What’s next for forests and rights?

From the EU perspective
Introduction

In July 2019, Fern brought together ten distinguished thinkers in the fields of forests, indigenous and community rights, and the European Union (EU).

We met under the Chatham House Rule, and are therefore publishing the most salient points from the discussions, without disclosing the identities of those who made them.

We hope to inform the thinking of those working to protect forests and the rights of the people who depend on them. By identifying future trends, we hope to help the wider forest movement to be more effective.

These discussions were not intended to be exhaustive. We hope they will be a catalyst encouraging others to share their thinking, as we believe that collectively we make each other stronger.

The Fern team, November 2019
1. It’s urgent - major transformation is required

If the world doesn’t take drastic action, average global temperature increases are likely to reach 1.5 °C in a decade. This climate emergency is inseparable from our other looming environmental catastrophes: extreme biodiversity loss and a soil fertility crisis.

Combined, their impact is almost unthinkable. Food insecurity, worsening human health, mass migration, more than a million species at risk of extinction, and the increased prospect of war. This will be the new reality.

The only way to avert this, say the world’s most authoritative scientists in their fields, is by transforming our societies and the world’s economy. A change, they say, that will have to be *rapid, far-reaching and unprecedented*.

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1 According to the [IPCC special report on climate change and land use](https://www.ipcc.ch/site/assets/uploads/2018/08/ar5-syr.pdf), the earth’s land has already warmed more than 1.5 °C since the industrial revolution: “Since the pre-industrial period (1850-1900) the observed mean land surface air temperature has risen considerably more than the global mean surface (land and ocean) temperature (GMST) (high confidence). From 1850-1900 to 2006-2015 mean land surface air temperature has increased by 1.53°C (very likely range from 1.38°C to 1.68°C) while GMST increased by 0.87°C (likely range from 0.73°C to 0.99°C).
Box 1: A snapshot of disaster

- There is some evidence that the ‘feedback loops’ described in Fred Pearce’s book *The Last Generation* have begun: Wildfires in the Arctic are releasing plumes of carbon dioxide and methane, causing more global heating. In July 2019 alone, Arctic wildfires are reckoned to have released as much carbon into the atmosphere as Austria does in a year.

- Torrents of meltwater pour from the Greenland ice cap, propelled by temperatures 15°C above normal. Daily ice losses on this scale are 50 years ahead of schedule: they were forecast in the climate models for 2070.

- A paper in *Geophysical Research Letters* reveals that the thawing of permafrost in the Canadian High Arctic now exceeds the depths of melting projected by scientists for 2090.

- Climate change may already be the leading cause of global migration.

Climate breakdown is, in turn, one of the drivers of biodiversity loss.

- In the most comprehensive assessment of its kind, a report in May 2019 by 150 of the world’s leading scientists for the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), estimated that a million plant and animal species face extinction unless swift action is taken. *IPBES also states* that the average abundance of native species in most major land-based habitats has fallen by at least 20%; more than 40% of amphibian species, almost 33% of reef-forming corals and more than a third of all marine mammals are threatened. At least 680 vertebrate species had been driven to extinction since the 16th century and more than 9% of all domesticated breeds of mammals used for food and agriculture had become extinct by 2016, with at least 1,000 more breeds still threatened.

- **Soil fertility** is rapidly declining: the UN says that a third of the planet’s land is severely degraded and fertile soil is being lost at an astonishing rate of 24 billion tonnes a year. As fertile land disappears, conflicts increase over that which remains.

- Heavy tilling, multiple harvests and widespread use of agrochemicals have increased yields at the expense of long-term sustainability. In the past 20 years, agricultural production has increased threefold and the amount of irrigated land has doubled, according to a paper by the Joint Research Centre (JRC) of the European Commission.
Lessons from history

It could not be clearer that the world needs to embrace a zero-carbon future in which systems of consumption and production respect the earth’s limits.

Yet we are still wedded to a way of life that leads to disaster. It’s somehow easier to imagine the end of the world, than the huge changes required to save it.

But having the vision - and the belief - that this is possible is the first step to making it happen.

As Andrew Simms, from the New Weather Institute, said, we’re capable of extraordinary things when we believe they’re necessary. History is littered with examples of societies achieving the seemingly impossible.

For example, President Roosevelt’s New Deal in the 1930s initiated colossal changes at breakneck speed to tackle the Great Depression and a catastrophic failure in the banking system. Of course, the challenge now is far greater.

The New Deal has inspired the current drive, both in the European Union (EU) and the United States (US), for its 21st century successor: a Green New Deal.

In the EU, the European Commission President Ursula von der Leyen, has pledged a European Green Deal in her first 100 days in office, promising to make the EU carbon neutral by 2050 and vowing to turn parts of the European Investment Bank (EIB) into a “Climate Bank” to unlock €1 trillion of investment over the coming decade. The precise details of any such deal will be a matter of trial and error, and the visions of the Greens, DiEM25 and others differ to varying degrees. Regardless, it must happen.

With the right political will, the money for such a deal is available. After all, in the wake of the 2007-08 global financial crisis, more than US$12 trillion was pumped into global economies by central banks to tackle the deepest financial crisis since the Great Depression, a process known as quantitative easing.

But a Green New Deal requires not just money, but monumental changes in culture and attitudes. Again, history overflows with examples.

A little over 200 years ago, slavery was accepted and justified by most people in many societies. But at the end of the 18th century, a small group of men and women managed to hasten slavery’s downfall, despite being pitted against the vested interests of church, state and big business.

Societies can also rapidly change their consumption habits, as the comprehensive smoking bans in 17 EU Member States show. Smoke-filled bars, restaurants and public transport are an increasingly distant memory, and in the UK - to pick one example - the number of smokers dropped by 1.9 million in the decade since the ban was introduced. The current rise in veganism, and decline in meat-eating, appears to mark a similarly radical consumption shift. Changing our consumption patterns though, means moving from being passive consumers to active citizens.
Advertising saturates almost every facet of our existence, constantly reinforcing our function as consumers instead of that of citizens. By some estimates the average American, for instance, sees anything between 4,000 to 10,000 adverts a day. When the then mayor of São Paulo, South America’s largest city, introduced a law banning billboard and other advertising in 2007, it received widespread public support, and had unexpected positive impacts, including freeing civic space and helping reveal the city’s hidden social ills.

2. The EU in a changing world

The big question for the EU is ‘what is our place in the world’? It is increasingly caught in the middle of the growing rivalry between China and the United States. China’s desire to lead the world economically and technologically, has prompted a confrontational response from the US, which is pushing the EU - and the rest of the world - to take a clear stance. The US expects the EU to fall in line with its China policy, whilst at the same time attacking the EU with trade barriers. Meanwhile, China is building global alliances through its Belt and Road Initiative.

The EU has shown itself to be a firm believer in the multilateral world by being at the forefront of what’s described as “rules based trade”. NGOs are trying to ensure this rules-based trade is also values-based. The popular backlash against recent trade deals, such as with the US, Canada and Mercosur shows the lack of trust that citizens have in the EU to protect them and uphold their values.

EU trade agreements could also be used to protect forests and respect forest peoples’ rights, but forests have historically attracted little interest from the European Commission. This may change with the new EU strategic agenda (focusing on protecting citizens and achieving climate neutrality) and the President’s desire for a European Green New Deal. Certainly, the July 2019 publication of an EU Communication on Stepping up EU Action to Protect and Restore the World’s Forests shows a willingness to analyse the threats to forests and to protect and restore them. The recent Amazon crisis has also led some Member States to put forests at the top of their diplomatic agenda.

There are, however, many obstacles.

First, the EU claims its own forests are sustainably managed, despite the fact that EU forest biodiversity is at a historic low and decreasing, and the EU’s forest carbon sink is declining. This is not surprising considering the EU is the largest global exporter of timber but only has four per cent of the world’s forests. Nonetheless there is insufficient recognition among Member States, or Forest Europe, that forestry and agricultural practices need to drastically change to counter these negative trends.

Second, deforestation is rarely sufficiently on the radar of EU Delegations around the world, meaning that EU aid and trade practices don’t prioritise forest protection or their sustainable use. Indeed, some policies even undermine it. For EU actions to have a positive impact, these need to be agreed and implemented in a consultative manner with partner countries, including NGO and local communities. There are lessons to be learned from the EU’s Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan to tackle illegal logging. This shows what can be achieved through linking EU trade, aid and consumption policies to support highly
forested countries in the global South to tackle illegalities and improve governance in the forestry sector.

Third, the gulf between the Commission and Member States is growing, with Member States increasingly working outside of EU structures. This has led to the creation of informal initiatives such as the Amsterdam Declarations Group, which consists of eight countries. The group leads EU thinking on supply chains but lacks clear direction on how to turn ideas into legislative action.

Fourth, governments are perceived as increasingly chaotic and dysfunctional and tend to respond to popular movements rather than take initiatives. For policy-focused NGOs this means it may be necessary to focus on working with/supporting/building movements for real change; and ensuring other policies do as little damage as possible.

It is therefore worth considering if it is beneficial to work more at local rather than national levels. For example, while it may not be possible to change the Trump administration, benefits can be achieved at the state level. It could also be advantageous to work with progressive governors or mayors.

Whatever shape EU forest policies take, the broader picture is that the EU itself has to reform. The turmoil that Brexit has wreaked on the UK may, for now, have discouraged other countries from taking the same plunge, but a fundamental recalibration of the EU’s functioning, democracy and its place in the world, both economically and politically, needs to happen.

3. Forests

**Forests help us mitigate** and adapt to climate change, provide food, fibre and fuel and regulate water cycles. They are of cultural and spiritual significance for Indigenous Peoples and local communities, and **offer** significant health benefits, including lowering blood pressure and relieving stress, for those who spend time in them.

We have lost almost half of world’s forests since humans first started cutting them down and deforestation is accelerating, with, **on average**, an area of forest the size of the UK lost every year between 2014 and 2018. Deforestation is incredibly difficult to stop. Even in the EU, which has seen an increase in trees, forest biodiversity loss remains severe. It is now possible to monitor changes to the world’s forests thanks to real-time satellite data. It is less easy to track the drivers of deforestation such as consumption, trade and poor governance.

**Addressing deforestation**

Addressing illegalities, such as corruption and human rights violations (including the violence against human rights and environmental defenders), and increasing transparency is a key part of halting deforestation.

There is often a clear link between deforestation and commodity prices. When prices rise, more concessions are handed out; when prices decrease it's often not economically viable to develop (i.e. deforest) the land. This is currently the case with around one million hectares (ha) in the Congo Basin and six million ha in West Papua and parts of Indonesia. Preventing these
concessions from being logged once commodity prices increase again, could be important, particularly as many of these concessions were handed out illegally.

Other positive developments to note include: first, consumers are beginning to be more concerned about their purchases; second, some companies, such as IKEA, Nestle and Tetrapak are pushing sustainability up the agenda and are committed to transparency in their supply chains; third some private sector actors now demand legislative action to tackle deforestation and human rights abuses; and fourth, some EU Governments and the European Commission and Parliament are increasingly open to such calls for action.

Tools to support action include technologies to make it easier to track commodities across the supply chain, allowing companies to know exactly where their products come from.

A lot needs to change though, as it is still time consuming and expensive to track products, and even when illegalities are found and there is follow-up action, penalties are often small or non-existent.

**Certification**

In the last 15 years there has been a shift from ending illegality to ending deforestation. There has also been a shift from campaigning to end the harm logging causes, to tackling deforestation driven by the appetite for agricultural commodities. The FLEGT Action Plan helps deal with illegal logging but can’t address legal deforestation. And, as more land is gradually individualised and privatised, legal deforestation becomes a major issue as people are entitled to convert their forest land. This has, to some extent, put certification back on the agenda.

Given the difficulties in addressing corruption in governments, especially when natural resources are at stake, African and Asian governments specifically started to lean on certification to improve forest management. In Gabon and Sarawak, certification (FSC or MTCS/PEFC) will become mandatory by 2022. This means that such private certification initiatives are now guiding government policies.

Some see this as a positive impact of certification, others contest it. They believe certification is only relevant for front runners and does nothing to address the laggards; what’s more, its impact on the ground is very doubtful. It also appears that at least in some cases, even front runners work with ’shell companies’ with bad practices.

There is therefore a big divide between those NGOs who believe certification is a useful tool - also because it is one of the few ways for forest communities to get their grievances addressed - and those who see it as purely greenwashing. Both positions are defensible, but the issue has created an unhelpful friction in the forest movement.

**‘Nature based solutions’**

To mitigate the climate emergency, we need land to sequester more carbon. People are convinced about the need to plant trees, but the narrative that we need to maintain and restore forests rather than create more plantations, has yet to be fully accepted.
In this sense, the UN Food and Agricultural Organization’s (FAO) forest definition (“Forest includes natural forests and forest plantations”) is a greater problem than is commonly recognised. It means that destroying forests and replacing them with monoculture tree plantations is not classified as ‘deforestation’ in FAO official statistics, despite the huge negative impacts on peoples, biodiversity and the climate. Some see the definition essentially as a political instrument, to allow countries to hide forest destruction.

Some say plantations must be part of the solution, while others say we should focus only on restoring natural forests. These two perspectives are, however, not incompatible. Of the roughly 250 million ha of plantations globally, only 25 million ha are well managed. If this were doubled to 50 million ha, these plantations could provide all the industrial roundwood the world currently uses. This is further backed up by studies from Finland, Sweden, Germany and the US that show that, if you halve the harvest and double the rotation, the carbon content of forests goes up, but it has cost implications.

So, it’s clear that we need more forests and more trees, but there is no agreement about what we need and where. The forest movement therefore needs a clear narrative. There is agreement that improving the quality of existing forests would be beneficial for the climate and doesn’t require more land, but it does require less harvesting – something that is at odds with many forested countries’ economic plans.

Focusing on forest carbon can, however, easily lead people to forget that forests are just as important for biodiversity, the water cycle, spiritual homes and people’s health, among other things. The future pathways for carbon removals being proposed by climate scientists reveals the danger of treating forests as solely carbon sinks or sources. While a holistic view of the climate and biodiversity crises shows the need to consider forests as damaged ecosystems which need to be protected and restored, proposed pathways suggest creating vast areas of plantations, cutting them down, burning them for bioenergy and then storing the carbon that is released (known as Bioenergy with Carbon Capture and Storage (BECCS)).

The problem is also revealed in the Bonn Challenge – a global effort to restore 350 million ha of the world’s deforested land by 2030 – as half of the proposed ‘forested’ area will in fact be commercial tree plantations. The IPBES report is more holistic and includes equality, indigenous knowledge and sustainable development. IPBES analysed the impacts on biodiversity of the modelled climate mitigation pathways included in the Intergovernmental Panel on Climate Change (IPCC) 1.5°C report (all reliant on BECCS to varying degrees), and found that all mitigation pathways, even the most sustainable (SSP1), would cause biodiversity losses, due to the reliance on land-based climate mitigation methods which lead to negative land-use changes.

**Biodiversity back on the agenda**

In 2020, there will be both a Conference of the Parties (COP) on climate and on biodiversity. This offers real opportunities to influence the EU and the UK, which will host the climate COP. Biodiversity is an issue that is gaining momentum. The EU is negotiating biodiversity as a bloc and is generally progressive. It is important to encourage all EU countries to back Indigenous Peoples’ demands. It is also important that the big push for Nature Based Solutions becomes a big push for Nature and Culture Based Solutions, and that none of these solutions is seen as an alternative to reducing fossil fuel emissions.
Brazil

Brazil is at the forefront of many forest activists’ minds. It’s hard to see what European organisations can do, given that the Brazilian government kicks back against any outside intervention. It is difficult to see how we can hold on to previous successes, in the face of the current regime’s attempts to erode them.

Soy and beef exports are rising, specifically to China, but funding for infrastructure projects is also causing harm. It is not yet clear, however, what actions the forest movement can take to reduce such funding. It is also a challenge to see how EU campaigns against the harm being inflicted in Brazil successfully target only the big players, rather than smallholders.

4. Forest Peoples

Indigenous Peoples recognised

The Indigenous Peoples’ movement has become increasingly well organised in recent years. Twenty years ago, Indigenous Peoples were voiceless and widely perceived as backward, and indigenous youth were leaving their homelands. Now the youth are going back to their communities, with strong cultural affirmation and useful skills. Indigenous Peoples’ rights, notably the right to self-determination, are increasingly recognised.

A turning point was the hard fought for UN Declaration for the Rights of Indigenous Peoples (UNDRIP) in 2007. Indigenous Peoples were also recognised in the IPBES report and the IPCC report on land.

The battle for land is ongoing

With the right to self-determination being recognised, the battle for rights has now become a battle to respect customary tenure. Indigenous Peoples and local communities who own land under customary law, must be recognised as the legal owners of the land. Sadly, only a handful of organisations are supporting this fight.

Expect a backlash, defend the defenders

The battle for land is, however, often violent, and challenged by vested interests. The fact that powerful interests are challenging Indigenous Peoples rights could be considered evidence of why such rights are important. But there is a severe risk that governments will respond by rolling back recently won rights. Some pushback is already clearly visible in countries such as Brazil. Arguments that ‘Indigenous Peoples require too much land for too few people’ and ‘block progress for the nation’ are now gaining ground.

Sadly, this pushback has also led to an increase in murders of human rights defenders. More than 185 defenders were killed in 2017, 30 per cent of them Indigenous Peoples. There is also pressure to undo LGBTIQ+ and women’s rights.
**Alliances**

We need to identify the tools that will create change, the most effective economic model, and ways to fund the politically and practically complicated work of strengthening land tenure. The [Land Tenure Facility](#) shows what can be done if you give the right group of people the right amount of money. Governments should help implement projects, but money must go directly to communities. This is because implementation is difficult and needs to go hand in hand with conflict resolution and mediation.

Building alliances of organisations with shared strategies is also essential, as is creating space for Indigenous Peoples to be heard, rather than having organisations speak on their behalf. Recognising rights is the first step, then systems must be built to implement and maintain these rights, while ensuring that Indigenous Peoples have responsibilities.

For the forest movement, it is important to think how we can support the emerging leaders from Indigenous Peoples, local communities and local NGOs, so that they can reach international audiences.

**Family forest owners in the EU**

In the EU about half of the forests are privately owned, often by families. Most private owners have holdings of less than three ha. These forest owners have rights to the land, but there is little evidence that these ‘family forests’ are better protected against biodiversity loss than state owned forests. Often the opposite is true. There are examples, for instance, of Forest Owners Associations forcibly stopping an inventory into key biotopes or campaigning in favour of damaging practices. Creating links with forest owners that do see their forests as a way to protect biodiversity and enhance the EU’s carbon sink, rather than increase timber production may be an important way forward.
“By identifying future trends, we hope to help the wider forest movement to be more effective.”