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Towards durable multistakeholder-generated solutions: The pilot application of a problem-oriented policy learning protocol to legality verification and community rights in Peru

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SUMMARY

This paper reports and reflects on the pilot application of an 11-step policy learning protocol that was developed by Cashore and Lupberger (2015) based on several years of Cashore's multi-author collaborations. The protocol was applied for the first time in Peru in 2015 and 2016 by the IUFRO Working Party on Forest Policy Learning Architectures (hereinafter referred to as the project team). The protocol integrates insights from policy learning scholarship (Hall 1993, Sabatier 1999) with Bernstein and Cashore's (2000, 2012) four pathways of influence framework. The pilot implementation in Peru focused on how global timber legality verification interventions might be harnessed to promote local land rights. Legality verification focuses attention on the checking and auditing of forest management units in order to verify that timber is harvested and traded in compliance with the law. We specifically asked: *How can community legal ownership of, and access to, forestland and forest resources be enhanced?* The protocol was designed as a dynamic tool, the implementation of which fosters iterative rather than linear processes. It directly integrated two objectives: 1) identifying the causal processes through which global governance initiatives might be harnessed to produce durable results 'on the ground'; 2) generating insights and strategies in collaboration with relevant stakeholders. This paper reviews and critically evaluates our work in designing and piloting the protocol. We assess what seemed to work well and suggest modifications, including an original diagnostic framework for nurturing durable change. We also assess the implications of the pilot application of the protocol for policy implementation that works to enhance the influence of existing international policy instruments, rather than contributing to fragmentation and incoherence by creating new ones.

Keywords: community rights, durability, illegal logging, legality verification, policy implementation, Peru

Aller vers des solutions durables émanant de groupes de parties prenantes: application pilote d'un protocole d'apprentissage politique orienté vers les problèmes inhérents à la vérification de la légalité de droits communautaires au Pérou

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Ce papier est un rapport et une réflexion sur l'application pilote d'un protocole d'apprentissage politique en 11 stades, développé par Cashore et Lupberger (2015) et basé sur plusieurs années de collaborations avec divers auteurs effectuées par Cashore. Le protocole a été appliqué pour la première fois au Pérou en 2015 et en 2016 par l'équipe de travail IUFRO sur les politiques d'apprentissage de l'architecture forestière (appelée ensuite l'équipe du projet). Le protocole incorpore des lumières captées par la bourse d'apprentissage politique (Hall 1993, Sabatier 1999) avec les quatre routes de cadres d'influence de Bernstein et de Cashore (2000; 2012). La mise en pratique pilote au Pérou s'est concentrée sur la manière dont les interventions de vérification de la légalité du bois à l'échelle mondiale peut être utilisée pour promouvoir les droits à la terre locaux. La vérification de la légalité se concentre sur un contrôle et une évaluation des unités de gestion forestière afin de vérifier que le bois est récolté et commercialisé en accord avec la loi. Nous avons demandé en particulier: «Comment la propriété communautaire légale et l'accès aux terres forestières et à leurs ressources peuvent-elles être accrus?» Le protocole a été créé comme un outil dynamique dont la mise

en pratique encourage des processus interactifs plutôt que linéaires. Il a intégré directement deux objectifs: 1) une identification des processus de causalité par lesquels les initiatives gouvernementales globales peuvent être utilisées pour produire des résultats durables sur le terrain, 2) une création de visions et de stratégies en collaboration avec les parties prenantes impliquées. Ce papier examine et dresse une évaluation critique de notre travail dans la création et la conduite du protocole. Nous examinons ce qui semblait bien marcher et suggérons des modifications, en incluant un cadre de diagnostique original pour encourager un changement durable. Nous étudions également les implications du protocole pour une mise en pratique des politiques aidant à accroître l'influence des instruments politiques internationaux en existence, plutôt que de contribuer à une fragmentation et incohérence, en en créant de nouvelles.

Hacia soluciones duraderas generadas por múltiples partes interesadas: La aplicación piloto de un protocolo de aprendizaje de políticas orientado a problemas acerca de la verificación de la legalidad de madera y los derechos comunitarios en Perú

D. HUMPHREYS, B. CASHORE, I.J. VISSEREN-HAMAKERS, W. DE JONG, K. MCGINLEY, A. DENVIR, P. CARO TORRES y S. LUPBERGER

Este artículo informa y reflexiona sobre la aplicación piloto de un protocolo de aprendizaje de políticas de 11 pasos desarrollado por Cashore y Lupberger (2015) basado en varios años de colaboraciones de múltiples autores de Cashore. Este protocolo se aplicó por primera vez en Perú en 2015 y 2016 por el Grupo de Trabajo sobre las Arquitecturas de Aprendizaje de Políticas Forestales de la IUFRO (en adelante denominado 'equipo de proyecto'). El protocolo integra la erudición sobre el aprendizaje de políticas (Hall 1993, Sabatier 1999) con el marco de cuatro vías de influencia de Bernstein y Cashore (2000, 2012). La implementación piloto en Perú se centró en cómo las intervenciones globales orientadas a la verificación de la legalidad de la madera podrían ser aprovechadas para promover los derechos territoriales locales. La verificación de la legalidad de la madera se enfoca en la inspección y auditoría de unidades de manejo forestal para verificar que la madera se cosecha y se comercializa de conformidad con la ley. En este trabajo hemos preguntado específicamente: ¿Cómo se puede mejorar la posesión legal y el acceso comunitario a los bosques y recursos forestales? El protocolo se diseñó como una herramienta dinámica, cuya implementación fomenta procesos iterativos más que lineales. Integra directamente dos objetivos: 1) identificar los procesos causales mediante los cuales las iniciativas de gobernanza global podrían aprovecharse para producir resultados duraderos «sobre el terreno»; 2) generar ideas y estrategias en colaboración con las partes interesadas pertinentes. Este artículo revisa y evalúa críticamente nuestro trabajo en el diseño y la prueba del protocolo, evaluando lo que parecía funcionar bien y sugiriendo modificaciones, incluyendo un marco de diagnóstico original para fomentar cambios duraderos. También evaluamos las implicaciones de la aplicación piloto del protocolo para la implementación de políticas enfocadas en el mejoramiento de la influencia de los instrumentos internacionales existentes, en lugar de crear otras nuevas políticas que puedan contribuir a la fragmentación e incoherencia de la gobernanza global.

INTRODUCTION

This paper presents a critical and reflexive overview of the design and evolution of a policy learning protocol developed by Cashore and Lupberger (2015) that provides a conceptual framework that actors can use to harness existing international sustainable development-related policy mechanisms in order to generate innovative strategies to address complex environmental and social problems. The pilot application of the protocol took place in Peru in 2015 and 2016. We start from the premise that while three decades of global forest policy initiatives have generated a range of instruments and organisations, including some success stories, this period of heightened political attention on forests has also coincided with increased deforestation and forest degradation, especially in the tropics, and a worsening of the plight of many forest indigenous peoples, including 'land grabs' and weakened local tenure rights (Humphreys 2006, Maguire 2013). It is partly because the international forest policy processes created so far have had only limited effectiveness that new instruments and organisations are proposed as actors search for more effective solutions (Eikermann 2015, Humphreys 2015). Our approach, however, is very different; rather than investing scarce time and resources in the creation of new

global mechanisms – an endeavour that would risk creating a more complex global forest governance architecture with increasing areas of duplication and overlap – we argue that significant added value can be gained from generating creative approaches that foster the enhanced effectiveness of *existing* global interventions.

The paper is organised as follows. The next section outlines the origins and evolution of the policy learning protocol, which comprises 11 steps. The following section describes our methodological approach and the piloting of the protocol in Peru. We present the results of the pilot, including some reflexive thinking on the design of the protocol following stakeholder consultations in Peru. We then present a theoretical and diagnostic model for durable policy change that emerges from our work and which can be integrated into future applications of the protocol.

THE ORIGINS AND EVOLUTION OF THE POLICY LEARNING PROTOCOL

The policy learning protocol was formally developed by Cashore and Lupberger (2015) following several years of Cashore's multi-author collaborations. These efforts were

funded from, and conducted through, several grants and institutional collaborations including the work of the International Union of Forest Research Organisations (IUFRO) and Yale University's Governance, Environment and Markets (GEM) initiative. It also draws on earlier work within IUFRO, including the Global Forest Expert Panel on the International Forest Regime (active throughout 2009–2010) which developed the neoinstitutional argument that despite the absence of an international forests convention a distinct international forest regime complex has emerged as a multicentric, rather than a primarily statecentric, entity (Rayner, Buck and Katila 2010). This regime complex is a pluralist form of global governance that embraces international hard and soft public law, private law and a broad diversity of actors. Another IUFRO group that contributed to the protocol was the IUFRO Task Force on Forest Governance (active throughout 2011–2014), which sought to understand how policy learning can advance international efforts in response to the 'on the ground' challenges faced by forest communities and policy practitioners. The task force reviewed the political science and forest governance literatures and produced a series of 'issues and options' papers that provided theoretically-guided insights that actors can use when addressing forest sustainability challenges (Cashore 2014). Both these IUFRO bodies sought to stimulate an interactive dialogue between the forest research community and actors working on the ground towards effective and durable solutions to persistent forest problems.

Pathways of influence framework

An important theoretical foundation to the work by IUFRO and GEM is Bernstein and Cashore's four pathways of influence framework (Bernstein and Cashore 2000, 2012, Bernstein, Cashore *et al.* 2010). This framework highlights four causal pathways through which global interventions may be harnessed to influence domestic issues and policies to 'tip the scales' toward sustainable and durable results. Each pathway – rules, norms, markets and direct access – has different influence logics, with each interacting with the forces of economic globalization and sovereignty in different ways:

- The *rules pathway* focuses on the role of rules and agreements – both legally and non-legally binding – in shaping policy responses. Examples include the rules in international agreements such as the International Tropical Timber Agreement, soft international law such as the United Nations Forest Instrument¹ and criteria and indicators for sustainable forest management.
- The *norms pathway* focuses on commonly-accepted ways of doing things based on shared social and political values. Important norms in forest politics include those on human rights, indigenous peoples' rights and community participation. Norms are not always top-down or global; local place-bound norms

and cultural practices also shape accepted understandings of what is considered 'right' or 'desirable'.

- The *markets pathway* focuses on the role of economic incentives and disincentives in creating policy and behavioural changes. These include government taxes and subsidies, consumer boycotts, timber certification and labelling schemes, and the creation of new markets (such as carbon).
- The *direct access pathway* focuses on how actors can achieve influence by, for example, contributing to the capacity building of actors through financial and technology transfer. Action through this pathway can shift power relations and catalyse the building of new coalitions.

This framework is a useful tool for exploratory work, as it can be used to tease out the complex causal factors that explain policy influence in specific cases. By focusing on the ways in which various factors might trigger one or more pathways of influence, the framework enhances our understanding of the comparative advantages among different interventions. This orientation requires careful attention when identifying causal influence logics to explain the pathways through which successful interventions have operated in the past, and extrapolating from the historical record the logics, ideas and strategies for future interventions. While the four pathways are analytically distinct, they often interact in reality. For example, Bernstein (2001) argues that neoliberal norms typically prioritise markets over other policy interventions. Bernstein and Cashore (2000, 2012) focus scholarly and practitioner attention on the pathways that are more dominant or synergistic. Identification of synergies opens up creative strategies for fostering lasting and enduring effects. All things being equal, an international policy instrument is more influential the more pathways through which it operates.

The policy learning protocol

Drawing on the pathways of influence framework and the broader policy learning literature, the protocol is a conceptual toolkit that seeks to harness international policy processes to promote specific policy objectives. It is inspired by distinct literatures from Sabatier (1999) to Hall (1993), both of whom find that multistakeholder policy learning is most likely to foster some type of policy subsystem change when there is general agreement on policy goals, but uncertainty about the potential impact of instrument choice, policy mechanisms, and policy specifications on one or more problems. (In contrast, multistakeholder learning is less likely to lead to transformative change when powerful interests, such as those causing biodiversity loss, do not accept meaningful conservation efforts.) The learning protocol was therefore designed for a particular set of problems in which goals are not contested, but there is a need to generate greater knowledge about the

¹ Formerly known as the *Non-Legally Binding Instrument on All Types of Forests* (negotiated by the United Nations Forum on Forests in 2007). Renamed the *United Nations Forest Instrument* by the UNFF in 2015.

causal impacts of particular instrument designs and strategic choices. The protocol therefore shifts stakeholders' attention from an interest-based, often zero-sum, approach to collectively assessing the causal mechanisms behind a particular policy intervention. The idea is that this approach can unleash creative tinkering, and even generate broader political support, for addressing a specified policy problem.

The protocol is organized around three phases – getting ready, co-generating insights, and implementation – encompassing 11 distinct steps. While these steps are presented here sequentially for easy access, the protocol makes it clear that they should be revisited iteratively throughout a project. In the first phase – *getting ready* – an individual or group with an understanding of the local context is selected as the knowledge broker (Step 1). Next the problem definition is agreed (Step 2) and relevant participants identified (Step 3).

In the second phase – *co-generating insights* – the problem definition is classified (Step 4). Information related to this problem and the local context is then identified and assessed, including gaps in understanding (Step 5). Next, the pathways of influence framework is used to analyse the causal processes through which global interventions might produce desired outcomes and durable results in relation to the defined problem (Step 6). This framework is then used to focus on selected interventions and their potential impacts regarding the problem (Step 7). The comparative advantages and disadvantages of these interventions are assessed in terms of stakeholder resources and the broader socioeconomic environment, with specific interventions selected for addressing the issue at hand (Step 8). The selected interventions and related instruments are then examined in detail to determine opportunities and challenges (Step 9). Then, the causal logics of the selected intervention are explored to determine strategic insights for addressing the problem (Step 10).

In the third, and final phase – *implementation* – a playbook is developed that incorporates strategies and activities consistent with the causal logics of the selected interventions (Step 11).

METHODS

Multiple methods were undertaken to apply Cashore and Lupberger's (2015) 11-step protocol in Peru throughout 2015 and early-2016. These included in-country workshops, in-person interviews, and consultations with key stakeholders, as well as archival data and literature review. An international team of forest policy and governance scholars, many of whom had participated in related IUFRO and GEM initiatives, was assembled to pilot the protocol. Early deliberations focused on the case study for the pilot. After some discussion the Peruvian Amazon was selected as a tropical forest region that faces a range of deforestation and conversion pressures, with some deep rooted and protracted conflicts over resource access and use (de Jong and Humphreys 2016). The Peruvian Amazon is inhabited by some 5,000 communities, of which approximately half are recognised as indigenous forest communities. A further factor that led to the selection of this

region was that it is one where several project team members enjoy excellent connections with stakeholder groups and policy networks.

Two stakeholder workshops in Lima, Peru were organized to gather information, data, and insights on pressing forest policy issues from a diverse range of actors, as well as to present and receive feedback. The first workshop held in Lima on 25 June 2015, attended by 18 local and national-level stakeholders and five members of the project team (Caro, Cashore, Denvir, McGinley and Visseren-Hamakers), concentrated on identifying and defining the specific issue to be addressed during the piloting of the protocol. It culminated with an agreement to focus on enhancing community rights to forestland and forest resources in the Peruvian Amazon.

Throughout the summer and early autumn of 2015 the project team collected and analysed information related to the problem definition and the socioeconomic context of forestry in Peru, and drafted Steps 1–5 based in part on the results from the first workshop. A second workshop held in Lima on 22 October 2015 was attended by seven members of the project team (Caro, Cashore, de Jong, Denvir, Lupberger, Judy and Visseren-Hamakers). Participants provided feedback on the provisional findings from Steps 1 to 5 and debated the type of global instrument that would enhance community rights to land and resources using the four pathways analytical framework. Project team members assisted by students conducted over 100 semi-structured in-person and Skype interviews with relevant stakeholders working on Peruvian forest policy to gain further insights and information. Our drafts were shared with stakeholders online, and further feedback sought. The project team 'met' regularly on Skype to exchange views, discuss next steps and allocate workload. As a result, and after scoping various international instruments and comparing their relative advantages, we selected legality verification (LV) policies for the piloting of the protocol.

After drafting of Steps 1 to 10 was nearly complete a final round of focused interviews and stakeholder discussions was conducted by two project team members (de Jong and Humphreys) in Lima from 9–11 March 2016. The insights gained from this visit contributed to the drafting of Step 11 (the playbook). Stakeholders were also asked questions on the protocol, its strengths and weaknesses, and how it can be further improved. The recorded responses of interviewees represented important data in our final draft and in this paper. In the next section we acknowledge the inputs of interviewees (identified by organisation only so that individual anonymity is preserved) by capitalised letters in square brackets, as shown in Appendix 1.

After the second day of interviews conducted during the March 2016 visit a Skype call was held between the two members of the project team in Peru and other project team members to discuss preliminary findings and make adjustments to the question strategy before the final day of the visit which involved two round table discussions with government officials. After the visit Steps 1 to 10 were refined, and drafting began on Step 11. The draft analysis was circulated for peer review to external evaluators, who provided further

comment and insights. The report was concluded in May 2016 (Cashore, Visseren-Hamakers *et al.* 2016a, 2016b, 2016c).

REFLECTIONS ON THE PILOT APPLICATION OF THE PROTOCOL IN PERU

In this section, we focus on key lessons and insights from the pilot application of the protocol. We stand back and evaluate how the process of working through the protocol has changed our thinking, and what this suggests for a new approach to policy implementation based on the critical application of the four pathways of influence framework. We organize this section following the steps of the protocol. However, its implementation was iterative rather than linear, so that completion of one step often required revisiting, and sometimes revising, an earlier step.

Step 1 Identify a knowledge broker

The role of the knowledge broker is to understand the local context and fill in any gaps in knowledge and information in relation to the problem that stakeholders wish to address. Agreeing on a knowledge broker is therefore an essential first step in implementing the protocol. The knowledge broker role can be filled by an individual or a group and may be selected in different ways (e.g. stakeholder selection). The protocol calls for the identification of a knowledge broker who has social science and policy analysis training and who can help identify the complex causal processes that any particular instrument can unleash. For the pilot, the project team self-selected itself as the knowledge broker.

Interviewees revealed that an essential attribute of an effective knowledge broker is their subjective evaluation that the individual or group is trustworthy. This is important, since forest communities, who are often justifiably suspicious of external actors, must view the knowledge broker as capable of impartially incorporating a range of knowledge sources, including indigenous and local perspectives [B, D, E]. Trust may be defined as confidence in the reliability, honesty and integrity of an actor. Trustworthiness is an important moral resource for the knowledge broker. Our interviewees' emphasis on trust is consistent with theories of negotiation (e.g. Fisher and Ury 1991, Zartman and Berman 1982, Kennedy 1997, Presman 2016) and mediation (Whatling 2012, Moore 2014). A knowledge broker that lacks trust will find it difficult to promote dialogues that solve the problem at hand.

In addition to trust, interviewees suggested a knowledge broker would also need to demonstrate the ability to minimize information bias. The question of bias inevitably involves a degree of ambiguity. On the one hand, the knowledge broker starts from a position of bias, consciously and openly working towards an agreed policy outcome, in this case improving the tenure rights of forest communities. On the other hand, if the knowledge broker is to maintain the trust of all key stakeholders the broker must be careful not to openly favour some actors over others. The work of the knowledge broker is thus

value laden and normative in terms of the desired policy outcome, but objective and unbiased in the advice that is given in pursuit of that outcome. The knowledge broker must be alert to possible sources of bias in the knowledge that is scoped, and make this explicit to stakeholders. The broker should also make their own biases explicit. Trust and bias are thus inter-related qualities that have a strong bearing on whether the knowledge broker is perceived as having legitimacy. According to Beetham (1991), an actor's legitimacy depends on the extent to which it acts according to commonly-recognised rules that are accepted by subordinate groups. Legitimacy will also depend on the extent to which the knowledge broker understands the culture of the society in question. The legitimacy of the knowledge broker will have a direct bearing on its effectiveness in addressing the agreed problem.

Additional qualities that our interviewees considered important in a knowledge broker included a comprehension of the legal and regulatory environment and the ability to analyse all dimensions and angles of the problem [C]. The knowledge broker must be able to communicate with individuals and groups at multiple levels and in different contexts (e.g. village heads and communal assemblies). The broker must identify all issues relevant to the problem [B] and ensure that the knowledge exchanged and co-produced during implementation of the protocol is preserved for future generations [D]. For these reasons some interviewees suggested that the knowledge broker should understand the cultural context of forest communities [C, D]. Our interviewees also stressed that such is the broad diversity of actors in forest policy in Peru that it is unlikely that any one individual will possess all the attributes a broker needs, nor expertise in the full range of knowledge required to understand the problem. Interviewees also emphasised a point acknowledged in the original protocol: as many forest communities have received from external actors promises that have not materialised the knowledge broker should be careful not to make promises that cannot be kept [D].

Step 2 Problem definition

Narrowing in on a specific problem definition is a complex process. Under the protocol the problem definition can be revisited and revised to accommodate new information and objections, as they arise. Following extensive research, project team deliberations and stakeholder discussions, we settled on the following problem definition:

How can community legal ownership of, and access to, forestland and forest resources be enhanced?

Most interviewees declared themselves satisfied with this definition and accepted it as relevant and meaningful. However, one interviewee noted that some communities are sensitive to the word 'legal': the law is regarded with suspicion and considered 'threatening' by some communities as it can be used to grant legal title to actors from outside the forest [B]. The project team responded that the intention of the problem formulation is to promote legal processes that

uphold community rights, not those that would usurp such rights. One interviewee suggested we focus primarily on the needs and rights of forest communities, which includes, but is not limited to, ‘legal’ rights [D]. We became acutely aware that concepts such as ‘legality’ can mask important conflicts of interests and that care needs to be taken in the vocabularies used in the problem definition.

Step 3 Identifying the relevant participants for co-generating insights

Step 3 is guided by scholarship on multistakeholder policy learning processes, which underscores the effectiveness of bringing together like-minded organizations and individuals to foster shared learning and identify synergistic opportunities for achieving shared objectives. The project team was purposeful in identifying the full range of relevant stakeholders, including government agencies, businesses, donors, environmental NGOs, indigenous peoples and local communities. We were mindful that a balance needed to be struck between comprehensiveness (inviting an exhaustive list of all possible stakeholders) and effectiveness (not overloading the consultation process so that many actors would have no real opportunity to make their voices heard). Here it is worth noting a qualitative distinction between consultation and participation. Consultation carries with it only the understanding that views may be expressed. However, participation must involve a genuine opportunity for stakeholders to interact with each other and influence outcomes.

In addition, because our scoping of problem definitions focused on biodiversity and indigenous land rights, our first meeting necessarily emphasised organizations whose work and interest included one or both of these problems. Consistent with the protocol, other actors, which might be tapped into for strategic coalition building, were brought in at a later phase. Feedback from our interviewees suggests that the participants who accepted our invitations to the stakeholder workshops covered the main stakeholder groups, all of whom could participate meaningfully. Hence we conclude that the workshops struck a balance not only between comprehensive and effective participation, but also necessary exclusion during the first meeting to refine problem definitions.

Step 4 Classify the problem

A key innovation in Step 4 of the protocol developed by Cashore and Lupberger (2015) is that it points stakeholders and scholars towards classifying the problem at hand according to three types: win-win (Type 1); win-lose compromise (Type 2); or win-lose hierarchy (Type 3).² Type 1 outcomes involve the generation of mutual gains, such as overcoming traditional ‘tragedy of the commons’ type problems when everyone is better off when resource depletion is avoided.

With Type 2 outcomes, compromise occurs. The protocol makes it clear that stakeholders will need to adjudicate – based on a range of knowledge, including the science on the problem itself, as well as other relevant sources – how they want to classify the problem at hand. For example, most domestic land use designation approaches tend implicitly to involve compromises between different land uses (Cashore, Visseren-Hamakers *et al.* 2016a, 2016b). Type 3 outcomes also involve win-lose outcomes, with addressing one issue leading to trade-offs with others. Here, however, the problem in question involves some type of hierarchy, with some issues designated as more important than others. If species extinctions and climate change are to be addressed, then stakeholders must assign them Type 3 status, since trading them off against other issues could result in risky compromises while failing to address the core policy problem. Categorizing problems hence involves taking into account what science tells us about the problems (for example, the risk of species extinction), while also requiring subjective evaluations on the part of those making decisions. When problems are multidimensional, different dimensions of a problem may be classified in different ways.

The pilot implementation of the protocol in Peru confirms that it may not always be possible to arrive at an unambiguous categorisation of a problem within, and across, stakeholders for two reasons. First, and consistent with the protocol, problem definition is inevitably a matter of subjectivity, and different actors may have very different socially-situated perceptions. Second, very similar problems may play out differently in different social and cultural spaces. That said, we concluded that in *most* cases land titling for forest communities in Peru is a Type 2 problem, as a gain in tenure rights for a forest community will represent a loss of rights for another actor, such as the state, a private owner or, maybe, another forest community.

One of our interviewees argued that the formalization of land tenure rights for communities may not necessarily be seen as a gain; it could be seen as a setback if customary claims were recognized only partially rather than in full [D]. Legal recognition of tenure rights can also be seen as a double-edged sword (for example, if tenure rights were granted to a private business rather than a local community).

The pilot implementation underscored that problem definitions should not be considered fixed, as unrealised gains may exist. For example, a problem may be seen by some actors as a Type 2 problem, but hitherto unrecognised win-win outcomes exist that have not yet been identified. Such a possibility is presented below where, it is suggested, two actors that may previously have seen themselves in a hierarchical zero-sum game situation (Type 3), namely forest communities and timber businesses, may be able to find a new collaborative model that generates a win-win scenario (Type 1).

² These distinctions were first drawn by Cashore, 2013.

Step 5 Scoping knowledge of the problems at hand

This step encompasses the scoping of a broad range of knowledge that can aid in understanding the problem (including, for example, Sears and Pinedo-Vasquez 2011, Pacheco *et al.* 2016). When piloting the protocol, we scoped knowledge on the history of indigenous property rights in Peru, the role of forests in livelihoods in Peru and the causes of deforestation and forest degradation. We invited comments from our interviewees on the knowledge scoped, and any knowledge gaps and uncertainties. Our interviewees stressed the importance of this step, with one noting that effective knowledge scoping is necessary to strengthen the interface between knowledge and politics [D]. The same interviewee stressed the need for more knowledge on how the decentralization process underway in Peru can be managed in order to strengthen community land tenure.

It was also noted there is a shortage of empirical research on how land titling and legal changes may improve livelihoods [B]. It was stressed that forest communities should be free to decide whether they wish to accept knowledge from actors outside the forest; some communities may be opposed to this, while others would welcome more training on their legal rights and intellectual property [C]. It was noted that training could reduce the dependence of forest communities on external actors, which is especially important for younger members of communities on whom the responsibilities will lie in the future [C].

An important knowledge gap identified related to illegal operators at the margins of the forestry sector who are most likely to shift to legal timber production if adequately incentivized [A]. Illegal operators are deeply entrenched in Peru; some are criminals while others are business people whose involvement in the illegal trade is due to opportunistic reasons. One interviewee noted that there is insufficient evidence on what the costs of compliance with legality verification schemes would be for legal operators, and the benefits that would accrue from this [A]. There is thus a veil of uncertainty on who the winners and losers would be from a shift to legal production. This relates to an important causal influence logic: as long as the potential benefits of weeding out illegal timber are perceived as higher than the costs of compliance, most timber companies will perceive a self-interest in helping build tracking systems that enable market chains of legally-produced timber. However, if the costs of compliance increase, or if additional requirements are placed on legal regimes, then companies may be less inclined to participate. This could hinder the emergence of tracking systems for legal timber production.

Step 6 Apply the pathways of influence framework

In Step 6, the pathways of influence framework is used to identify the causal pathways through which global interventions might influence domestic challenges through laws, norms, markets and direct access. Application of the framework seeks to add value to, rather than substitute, existing

policy analysis efforts by untangling the promise and pitfalls of international interventions within domestic contexts.

The framework was welcomed by interviewees, although it was suggested that it may not be easily understood in forest communities; the terminology is new and actors will need time to accustom to it [A, D]. It was noted that forest communities would be unlikely to read the protocol, but those who advise them would, and a key challenge was to demonstrate the relevance of the protocol to communities [A, B]. We asked how the protocol could be rendered more accessible for forest communities. One suggestion was for communication to take place in communities using local cultural symbols and traditional knowledge that has locally-grounded meaning for communities. Examples include the sun, trees and local bird species [D]. Using local meanings can help to render external knowledge intelligible to communities who may otherwise be suspicious of external actors.

Two recurring themes arose in our interviews on the pathways framework and its application during the pilot. First, interviewees stressed the need for stronger international rules on the protection of forest communities and their environments [A, C]. The key thing here is not simply the promulgation of rules, but their internalisation by actors so that they affect actor behaviour and social practices (Cashore, Visseren-Hamakers *et al.* 2016a, p.57; Steinberg 2015). The second theme related to the need for capacity building through the direct access pathway. The role of Interpol in training customs officers to address illegal logging in Peru was welcomed by the Environmental Investigation Agency (EIA) who have been cooperating and sharing intelligence with Interpol [A]. EIA also work with AIDSESEP (the Interethnic Association for the Development of the Peruvian Rainforest) to support the *Veeduría Forestal* system under which EIA provides technical support for a pilot that will empower communities to negotiate better contracts with loggers [A]. It was noted that capacity building was needed so that forest communities can negotiate on equal terms with forest businesses and other actors [B, G]. Capacity building can thus be a trigger for durable change. A further problem is the need for better coordination amongst donors in order to make sure that aid yields the most optimum results [E].

Another common issue that arose in almost all interviews was the notion of corruption. Some government officials we interviewed openly acknowledged that bribe taking to avoid government regulations was a problem [F, G]. In this respect corruption may be seen as the opposite of capacity building; whereas capacity building may enhance oversight of the forest sector (either by publicly accountable authorities or by civil society actors), corruption erodes public oversight over public goods.

Step 7 Scope policy pathways for intervening

Step 7 builds from the reflective analysis of Step 6 by utilising the pathways framework to examine international policy processes that may be harnessed to address the problem. From the available policy instruments we selected three:

Reducing Emissions from Deforestation and forest Degradation (REDD+), Zero Net Deforestation (ZND), and Legality Verification (LV). All were then analysed for their current and potential future influence.

All three interventions work, or could work, through all four pathways. REDD+ is a climate change mitigation policy developed under the United Nations Framework Convention on Climate Change (UNFCCC). REDD+ includes safeguard rules relevant to forest communities and their rights; is consistent with norms respecting indigenous rights; works through market mechanisms; and involves direct access interventions from governmental and non-governmental donors working with communities.

ZND is an emerging policy idea based on the principle that actors should publicly commit to a policy of no net deforestation by an agreed date. The idea has potential, but is relatively new and underdeveloped. Depending on how it develops, it could draw for legitimacy from existing international rules. Similarly, actors promoting ZND could invoke international norms on conservation and human rights. Another avenue the idea could take is a market mechanism, perhaps similar to timber certification and labelling schemes. Some actors such as World Wide Fund for Nature and the Rainforest Foundation are working with local communities on capacity building utilising the direct access pathway to achieve ZND (Cashore, Visseren-Hamakers *et al.* 2016a, p.69).

Legality verification (LV) schemes include the amended Lacey Act in the United States, the forest annex of the U.S.-Peru Trade Promotion Agreement, the EU Timber Regulation (EUTR) and Voluntary Partnership Agreements (VPAs) under the EU Forest Law Enforcement, Governance and Trade (FLEGT) action plan. LV is in essence a market-based instrument. In terms of the rules pathway, LV instruments place the responsibility for defining legality and illegality with producing countries. With respect to the norm pathway, LV schemes reinforce international norms against corruption and illegality, as well as respect for community land rights. Finally, the direct access pathway is leveraged through capacity-building initiatives for LV processes and technologies, with support from some powerful governments, including the U.S. and EU countries.

Our interviewees agreed with the logic of Step 7 and our analysis, but again stressed that for some forest communities the framework may not be immediately intuitive and that external help would be needed in rendering it intelligible for communities [A, B, C, D]. We agree, and maintain that this should be a requisite skill for the knowledge broker.

Step 8 Assessing comparative advantage

With Step 7 having narrowed down the range of instruments to the three with the highest potential for influencing the problem identified, Step 8 involved a systemic assessment of the relative advantages and disadvantages of the 'short-listed' interventions: REDD+, ZND and LV.

We argued that considerable political activity, economic resources and scholarly debate have been deployed in support

of REDD+, which has been the dominant international forest policy option for some time now. Consequently, we judged that only limited added value would be leveraged in applying the protocol to this option. ZND has the advantage that the Peruvian government has declared its support for the idea. However, it suffers an opposite problem to REDD+: it is so new and underdeveloped that for now little can be expected of it without significant investment of resources.

LV is an instrument that has garnered significant support from some important actors, both timber producers and importers. It has been studied to some degree but not exhaustively. As a policy it is at a relatively early stage in Peru. Therefore, decisions made in the next few years may have significant influence in shaping the impacts of LV. Its focus on improved enforcement of domestic laws reinforces, rather than challenges, domestic sovereignty. Through the markets pathway, LV also presents potential support for, and synergies with, other international and national policies focusing on reducing deforestation and forest degradation. These factors led us to select it as the instrument to focus on in Peru.

Our interviewees agreed that LV has significant promise in Peru and tropical forest countries. However, officials at MINAM queried why we excluded REDD+ and ZND to focus solely on legality verification; it was suggested that we had created an unnecessary choice, and that the protocol could be adapted to treat REDD+, ZND and legality verification as complementary, rather than mutually exclusive, options [G]. We responded that for the pilot implementation of the protocol we wished to enable clear causal analysis by focusing on one instrument (independent variable) and one problem (dependent variable), and that introducing two independent variables during the pilot would complicate the analysis. However, it may be possible to amend the scope of the protocol to enable causal analysis of more than one instrument in future applications, including the synergies between them. Synergies with REDD+ could be especially important, as in terms of finance it remains the dominant international process influencing domestic forest reforms.

Step 9 Identify instruments and interventions to be pursued

In Step 9 we analysed LV in detail, considering its current applications and various forms and the theoretical implications for further developments in Peru. Our reflective learning during this step points to the need for a revised instrument design that explicitly links timber production with local livelihoods. The strategy we propose is for actors to work through the rules pathway by adding social safeguards to existing LV policies so that respect for land tenure rights becomes an integral component of LV.

The question then becomes twofold. First, which LV policies should be targeted as likely to yield the most effective results? Second, how should social safeguards be added to these instruments? Answering these questions requires teasing out the strategic implications of adding safeguards to the LV policies that we reviewed. Adding safeguards to the

amended Lacey Act was seen as problematic by one interviewee, as the amendment only just survived resistance from opponents in Congress [A]. Adding safeguards to the EU Timber Regulation could be problematic for similar reasons; the EUTR was agreed only after a lengthy legislative process, and amending it is likely to be time consuming and cumbersome. There are some hints of social safeguard intentions in the U.S.-Peru TPA, but its implementation and impacts have been mixed, with renegotiation or amendments unlikely any time soon.

If amendment of legal instruments is not the most feasible short-term option, there are two further possibilities. The first is for the agreement of operational safeguards to which government agencies and other actors should adhere when implementing the instrument, similar to World Bank operational safeguards. While these safeguards may not have legal standing, they would establish standards that would change behaviour through demand-side action. Such safeguards would not only operate through the rules pathway: if implemented they would help ensure that timber harvested according to rules that respect community land rights is traded through the markets pathway, thus upholding the norm of community land rights. Furthermore, actors working through the direct access pathway would be expected to adhere to such safeguards. Action through the rules pathway could therefore cascade into the other three pathways.

A second way that rules on community land rights can be established is codification through the courts. Taking the amended Lacey Act as an example: should legal prosecution of a business that violated the Act take place it may be possible for safeguards on community tenure rights to be included in the prosecution case and subsequently upheld in the courts. In this view, judicial rather than political safeguards may offer the best prospects for success. A similar argument can be made for the Trans-Pacific Partnership (TPP) trade agreement of 2016. The TPP has a legality clause that prohibits international trade in illegal goods. Amendment of this recently-adopted agreement is most unlikely, but a court case brought under it could, in principle, result in a ruling that includes tenure rights.

A VPA through the FLEGT program might be the most efficient path for pursuing 'LV + safeguards', both for titling and for the broader array of community rights. A VPA might also come with stronger market signals. Admittedly no Latin American country has concluded a VPA. But experiences from Asia and Africa provide insights into the opportunities and potential pitfalls of the VPA mechanism. The process of agreeing VPAs in Asia and Africa has usually started with stakeholder deliberations on what constitutes legal timber felling, thus opening up political space within which the tenure rights of forest communities can be introduced (Humphreys 2016).

Step 10 Develop clearly identified causal logics

Step 10 explores empirically and theoretically the causal logics of the selected instrument in relation to the problem. Following Step 9 we considered the causal logics of LV and

the potential for added safeguards to enhance community legal ownership of, and access to, forestland and forest resources. An important logic identified in our work is the need for alliances between actors who may not previously have collaborated. We are interested as to why broad coalitions may emerge in support of LV, since such explanations will enable us to understand how legality verification efforts might be used for different forest problems. Legality verification efforts to weed out illegal timber tend to gain support by appealing to disparate interests, such as environmental groups seeking to stop illegal practices; legal timber harvesters seeking to gain resource rents by reducing competition with illegal timber; and governments interested in creating incentives for sustainable forest management. Crucially, our focus here is not so much on how to eliminate the worst practices through tougher laws, improved governance arrangements for forest permits, improved enforcement and legal penalties (important though these efforts are), but on how to nurture best practice.

There appears to be a two-phase process through which legality verification may be institutionalised and nurtured (Cashore and Stone 2012). First, a range of different actors recognize the problem at hand and cooperate to develop a strategic operational response to it. In the case of LV, these actors may include law-abiding businesses with an interest in fostering the legal trade and actors who are prepared to shift from illegal to legal production if the conditions are right. This phase would see the introduction of supply chain tracking systems. In the second phase, with a coalition of support established and LV accepted as routine, standards can be raised further.

The distinction between these two phases can be understood in terms of the inter-relationship between feasibility (what can practically be achieved at any given time, given prevailing social and political conditions) and desirability (what policy proponents wish to achieve based on the norms and values that guide human behavior and social life). In the case of illegal logging, these norms relate to the environment and human rights. Feasibility can be shifted over time by political action: during the first phase when forest management standards are lower political support can be accrued, which in turn changes what is feasible in the second phase. In this way, standards can be 'ratcheted up' over time (Cashore *et al.* 2007).

How may such a strategy be operationalised in Peru? Some of our interviewees told us that the scope for creating a broad coalition in Peru that involved government, illegal and legal operators, environmental groups and indigenous peoples was limited, with some key actors, in particular forest businesses and environmentalists, unwilling to talk to each other. It was suggested that such a coalition was unlikely to come about unless actors with convening power, such as the government, were prepared to act as a mediator [A]. One actor that could convene such a coalition is the exporters' agency ADEX (the Administración de Negocios Internacionales, or International Business Administration).

A further problem relates to the demand-side of the market. Low demand for legally-verified timber within Peru will make the formation of coalitions and the adding of

additional safeguards especially challenging. Despite this, two interviewees noted that potential exists for an alliance between communities wishing to selectively log their forests and legal timber operators [B, G]. Significantly, AIDSESEP supports the selective logging of community forests for the legal trade [C].³ It was noted that the conditions for such an alliance are not yet in place, but could be created with changes to the law. At present forest communities must apply for a logging permit (just like other actors) if they wish to log their forests. Gaining the permit is time intensive and bureaucratic, and if a permit is denied communities have two options; to be denied loss of income from their forests; or to log illegally. AIDSESEP has proposed that the law be changed, with forest communities allowed to log selectively without a permit if approval is given by the village communal assembly (the highest legal authority in a village) and the village head [C]. This would also have the advantage of relieving some of the bureaucratic and administrative costs of applying for permits that timber businesses currently face. Legal operators and communities could thus gain financially in two important respects: reducing their costs; and gaining increased market share as illegal operators are squeezed out. Depending on price elasticity, businesses could also gain if a price premium could be earned through increased demand-side pull from countries with a LV policy, primarily the U.S. and EU.

An alliance between legal operators and forest communities could reframe the problem as Type 1 (Step 4), generating a win-win outcome for forest communities and businesses. Legal operators would gain a secure supply of legally-recognised timber, putting pressure on illegal operators, while forest communities would have a direct stake in their forests and gain a more secure income stream. As well as requiring a change in the law, some capacity building would be needed to create such a coalition (the direct access pathway). For example, forest communities do not yet have the training to draw up forest management plans or engage in select logging.

One interviewee from the Ministry of the Environment (MINAM) suggested legality verification could involve businesses adopting an adaptation plan, with a phased conversion to legality over, say, four to five years. The adaptation plan should involve verifiable benchmarks [G]. While the adaptation plan was being adhered to companies should be encouraged to continue with their reforms, rather than penalised for any infractions with tough penalties. It was also noted that a state crackdown on hard core illegal operators would create a shortfall of timber for sale. This would increase prices, thus incentivising more legal operators to enter the market. However, without cheaper loans, investing in the forest sector would remain high risk for legal operators. If, however, these operators could obtain legal timber from communities, the market shortfall of legal timber could be made up.

The causal expectation here is that once a secure supply chain of legally-logged timber is established, legality standards can be 'ratcheted up' over time through state-supported conversion towards legal business practices. A further way in which it makes sense to think of phased standard raising over time is forest community rights. A first phase could establish the notion of community rights in a broader sense, focusing initially on 'selective logging rights' as suggested by our AIDSESEP and GIZ (German Corporation for International Development) interviewees. Because this would require a change to the law, the building of a coalition of support would be necessary. Once these rights are established, with timber selectively logged from forest communities entering the market, a second phase would see a push from the coalition for a 'ratcheting up' of rights to include land tenure rights. This would involve demand side action through the markets pathway reinforced by international rules and safeguards on indigenous rights (such as ILO Convention 169). This scenario would, in effect, tolerate some illegal businesses, but only those prepared to shift to the legal trade, and only for the short term. By contrast, trying to enforce tough legality standards, especially on illegal operators wishing to convert to the legal trade, could lead to support for LV leaching away as actors were deterred by the risk of legal penalties.

An important point is the high risk of investing in forests for legal businesses [F, G]. The interest paid on loans for buying heavy equipment and the costs of building roads can be prohibitively high and may make it impossible for legal operators to make a profit. Illegal operators, by contrast, are better able to afford these costs through tax evasion, worker exploitation and neglecting health and safety standards. According to an official from OSINFOR (the government's Supervisory Body of Forest Resources and Wildlife), the state could play an important role in mitigating the risks that legal operators face by providing low interest loans that entice legal businesses to enter the market. Such a scheme has been tried in Colombia [F]. The state can thus play a vital role in promoting action through the markets pathway through low interest loan provision that provides economic incentives for durable change.

Step 11 Develop a Strategic Playbook

The final step of the protocol is the development of a strategic playbook from which stakeholders can draw in their efforts to address the problem at hand. It should be stressed that in line with the ethos of continual learning that underlies our work the playbook should be seen as a living and evolving document that is able to respond to new evidence, knowledge and ideas.

From our work in Step 10 we elaborated two key strategic proposals that could be pursued through legality verification

³ Selective logging is the forest management practice of felling certain selected trees in a forest management unit, while leaving the remainder standing. The intention is to minimise, or even eliminate, the long term impacts on the ecological system (Asner *et al.* 2005, Uhl and Guimarães Vieira 1989).

schemes for enhancing community legal ownership of, and access to, forestland and forest resources, namely introducing strong social safeguards to LV policies, and selective legal logging from community forests (Cashore, Visseren-Hamakers *et al.* 2016c). We now consider each of these in more detail.

Social safeguards

Safeguards can both constitute legitimating language as well as steer actor behaviour and financial flows. We theorise that if social safeguards based on *norms* that promote legal security for all forest users were incorporated in international LV *rules*, they could leverage enhanced community land titling and security. We reason that this could occur because safeguards would not only nurture the *markets pathway* through demand-side incentives, but also help stakeholders generate technical and financial support (the *direct access pathway*), especially if this enables communities to apply for, and realise, community forest land claims. This result, in turn, could be durable, as it would bring additional stability to the forest sector.

Through this policy learning process, we identified the incorporation and implementation of social safeguards in a possible future FLEGT VPA between Peru and the EU as a prospective strategy for enhancing forest community rights. Learning from earlier VPA processes in other countries, and how they came to include social safeguards, allows us to identify promising ideas. The VPA process, by fostering cross-country and stakeholder collaboration, provides more opportunities for influencing outcomes than many other international and bilateral LV processes.

How then, might stakeholders help promote the inclusion of social safeguards in a future Peru-EU VPA? One idea is for Peruvian stakeholders to build on the potential for multiple benefits from enhanced community rights by developing a national coalition of like-minded actors. This group could link to international coalitions, including NGOs and development cooperation agencies, involved in earlier VPA processes in order to learn from earlier experiences while limiting potential pitfalls.

This assumes that the Peruvian government is willing to develop a VPA with social safeguards through a multistakeholder process. We reason that the Peruvian government is more likely to support international rules on LV when the standards and safeguards reinforce, rather than detract from, national sovereignty. And if 'LV + safeguards' ultimately helps the government address existing forest issues, including communal forestland titling, then the conditions would be in place for a broad-based coalition of support. Admittedly generating international policies that reinforce domestic sovereignty is often a difficult balancing act. However, the protocol can be used to identify strategies for walking this 'tightrope' by placing attention on coalition building on the one hand, and important substantive outcomes on the other.

Selective legal logging from community forests

One proposal that would enhance community rights over forestlands while enabling community logging is to broaden

the Major Land Use Capacity categories of Peru's Regulations on Land Classification. A new land-use category could be introduced called 'Indigenous Lands' or, alternatively, 'Communal Forestry Lands'. This new designation would be applied to an aggregated cluster of communities, including forest communities and *ribereño* communities. It would not grant property rights, but would instead specify that the area under the category is designated exclusively for community or smallholder forest exploitation. This would include selective logging.

A related proposal is to expand the number and area of 'municipal conservation areas' adjacent to or surrounding indigenous and *ribereño* communities. Municipal conservation areas are less restricted in the use of natural resources. Hence, communities and municipal governments, along with the regional government's forest administration, could cooperate to devise municipal conservation area management plans that include communal timber exploitation. In both of these cases, the policy reforms could be expected to help generate community production of legal timber, a key condition for creating the durable coalitions of communities and a stable forest sector, as discussed above.

A complementary idea for policy change, proposed by PROFONANPE (a Peruvian not-for-profit environmental fund) is to modify the highly technical process of preparing a forest management and annual logging operation plan with a process that emphasises intrinsic local community knowledge. Such a communal forest management plan would define where logging is desirable, the short-, medium- and long-term goals, and the precise species and volumes to be logged. These proposals would need careful testing to refine procedures and implementation to ensure that community organizations are directly involved in, and beneficiaries of, logging activity. Combined, these strategic approaches, which should be seen as complementary and interlinked, have the potential to remove the bottlenecks that many local communities face in participating in, and benefiting from, the forest economy.

So far this paper has considered the development of the policy learning protocol, and how the piloting of it generated some innovative policy proposals for enhancing community land rights by working through international legality verification instruments. In the next section we outline how the piloting of the protocol has also enabled us to think reflexively about the conceptual basis of *durability* and how it can be theorised and operationalised within the four pathways framework.

A DIAGNOSTIC FRAMEWORK FOR NURTURING DURABLE CHANGE

The notion of durability is central to the protocol. We are interested in enabling interventions that will generate long-lasting results. The piloting of the policy learning protocol throughout 2015 and 2016 stimulated the development of an analytical framework that serves two functions: as a theoretical framework on durability for scholars and policy

practitioners; and as a diagnostic framework that actors can use when scoping out possible interventions for enhancing the effectiveness of international policy interventions. The framework thus serves two key functions, contributing both to policy scholarship and policy practice. It is proposed that actors using the protocol apply the framework outlined below when working through Step 6 (apply the pathways of influence framework); and Step 7 (scope policy pathways for intervening).

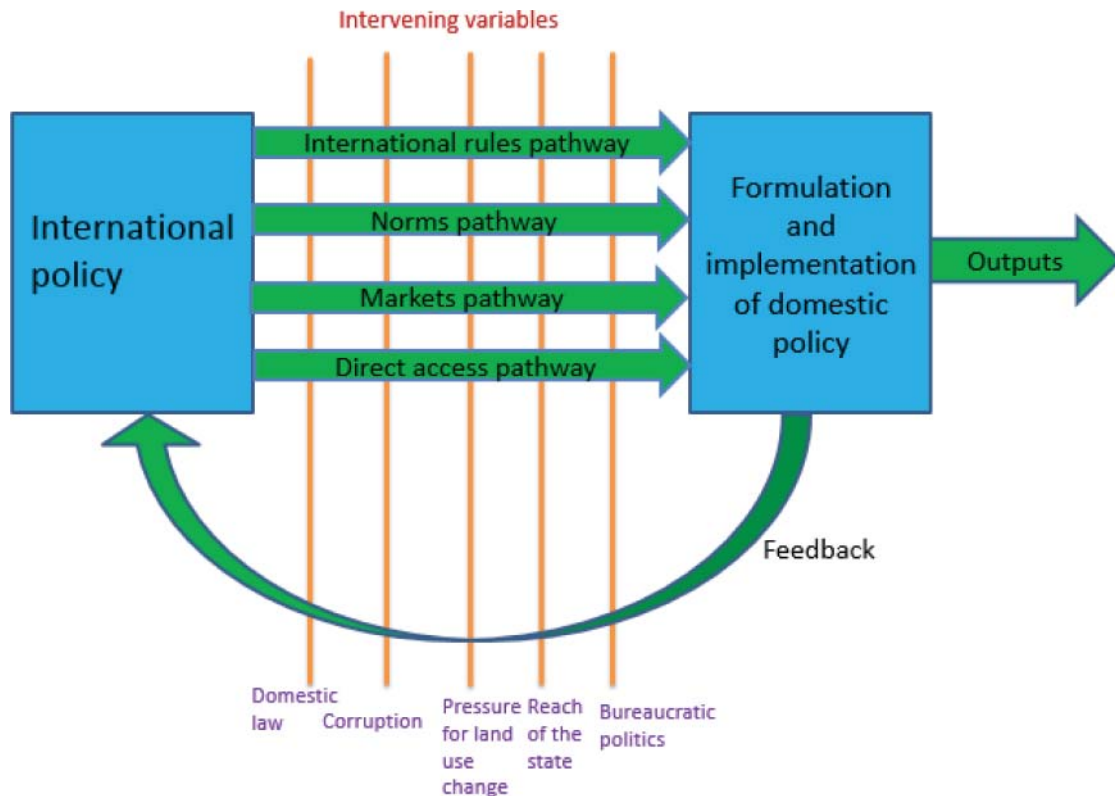
Our work reveals that the problems associated with legality verification in Peru are not only due to a lack of law, but also to problems of implementing existing law [B, D]. In the case of community land rights the granting of legal tenure in Peru has thus far not taken place under current legislation. Whether the problem is due to legislative gaps (suggesting the need for new legislation), or better implementation of existing legislation, the fact is that the vast majority of important decisions are made at the domestic and subnational levels by state officials and other actors. Economic globalization through the four pathways can open up political space that can be used to contest national policy, but sovereignty remains important, with final decision making authority resting with the state. Our interviewees stressed that while the actions suggested by the protocol are helpful, broader structural constraints at the domestic level also need addressing, in particular addressing forest crime, tackling corruption and streamlining the decentralization process. In this section we present a diagnostic framework that can be developed and applied by actors seeking to identify the most important domestic constraints to more effective policy reforms.

The notion of durability implies persistence and resilience over time, hence a durable outcome should be conceptualised as one that has a reproducing logic to it. Durable change may take place quickly and suddenly, or it may take place gradually over time in small steps.

Interventions that travel through the four pathways of influence will not always have the desired effect as they will encounter, and be mediated through, various intervening variables. A durable policy is one that is able to withstand erosion over time from those intervening variables that act against the aims of the policy. For example, an intervening variable in Peru that may thwart efforts to secure indigenous land titling is the pressure from business corporations and politicians to convert forests to alternative land uses, such as industrial agriculture or mining.

International policies rarely 'arrive' intact in a policy space as they invariably collide with, and are shaped by, local realities. It is thus necessary to identify those intervening variables that may enhance or, alternatively, weaken durability. The framework enables this. In Figure 1 the independent variable is broadly drawn as 'International policy' and the dependent variable as 'Formulation and implementation of domestic policy'. A number of intervening variables are also shown. These variables are indicative only: the framework will need refining and adapting according to the specific problem being addressed and the local political, economic, social and cultural factors that have a bearing upon it. The feedback loop in Figure 1 represents the monitoring and evaluation of international policy processes – both formally by publicly-accountable bodies and informally by communities

FIGURE 1 A diagnostic framework: using the four pathways of influence to build durable outcomes



and other civil society actors – and how actors may respond to this at the national level.

The intervening variables shown in Figure 1 are not exhaustive, and will vary over time (at different stages of the policy process) and space (playing out differently in different regions and countries). Hence, an essential part of the application of this framework is identifying the intervening variables that impact upon different forest spaces at different times, and analysing how they may interact with the four pathways.

Intervening variables may be divided into:

- *enabling*: those variables that support and enhance the policy objective, leading in this case to ‘more’ community land titling
- *impeding*: those variables that thwart and impede the policy objective, leading in this case to ‘less’ community land titling.

Particularly important in this framework are the nodes of interaction between the four pathways and the intervening variables. An important analytical point for the knowledge broker to consider, therefore, is what action can be taken to build durability at these nodes.

A policy that lacks durability is one that over several iterations:

- is weakened by the impeding intervening variables. In such circumstances these variables have a stronger influence, perhaps due to the exercise of political and economic power by those who oppose or resist the policy, or perhaps because the policy collides with local norms. In this case, such variables may be seen as the local on the ground ‘realities’ with which proponents of community land titling must grapple and seek to overcome.
- does not interact productively with the enabling intervening variables to generate the desired outcomes. These may be factors that proponents of the policy have failed to recognise or exploit. One example might be a potentially supportive regulation that has not been recognised or invoked.

A *durable* policy, by contrast, is one that over several iterations:

- is able to transform or overcome the impeding intervening variables and thus reduce conflicts in the political system, in this case increasing the opportunities for community land titling. One example identified in this paper is a potential coalition between two actors who thus far have failed to cooperate: forest communities interested in selecting logging, and forest businesses who are either legal or willing to transition towards legality.
- able to interact productively with the enabling intervening variables in order to generate the desired outcomes. One example might be the identification

of all legislation and regulations that can enhance community land titling (an example that illustrates the importance of Step 1, identifying a knowledge broker, and Step 5, the effective scoping of knowledge on the identified problem).

Accurately identifying the intervening variables and evaluating their effects is thus essential to nurturing durable outcomes. By way of illustration: a policy for community land titling that lacks durability would be one that is continuously thwarted by intervening variables such as a political culture that lacks transparency or which is characterized by corruption, and legislation that favours the private property rights sought by big business over and above community land rights. A durable policy, by contrast, is one that is able to catalyse transformative impact (e.g. hitherto elitist political institutions become more transparent and open, there is a crackdown on corruption, and laws that inhibit community land titling are changed to permit greater recognition of community land rights).

For ease of graphical representation the various intervening variables in Figure 1 are shown on separate and parallel tracks. In practice, however, they may interact. For example, in Peru the limited reach of the state in many forested regions intersects with criminal practices to undermine legality. In many remote forest regions the state has a weak presence and is unable to enforce the law, a problem compounded by the recent decentralisation of government in Peru, with regional governments lacking the financial resources of central government. This provides an environment within which corrupt practices can flourish, with some state officials susceptible to bribes from organised illegal loggers.

While this framework has been designed following our work on legality verification in Peru, it is applicable to a broad range of problems on which the policy learning protocol can be brought to bear. It should be modified according to local contingencies by actors working with Steps 6 and 7 of the protocol.

CONCLUDING THOUGHTS

We applied Cashore and Lupberger’s policy learning protocol through a shared conviction that scholarship must engage with environmental and human rights issues and offer the possibility of social change to address injustices. Our aim is modest but important. We explore the potential in moving beyond a narrow state-centric focus, whereby governments continuously make commitments at the international level that domestic actors are then expected to implement, by exploring creative new ways for harnessing existing international instruments to meet locally-defined objectives. Based on the four pathways of influence, the protocol offers an innovative framework both for analysing policy change in the past and, more crucially, for inspiring the actions that can enhance the effectiveness of existing international policy instruments and generate durable changes. Our aim is to yield added value by assessing whether – and if so when and

how – international forest policy instruments might be drawn on by those seeking to generate durable policy change.

In contrast to historical multistakeholder dialogues that are designed to foster compromise rather than problem solving, we recommend that future applications of the protocol begin by directly addressing power in the problem definition (Step 2), and continue thereafter to engage stakeholders with the issue of power. One way this can happen is to ask stakeholders to assess how power dynamics are embedded in a policy instrument choice, such as legality verification. This, in turn, may help stakeholders to distinguish those cases in which they might harness powerful interests to build durable results, rather than having problem definitions challenged and changed by the powerful. In other words, the protocol could integrate power more explicitly in all steps, leading stakeholder to deliberate on how interrogating power dynamics might shed light on how operationalisation of the protocol may have different implications for different actors. The civil society actors that contest forest policy have scarce resources, and need to ensure that they direct their efforts at those interventions that will yield the best results. Resource optimisation requires that actors combine and deploy their human, financial and technical resources in an optimal ‘mix’ that maximizes the likelihood of the desired strategic change being realised. Actors promoting community tenure rights need to concentrate on finding, creating or enlarging the political space within which they can exert influence, matching their scarce resources to the available options for action, bearing in mind the opportunity costs involved of pursuing one course of action rather than another, and taking into account the local realities that may impede or enhance change through the four pathways of influence. The application of the protocol will enable actors to weigh the relative advantages and disadvantages of different options.

The pilot application suggests that the protocol has considerable promise in two important and interrelated respects: theory and practice. This reflects our conviction as a project team that we are not only social scientists working with a range of theories – including from policy studies, political theory, international relations, sociology and, of course, forestry – but also socially-situated actors who wish to use our agency as scholars and citizens to ‘make a difference’ for peoples and environments. Through piloting the protocol we were able to generate both theoretical refinements, in particular on the concept of durability, as well as original policy-related proposals for using LV systems in Peru to promote community land rights. Our work thus reflects the iterative relationship between theory and practice, whereby the creative development and application of theory can inspire original policy ideas, and the testing of such ideas with stakeholders and policy makers in turn stimulates further theoretical innovation and improvement. In this respect the piloting of the protocol can, so far at least, be considered a qualified success. However, the real test will come with time and will depend on how well the application and further development of the protocol is able to catalyse durable outcomes in relation to the social and environmental problems it sets out to address.

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REFERENCES

- ASNER, G.P., KNAPP, D.E., BROADBENT, E.N., OLIVEIRA, P.J.C., KELLER, M. and SILVA, J.N. 2005. Selective logging in the Brazilian Amazon. *Science* **310**: 480–482.
- BEETHAM, D. 1991. *The Legitimation of Power*. Palgrave, Basingstoke. 267pp.
- BERNSTEIN, S. 2001. *The Compromise of Liberal Environmentalism*. Columbia University Press, New York. 328pp.
- BERNSTEIN, S. and CASHORE, B. 2000. Globalization, Four Paths of Internationalization and Domestic Policy Change: The Case of EcoForestry in British Columbia, Canada, *Canadian Journal of Political Science* **XXXIII**: 67–99.
- BERNSTEIN, S. and CASHORE, B. 2012. Complex global governance and domestic policies: four pathways of inference. *International Affairs* **88** (3): 585–604.
- BERNSTEIN, S., CASHORE, B. *et al.* 2010. Examination of the influences of global forest governance arrangements at the global level. In: Rayner, J., Buck, A. and Katila, P. (eds). *Embracing complexity: Meeting the challenges of international forest governance – A global assessment report prepared by the Global Forest Expert Panel on the International Forest Regime*, IUFRO, Vienna. 111–135.
- BERNSTEIN, S., CASHORE, B. and RAYNER, J. 2015. Constructing a Problem-Focused Global Environmental Governance Learning Architecture: Towards A Protocol For Traveling (Multi-level) Pathways of Influence. Paper presented to the *International Conference on Public Policy*, Milan, Italy, 1 July.

- CASHORE, B. 2013. Building a Problem Focused Architecture for Landscapes (keynote address), Governance and legal frameworks for sustainable landscapes, *Global Landscapes Forum*, sponsored by IUFRO, IDLO and CIFOR, Warsaw, Poland, 17 November.
- CASHORE, B. (Ed.) 2014. *Forest Governance Scholarship for the Real World: Building Strategic Insights Through Policy Learning – Issues and Options Briefs on Forest Policy – IUFRO Occasional Paper No. 26*, IUFRO, Vienna. <http://www.iufro.org/publications/series/occasional-papers/article/2014/03/24/occasional-paper-26-forest-governance-scholarship-for-the-real-world-building-strategic-insights/> (8 April 2017).
- CASHORE, B., AULD, G., BERNSTEIN, S. and MCDERMOTT, C. 2007. Can non-state governance 'ratchet up' global environmental standards?; Lessons from the forest sector, *Review of European Community and International Environmental Law (RECIEL)* **16**(2): 158–172.
- CASHORE, B and LUPBERGER, S. 2015. *Protocol for Policy Learning through the Pathways of Influence*, 20pp. http://www.iufro.org/download/file/24752/4830/policy-learning-protocol-160421_pdf/ (8 April 2017). Issued as UN document UNEP/CBD/SBSTTA/20/INF/75, 21 April 2016. Available online at: <http://www.cbd.int/doc/meetings/sbstta/sbstta-20/information/sbstta-20-inf-75-en.pdf> (8 April 2017).
- CASHORE, B. and LUPBERGER, S. et al.. 2015. Learning Through Policy Pathways: Towards a Practitioner Oriented Protocol. Paper presented to the *International Conference on Public Policy*, Milan, Italy, 1 July.
- CASHORE, B. and STONE, M.W. 2012. Can legality verification rescue global forest governance? *Forest Policy and Economics* **18**: 13–22.
- CASHORE, B., VISSEREN-HAMAKERS, I, et al.. 2016a. *Can Legality Verification enhance local rights to forest resources? Piloting the policy learning protocol in the Peruvian forest context*. IUFRO and GEM Initiative at Yale University. 111pp. <http://www.iufro.org/science/divisions/division-9/90000/90500/90505/publications/> (27 May 2017).
- CASHORE, B., VISSEREN-HAMAKERS, I. et al.. 2016b. *Can Legality Verification enhance local rights to forest resources? Piloting the policy learning protocol in the Peruvian forest context – Executive Summary*. IUFRO and GEM Initiative at Yale University, Issued as UN document UNEP/CBD/SBSTTA/20/INF/76, 21 April 2016, 15pp, <https://www.cbd.int/doc/meetings/sbstta/sbstta-20/information/sbstta-20-inf-76-en.pdf> (27 May 2017).
- CASHORE, B., VISSEREN-HAMAKERS, I. et al.. 2016c. *How Can Global Legality Verification Initiatives Enhance Local Rights to Forest Resources in Peru? A Strategic Playbook*. International Union of Forest Research Organizations (IUFRO) and Yale University's Governance, Environment and Markets (GEM) Initiative. <http://www.iufro.org/science/divisions/division-9/90000/90500/90505/publications/> (27 May 2017).
- DE JONG, W. and HUMPHREYS, D. 2016. A failed social licence to operate for the neoliberal modernization of Amazonian resource use: The underlying causes of the Bagua tragedy of Peru. *Forestry: An International Journal of Forest Research* **89**(5): 552–564.
- EIKERMANN, A. 2015. *Forests in international law: Is there really a need for an international forest convention?* Springer, Heidelberg. 196pp.
- FISHER, R. and URY, W. 1991. *Getting to Yes: Negotiating an agreement without giving in*. Random House, London. 208pp.
- HALL, P.A. 1993. Policy paradigms, social learning and the state: The case of economic policy making in Britain, *Comparative Politics* **25**(3): 275–296.
- HUMPHREYS, D. 2006. *Logjam: Deforestation and the crisis of global governance*. Earthscan, London. 302pp.
- HUMPHREYS, D. 2015. Negotiating the future under the shadow of the past: The eleventh session of the United Nations Forum on Forests and the 2015 renewal of the international arrangement on forests. *International Forestry Review* **17**(4): 385–399.
- HUMPHREYS, D. 2016. Forest crimes and the international trade in illegally-logged timber. In: Elliott, L. and Schaedler, W. (Eds). *Handbook of Transnational Environmental Crime*. Edward Elgar, Cheltenham. 168–189.
- KENNEDY, G. 1997. *Everything is negotiable* (third edition). Random House, London, 371pp.
- MAGUIRE, R. 2013. *Global forest governance: Legal concepts and policy trends*. Edward Elgar, Cheltenham. 374pp.
- MOORE, C.W. 2014. *The mediation process: Practical strategies for resolving conflict*. Jossey Bass, San Francisco CA, 686pp.
- PACHECO, P., MEJÍA, E, CANO, W and DE JONG, W. 2016. Smallholder forestry in the Western Amazon: Outcomes from forest reforms and emerging policy perspectives, *Forests* **7**(9): 193; doi:10.3390/f7090193.
- PRESMAN, G. 2016. *Negotiation: How to craft agreements that give everyone more*. Icon Books, London. 240pp.
- RAYNER, J., BUCK, A. and KATILA, P. (Eds). 2010. *Embracing complexity: Meeting the challenges of international forest governance – A global assessment report prepared by the Global Forest Expert Panel on the International Forest Regime*, IUFRO, Vienna. 172pp.
- SABATIER, P. Ed. 1999. *Policy change and learning: An advocacy coalition approach (Theoretical lenses on public policy)*. Westview Press, Boulder CO. 306pp.
- SEARS, R.R. and PINEDO-VASQUEZ, M. 2011. Forest policy reform and the organisation of logging in Peruvian Amazonia, *development and Change* **42**(2): 609–631.
- STEINBERG, P. 2015. *Who rules the Earth?: How social rules shape our planet and our lives*. Oxford University Press, Oxford. 338pp.
- UHL, C. and GUIMARÃES VIEIRA, I.C. 1989. Ecological impacts of selective logging in the Brazilian Amazon: A case study from the Paragominas region of the state of Peru. *Biotropica* **21**(2): 98–106.
- WHATLING, T. 2012. *Mediation skills and strategies: A practical guide*. Jessica Kingsley, London. 176pp.
- ZARTMAN, I.W. and BERMAN, M.R. 1982. *The Practical Negotiator*. Yale University Press, New Haven NJ. 250pp.

Appendix 1 Interviewees, Lima, Peru, 9–11 March 2016

Code	Date	Format	Details
A	9 March 2016	Interview	Campaigner, Environmental Investigation Agency (EIA)
B	9 March 2016	Interview	Independent forest consultant
C	9 March 2016	Interview	Senior official, Asociación Interétnica de Desarrollo de la Selva Peruana (AIDESEP) [Interethnic Association for the Development of the Peruvian Rainforest]*
D	10 March 2016	Interview	University researcher, Instituto de Ciencias de la Naturaleza Territorio y Energía Renovables (INTE), Pontificia Universidad Católica del Perú (PUCP) [Institute of the Sciences of Natural Landscapes and Renewable Energy, Pontifical Catholic University of Peru]
E	10 March 2016	Interview	Senior official, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) [German Corporation for International Development]
F	11 March 2016	Round table discussion	Three senior officials, Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre (OSINFOR) [Supervisory Body of Forest Resources and Wildlife]*
G	11 March 2016	Round table discussion	Five senior officials, Ministerio del Ambiente (MINAM) [Ministry of the Environment]*

Notes

* Interviews and meetings with simultaneous Spanish-English and English-Spanish translation. (All other interviews were conducted in English.)

Two members of the project team (de Jong and Humphreys) were present at all meetings, aided by a PhD student (Marieke Van der Zon). For G a third project team member attended (Sarah Lupberger, on secondment to MINAM).