

SESSION 4: TRADITIONAL FOREST MANAGEMENT AND MODERN LEGAL SYSTEMS

Chair : Prof. Toru Iwama (Seinan Gakuin University, Japan)

Rapporteurs: Ms. Akane Nagahisa (Tokyo University of Agriculture & Technology, graduate school)
and Ms. Yuriko Harada (Waseda University - Graduate school)

1. Prof. Toru Iwama, chair of this session, stated opening remarks. Kiyoshi Komatsu, of IGES, explained the legal and administrative supporting measures for a proposed UN Forest Convention and about the IGES project on Forest Conservation.
2. Mr. Komatsu presented the outlines of IGES brain-storming forum on IFF and proposed Convention on Forests. He gave an overview of the international movement towards the Convention on Forests, including the Rio Conference (1992), Inter-governmental Panel on Forests (IPF: 1995-1997), and the Inter-governmental Forum on Forests (IFF: 1997-2000). Coinciding with IFF discussions, the IGES brain-storming forum has studied relationships between a Convention on Forests and exiting international legal instruments. Coordination among related legal instruments is necessary for forest conservation. The IGES forums analyzed elements to be dealt with in a possible Convention on Forests including underlying causes of deforestation. Mr. Komatsu also identified the six categories of the Proposals of Actions of the IPF (institutional arrangements/formulation of policy, international cooperation, research, ensuring participation, training, and open information and information exchange). The Proposals of Actions of the IPF includes traditional forest-related knowledge (TRFK). TRFK should be preserved and utilized in actions for sustainable forest management. The clarification of necessary actions and TRFK usage would play crucial roles in forest conservation.
3. Prof. Iwama asked whether legal principles expected to be incorporated in the Convention on Forests have been discussed or not. Mr. Komatsu answered that the IFF did not cover them.
4. Ms. Makiko Yamauchi, from the United Nations University, Japan, illustrated conflict resolution mechanisms in sustainable forest management from case studies in Thailand, Malaysia, and Indonesia. In each country many conflicts over natural resources occurred between villagers and government organizations and among villagers themselves. Each country had its own special circumstances but there were common elements. Considering them, the following points needed to be included in mechanisms for solving conflicts over forest management. First, clarify and guarantee basic rights of indigenous people by laws and provide opportunities to participate in decision making processes. Second, have a neutral and independent mediator (e.g. the court system) in conflict resolution mechanisms. Especially at national or local levels, few concrete measures have been taken relating to these elements.
5. In the discussion, Ms. Mia Siscawati, from RMI, Indonesia, clarified two points about Indonesia. First, the Forest Law enacted in August 1999 did not mention natural resources. Second, the Basic Agrarian Law and Basic Forestry Law did not empower local/indigenous people; neither did it include them in natural resource management frameworks. She also commented that the Indonesian government should ratify ILO Convention 169 and take leadership in demarcation of areas like public forests, National Parks, community forests, etc. Prof. Sonohara, from Daito Bunka University, Japan, asked if traditional mediation systems work in Indonesia. According to Ms. Yamauchi, they did in some cases but not in others. Therefore legal frameworks should be designed in addition to traditional mediation systems. Mr. Yoichi Kuroda, from IGES, added that the Malaysian legal system was different from region to region (e.g. Malaysian Peninsula as under control of state government, while Sabah and Sarawak are under provincial governments). He also pointed that the government of Malaysia neglected NGOs.
6. Prof. Dinah Shelton, from Notre Dame Law School, USA, made a presentation about a rights-based

approach to public participation and local management of natural resources. Forest conservation could be achieved effectively by integrating human rights laws and environmental laws. International human rights laws and environmental protection laws were fundamental values and aims of today's international society. Though they have been developed rather separately, they both recognize the significance of protecting rights of indigenous people/local communities. Especially the rights of public participation in environmental decision-making and of management of forest and other resources by local communities were important. In countries concerned, forest conservation and protecting rights of the indigenous people and local community were linked closely. Knowledge and practices of indigenous people/forest dwellers were essential for forest conservation.

7. In the discussion, Mr. Herman Hidayat, from LIPI, Indonesia, asked how to integrate human rights laws and environmental protection laws. In Asia and Latin America where forest degradation was occurring, for example, governments often neglected human rights. It would be a long process to integrate human rights environmental laws in these countries. Do we wait for the process and what should be the priority in the integration process? Dr. Shelton admitted that it is a long process and introduced some successful cases in America. The filing of lawsuits against big businesses has been an effective way to ensure human rights for indigenous people. Ms. Siscawati asked to name new conventions concerning human rights and environmental protection. Dr. Shelton answered that FAO had adopted a new convention (PIC convention) on transboundary movement of all hazardous substances in June 1999. In addition, the final draft of the UN declaration on human rights had been finalized in the UN Human Rights Committee.
8. Prof. Wang Xi, from Wuhan University, China, made a presentation about forestry policy, law and public participation in China. After severe decreases in the past, forest coverage rates of China had increased from 8.9 percent in 1949 to 13.9 percent in 1993. Still, forest resources in China were very limited and not enough to meet domestic demand for wood products. Per capita forest area was 0.11 ha and most of the man-made forests were too young to harvest. Chinese wood consumption was putting pressure on forests within China and in countries exporting timber to China. In China, over logging was causing serious environmental problems such as soil erosion, desertification, natural disasters, and loss of biological diversity. There were a range of national laws, plans, and projects for forest conservation which had been successful in expanding forestland. Public awareness and participation was crucial for forest conservation. Prof. Wang showed pictures of illegal cutting by local people on steep mountainous areas. The Chinese government was conducting projects to relocate those people to flatter land in order to prevent environmental degradation by over logging. The government had another project to promote afforestation in which it rented pieces of land to local people on a contract basis and paid a subsidy to those who planted trees on the land and took care of them.
9. As a result of profound discussions, it was recognized that these presentations would be useful to consider in future research, and that more detailed research on these issues was necessary.