The Republic of the Union of Myanmar

Ministry of Environmental Conservation and Forestry

Forest Department

Facilitating Public Private Community Partnership for Effective Governance of Vulnerable Forest Lands

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2013

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အရည်အသွေးထိခိုက်ကျဆင်းလျက်ရှိသော သစ်တောမြေများကို ထိရောက်စွာစီမံအုပ်ချုပ် နိုင်စေရန်အတွက် အစိုးရ၊ ပုဂ္ဂလိကနှင့် ဒေသခံပြည်သူတို့ စုပေါင်းဆောင်ရွက်မှုစနစ် ပေါ်ထွန်းရန် ပံ့ပိုးကူညီခြင်း

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Facilitating Public Private Community Partnership for Effective Governance of Vulnerable Forest Lands

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Abstract

The paper is based on the desk study regarding governance of forest lands, private plantations, conflicts between local communities and private companies and measures to overcome these conflicts through different partnerships. The study aims to highlight how to change the significant potential risk of people-oriented forestry programs to significant opportunities to transform approaches for sustainable development. The paper concluded with developing a model of public private community partnership which is environmentally appropriate, socially beneficial, economically viable, and most of all, compatible with the current situation of Myanmar.

Contents

1. Introduction

Most of the forest loss generally started with the logging of primeval forests. Logging may cause further degradation of forests, but not connected directly with the major deforestation. The population increase together with the world's unsustainable consumption pattern is the one putting ever-increasing stress on the land, water and other essential resources of the planet.

After logging, three paths leading to forest loss were observed. The first is the absence of management. Cutover land in tropical forests quite frequently experienced an invasion of settlers who came along with the logging roads. These new comers join with the natives and practice both traditional and non-traditional shifting cultivation.

In Myanmar, shifting cultivation has been engaged by 2 million families in 2.43 million hectares of forest lands   (Myanmar Forest Policy, 1995). These lands are vulnerable from all the aspects of social, economic and environment. However, as stated in Myanmar Forest Policy (1995), it is not a curse to be ashamed of but a cultural practice evolved as a reflex to the physiological character of the land. It is now being recognized that further expansion or even the existence of shifting cultivation on forest land would be at the risk of environmental and ecological vulnerability. In the absence of concerted efforts to rehabilitate these vulnerable forest lands, these areas would be rendered unproductive and lost forever.

This second path can be said as conversion to other land use. Nearly 50 percent of the total expansion of agricultural land which originally planned to be allocated on fallow and waste land falls onto vulnerable forest land presuming that it has favorable agro-ecological environment, and anyhow deforested (Maung, 2007). These developments have proceeded and been connected with settlement policies.

Conventional forestry became impossible to address the deteriorating socioeconomic conditions of local people and serious environmental degradation (Win, 2003). Similar to Philippines, Myanmar tries to decentralize its plantation establishment by introducing two people-oriented forestry programs: community forestry plantation and the private-owned forest plantation. The focus was on retarding deforestation and preventing the conversion of land use, protection of forest areas, catalyst for poverty alleviation and sustainable forest development. Unfortunately, it is claimed to be the third path since it largely degrade the ecological and productive function of the forest.

Statistical data from Forest Department showed that community forestry plantation which started in 1995 able to hand over only 109,423 acres to local communities which is less than 1 percent of total land while private-owned forest plantations started in 2006 is already over 2 percent (Forest Department, Myanmar, 2012). It raises the question to consider that rich and powerful people have gained comparatively more benefits from people-oriented forestry

programs. It also indicates the need to focus on addressing the problems of local people. This kind of modification favoring increased concentration of forest wealth in fewer hands may remove the development options for many local people. If the local people lose their traditional livelihoods and become marginalized via decentralization, they may create obstacle to the desired goal, and themselves suffer from social and economic problems elsewhere.

The governance of vulnerable forest lands need an overall enabling environment created by the involvement of all the public, private, and community sectors or democratic society as whole. The study would like to point out that facilitating public private community partnership (PPCP) is the only way to rehabilitate vulnerable forest lands.

2. Problem statement

The particular problems of developing countries may be summarized as: foreign debt; the need to export in order to acquire foreign currency; overpopulation; unmet basic human needs; poverty; inadequate or misconceived government policies; overuse or misuse of natural resources; and environmental degradation.

Each year, about 11 million hectares of tropical forests are removed for the creation of farm land, for logging, cattle-ranching, and large-scale development projects. Pressures on many forests are increasing rather than decreasing. Problem is an existing negative state not absence of solution. To overcome this, we need to remedy the root causes and slowing down or halting the practice and consequences of deforestation (Keating, 1993, pp. 19–20).The nature of the problems which hinder the effective governance of vulnerable forest land for sustainable development are:
- Reluctance of National governments to support local participation or empowerment, especially if they regard it as a threat to their own authority.
- The concept of participation may be alien to all the stakeholders.
- Participatory processes require certain investment of time and resources.
- Participatory approaches require commitment over time and results may take a long time to appear.
- Full local participation and empowerment are best developed in a democratic society.

According to United Nation Development Program – UNDP reports in 2009-2010, poverty in Myanmar fell from 32% to 26%. However, poverty rate must be reduced by half in a period between 1990 and 2015 according to millennium development goal. This is why Myanmar's poverty rate must be reduced to 16% by 2014-2015. 70% of Myanmar's total population lived in the rural area and are mostly poor. Most of them depend on forest and forest produce. Thus, forestry becomes the best development option in rural areas and it is giving a great opportunity to revitalize people-oriented forestry as a very promising strategy. The involvement of all stakeholders in forest management will facilitate a significant feature of national forest policy and practices to develop sustainable socio-economic and environmental development.

3. Objectives
- To present why social issues are important in sustainable forest development process

– To explore the meaning of effective governance to ensure the success of managing vulnerable forest land
– To create an enabling environment at national, local and community level for promoting public private community partnership for sustainable development

4. Scope

First of all, it might need to admit that the demonstrated data and results are not based on the empirical research. In fact, it is mainly based on the desk study of the researcher. Nevertheless, it is truly believe that this presentation may be able to assist in developing the best idea on how to effectively facilitate public private community partnership for the good governance of our vulnerable forest lands.

5. Why Social Issues are Important

This part is mainly adapted from the sustainable forestry handbook of Higman, S. et al. In the past, forest management training emphasized technical and economic approaches, but nowadays foresters are also being asked to focus on social issues, as part of a sustainable forest management process. Resolving social issues requires an understanding of the values people hold, and the participation of key groups of people in making choices between forest goods and services. Social issues can be contentious, particularly if there is involvement by different interest groups in forestry, resource rights, and broader social concerns, such as those affecting people beyond the forest area.

5.1 Core Social Values

The FSC also states in its Social Strategy that its core social values are:
– **Access:** Strive to make certification equally accessible to all forest owners and managers, regardless of age, gender, ethnicity, faith, cultural background, geographical location, scale or intensity of the operation, or ecosystem in which they operate.
– **Partnerships:** Build long-term partnerships based on transparency, respect, mutual learning and reciprocal accountability.
– **Legal rights:** Support and facilitate the legal and meaningful recognition of indigenous peoples', local communities' and workers' rights, including traditional and customary rights to forest related knowledge.
– **Equity:** Promote inter-generational equity and the equitable distribution of benefits from the forest to Indigenous peoples and local forest-dependent communities
– **Cultural identity:** Respect cultural identity and diversity, traditional local governance structures and decision-making processes, and the right to self-determination and self-development.
– **Subsistence forest use:** Recognize and support as fundamental the subsistence use of forests by forest dwellers.

- **Traditional forest stewardship:** Support traditional forms of good forest stewardship and their adaptation to changing social, economic and environmental conditions.

5.2 People Rights to Forests

Forest organizations are recommended to make a special effort to address social issues because all local communities with legal or customary tenure over land areas with forest resources have the following rights:
- the right to participate in defining how the local community can control management on their lands;
- the right to free and informed consent, including the right to grant, withhold or withdraw consent;
- the right to delegate consent, including the right to set conditions of delegation and the right to revoke delegation;
- the right to protect their rights;
- the right to self-define their own community and their own forest resource needs.

5.3 Good Business Practice

When social issues are not addressed, different combinations of conflicting interests, unfulfilled demands and inadequate responses, have led to problems for forest officials, such as:
- legal challenges and compensation claims;
- unrealistic demands for infrastructure development;
- uncooperative local and political leaders;
- withdrawal of labour and confrontation with management;
- stalled negotiations with neighboring communities, politicians and employees;
- claims on land after it has been developed for forestry;
- bad press and political backlashes;
- loss of markets and contracts;
- vandalism and sabotage based on hostility towards forest managers and companies.

In contrast, people contribute positively, or take responsibility, for forest management when there is a benefit – or incentive – to do so. This usually means collaborating to identify these incentives. Working to accommodate and balance the legitimate interests of different groups is good business practice. By taking an active approach to people as well as trees, forest managers greatly increase the potential social benefits from forest management, and their chances of support from others. They also increase their ability to anticipate future developments, for example in legislation or the market, and are more likely to gain competitive advantage from the situation. An active approach requires skills, commitment and discipline for it to work.

5.4 Legal Reasons

Many interests in forest land are expressed as legal rights, for example in national forestry legislation. However, local people's own use of trees almost always comes last in any list of priorities expressed through local and national laws, or plans for forest lands. This problem may be made worse by laws affecting resources on, or under, forest land, such as minerals (mining laws), soil (land taxes) and access (public rights of way). National laws may also cover other social issues linked to forests. Internationally, there is a growing body of legally binding governmental agreements.

Laws on land, environment and forestry are being reviewed in many countries, especially the links and conflicts between formal and customary rights. Significant efforts are also under way in many countries to improve the effectiveness of the law in preventing the negative impacts of bad forestry, and also to avoid the perverse effects of law and its enforcement on local livelihoods and the forest. Many legal initiatives are based on new legal principles which come from international consensus on sustainable development. Anticipating these types of developments, by working proactively with governments and others such as relevant university departments or research institutes, may bring competitive advantages to forest organizations.

5.5 Responding to External Pressures

External factors may apply pressure, or place responsibility, on the forest manager to address certain social needs and expectations:

- Pressure from forest people's groups and their initiatives. Demands may include greater respect for local populations' rights and support for various projects.
- Pressure from local groups to contribute to social and economic development. Demands may include support for local organizations, employment opportunities, and infrastructure.
- Responsibility to ensure forest people's appropriate rights to monitor, control and negotiate. Demands may include the need to develop agreements, manage conflicts and compensate for losses.

6. The Concept of Governance

The concept of governance is not new. It has attracted increasing attention in the development and conservation fields in the past twenty years. Forest governance has also received considerable attention in recent years because good governance in community forestry is deemed as one way of harnessing its potentiality to contribute in achieving the goal of poverty reduction.

Some organizations adopt governance as the exercise of power and authority. Others emphasize processes and decision-making. Others highlight rules or laws and institutions. Some creates the impression that governance, government and management is the same thing. This has created confusion about what governance is.

It is understandable that governance is not one-size-fits-all. However, in our country situation, effective governance is about the interaction of policy, legal and institutional conditions through which society exercises powers and responsibilities to make and implement decisions in which affecting natural resources and natural resource users.

Effective forest governance supports and encourages the implementation of sustainable forest management (SFM). Forest governance is further complicated by multi-stakeholder and multi-sectoral interactions. To ensure people-oriented forestry programme is in place for optimal benefits, the governance should have four major characteristics; accountability, effective participation, transparency, and the rule of laws. These elements depend on and reinforce each other: for example, accountability depends on transparency, while effective participation is reinforced by the rule of law.

6.1 Accountability
Governmental institutions, private sector enterprises and civil society organizations should be answerable to those who are affected by their actions. Forest officials should themselves be accountable and press for accountability in the organizations with which they interact.

6.2 Effective Participation
Local community involvement in people-oriented forestry programme is required from the first to final stage. Each individual should feel they have a stake in, and are not excluded. This requires that all groups, but particularly the most vulnerable, have opportunities to maintain or improve their wellbeing.

6.3 Transparency
Decisions need to be taken in accordance with agreed rules. Relevant information must be accessible to those who will be affected. It is a must to publicize decision-making processes and communicate information that might affect decisions, in ways that are easily understandable to forest users, neighboring communities, workers and other organizations.

6.4 Rule of law
Fair legal frameworks that are impartially enforced are needed. Forest officials should obey the law, engage in dialogue about its inconsistencies where necessary, avoid corrupt practices and encourage others with whom they interact to do likewise (Adapted from RECOFTC, 2012).

7. Public private community partnership (PPCP)
The main objective of PPCP is to develop viable, mutually beneficial, long-term partnerships. The concept of mutually beneficial partnership, co-management and participation were the core ideas used in designing the principles, criteria and indicators of a mutually beneficial partnership scheme. Mutually beneficial partnership scheme requires:
- Commercial feasibility based on a long-term partnership contract that embraces agree-upon mutual economic and social objectives;
- Equitable contractual agreements determined through a fair and reasonable valuation of shared inputs;

– Full understanding by both parties of the potential consequences and risks of joining the partnership;
– A common understanding of co-management concepts and participation (Nawir, A. et al., 2003).

All sorts of deals have been struck between forestry companies and local communities over the years. Companies have sought to make deals to secure access to land and labour, and continuous supplies of wood. Communities have sought employment, technology, infrastructure, social services and sources of income – and secure access to a wide range of forest products. A range of factors may determine whether companies and communities strike up deals or actively avoid them.

Companies can demonstrate their good-neighborly intentions by providing skills, technologies, resources and access to markets that the community would otherwise be unable to obtain. Communities may aim for partnerships when they can make more money from tree growing, harvesting or processing than alternatives would provide with the services that the company can provide.

PPCP represents a very promising route for stakeholders to work together for SFM. The International Institute for Environment and Development (IIED), together with a range of collaborative research partners, examined 57 examples of PPCP in 23 countries and identified key principles which tend to foster better company–community forestry partnerships:

– *A formal and realistic contract* – legally valid but not over-complicated.
– *Security of contributions*, be they land, finance or labour, from both sides.
– *Shared understanding* of prospects and opportunities, as well as costs and risks.
– *Mechanisms for sharing decision-making* and information.
– *A joint work plan* – clear demarcation of each side's rights, responsibilities and expected rewards within an overall management framework.
– *Flexibility and space for negotiation*, including specific terms for review and revision.
– *Sustainable forest management practices*, in economic, social and environmental terms.
– *Extension and technical support*, as a regular rather than one-off service.
– *Procedures for conflict resolution* – arbitration, defection, termination and recourse.
– *Systems of accountability*, to the community (especially regarding benefit-sharing) and local government, and more widely to civil society.
– *Clear roles for third parties*, such as government, community development organizations and financing agents – drawing on their services and comparative advantage.
– *Integration with broader development plans* – for the company, community, district and country.

8. Why private company should invest in PPCP

When plantations are ready to harvest, the process of timber certification is a must. In such a situation, the private teak plantation companies need to be accredited by the Principles and Criteria (P&C) of an independent, not for profit, non-government organization like Forest Stewardship Council (FSC) in order to guarantee the authenticity of their claims. In such a situation, they might need to prove that their plantations are managed with environmentally appropriate, socially beneficial, and economically viable way.

In this paper, I would like to highlight only two principles of FSC;

#1. Tenure and use rights and responsibilities: Long-term tenure and use rights to the land and forest resources shall be clearly defined, documented and legally established.

- Clear evidence of long-term forest use rights to the land (e.g. land title, customary rights, or lease agreements) shall be demonstrated.
- Local communities with legal or customary tenure or use rights shall maintain control, to the extent necessary to protect their rights or resources, over forest operations unless they delegate control with free and informed consent to other agencies.
- Appropriate mechanisms shall be employed to resolve disputes over tenure claims and use rights. The circumstances and status of any outstanding disputes will be explicitly considered in the certification evaluation. Disputes of substantial magnitude involving a significant number of interests will normally disqualify an operation from being certified.

#2. Indigenous peoples' rights: The legal and customary rights of indigenous peoples to own, use and manage their lands, territories, and resources shall be recognized and respected.

- Indigenous peoples shall control forest management on their lands and territories unless they delegate control with free and informed consent to other agencies.
- Forest management shall not threaten or diminish, either directly or indirectly, the resources or tenure rights of indigenous peoples.
- Sites of special cultural, ecological, economic or religious significance to indigenous peoples shall be clearly identified in cooperation with such peoples, and recognized and protected by forest managers.
- Indigenous peoples shall be compensated for the application of their traditional knowledge regarding the use of forest species or management systems in forest operations. This compensation shall be formally agreed upon with their free and informed consent before forest operations commence (FSC, 1996).

Referring to the above principles, private companies need to negotiate with local people and develop partnership to avoid from disqualification of being certified. The partnership will reduce conflicts, increase social acceptability and can be more cost and resource efficient in the long term.

9. Institutional Arrangement for PPCP

The initiative of the model is developed by adapting the *Panchayat* Forests and *Panchayat* Protected Forests Rules (1978) of Nepal. *Panchayats* mean local village councils in Nepal. The basic idea of the system is getting the participation of *Panchayats* in protection and maintenance of the forest by handing over certain amount of degraded forest land within their administrative boundary to each *Panchayat*. However, it has to admit that the first attempt of *Panchayat* Forests and *Panchayat* Protected Forests based decentralization was not that successful and unsurprisingly did not achieve much because as stated by Kanel (2006), the 1978 Rules had the following inherent problems:

- Forests were not handed over directly to local people who were protecting the forests or who could protect the forest. Instead, the forests were handed over to local *Panchayats*. Benefit sharing was also between *Panchayat* and Government. Thus, local people did not feel themselves as the legal owners of the forests;
- Village leaders elected in the *Panchayats* had not much incentive to manage the forests well because they did not have long-term ownership as they elected only for 5 years and most of the forests were too far for them to effectively monitor;
- Because the forests were highly degraded, there were no initial benefits and incentives for long-term protection and management. Similarly, since only the *Panchayats* got the income, the villagers had lacked in interest for managing the forests.

The system points out that without effective participation of local people, one of the key characteristic of effective governance, all the sustainable forest development programs will be like pouring water in the sand. For this reason, the following model (Figure 1) is restructured on the empowerment of local people and also to be compatible with the current situation of Myanmar. The main features of the suggested model are:

- Handing over of shifting cultivation areas to the people who have traditional and customary rights;
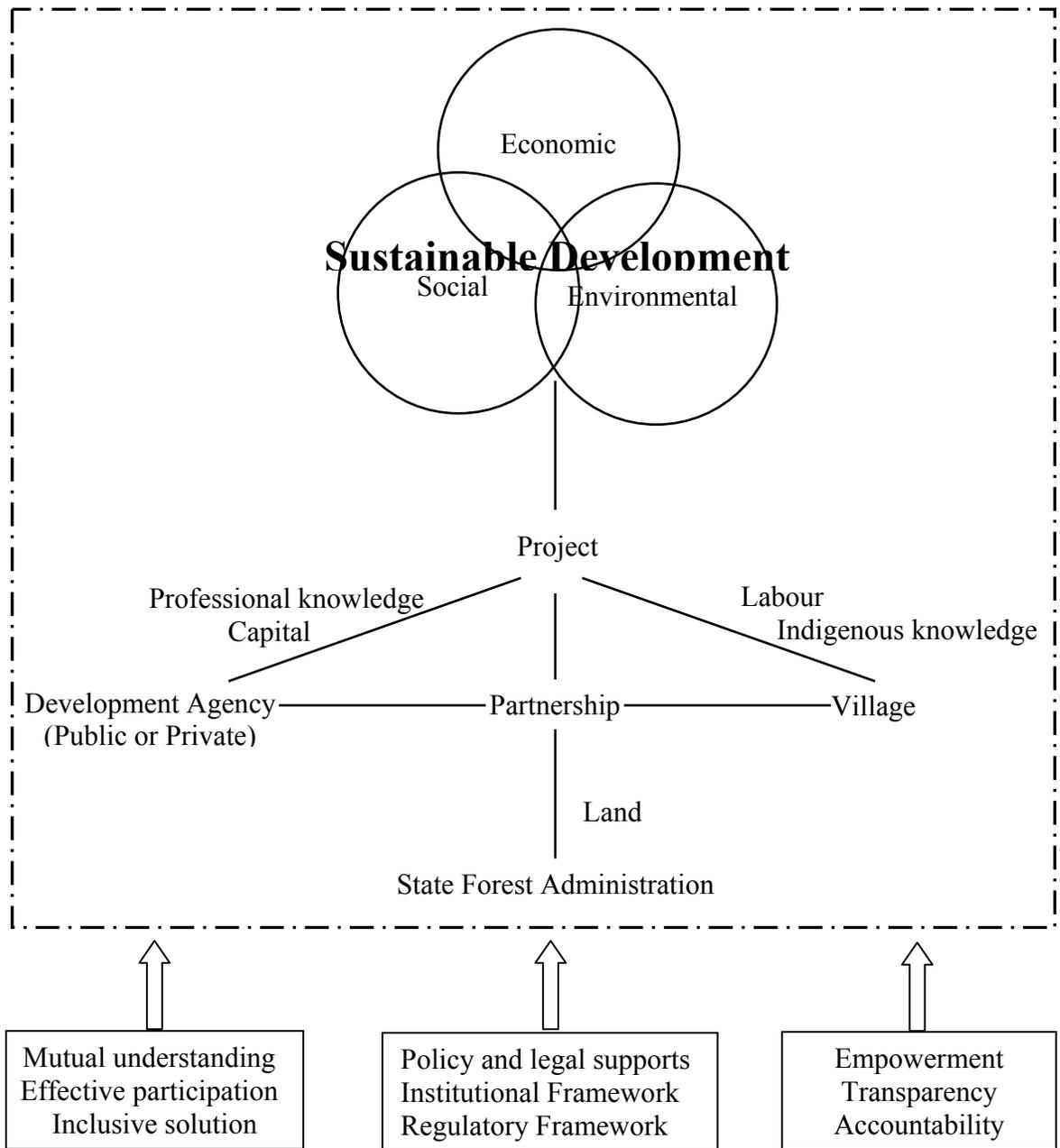- For landless people, degraded forest area can be hand over

Figure 1 A model of public private community partnership

- Handing over of vulnerable forests or shifting cultivation areas must be within the local administrative boundary;
- Forest Department has to encourage private investment in accomplishing the model
- In return, the local people have to actively take part in community forestry activities and also in protecting public forests and private forests within the local administrative boundary;

- Sowing of seeds and planting of seedlings for reforestation in former shifting cultivation area has to be done by local communities
- All stakeholders have responsibility for creating and developing sustainable agreements and must be willing and able to implement the proposals they develop
- Legal framework should be developed to protect the rights of all participants.

10. Discussions

Forests are renewable, and when managed in a way that is compatible with environmental conservation, can produce goods and services to assist in development. When creating and implementing national action programs for sustainable forestry development, governments need to work with business, NGOs, scientists, technologists, local community groups, indigenous people, local governments and the public to create long term forest conservation and management policies for every forest region and watershed (Keating, 1993, pp. 19–20).

To date, researchers report least progress on community forestry. This research also would like to tackle the underlying sources of the failure of people-oriented forestry and would like to point out that time has come to develop concrete measures for these drivers. While many communities live in situations of multiple risks via decentralization, PPCP might be the only way out. Successful examples of company-community partnerships from three countries; South Africa: outgrower schemes with livelihood benefits, Indonesia: third party roles and venture partnerships, Ghana: social responsibility agreements are described by Higman, S. et al. (2005) with different approaches that have been taken.

People-oriented forestry programs can bring significant potential risks, but also significant opportunities to transform approaches to PPCP development. A range of models for forging partnership between government, private sector, civil society and community organizations should be developed and forward-looking proposals for formalizing these models in national development policy should be encouraged. PPCP can begin with simple immediate steps of opening a dialogue and seeking to better understand what each brings to the table. In democratic societies, the role of women also needs to understand as an important driving force for PPCP. To ensure the success of PPCP, systematic and meaningful inclusion of communities in planning and decision-making from the first stage to final stage is a must. Likewise, effective rules concerning stakeholders' responsibilities and opportunities for engagement, as well as accountability mechanisms are necessary.

It makes good business sense to steer private investment towards partnership collaboration. The private sector should recognize that it has a crucial role to play in PPCP, as private companies not only threaten the local communities' statutory and customary rights of access to and use of forest resources, but also contribute increased risk to ecological and productive functions of a forest. In such a situation, PPCP is a 'win-win' situation. The public sector can expect poverty alleviation and better result on natural resource conservation. Private sector can reduce conflict and even create stronger alliances with local indigenous people, and increase social (and political) acceptability. For local community, they can put their nightmare of

live long poverty behind them through socio-economic development resulting from better benefit sharing. Indeed, PPCP business and investment go hand in hand with democratic societies and ecosystems. If and only if the private sector is progressively aligning its efforts to the PPCP business, new opportunities for overall improved effective governance of vulnerable forest lands can be expected.

11. Conclusion

Forest Department alone cannot be expected to achieve the goals of wider society, such as equitable rural development. Such goals are primarily those of governments and are affected by factors that are beyond the control of the Forest Department. However, forest management which incorporates social issues effectively can play an important role in local development. PPCP should contribute to an equitable distribution of the costs, benefits and incentives of forest management, between the private sector, the local and central government, and local communities. Benefit-sharing is not necessarily a monetary transaction. Services which can be provided, such as transport, medical facilities or schooling, may be important to local communities. The best means of contributing to local development should be negotiated with the communities in question through the process of consultation. In such a way, PPCP can improve human wellbeing in forested areas – and can avoid inequitable access to the benefits of forestry.

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