
Discussion paper

The utility of forest ethics

A proposed approach based on field work in Vietnam



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Executive Summary

This paper presents some issues that might be important if ethics are to inform local, national and international debate and policy making in relation to forests, forest products and the livelihoods of forest dependent communities. The paper examines a number of theoretical issues and then uses a case study about the conifer *Taiwania cryptomeriodes* identified by scientists in Vietnam in 2001. The case study itself raises questions about different types of value by stakeholders – including the limited understanding of outsiders of ethnic minority philosophy and values. It also draws attention to the tension between conservation and use of forest resources. The paper suggests that all global citizens are forest dependent directly or indirectly. It asks whether this situation could be used to broaden and improve current valuational systems for forests, forest products and services. In so doing it explores how forest ethics could best support the implementation of human rights, poverty reduction and the meeting of the Millennium Development Goals. Throughout the paper a number of ‘Issues for Consideration’ are drawn out which are designed to provoke further thought, research and action.

1. Introduction

This paper will not attempt to review the literature on environment, forest or development ethics *per se* but will focus on the question:

Can a clearer articulation of a number of ethical issues in relation to forests help improve livelihoods for marginalised forest dependent communities?

The paper highlights some questions that need answering. The answers we give will help to determine whether ethical issues can inform the debate and whether marginalised forestdependent people will benefit as a result.

An important existing model to learn from is the global human rights discourse and the increasing use made of UN human rights bodies by indigenous peoples and ethnic minorities to obtain their rights under international law (ICHRP, 2003; ILO, 2003; Thornberry, 2002).² Progress is also already being made in the field of biodiversity conservation within the implementation arrangements for the Convention on Biological Diversity (Colchester & MacKay, 2004; FPP, 2004). A number of conservation agencies are under criticism in relation to their work in areas of high biological diversity which are also the traditional lands of a number of indigenous peoples (Chapin, 2004). The creation of the UN Permanent Forum on Indigenous Issues³ may also turn a spotlight on forest related issues in the future.

In relation to forest ethics, it is important that we first clearly understand what we mean by forest, and forest dependent communities and therefore the boundaries of application of any ethical discussions.

A set of real ethical issues will be introduced and explored using a practical case studybased on the work in Hoang Lien mountain in the north of Vietnam on *Taiwania cryptomeriodes*. The paper argues that a better understanding of the ethical issues raised by forests could facilitate a more informed discussion when considering livelihood development of a range of forest dependent communities. However, in the short term, practical actions to render forest development humane might make better use of existing resources e.g. within the international

² See for example the Declaration of Atitlán, Guatemala. Indigenous Peoples’ consultation on the Right to Food: A Global Consultation, Atitlán, Solalá, Guatemala, April 17 – 19, 2002.

³ Web site: www.un.org/esa/socdev/pfii

human rights regime. Using these more effectively will “assure that the changes launched under the banner of ‘forest development’ do not diminish human well-being”⁴.

2. Defining the boundaries of ethical discussion

2.1 What is a forest?

To use forest ethics we must first understand what ethical issues pertain to what type of forest. For example, we need to decide whether our forest ethic only deals with natural forests or whether plantations are to be included (see discussion in WRM, 2003). Box 1 gives definitions from the concise Oxford Dictionary as well as the FAO Global Forest Resources Assessment Update 2005 (FAO, 2004).

Box 1. Definitions of a forest

1. Concise Oxford Dictionary definition

Forest:

- a. a large area covered chiefly with trees and undergrowth.
- b. the trees growing in it.

2. FAO Forest Resources Assessment Programme

Forest: Land spanning more than 0.5 hectares with trees higher than 5 meters and a canopy cover of more than 10 percent, or trees able to reach these thresholds in situ. It does not include land that is predominantly under agricultural or urban land use.

To examine ethical responses to forestry it is likely (for either definition) that there would need to be further clarity on the history of the site under discussion, for example:

- Areas of forest which have been undisturbed by humans;
- Areas of forest which have had minimal disturbance by humans and what has taken place was under the control of an indigenous community;
- Areas of forest which whilst still primarily natural have seen periodic disturbance by humans e.g. through logging, burning, collection of non-timber forest products (NTFPs), which may well have been as a result of long term use by IPs/EMs or local communities;
- Areas of forest which are primarily human artefacts but where they may mimic deliberately the structure of natural forests. This would include all attempts at restoration and the ethical concerns that this raises (Gunn, 1991; Elliott, 1994);
- Areas of land under tree cultivation either as mono-culture plantations or mixed plantations for subsistence or commercial use. Would the type of ‘ownership’ and scale affect the value e.g. cinnamon plantation under ethnic minority management or a eucalyptus plantation under management of a transnational company (or vice-versa)? How does the source of the trees being used affect this ethical status of these sites including:
 - Use of trees indigenous to the site location;
 - Use of exotic trees;
 - Use of limited provenances – either indigenous or exotic;
 - Possible use of genetically modified trees.

⁴ from the Forestry and Land Use web pages of IIED.

2.2 What is the source of forest value?

A second area about which we need clarity is the source of forest value. Is it associated with the intrinsic value of individual plants, animals and micro-organisms which make up forests? Does value emerge at the level of an ecosystem from the constituent elements of a forest? Or is it associated with some function that forests have which might have a direct use value for humans e.g. utilitarian values such as watershed protection, sources of subsistence and commercial products?

In any one locality it is likely that different stakeholders will have and express a range of values in connection with forest land and the trees growing there. For many people forests have only economic value. Forests are there to provide watershed protection, raw material to enterprises and to contribute to the overall welfare of the state. However, the same people who might express this view in public may be the same people who are moved by the physical presence of large trees (when experienced directly - which is an increasingly rare human experience in many countries - or through photographs). Others may have strong cultural attachments to certain types of trees e.g. the Japanese and cherry trees. The balance of these values will vary amongst stakeholders and it is likely to be a challenge to negotiate an agreed response from any one group. Ethnic minority people are just as likely to take a utilitarian approach to forestry, even when many groups retain strong links to certain areas of forest land (often termed spirit forests in Vietnam). In Vietnam, particular trees are valued both for their use values e.g. for good houses, musical instruments as well as their cultural linkages and for a sense of beauty or awe.

Globally many important areas of forest and biodiversity are located in areas of great poverty. How do our responses to discussions of forest ethics and the locus of value get refracted through other ethical lenses (see Box 2)? For instance how are responses to discussions of forest development affected by discussions of:

- Absolute poverty alleviation;
- Balance of needs, wants etc;
- Role of nation state and international law as well as customary law of indigenous and ethnic minority communities;
- Aspects and understanding of different forms of property, ownership and management;
- Consequences of operations of international economic agencies e.g. International Financial Institutions (IFIs) and the World Trade Organisation (WTO);
- Excess consumption beyond the resources within a state's boundary (ecological footprints);
- Historical injustices and reparation;
- Development of forms of participatory democracy;
- Corruption.

Box 2. What issues need definition in order to make use of forest ethics?

How does the definition of a forest affect the issue of moral considerability of the forest itself and/or the constituent elements of the forest? Do we know what we are talking about and is there any agreement?

How can the functions of forests be linked to instrumental/intrinsic value arguments?

How does ethical consideration of forest land management relate to issues such as human rights practice and theory, as well as wider international law and policy?

2.3 To whom do we refer as forest dependent communities?

If we are to use forest ethics in the service of forest dependent communities, we need to define first whom this might include. This is a complex topic and is likely to vary from country to country. Byron & Arnold (1997) provocatively discussed this – but with perhaps a focus on the spatial, rather than product or service, dependence. Box 3 presents a recent understanding of forest dependency in relation to forest communities and poverty in Vietnam i.e. relatively spatial forest dependency. From this one example it is possible to see that there may be competing, and equally sound, claims to different approaches to forest use e.g. between approaches to watershed protection and sustainable use paradigms based on local management as well as potential links into industrial usage (paper and chip industries as well as furniture/craft enterprises).

Forests often occur, especially the remaining natural forests, in remote areas which also have a number of other structural issues which help to create/maintain poverty⁵. These structural issues require not just the implementation of better infrastructure to overcome poverty but also a better understanding of the particular conditions which pertain in these areas e.g. different forms of agriculture, different social structures – especially when IPs/EMs are living in the area (Bird *et al*,2003)

⁵ In Vietnam, the 2,362 communes currently included in Program 135 account for 23% of the 10,500 communes nationwide. They occupy around 50% of the total land area of the country, within which approximately 66% of the land is legally classified as forest land. In many of these poor communes in the uplands the proportion of forest land frequently extends over 70% and is primarily made up of protection forest. A similar situation applies in some of the larger coastal communes that have substantial areas of coastal forest or mangrove.

Box 3: Type of forest dependency in Vietnam

We can identify 5 main contexts of forest dependency in Vietnam based on geographical situation, the type of forest resource, the institutional context of forest management, and different types of livelihood opportunities:

1. Poor communes and villages located in the remote, upland and border areas that contain large amounts of land that is legally designated as protection forest, and which are generally remote from industrial commercial opportunities. A feature of these 'forest dependent' areas in the uplands is that they are amongst the poorest regions of the country in terms of the depth of poverty, as well as containing high numbers of ethnic minority people (see footnote 6).
2. Areas where State Forest Enterprises (SFEs) or Watershed Forest Management Boards are the primary land holders, and where particular circumstances apply for existing/former SFE employees and indigenous communities in these areas.
3. Communes and villages located on the borders of or within Special Use Forests, National Parks and protected areas of high biodiversity value, where special regulations and prohibitions apply with respect to land allocation and use of forest products.
4. Some rural midland areas where there are significant proportions of production forest land allocated to farm households, where forestry related activities may represent a considerable source of income for these households, and where the main issues for livelihood development are related to supply chain management and marketing.
5. Lastly – in all rural areas of the country – a considerable number of poor people obtain either occasional income or employment from the collection, transport, processing and/or trading of forest products for local markets, in association with the informal enterprise sector, or raw material supply for industrial enterprises. This represents a substantial and largely 'hidden forest economy' that remains unquantified in income surveys and is not fully recognized in official statistics based on industrial output.

(Shanks and O'Reilly, 2005)

In the definition of forest dependent communities spatial proximity is usually a key feature. Yet this approach may not be appropriate for our ethical considerations. The trade in products from forests (timber and non-timber forest products) is global in scope. Products from forests in Vietnam make their way to Europe in the thriving trade in garden furniture. Other products are processed into medicinal products through legal trade in medicinal plants e.g. *Thao Qua* into China. Changes in regional and global forest policy can impact significantly on forest dependent communities. For example, changes in forest management regulations in China have resulted in an increase in *Thao Qua* production in northern Vietnam bringing livelihood benefits but increasing the scale of ecological change (and sometimes total destruction) of natural forests and the stream side habitats.

Since the web of cause and effect is global – do we not need a global cosmopolitan forest ethic? For example, changes in the EUs approach to importing of timber from sustainable sites may, if not implemented carefully, transfer the burden of meeting European requirements to developing countries and forest dependent communities with little or no financial or other support resources. Attempts to achieve ethical timber use in Europe will result in the export of ethical obligations to those least able to bear them? Similarly if the ethical use debate is applied to timber why does the EU not apply the same approach to sugar and other commodities?

A better approach might be to accept that all people live in forest dependent communities either directly in terms of daily reliance on forest products – either through products such as paper or through our use of environmental services. A global forest ethic could accommodate local variation. For example, in situations where the management of forests is important to basic subsistence could we not make use of a rights approach based on the ‘priority principle’ elucidated by Shue (1996)? This links together required, permitted and prohibited transfers to ensure that basic rights, including subsistence rights, are met. This could, if we were to include subsistence rights of non-human entities, require a different approach to institutional and economic development, which would take these issues seriously (O’Reilly, 2000).

Since all people are effectively forest dependent, this could form the basis for the development of a cosmopolitan ethic. However given that there are a number of issues e.g. climate change, food security, weapons of mass destruction, wars on {fill in your choice here}; environment and WTO regulations which could either positively or negatively drive a cosmopolitan ethic it seems that forestry is unlikely to be a strong enough subject to bear this burden alone.

One issue of concern in developing a cosmopolitan ethic is that many people are now far removed from forests with increased urbanisation. As a result, myths grow up around the use of products from forests and trees. One myth is that forest products are totally natural and therefore seen as a good thing without questioning the environmental costs of products from old-growth forests or unsustainably managed plantations. Another myth is that it is best not to use forest products such as paper at all i.e. internet campaigning is good for trees⁶ and causes less environmental damage than mining minerals for computer parts. Partial analyses like these ignore the use of plastic to meet our need for computers as well as a society that tolerates the built-in obsolescence in these machines. In most instances, the valuation of forests (including plantations) is skewed by a market culture requiring competitively cheap products. Developing a forest ethic that reflects the broader values of forest dependent people might require a much wider application of radical forms of valuation based on issues of non-substitutability of human-made capital for natural capital (Beckerman, 1994; Daly, 1995; Daly & Townsend, 1993). This would be a substantial challenge.

2.4 How should we consider time?

There are two elements of time that need consideration – the longevity of some forest trees and the ongoing ecological flux of forest succession. Forest trees are long-lived and persistent in relation to human time (not to geological time but we can leave that aside in this discussion). Forest ecosystems however are not static even on a human timescale and the impact of natural events e.g. fires caused by lightning strikes, are part of the life history of a forest. Forests take time to recover from such events – often longer than a single human life-time. This dynamic nature of forests can cause confusion of the is the glass half full or half empty variety if the history of a site is not known by outsiders (see Belsky, 1989 for change in arid landscapes; Fairhead & Leach, 1996 in relation to forest-savannah systems and Sprugel, 1991 for a provoking discussion). Russell (1998) indicates that perhaps we should consider

⁶ see for example Greenpeace web-site: www.greenpeace.org/international/

'woodland as process' especially when considering management interventions at different sites. He indicates that a possible framework for this might include:

- What is this place (including its contexts)? *significance*
- What happens if we do nothing? *process*
- What could it be (in itself and as part of something bigger)? *vision*
- What can we not avoid doing? *action*

The questions of longevity and ecological change often pervade questions of naturalness. Many people regard naturalness as a valuable commodity. As such, it confers the requirement to pay extra attention to the protection and conservation of natural forest. This could lead to some of the poorest communities incurring high opportunity costs in relation to for example logging bans (Brown *et al.*, 2001). This raises the issue of whose values count and over what timeframe. In particular, it raises issues about indigenous peoples and ethnic minority usage of forest resources. Their self-determination and control over forest land has implications not only for international human rights law (Thornberry, 2002) but also for international law more generally (Castellino & Allen, 2003). The current debates surrounding intellectual property, local communities and protected area development was the subject of a new resolution at the Convention on Biological Diversity Conference of Parties in February 2004. This recognised the role of these groups in the protection of biological diversity and notes that their rights should be respected when establishing new protected areas (see Box 4).

Box 4. Extracts from Decision VII/28, COP7 CBD Kuala Lumpur, February 2004 (CBD, 2004b)

Para 22 of decision VII/28:

Recalls the obligations of Parties towards indigenous and local communities in accordance with Article 8(j) and related provisions and notes that the establishment, management and monitoring of protected areas should take place with the full and effective participation of, and full respect for the rights of, indigenous and local communities consistent with national law and applicable international obligations;

Goal 1.1

to establish and strengthen national and regional systems of protected areas integrated into a global network as a Contribution to globally agreed goals

Para 1.1.4

by 2006, conduct, with the full and effective participation of indigenous and local communities and relevant stakeholders, national-level review of existing and potential forms of conservation, and their suitability for achieving biodiversity conservation goals, including innovative types of governance for protected areas that need to be recognized and promoted through legal, policy, financial institutional and community mechanisms, such as protected areas run by government agencies at various levels, co-managed protected areas, private protected areas, indigenous and local community controlled areas.

Box 5. What issues need consideration for forest ethics regarding forest dependent communities?

Would wider or narrower definitions of forest dependent communities make more sense? What are the implications of accepting that the global human community is forest dependent?

Are the issues of marginal forest communities a sub-set of wider marginalisation of people in remote rural areas but made more complex by strong interests related to disputed property rights – especially for indigenous peoples and ethnic minorities?

What conditions would be necessary to enable an increased understanding of the global dependence on forest resources to provide a basis for the development of a cosmopolitan ethic?

How does time affect understandings of naturalness and is this important in itself and for sustainable use?

3. Case study of the use of *Taiwania cryptomeriodes* by the Hmong people in Vietnam

3.1 International scientific discovery and knowledge

This case study introduces some of the ethical issues that surround real forest situations at different scales. In 2001, a team of Vietnamese scientists conducting a botanical survey in Van Ban District, Lao Cai province, Vietnam discovered the presence of the tree *Taiwania cryptomeriodes* Hayata⁷. The tree was previously unknown to scientists in Vietnam (Nguyen Tien Hiep *et al.*, 2002; Nguyen Tien Hiep *et al.*, 2004; Swan & O'Reilly, 2004). Further studies were undertaken in 2001 and 2002. The 2002 study included the Chair of the IUCN SSC Conifer Group – Aljos Farjon, who concluded that the trees were indigenous to the area (Farjon, 2002). As Farjon (2002) indicates “the recent natural distribution of the species is highly disjunct, with the only two areas known until very recently where it is indisputably indigenous being Taiwan and the border region between Myanmar and China (Yunnan, Xizang), with most of the known populations in Yunnan.” National and international scientists placed great emphasis on the fact that the population in Vietnam was indigenous as in China *cupressaceous* trees are often introduced in relation to religious and cultural practices.

3.2 The role of local knowledge

The *Taiwania* tree was however well known to local Hmong people who call the tree *Cha Cau*⁸. The tree has a number of properties, which means that it is widely used for roof shingles and for building houses. People from the Hmong ethnic minority have a strong relationship with the tree not only for utilitarian purposes but also culturally, with large trees located in one of the villages being revered as ‘father’ (Tran Chi Trung and Mai Van Thanh, 2004). Local people have a strong affinity with the tree, but their practices of burning land to support grazing near the site where the remaining trees are located is helping to destroy the trees. This happens not only through the potential for wild-fire especially during dry years, but also by restricting the possibility of regeneration. Repeated burning is also reducing the

⁷ Hereafter *Taiwania cryptomerioides* Hayata referred to as *Taiwania*.

⁸ *Taiwania* is known as Bách tán Đài Loan (Vietnamese), Taiwan shan (Chinese), Chaz Kauz (Cha Cau) (H'mong). Synonymy: *Taiwania flousiana* Gaussen.

availability of good grasses as the annual grasses cannot withstand the encroachment of perennial species e.g. *Imperata cylindrical* and bracken/ferns. These latter are also unpalatable to animals as well as creating conditions whereby forest regeneration is extremely difficult. The villages closest to the *Taiwania* site are remote (six hour walk along a horse trail) from the commune office and have yet to receive any significant attention from government or donor funded projects for poverty reduction activities – including fodder production.

3.3 Resultant conservation status and management

Globally *Taiwania* was listed as vulnerable; however, the size of the single Vietnamese population is around only 130 trees within an area of less than 3 km². It is therefore classified as critically endangered at the national level using IUCN (2001) criteria¹⁰. These trees are located in two remote communes in northern Vietnam, primarily on a high ridge (over 1800 m amsl) and along stream sides high on the mountain. There is ongoing work to locate further trees in other remote forest sites nearby.

The remaining trees are fertile as there are seedlings growing around the existing trees. Seed collection and planting has also produced 300 seedling which have been relocated back to Phinh Ngai village for planting during spring 2005. Furthermore seed collection was repeated by local people in December 2004 and village nurseries established in the two villages closest to the site. The plan is that the seedlings currently available, and those grown by local people (along with other important indigenous trees with economic potential including *Fokienia hodginsii*), will be planted in mixed plantations on land within the village so that in the future benefits from harvesting of timber and non-timber products would accrue to local people as well as improving the protection of the watershed. As the *Taiwania* site is used for animal grazing, work to provide alternative sources of animal fodder is also underway.

A proposal is currently under development, with relevant state agencies and local people, to develop a 500 ha protected area for the remaining indigenous *Taiwania* trees. One argument for the protection is that the trees represent a source of seed for the development of commercial (and subsistence) plantations for what is a valuable timber species. *Taiwania* in China is a commercial timber species and is widely planted. It is used for its fragrant wood and clean grain as a coffin timber and for construction purposes. It is envisaged that the seed source in Vietnam would provide a valuable commodity to encourage not only planting by local people for their own use and future sale, but also for larger scale plantation in the northern mountains for commercial and amenity planting.

If this approach is successful *Taiwania* trees may no longer be scarce in Vietnam, much as this tree is not scarce in China – at least not those that are planted. However, the indigenous trees may still have a very restricted range – even if conditions are met for natural regeneration.

From an ethical perspective it is interesting to ask at what point these trees stop having value to outsiders e.g. IUCN and conservation agencies, and at what point, if ever, do they stop having value to insiders?

⁹ A recent as yet unpublished study by the HLSP has documented 170 trees of which 153 are indigenous and 17 have been planted by local people.

¹⁰ Nguyen Tien Hiep *et al.*, (2004) propose the following conservation status for *Taiwania*: Global status **VULNERABLE** A1d ; Existing national status **NOT EVALUATED**
Proposed national assessment **CRITICALLY ENDANGERED** A2c, B1ab (i-v), B2ab (i-v), C2a(ii)

In one sense the value of these trees seems to equate to standard economic calculations of utilitarian value – where the greater the scarcity the greater the value. It is likely that these trees will stop being a focus of significant attention by outsiders once it appears that the future of the site is secured – although monitoring would be required. Scarce conservation resources would then be turned to the conservation of other rare trees and animals which are on the brink of extinction in the wild. These judgements are usually not made on ethical grounds but on the detailed technical criteria associated with the process of ‘red listing’ (IUCN, 2001 & 2003).

A second element of value seems to occur. It appears that the idea of wildness would be a critical factor in the valuation of the *Taiwania* itself – if all the wild trees were lost due to fire or illegal logging it would be perceived as a disaster even if the same genetic stock was growing in plantations.

A third element to the tree value seems to come from the cultural worldview of the Hmong people. For example, the loss to that local ethnic minority would appear to be greater than were the trees lost to a commercial timber company. At this stage I am not sure if that valuational difference is real or an acknowledgement that western philosophers have little understanding of the valuational systems of non western cultures generally and indigenous peoples/ethnic minority communities in particular (Callicott, 1994; Callicott & Ames, 1989)? This can lead to either the application of the ‘noble savage’ idea (Buege, 1996) or conversely to be dismissive of these societies own indigenous philosophy and ethical valuation (Rabb, 2002). In a way *Taiwania* in Vietnam presents in a nutshell the problem which globally we have yet to resolve about how much we (here I mean primarily the west but also nation states and other communities) are prepared to pay for conservation of biodiversity in financial terms, in terms of lifestyle change and in terms what is seen as valuable in life¹¹.

Box 6. What issues arise from our Vietnamese case study?

Some of the value of the *Taiwania* in the Hoang Lien mountains is based on its classification as indigenous – why is this?

Are there different values for forests depending on who uses or is dependent on them – e.g. local ethnic minority subsistence use versus private or state run forest enterprises?

Does the value of the tree change when domesticated? Does its protection differ if it is for conservation or commercial ends?

Where trees/forest of value are located in areas where poverty (including food insecurity) is a daily issue, how should trade-offs between poverty and conservation be organised and funded?

¹¹ For example: Countries that have developed sustainable tourism practices risk being penalised under the WTO’s free trade agreements. Practices that protect the environment and local people, such as limiting visitor numbers and using local produce, are key aspects of sustainable tourism. Under the WTO General Agreement on Trade in Services (GATS), enforcing these practices as rules may be seen as an illegal barrier to trade. <http://www.id21.org/society/r2jb1g1.html>

4. The polarisation of use and conservation and implications for forest ethics

4.1 Issues relating to sustainable forest use

Industrial society and poor communities located next to forests are both dependent on a range of different types of forest. All are forest dependent communities in one form or another. However, there are significant tensions between the conservation of natural forests and the use of those forests to supply industrial scale needs such as the paper industry. Such tension often results in a strong focus on sustainable use. This focus is not restricted to timber supply. Commercialisation of NTFPs can also impact negatively on biodiversity conservation as a result of intensification – even at the margins of forests (Neumann & Hirsch, 2000).

Sustainable use is not just an issue for forestry – wide attention has been given to this topic within the conservation arena, usually with little understanding of the practical reality for poor marginalised communities (Hutton & Leader-Williams, 2003). The debate is no easier for the use of trees rather than use of animals – especially megafauna. Some perceive changing values such that old-growth and natural forests are increasingly outside the realm of direct human use. But this may be an artefact of our current economic system and the institutions that result from this (Booth, 1992; Pogge, 1992, O'Reilly, 2004, Williams, 1996).

Notwithstanding the growing supply of timber products from plantations, we still need timber from natural forests. The paper-less office is not even on the horizon – and even if it was, the environmental consequences of not using paper may not be any better than using paper. The consequences of mining for biodiversity and the wider environment are under review (IUCN & ICM, 2004) and a comparative analysis of the impact of mining and forestry might allow more logical discussions about the pros and cons of various forms of natural resource extraction, utilisation and economic evaluation. This comparison might also help evaluate the wider consequences for the ethical behaviour of commercial enterprises in conformity with OECD Guidelines for the Implementation of the Declaration on International Investment and Multinational Enterprises.¹² Building real sustainability firmly into such agreements is no small task.

4.2 Issues to do with industrialisation

We have noted that within most societies there is a reliance on forests for a range of primary and secondary products, as well as for ecosystem and environmental services. Yet there does not seem to be any consensus about how to produce these products which are in great demand, not only to fulfil basic rights of subsistence, but also to fulfil non-basic rights, to enrich our cultures and for preference satisfaction (to use Shue's 1996 classification). If we cannot agree to develop production processes which allow sustainable use of current natural forest resources then, unless globally we are to reduce our use of forest based products, there will be a requirement to actively plant and manage trees and other plants/animals that make up forests. This could be through monocultures or through the development of multi-purpose plantations/forest.

¹² Available on the OECD website at www.oecd.org/daf/investment/

Box 7. What issues arise from considerations of sustainable use?

In the north, in particular, how can we examine more critically where the resources for our daily life come from and how this might (or might not) prejudice the livelihood development of poor people and poor nations?

Should the sustainable use paradigm be applied to all types of forest and to all the elements of the forest?

Does the sustainable use paradigm need to be linked to wider environmental and social justice systems to allow for coherent analysis? Does this type of analysis also need to be applied more fully to current economic systems and their institutions?

5. How might forest ethics play a positive role?

5.1 Should there be a special case for forests

What is it that makes forests a separate subject for ethical debate – beyond that within the environmental and development ethics agenda? This paper has argued that forests stand at the interface between wilderness and monocultures, between indigenous people and the modern market economy, between the conservation of biodiversity and the environment and the demands of commercial growth. Perhaps this is why there is a special pleading for forests such that they have a specific thematic budget line within the EU. The wrangle over a legally binding instrument on forests stems from the real political heat at this interface.

This paper argues that ethical debate needs to inform the decision making processes so that the costs of these legal instruments do not fall on poor marginalised communities. For example, communities should not lose their access to EU markets because they cannot undertake the administrative burden of certification processes. There seems to be little duty placed on international institutions and individuals to ensure that the ethical dimension of forest management – including respect for intrinsic value of old-growth forests – does not conflict with the rights to subsistence of the poor, when in many cases use of timber is for preference satisfaction of the rich. This merits a special case and specific consideration.

5.2 Do we need a code of conduct for forest development?

Abuses of human rights in relation to forest development are clear in many countries (FERN, 2001). Marginalised forest dependent communities, and the organisations that are working to support them, need to benefit if a greater focus on ethical issues is to have any validity. There needs to be practical action against agencies that are routinely involved in carrying out human rights abuses in relation to forestry. Clearly there are strong links between national governments and commercial enterprises – illegal harvesting and sale of forest products is a large scale activity and not easily hidden. Transport of large logs is highly visible whether by road or sea and yet this issue is not addressed – often due to the poor compliance monitoring in relation to legal and illegal harvested forest products. Similar problems are associated with land tenure for plantation development, natural forest management as well as wider issues of protected area development. There is a general lack of transparency in the management of most countries' forest estate – including countries in the north.

The scale of the legal timber trade is estimated at around US\$150 billion per year with the illegal trade comprising around one tenth of this (Illegal Logging, 2005). This scale means that the issue of effective and sustainable forest management and development will not go away. What appears to be required, in the short term at least, is a drawing together of the

range of current international and regional instruments that would already have application to forest development. This can range from international human rights instruments e.g. Convention for the Elimination of Racial Discrimination which has been used by Aboriginal people in Australia to help deal with issues of land law, the ILO Convention 169 on Indigenous and Tribal Peoples as well as many sections of the Convention on Biological Diversity including Article 8j. Table 1 gives some examples of current international and regional instruments, which could be applied to the forest development sector to facilitate greater involvement of local stakeholders in processes and management. This is not exhaustive but it highlights one of the problems that marginalised communities would have with using agreed instruments from the human rights arena and international trade – the multiplicity of overlapping and sometimes contradictory nature of the current international law regime, as well as its inaccessibility. There are already calls for a legally binding instrument on forests to be developed under the Convention on Biological Diversity (Greenpeace, 2005). Key recommendations from Greenpeace include (2005):

- ‘The United Nations Forum on Forests (UNFF) should come to an end in 2005;
- Governments should focus on the implementation of the Convention on Biological Diversity and review the need for a legally binding instrument later;
- Concrete, additional and significantly increased financing options should be explored by OECD countries;
- WTO should support, rather than undermine Multilateral Environmental Agreements;
- The trade with timber and timber products (including paper) should be restricted to sustainable harvested products’.

From this limited analysis of issues, raised partly from the *Taiwania* study as well as the developing international human rights regime which could be applied to forest development, it would appear that further focused work is required. This would need to focus on how to enable forest dependent communities to achieve their rights in relation to forest development AND to develop strategies which would more clearly articulate ethical approaches to forest development which could be incorporated into economic, social and cultural evaluations.

Recommendation for further immediate work to include the interests of marginalised communities in the development of forest policy and an ethical forest trade could include:

- Work with a relevant international human rights organisation e.g. International Council on Human Rights Policy (ICHRP) to build in an environment/forest dimension to the discussion of human rights and global social justice. This would include the question of collective rights to land and forest resources as a locus of value for intellectual property/enforcement mechanisms. It could also address issues of public and private goods, ecosystem/environment services as well as global responsibilities. This could also feed into processes such as proposed by Greenpeace to put forest development into a clearer legal footing under the CBD.
- From the above analysis highlight the key international and regional instruments, that already exist, which could be used by forest dependent communities and organisations supporting them (as well as by governments and other international agencies) to ensure that human rights to liberty, land and subsistence are not violated in the management and development of forest land.
- Identify key gaps in the current international/regional legal regime. This could include the introduction of a wider debate based on the ethical (instrumental and intrinsic value) which the components of forests as well as forests themselves might have. This would need careful analysis so that this debate could encompass a wide range of philosophical perspectives based on different ways of articulation by indigenous peoples, as well as methods of cross-cultural philosophical dialogues. This could be based on the premise that

'it is precisely this recognition of significant differences that provides an opportunity for mutual enrichment by suggesting alternative responses to problems that resist satisfactory resolution within a single culture.' (Hall & Ames, 1987)

- Produce a manual (perhaps based on the ILO, 2003 model) which would clearly lay out which international/regional instruments could help forest dependent communities become active stakeholders in the forest development debate as well as in the development of effective sustainable management systems which contribute to livelihood development as well as, where appropriate, biodiversity conservation (FFI Vietnam, 2004).

However, the actions recommended above should be linked to an increased attention to a number of ethical issues related specifically to forests and an elucidation of their value. Issues which are important, both theoretically and practically would include:

- What is the understanding of naturalness and indigenesness of the flora and fauna of forests?
- Whether forests have a meta-value beyond the value of their components?
- How the development of intrinsic value within the environmental philosophy academy is linked to forests and/or their contents?
- How can cross-cultural ethical dialogue take place on the value of forestry between indigenous peoples, academic philosophers and other stakeholders in forestry (Macqueen, 2004)?
- If all global citizens are forest dependent can the debate on use of forests and trees stand as a proxy for a wider development of appropriate values, which would see at a minimum the meeting of the MDGs (UN, 2004) by 2015 as well as the final eradication of absolute poverty globally? If so what conditions would be required e.g. in terms of information availability, forums for debate and research?

Table 1. Selected issues in forestry and examples of current international/regional agreements which might help resolution

Issues raised	Examples of possible existing modes of resolution	Reference
Behaviour of international companies in the forest industry	<ul style="list-style-type: none"> - Implementation of OECD guidelines - Increased attention to the application of human rights to companies 	<p>OECD (2001)</p> <p>ICHRP (2002)</p>
Lack of respect at international and national levels for IPs/EMs and local communities in relation to forest development	<ul style="list-style-type: none"> - Implementation of effective FPIC¹³ processes - Implement CBD access & benefit sharing resolutions – including the Agwé:Kon Guidelines - International agencies to adhere to current IPs guidelines as a minimum 	<p>O'Reilly (2004b)</p> <p>Colchester <i>et al</i>, (2004)</p> <p>CBD (2004)</p> <p>Griffiths (2005)</p>
Supply chain management weak for timber, forest products and down-stream processed material e.g. paper	<ul style="list-style-type: none"> - Implementation of Forest Stewardship Council principles - Implementation of EU FLEGT¹⁴ guidelines BUT with proviso that the costs are borne by poor marginalised communities 	<p>FSC</p> <p>EU (2003)</p>
National and international compliance monitoring in forestry weak	Enforce trade and environmental regulations and alter the economic balance	Akella & Cannon (2004)
International financial institutions and bilateral donor agencies that fund forest programmes	Agencies to develop and apply international best practices including use of the human rights regime in line with OHCHR for PRSPs	<p>OHCHR (2002)</p> <p>MacKay (2001)</p>

¹³ Free Prior Informed Consent

¹⁴ EU's forest Law and Enforcement Guidelines approved 21 May 2003

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