use new, less convenient, kilns, while migrant laborers hired by urban merchants can use the traditional technologies.

### **Double standards in implementation: favoritism and corruption**

***Failure to respect existing rights*** In Senegal, local communities have been granted—by law—access, management and exclusion rights to local forests through their elected representatives, and commercial rights simply by forming the appropriate type of association. In practice, however, they have not been allowed to realize their rights to exclude the commercial activities of others because of pressures placed on their elected representatives by forestry merchants, forestry agents and government administrators. Nor have they been able to obtain commercial rights because they have not been allowed to form associations. Further, quotas, which have been eliminated by law, continue to be allocated and have consistently been denied to these local groups in favor of urban elites.

***Arbitrary differences in treatment of communities and outsiders*** In Senegal, the only places in which communities have been granted access to commercial charcoal opportunities are four project sites, in which the Forest Service has imposed both management plans and the use of ostensibly more-efficient kilns, which most charcoal producers do not like and do not think are more efficient. Patrons working in these project areas or elsewhere are not required to fulfill these requirements, nor is there any indication that these requirements actually improve forest management. In implementation of the laws, the Forest Service has added these criteria, which they justify technically (albeit questionably). The Forest Service then arbitrarily applies the requirement to one group and not to another. Ironically, the Forest Service uses the failure of communities to produce management plans as an excuse to continue allocating production rights to merchants without plans. These merchants are able to afford the costs to produce plans while villagers cannot.

***Selective allocation: licenses, quotas, permits and plain old corruption*** Double standards are easily applied during implementation whenever the state has the right to allocate access (see Bates 1981; Bhagwati 1982). In Senegal, permits and licenses are difficult to obtain for anyone not connected to the Ministry of the Environment or Forest Service. As is seen in the Senegal case, these instruments allow foresters to allocate access as they wish—usually to friends, family and the politically and economically powerful. They then justify their behavior with technical arguments that are clearly bereft of scientific content. In Honduras, logging companies use the lack of coherent legislation and institutions to their advantage to control prices, buy favors and use communities as cheap and convenient suppliers.

Failure to punish criminal activity is another corrupt means of selectively favoring big companies. In Honduras, community groups must follow the rules while larger groups do not. In Senegal, the quota is applied in favor of the powerful merchants even though quotas are illegal, while requirements that block access for the forest villagers, such as management plans, are enforced.

Invented statistics in Senegal are also used to provide the opportunity for corruption. Existing surveys suggest that urban consumption of charcoal is about twice the amount set as the maximum national quota (Leitmann 1987; Madon 1987; ESMAP 1989; RPTES 1994, p 22; MEMI 1995, p 5; PROGEDE 2002, p 59; Faye 2003, pp 56–59). The Forest Service can use multiple pathways to allow higher production, transport and sales than is permitted under the (already illegal) quota and thus stand to benefit via small payments and the cultivation of social and political capital. Hence, the Forest Service benefits as the difference between the quota and actual consumption increases.

***Improper use of special access channels*** In Honduras, separate channels of access to commercial forest extraction are available to different actors. Agroforestry organizations negotiate directly with the Social Forestry System agents rather than entering the national bidding process. Although this was intended to make access easier for these groups, the failure to fully support the system and to actively address inequities has made access for them increasingly difficult, since landowners prefer to contract logging companies. At the same time, corrupt practices have permitted logging companies and their intermediaries—rather than the intended beneficiaries—to use those special access channels.

### **Double standards around the world**

The examples of double standards in policy and implementation are not limited to Honduras and Senegal. In Mali, new laws transfer forest management rights to rural councils; however, these rights cannot be exercised because application decrees, or regulations, to put into effect these new decentralization laws have never materialized (Ribot 1995; Kassibo 2003). Similarly, in the Brazilian Amazon, although indigenous people control the majority of protected land, they cannot log there legally, and despite the fact that the Constitution does not prohibit it, no bylaws or administrative procedures exist, hence they are unable to apply for legal permits (Toni 2006). In Nicaragua, a 2002 communal lands law grants indigenous communities the right to land titles to their historic territories; as of late 2006, only one title had been granted and registered, and not without considerable controversy.

When extensive new rights are actually granted, these rights are often limited to a very small area or to resources without value. Under Uganda's decentralization policy, all non-reserve forests were placed under the jurisdiction of elected local councils. In 1995, the law was amended so that all Forest Reserves with an area of more than 100 ha, mines, minerals and water resources were defined as central government resources, and other forests were privatized to chiefs; in the end, rural councils had significant powers but almost no power over forests (Muhereza 2003; Ribot et al. 2006). In India, the panchayats involved in joint forest management receive only "wastelands" to manage. They are

given degraded lands, on which they obtain rights over forests—forests they must plant and protect for years before they obtain commercial value.<sup>22</sup>

The situation in Cameroon embodies double standards distinguishing between communities and outsiders, placing much greater burdens on the former. There, communities neighboring forests have been granted a “pre-emption right” that gives them the option to choose community forest management before short-term concessions, known as “ventes de coupe,” are granted to outsiders (Ribot and Oyono 2005; Oyono et al. 2006; Smith 2006). However, the required management plan can cost as much as USD 55,000 and take up to two years to complete (Smith 2006), and the process is so complicated that no community has been able to establish a community forest without extensive external assistance (Oyono 2002, 2004). In addition, logging must be undertaken using low-impact procedures. In contrast, “ventes de coupe” require no management plan, and there are no restrictions regarding logging methods (Oyono et al. 2006; Smith 2006).

**Conclusion** In Honduras, the laws are skewed, and implementation is asymmetric. Paternalistic policies aimed at facilitating community access have failed. Multiple laws generate confusion and ample space for elite control of the forestry sector. Communities remain subordinated to this privileged elite. Honduran communities and agroforestry associations will have little chance to benefit from their forests without an aggressive and wholesale restructuring of the sector. In Senegal, the forestry laws are beautifully written. They place key decisions over forest exploitation in the hands of democratic local authorities and open the markets for communities to sell in Dakar. However, in terms of implementation, these laws are not respected. Old forestry laws favoring the urban elite have been eliminated by progressive new laws—but not in practice. Licenses and quotas are still used to retain market access in elite hands. Despite the new laws and community demands and protests, new opportunities in forestry have not been transferred to rural communities. Senegal's forestry access and management standards are singular and fair in the law, but double standards are maintained in practice. Urban elites are systematically favored, while rural forest dwelling populations are excluded with depraved disregard for their wishes and needs.

Although the specific problems vary from country to country, poor communities and smallholders remain at a disadvantage in comparison to more powerful commercial interests. Laws may create singular standards or they may create access asymmetries. However, even when laws are fair, they are not fair if unevenly implemented or selectively enforced, and they are not sufficient to overcome existing inequities unless they are designed and implemented with an affirmative approach. The systemic biases against the poor are only exacerbated by double standards that are often built into the laws and always haunt policy in its implementation.

Despite a new language concerning decentralization and the recognition of indigenous or rural peoples' rights, access to forest benefits for the poor remains highly problematic. It is not enough to introduce participation into an unfair system. Forest services around the world still treat local people as subjects and continue to colonize forested territories.

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<sup>22</sup> In many decentralizations the most lucrative opportunities are retained for central government authorities, while degraded, non-commercial, low-value lands and resources used primarily for subsistence tend to be transferred to local authorities (Ribot 1999b, 2000; Bazaara 2003, 2006; Muhereza 2003; Resosudarmo and Pradnja 2005; Xu and Ribot 2005).

The policies they apply today are almost all— even when given a participatory or decentralized patina—relics of colonial management. The policies and practices of line ministries<sup>23</sup> should be viewed as the next frontier of decolonization—for it is the laws and practices of these sectors (whether in forestry, fisheries, health or education) that concentrate the power of granting lucrative contracts and goods to a minority, forming the material basis for the reproduction of patrimonial states.

The outcomes of forest policy and implementation processes examined here demonstrate the multiple and competing interests and goals of different stakeholders and the weaker power of those who lose out. The existence of apparently fair laws, however, also demonstrates that advocacy by and for forest-based populations, at least in some cases, has been successful and that further progress is possible. Policies should include deepening forestry decentralizations through effective grassroots representation and participation, seeking common ground across myriad goals and interests and identifying opportunities to challenge unjust privilege. The access analysis presented in this article is designed to provide insights and material to leverage such reforms forward.

To improve access for rural residents, however, rights-based approaches to livelihoods must challenge power relations in the making and implementation of access mechanisms. It is naïve to assume that addressing the common interests of the state, elite and local parties is enough. The rich and powerful do not often share an interest with others in redistributing some of their wealth and power. Negotiated solutions always favor the powerful— who are in the better negotiating position. The weak must have the means—whether through representation or withdrawal—to fight for good policies and fair implementation. The support of good analysis and of sympathetic allies can back progressive claims and help exert pressure on those who resist change.

Laws that enable the piecemeal allocation of access by forest agents must be eliminated in favor of universal (as in level) standards of access and use that address the needs of the poor and of the ecology, on which poor and rich ultimately depend (Ribot 2004). Such uniform standards must be coupled with aggressive positive discrimination policies that address the systematic structural disadvantages of small rural producers, including asymmetries in land and forest tenure and access to capital, technical assistance and markets. Developing specific affirmative policies requires identifying exclusion mechanisms in each of these spheres, as well as within communities, and how they are supported by regulations, the role of authorities, implementation processes and basic inequities.

We suggest a minimum standards approach: identifying the minimum forest management measures that are necessary for sustaining the resource and then redesigning policies around these minimum protections so as to transfer the maximum control to local communities (see Ribot 2004 on minimum standards). This approach provides the discretion for communities to build on effective local management traditions where these exist. It is consistent with the guidelines proposed by the World Bank's forest law enforcement and governance process: advocating for simple and enforceable laws that can build on existing rights (World Bank 2006). Identifying and enforcing minimum protections can be done on an experimental and incremental basis to test and assure resource sustainability. After minimum standards have been set, all

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<sup>23</sup> This term refers to the ministries commonly established to govern different sectors (agriculture, forestry, health, education, etc.) in developing countries.

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remaining discretionary decisions—those that do not transgress the minimum standards—should be transferred to local representatives (downwardly accountable local authorities), as this helps assure that sustainable uses of the forests will first meet local needs and aspirations. For reforms to be transformative, they must correct for the everyday practices produced when fair policy meets an asymmetrical world.

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