The Justice Gap in Global Forest Governance

by

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Dissertation submitted in partial fulfillment of
the requirements for the degree of Doctor
of Philosophy in
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ABSTRACT

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Abstract

Claims of injustice in global forest governance are prolific: assertions of colonization, marginalization and disenfranchisement of forest-dependent people, and privatization of common resources are some of the most severe allegations of injustice resulting from globally-driven forest conservation initiatives. At its core, the debate over the future of the world's forests is fraught with ethical concerns. Policy makers are not only deciding how forests should be governed, but also who will be winners, losers, and who should have a voice in the decision-making processes. For 30 years, policy makers have sought to redress the concerns of the world's 1.6 billion forest-dependent poor by introducing rights-based and participatory approaches to conservation. Despite these efforts, however, claims of injustice persist. This research examines possible explanations for continued claims of injustice by asking: *What are the barriers to delivering justice to forest-dependent communities?* Using data collected through surveys, interviews, and collaborative event ethnography in Laos and at the Tenth Conference of Parties to the Convention on Biological Diversity, this dissertation examines the pursuit of justice in global forest governance across multiple scales of governance. The findings reveal that particular conceptualizations of justice have become a central part of the metanormative fabric of global environmental governance, inhibiting institutional evolution and therewith perpetuating the justice gap in global forest governance.

Dedication

To my husband, Samak Suiseeya. Without you, this adventure would not have been as rewarding and fun(!). Thank you for your unwavering support and the love you have given me all of these years. And to my daughter, Sumalee Suiseeya. Although you do not yet realize it, you have been an inspiration to me. Following your lead in the pursuit of happiness and joy, I hope to continue to make contributions that help our world live up to all of the possibilities you imagine for it. Thank you both for the incredible sacrifices you have made so that I could pursue this work.

To my dad, Robert H. Marion, I am eternally grateful for your support over the years. You have always encouraged me to follow my dreams and have provided invaluable advice and guidance that have shaped me into the person I am today. Thank you for being a great father and friend. Also, thank you for bringing Nancy into my life, who has become one of my closest friends and confidents. Thank you, Nancy, for all of your support and guidance.

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1. Introduction

What moves us, reasonably enough, is not the realization that the world falls short of being completely just—which few of us expect—but that there are clearly remediable injustices around us which we want to eliminate.

Amartya Sen (2009, vii)

For decades conservation actors have struggled to address concerning trends in forest loss and degradation across the global south. According to the United Nations Food and Agricultural Organization (FAO) (2005), there are approximately four billion hectares[1] of forests worldwide, two-thirds of which are found within only ten countries. The current rate of deforestation is alarming: each year approximately 13 million hectares of forest are destroyed—a land area the size of Greece (FAO 2005). Most of this forest loss occurs in nations lying in the tropical regions of the world—developing countries that often lack the capacity to develop and enforce effective forest conservation programs. This forest loss accounts for 20% of annual, global greenhouse gas emissions and extinction of up to 2-3% of total known species per decade (IPCC 2007; Butler 2012).[2] As the pressure to combat climate change and biodiversity loss has risen, so too has the pressure on forested nations to stem forest loss and degradation. Public and private actors, from global to local scales, have pursued a variety of avenues for curbing forest

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[1] 100 hectares = 1 km^2

[2] Calculating species loss is an imprecise science, complicated by the lack of knowledge of how many species exist worldwide and the lag times in species extinction (e.g. where the species lost from any given forest area may not be seen for years as the species moves to other habitats and try to adapt). There is an overwhelming consensus, however, that biodiversity loss continues to rise and that the majority of the world's biodiversity is found within forests.

loss, such as the establishment of protected areas, timber harvesting standards, third-party certification schemes, and law enforcement programs, among others. Over time, these efforts have evolved from command-and-control approaches to "coordinate and connect" models that integrate communities, civil society, and the private sector directly in forest management (FAO 2009, 514). And although most large scale forest loss and degradation is driven by commercial and infrastructure needs, global forest governance efforts have disproportionately targeted and impacted forest-dependent communities (Bernstein et al. 2010). Over time, forest governance has become commonly associated with injustice and human rights violations in forest-dependent communities (Brockington, Igoe, and Schmidt-Soltau 2006).

The most vigorous claims of injustice in forest governance emerged during the era of "fortress conservation," referring to trends in the late 1970s to late 1980s of relocating forest dwellers outside of newly established protected areas or forest reserves. For example, between 1996 and 2011, hundreds of villagers were evicted, houses and rice storage sheds were burned, and valuables were looted from villages inside Thailand's Kaeng Krachan National Park. When the park was established in 1981 to conserve a large portion of Thailand's western forest complex, the Karen villagers who had lived in the area for more than one hundred years—inside the newly demarcated park boundaries—were designated as illegal settlers: "the villagers are frightened and have suffered due to the activities of the National Park authorities and Thai military. They have been displaced and are homeless, with no security of life or land" (KNCE

2011).This story is not uncommon in Thailand: between 1986 and 2005 at least 60 cases of displacement had been documented that affect nearly 300,000 people (see Leblond 2010).[3] In fact, conservation-induced displacement is found across the globe: Brockington, Igoe and Schmidt-Soltau (2006) found documentation on 246 forced relocations in 180 protected areas during a two-year period from 2004 to 2005. In one study of conservation in Central Africa, an estimated 120,000 to 300,000 people were displaced because of the establishment of protected areas (Cernea and Schmidt-Soltau 2006).

Although displacement is a common injustice that forest-dependent communities experience, there are multiple, diverse injustices that these communities experience as the result of forest governance interventions. In Latin America, where displacement is less common than in other parts of the world, forest-dwelling villagers are often stripped of their resource rights (Bray and Velazquez 2009). For example, in Bolivia's famous Noel Kempff forest carbon project indigenous communities lost their livelihoods when traditional access to forest resources was cut off and the project's alternative livestock approach failed (see Powers 2009; Lang 2009). In Cambodia, village consent for a forest carbon project under the Reduced Emissions from Deforestation and

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[3] In one case alone, in 1999, more than 170,000 forest inhabitants in northern Thailand were faced with the threat of eviction from their homes and villages following the establishment of the Doi Phu Kha National Park. See http://www.akha.org/content/humanrightsdocs/hilltribeevictions.html, accessed September 2, 2013.

Degradation (REDD+)[4] initiative was obtained by using a village meeting sign-in sheet, which villagers signed to indicate their attendance at the meeting, not their consent to the project (Milne and Mahanty 2013). In Laos,[5] village heads offer project-based employment opportunities to those with close family or business ties—not to the most vulnerable families in the community—thereby limiting the distribution of benefits along patronage lines. Stories of injustice—accounts of eviction, loss of access, exclusion from decision-making processes and denial of rights like those above—are common throughout the forested, developing world. The effects of these injustices not only impact the communities involved and pose moral and ethical dilemmas related to forest governance, but threaten to undermine efforts to curtail forest loss and degradation at large.

In response to these concerns about justice in forest governance, forest governance actors (including scholars, practitioners, and policy makers) have promoted the widespread application of a justice lens to their interventions. Millions of dollars are spent each year to develop community safeguard protocols, design participatory, joint, and community-based management approaches, and establish benefits sharing mechanisms in an effort to reduce the potential for negative community impacts

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[4] REDD+ is a mechanism designed to reduce carbon emissions from forest loss by paying forested developing countries to prevent forest loss and degradation.

[5] Laos' official country name is the Lao People's Democratic Republic. In this dissertation I use Laos except in quoted material or citations.

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resulting from forest policies and projects.[6] Nearly every forest governance intervention includes reference to the need for participation (Campbell and Vainio-Mattila 2003; Hackel 1999). Instruments such as prior informed consent (PIC) and mutually agreed terms (MAT)—United Nations (UN) protocols for safeguarding the interests of local communities—are increasingly found in project documents and are important elements in multilateral environmental agreements such as the Convention on Biological Diversity (CBD). National forest laws increasingly emphasize the rights of forest communities and the importance of resource access for their livelihoods and wellbeing (Sikor and Stahl 2011). Despite, however, the attention, efforts, and resources dedicated by international organizations (IOs), governments, international non-governmental organizations (INGOs), and other non-state actors to the injustices of global forest governance, claims of injustice persist.

1.1 Purpose and Approach

The purpose of this dissertation is to understand and explain the persistence of claims of injustice in global forest governance when, given the decades of investment trying to address the consequences of forest governance for communities, we might expect to see steady improvements in justice outcomes. More specifically, the puzzling trends of injustice in global forest governance raise the following questions: why haven't

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[6] Author calculation based on World Bank reported spending on safeguards development and monitoring in the forest sector only (Independent Evaluation Group 2010; Independent Evaluation Group 2013).

existing efforts to address injustice in global forest governance been successful? What

are the institutional barriers to the delivery of justice in global forest governance? What

are the roles of different state and non-state actors in the production of justice and

injustice in global forest governance?

I approach these questions from a multi-scalar, linked institutional perspective.

In this study, institutions "are the rules of the game in a society, or, more formally, are

the humanly devised constraints that shape human interactions" (North 1990, 3; see also

Knight 1992). They are, in essence, "enduring sets of roles and rules" that guide human

behavior in global forest governance (Conca 2006, 24). They may include treaties,

policies, laws, conventions, and regulations (North 1990). Although North (1991)

includes norms as a type of institution, where institutions and norms both prescribe and

proscribe behavior, I draw an analytical distinction between norms and institutions. I

define norms as "collective expectations for the proper behavior of actors with a given

identity" (Katzenstein 1996, 5). They are expressions of collective values and beliefs that

serve as informal constraints to behavior (Kingston and Caballero 2009), whereas

institutions are the crystallization of values and beliefs into rules and procedures that

guide behavior.[7] Organizations, distinct from institutions and norms, are "specific

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[7] Knight (1992) notes that, "for a shared set of rules to be an institution, knowledge of these rules must be shared by the members of the relevant community or society" (2-3). The knowledge of rules is a distinguishing characteristic of institutions as distinct from norms, whereby the creators and diffusors of institutions are knowledgeable of and recognize the constraints of any given institutions. Norms, on the other hand, may not be as visible to outsiders nor necessarily recognized even if they do have knowledge of

groups of individuals pursuing a mix of common and individual goals through partially

coordinated behavior…" (North, Wallis, and Weingast 2009, 15–16; see also Greif 2006).

Under this definition, organizations are a collection of actors that, through the pursuit of

their objectives, adopt, promote, and/or pursue particular institutions and norms.

Through this institutional approach, I argue that the question of injustice is a

question of institutional change: if governments, INGOs, and IOs maintain they are

fulfilling their commitments to and are interested in promoting justice, yet injustices

persist, why haven't institutions for global forest governance evolved or new institutions

emerged to try to address the justice concerns of forest-dependent communities? In this

dissertation, I show that institutional approaches to justice have not changed since the

1992 Rio Conventions. I illustrate how a particular set of justice norms constrain

institutional possibilities for justice to produce and perpetuate the justice gap in global

forest governance. Moreover, I show how the actors involved in global forest

governance, who are linked across governance scales, are engaged in struggles over

power and interests that ultimately contribute to the further entrenchment of an existing

justice metanorm. In the next sections of this chapter, I first examine the meaning of

justice to elucidate how I approach justice in this dissertation. This is followed by a

review of the literature underscoring the importance of justice in global forest

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the norms. Thus, institutions are something that can be imposed, whereas norms are something that have to
be internalized (but can also be institutionalized).

governance across both local and global scales. I then lay out the plan for the
dissertation.

1.2 Exploring Justice

Although justice is clearly an important part of global forest governance, as
alluded to in the prior discussion, its meaning is unclear. Because one objective of this
dissertation is to demonstrate that a precise operationalization of justice may obscure
opportunities for producing justice, I do not adopt a particular definition of justice.
Rather, in this section of the chapter, I introduce some of the literature in global
environmental governance that tackle questions of justice to provide an overview of the
various dimensions of justice that guide my identification and interpretations of justice
expressed by different actors and found in a variety of policies across multiple scales of
governance. To be clear, in this dissertation I am interested in justice for forest-
dependent communities and thus direct my attention to the literature addressing those
communities broadly or specifically. Forest-dependent communities are thus the rights-
holders (e.g. those actors making demands and the target of justice practices) and states,
INGOs, IOs, research groups, private firms, epistemic communities, and other forest
governance policy and project proponents are the duty-bearers (e.g. those actors with
duties and obligations to uphold and enforce the formal and informal rights of forest-
dependent communities, including the rights of forest-dependent communities to
participate in the deliberation of emerging and evolving rights and duties). Eliminated,

thus, from this discussion are questions of interstate justice (e.g. justice between states where states are among the rights-holders).

Justice, like many concepts in social science, is frequently invoked but rarely specified. It is "slippery" in the sense that it is so broad that it defies measurement (Paris 2001). Sen (2009) argues that we may not know what justice is, but we know what it is not. Most scholars would agree that the concept of justice includes notions of distributional equity (see G. Walker 2009a for further discussion). A more robust understanding of justice incorporates distributional dimensions as well as notions of recognition and procedural justice (Schlosberg 2004; Schlosberg 2007). In other words, justice is not only about how costs and benefits are distributed, but is about the extent to which diverse cultures and ways of knowing are recognized in the policy arena and how democratic the decision-making process is. Cook and Hegtvedt (1983, 218–220) suggest four types of justice: fair exchange, fair allocation, fair procedures, and just compensation. The authors distinguish these types of justice as oriented towards equity (outcome/input ratios) or distributional justice (fairness in allocation). Walker builds upon Sen's notions of freedom and suggests that justice is best understood as the capability of individuals or communities to flourish and function (G. Walker 2009b, 204; Schlosberg 2007), which requires that "equity is discussed, recognition is demanded and that participation is sought" (Schlosberg 2007, 72). This conceptualization of justice resonates most closely with that being sought by representatives of forest-dependent communities in the global forests arena (Sikor 2012; Sikor and Stahl 2011).

Often, operationalizations of justice in global forest institutions privilege one dimension of justice over another or assume a universal conceptualization of justice. For example, some common operationalizations of justice include: provision of tenure rights (distribution), establishment of social safeguards (distribution), community consultations (procedural), and mention of indigenous peoples in policy documents (recognition), among others (Sikor 2012). These unidimensional operationalizations of justice are too narrow to accommodate the diverse demands for justice. Sikor (2012) cautions researchers to carefully consider how they measure justice because how justice is operationalized influences policy, i.e. it is all too readily translated into policy prescriptions, and could further perpetuate injustice or fail to mitigate existing injustice.

In the most basic terms, justice in global forest governance is most commonly phrased in terms of the equitable distribution of costs and benefits related to the proposed intervention (Okereke and Dooley 2010). Despite the use of the term "equitable," policy-makers usually adopt a justice-in-exchange conceptualization of distributive justice that distributes costs and benefits on equal units of exchange (D. Schroeder 2009; D. Schroeder and Pogge 2009). Such an understanding of justice is "incomplete theoretically…[and] insufficient in practice" (Schlosberg 2004, 518); it ignores the procedural and recognitional elements of justice that are important for the pursuit of justice and central components to the justice demanded by forest-dependent communities in global forest governance (Schlosberg 2004). Procedural justice occurs "when all parties who will be affected by a decision have had a chance to participate in

the decision-making process and to influence the final outcome" (Clayton 1998, 164). Justice as recognition is the "state of affairs in which all people have the right to equal respect, and equal opportunity to participate, benefit and avoid harms, without this being conditional upon assimilation into dominant cultural norms" (Martin, McGuire, and Sullivan 2013, 124; see also Fraser 2001; Bohman 2007).

Moreover, the default measurement of justice—equity—is not always appropriate for measuring the delivery of justice. For example, while a fair and equitable distribution of costs and benefits is arguably the most accepted indicator of distributional justice (see also Cook and Hegtvedt 1983 for definitions of fair and equitable), equality is likely a more appropriate measure for determining recognitional and procedural justice. In this dissertation, I consider justice along multiple dimensions, where justice may include distributional and procedural dimensions, as well as dimensions of recognition and capabilities. Justice standards or measurements may include notions of equity, equality, or a variety of other potential criteria. Different actors operating at different scales of governance may embrace multiple, plural notions of justice that are either static or dynamic according to the particular context in which they are making determinations about justice.

1.3 The Importance of Justice in Global Forest Governance

Justice and injustice have been part of the global forest discourse for decades. In many ways, claims of injustice in forest governance seem unavoidable. This is due, in part, to the nature of forest resources: they are renewable resources with multiple,

sometimes rival but often complementary, values. It is also due, in part, to the constant

shaping and reshaping of control over forest resources by diverse actors at multiple

scales interested in securing, maintaining, and exercising power over forests. This

contested nature of forest resources, thus, creates a landscape for conflicts whereby

those actors with less power—generally forest-dependent communities—are most likely

to suffer injustices. Scholars have extensively documented the injustices resulting from

the struggles over forest control (Agrawal, Nepstad, and Chhatre 2011; Agrawal and

Redford 2009; Klooster 2000; Pagdee, Kim, and Daugherty 2006; Roe 2008; Singleton

2000).

Local experiences of injustice in forest governance projects similar to those

described in the prior section above have not gone unnoticed by scholars, practitioners,

or policy makers. Injustice has been a prominent topic in the forest governance discourse

for decades (Brockington, Igoe, and Schmidt-Soltau 2006; Brechin 2003; G. Leach and

Mearns 1988; Peluso 1993). While some scholars argue that injustice in forest governance

interventions, such as those produced through fortress conservation, may not

necessarily be problematic for achieving conservation objectives (Brockington 2004),

others maintain that justice is a necessary condition for sustainable and effective forest

governance (Langhelle 2000). Unless global forest governance approaches are just and

institutions are designed with a justice framework in mind, efforts to effectively govern

forest resources will continue to fail to achieve desirable environmental, social, and

economic outcomes (Ribot 2005; Thomas and Twyman 2005; D. Schroeder and Pogge

2009). Although not explicitly framing their work using a justice lens, through their emphasis on local impacts and community involvement common property (hereafter commons) scholars provide further support for the idea that justice is necessary for effective forest governance. Ostrom (1990), for example, demonstrates the potential for local institutions to overcome the common pitfalls and failures of externally-imposed approaches to common pool resource management; Agrawal and Chhatre (2006) demonstrated that community managed forests better deliver on multiple objectives than centrally managed forests. In the commons literature both procedural justice (e.g. locally-driven decision-making) and justice as recognition (e.g. recognition and validation of traditional or customary institutions) are critical for successful forest commons management.[8]

Similarly, proponents of participatory development and community-based conservation at the local and national scales recognized the importance of local community involvement in for governance for preventing and redressing injustice in forest governance. They argue that participation is a key success factor in conservation projects based on the notion that considerations of wellbeing and empowerment of communities is critical for institutional effectiveness (Ribot 2005; Sikor et al. 2010). These forest policy actors could be considered key norm entrepreneurs stimulating the inclusion of justice obligations in the 1992 Rio Conventions. The proliferation of

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[8] Although states own the majority—75 percent—of the world's forests, most forests are de facto commons due to limited state capacity (human resource and financial) to manage forests (FAO 2011).

participatory, community-based approaches to conservation, the inclusion of the principle of PIC, safeguards targeting the most vulnerable and marginalized members of society—especially indigenous peoples, ethnic minorities, and women, and the recent expansion of efforts to distribute benefits (both direct and indirect) to forest-dependent communities all result from a global effort to promote more just approaches to global forest governance. Donors, governments, and investors spend millions of dollars annually to reduce and eliminate negative social impacts from forest interventions.

At the global level, recognition of justice-forest links permeates the global forest governance discourse. Here, justice is important for international institutions to build and maintain legitimacy, where legitimacy is defined as "the acceptance and justification of shared rule by a community" (Bernstein 2005, 142). The relatively recent introduction and adoption of REDD+ as the new, dominant approach to global forest governance has introduced a renewed sense of urgency for addressing the justice concerns of forest-dependent. Forest-dependent communities anticipate an expansion of state rights over forest resources through the creation of carbon rights and thus a loss of existing and traditional resource rights (REDD-Monitor 2010). Because many of these forest-dependent communities cannot secure rights through the states in which they reside, many expect and seek justice from global institutions. Thus, to the extent that global forest governance institutions and the actors that pursue them derive some legitimacy through their reputations as promoting justice-based approaches to forest governance (or at least do not lose legitimacy through their production of injustices), their legitimacy

relies, in part, on their prevention or minimalization of injustice. Securing and

maintaining legitimacy is critical for long-term effectiveness of forest governance

interventions (Paavola 2004).

In the global policy arena justice concerns have manifested, for example, through

the transformation of environmental INGOs from natural resource and environmental

management experts into social and economic development experts. No longer are these

environmental INGOs focused solely on achieving conservation or resource

management objectives. Instead, their projects, programs, and missions include

livelihood and wellbeing objectives and increasingly integrate equity concerns into their

work (Alcock 2008). Moreover, justice concerns have become an integral part of global

environmental negotiations (Okereke and Dooley 2010; Moellendorf 2009),[9] where

parties and non-party delegates debate procedural and distributive avenues for

pursuing justice, considering notions of equity, equality, and fairness. And although the

ultimate operationalization of justice in international agreements generally draws on

market-based, neoliberal notions of distributive justice (Okereke 2008a), representatives

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[9] Okereke and Dooley (2010) suggest that there are six conceptualizations of justice present in the discourse on global environmental change: utilitarianism, liberal egalitarianism, market justice, communitarianism, mutual advantage, and justice as meeting needs (84-86). They argue that, although each of the conceptualizations is present in the UNFCCC negotiations, the notions that prevail are those more closely aligned with neoliberal concepts of justice. In other words, the principles of justice that will dominate at the international level include market justice and mutual advantage, which are essential tenets of the neoliberal economic order.

of indigenous and local communities (ILCs) routinely pursue justice as recognition in global arenas (Perrault 2003).

1.4 Explaining the Justice Gap in Global Forest Governance

What explains the persistence of claims of injustice despite the efforts to redress justice concerns described above? The most common explanations for the broader failures in global forest governance to address the persistence of injustice fall into one of four main arguments: 1) absence of institutions; 2) poor implementation and/or institutional interplay leading to ineffectiveness; 3) lack of political will among forest policy actors; and, 4) claims of injustice are not about justice but are rather about people making unending demands for things that they want (see Lane 1986 for a discussion on disentangling wants from justice demands). There is, however, an abundance of institutions that incorporate justice mandates into their global forest governance efforts (see Chapter 2). And, while poor implementation is certainly a contributor to the persistence of injustice in many cases, implementation alone cannot be wholly responsible. There are both good and bad examples of implementation, but claims of injustice have persisted. For example, IUCN has documented and promoted the success of Indigenous Community Conservation Areas (ICCAs) for achieving both conservation and community development goals (Renwick 2010),[10] but indigenous leaders have resisted the expansion of ICCAs despite the positive conservation and development

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[10] See also http://www.iccaconsortium.org/

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outcomes. They argue that ICCAs are inherently unjust because they require indigenous communities to subject themselves and their identities to the authority of the state (see Chapter 4 of this dissertation; Marion Suiseeya forthcoming). And while a lack of political will is a potentially plausible explanation in some cases, it neither explains the ubiquity of justice practices across institutional, temporal, and geographic scales, nor does it provide avenues for achieving justice. Justice in this instance would only be achievable if those in power decide that justice should be delivered. Lastly, the majority of forest-dependent community demands for justice, discussed in Chapters 4 and 6, are not for material outcomes but rather for justice based on moral and ideational objectives. Thus, arguing that forest-dependent communities will simply never be satisfied with the material outcomes of forest governance projects overlooks the nature of justice being demanded.

1.4.1 The Puzzle

Common amongst the four conventional explanations above is an underlying presumption that the nature of justice is largely uncontested. That is, the pursuit of justice is primarily a technical concern that can be resolved through technocratic, rather than political, means where the meaning of justice embedded in the existing justice practices is universally held. Moreover, these explanations do not account for the persistence and proliferation of the particular institutional monoculture—the justice practices that emerged in response to early claims of injustice—across time and space despite their poor performance. Third, the conventional explanations presume that the

existing global forests regime complex (GFRC) is the appropriate architecture for delivering justice to forest-dependent communities. Lastly, all of these explanations presume that facilitating justice in global forest governance is largely a technical, rather than political, pursuit. Dismantling these four assumptions is critical for understanding the persistence of injustice in global forest governance.

The shortcomings of the conventional explanations leave two puzzles to be resolved, one theoretical and one empirical. The theoretical puzzle questions why existing explanations of injustice in global forest governance fail to explain the persistence of the claims of injustice. Second, the empirical puzzle asks why claims of injustice persist despite efforts to address justice concerns. In the explanation I develop in this dissertation, I draw heavily from the literature on norms. I argue that the persistence of claims of injustice in global forest governance is not a governance gap in the traditional sense, where a gap is defined primarily as the absence of institutions or actors to address a particular problem. Instead, I argue that the justice gap in global forest governance is fundamentally a question of meaning and institutional change, where justice is a political, not technical, endeavor that relies on dynamic institutional processes facilitated through ongoing norm contestation and accessible deliberative spaces.

1.4.2 A Metanormative Explanation

My explanation of the justice gap maintains that there are deeper, fundamental institutional barriers that prevent justice from being realized in global forest governance.

Although the participatory turn in global forest governance began in the 1980s, it was firmly embraced at the 1992 Rio Summit and embedded in the resulting three multilateral environmental agreements, Agenda 21, and the Rio Declaration. Thus, my analysis of the justice gap starts with this critical juncture in global environmental politics. In this dissertation, I begin from the standpoint that state and non-state actors are fulfilling their commitments to facilitating justice. I maintain that the persistence of the justice gap results, at least in part, because the institutions for global forest governance have not changed significantly since 1992.

My explanation of the justice gap has three components. First, I argue that there is a justice metanorm—defined as a set of common global norms, principles, and values—that is both narrow and static that constrains the scope of deliberations over justice and its meanings (see Conca 2006; Finnemore and Sikkink 1998). The presence and power of a justice metanorm has important implications for the pursuit of justice in global forest governance: 1) it impedes the development and evolution of institutions, thereby contributing to institutional stagnation; and, 2) it reinforces and exacerbates existing injustices because of the disconnect between demands for justice and the conceptualization of justice embedded in the metanorm. The justice gap, therefore, is partially defined as the gap between the justice being delivered down from the global scale and what is being experienced and realized at the local level.

The second component of my argument is that there is a large and significant disconnect between the deliberative space where decisions on the delivery of justice are

made and where justice should be delivered. The forest-dependent communities—the

primary rights-holders—make demands and claims for justice based on their

experiences and expectations in their villages in relation to their forests. Decision-

makers—the duty-bearers—exist and operate across multiple levels of governance, but

primarily make decisions to fulfill their obligations at the national and global levels. As

demonstrated in Chapter 2, while states are the ultimate authority for forest governance,

the decision-making or deliberative space largely exists at the global level. States,

particularly developing states, frequently adopt policy directives and ideas from the

global level, either because they are working to fulfill their international commitments

or because they have limited capacity and either often rely on international advisers for

assistance in domestic institution building or simply adopt existing approaches to

reduce costs (Platteau 2000; Johnson 2013). This state-driven adoption of global

approaches, coupled with the rise of non-state actors in global forest governance – actors

who more readily and effectively interact and exert influence at multiple levels of

governance (see Humphreys 2004)—has led to what I characterize as the largely global

approach to forest governance. Theoretically, the expanded presence of non-state actors,

particularly INGOs and activist groups advocating for the rights of forest-dependent

communities should help bridge the spatial gap between the delivery of justice and its

demand by bringing the local voice to global deliberations. However, building off of

Barnett and Finnemore's (1999) theory of agency of international organizations, I show

in Chapter 5 that these groups have largely been co-opted into the existing governance architecture and are unable to bridge this gap.

Third, I argue that the justice metanorm constrains how different actors engage in the pursuit of justice to limit how they deliberate justice and explore institutional solutions to justice. Although I demonstrate the roles, relationships and interests of the main categories of actors in global forest governance, I emphasize the role of non-state actors (including INGOs and IOs) who pursue both environmental and human rights values in their work, as core diffusers of the metanorm. Although these actors recognize the constraints to the effective implementation of existing justice practices, they maintain these practices. The justice gap thus also includes an implementation gap resulting from the constraints to effective execution of justice practices.

These three variables—the justice metanorm, distance between deliberative space and realization of justice, and the constraints on actors and practices—individually and in combination perpetuate the justice gap in global forest governance by restricting the opportunities for dynamic, plural conceptualizations of justice to be deliberated and pursued. To understand how they interact and serve as barriers to justice, a multi-scalar, linked institutional approach is necessary. Such an approach shows how different actors operate and relate to each other across governance scales and the power of norms—the justice metanorm in particular—to perpetuate injustice as both a result of the pursuit of power and as a direct barrier to reimagining justice in global forest governance. The uniqueness of this argument is that it provides empirical evidence on the multivalent

nature of justice, but also shows how the metanormative fabric of global forest

governance poses barriers to the emergence of institutions that could produce justice

(see Conca 2006 for a comprehensive discussion of the metanormative fabric of global

environmental governance).

1.5 Methods

The primary objective of this research is to contribute to broader theory

development on institutions by focusing on one particular aspect of institutional

emergence and change: the role of justice norms in global forest governance. The

research is qualitative in nature: I employ systematic interviews, content analysis, and

collaborative event ethnography (CEE) to gather data, and process tracing, discourse

analysis, and thematic analysis to analyze the data. These data will be used to

demonstrate potential causal relationships between metanorms, actors, and the distance

between deliberative space and target communities and the individual and combined

effects of these variables that lead to the perpetuation of injustices. Rather than aiming to

construct a complete theory, this project is an exercise in middle range theory

development. In other words, I will develop theoretical building blocks to understand

the justice dynamics of global forest institutions (see George and Bennett 2005). This

analytical, inductive approach is appropriate because there is no established theory

accounting for the barriers to delivering justice, which requires the illumination of new

independent variables, such as the justice metanorm (George and Bennett 2005).

1.5.1 Case Selection

To elucidate the barriers to justice and therewith the barriers to institutional emergence and change in global forest governance I develop in Chapter 3, I use in-depth case studies of global forest governance in Laos and the CBD. Through these case studies, I aim to illustrate the complexities of the justice dynamics of institutions for forest governance from the global to the local level, while also highlighting the vertical and horizontal linkages across governance scales. I push the study of global forest governance, building upon the work of Weinthal (2002), Conca (2006), and others, beyond a strict international relations–comparative politics divide (e.g. regime level and domestic politics as distinct realms of politics) and demonstrate the ways in which justice norms interact across governance spaces.

In each case, I have collected data on the articulations of justice made by diverse actors, the instruments that are used to facilitate justice, and the roles of different actors in the struggle over justice. The first case is the Tenth Conference of Parties (COP10) of the CBD, which took place in October 2010 in Nagoya, Japan. The CBD in general and COP10 in particular are sites where deliberations and decisions over the nature of justice were being decided upon, especially with regards to issues of traditional knowledge, forest governance, and access and benefits sharing.

The second case is Laos at the national level. Laos is located in the heart of the Lower Mekong region, one of the most biologically diverse regions in the world. The Lower Mekong maintains extensive forest cover in some parts, particularly in Laos.

Deforestation and forest degradation rates, however, are high, and population growth in Laos is among the highest in the region. A significant portion of the population in Laos is dependent on forests for their livelihoods. Laos is governed by an authoritarian, one-party regime. It is signatory to most multilateral environmental agreements and integrated into regional cooperation organizations such as the Association of Southeast Asian Nations (ASEAN), the Mekong River Commission, the Asian Development Bank's Biodiversity Corridor Initiative; it is also one of the first countries the participate in REDD+. More than 80% of the national budget comes from international aid.

With regards to justice, Laos has some unique characteristics. Approximately half of the population is Buddhist, while the other half are animist, Christian, or maintain a blend of belief systems. More than 45 ethnic groups have distinct informal institutional structures. Rule of law is very weak, and informal institutions remain strong centers of social capital at the village level. Land grabbing, restrictions on resource access, and resource conversion are on the rise. These characteristics make it both an intriguing and practical region for carrying out early theory building exercises. There are also practical reasons for focusing on this region: my familiarity and expertise on the politics of forest governance in the region and my Lao/Thai language abilities.

The last set of cases includes five forest-dependent villages in Laos (see Figure 4 in Chapter 6). Two villages are located entirely within the Nakai Nam Theun National Protected Area in Khammouane Province in Central Laos. One village is located on the border of the Nam Kading National Protected Area in Bolikhamxay Province in Central

Laos, but has been heavily targeted for interventions by various development and conservation organizations. One village located in northern Laos in Luang Prabang Province has been a focal village for a long-term shifting cultivation stabilization project. And the last village in Luang Prabang Province has not participated in any conservation-related projects since the early 1990s. These villages were selected based on a variety of criteria including degree of forest dependence, ethnic diversity, and project history. Political realities on the ground, however, meant that much of the case selection was dictated by where the government would grant permission for access. For both the national and village level cases, I use data from interviews, observations, and policy reviews collected between 2007 and 2013 in Laos.

1.6 The Plan for the Dissertation

This research responds to multiple calls for a greater breadth and depth of knowledge on the interactions between justice and institutional dynamics. I make two main contributions: first, my research advances our understanding of the complex operationalizations of justice. Rather than moving towards more reductionist understandings of justice, this research provides deeper understandings that can be adopted in future research on the justice dynamics of global forest governance. Second, and most significantly, this research offers new insights into the problems of institutional effectiveness, emergence, and change. Understanding justice will address one significant gap in the global environmental governance and environmental institutions literature. Through a structured, systematic qualitative study, I illuminate

the theoretical importance of considering justice in institutional analysis of global environmental governance.

In this study I specifically seek to examine the diffusion of the justice metanorm through policy innovations, namely a set of common justice practices, aimed at promoting more just global forest governance. In doing so, I connect both the actors and the channels through which they diffuse the justice metanorm with the justice experiences of forest-dependent communities. The subsequent analysis demonstrates that, on the one hand, the wide spread diffusion of policy innovations suggests that policy actors are upholding their justice obligations, while on the other hand, this policy diffusion obscures opportunities for justice by constraining the political space in which ideas and demands for justice can be deliberated and contested.

The study that unfolds in this dissertation demonstrates the role of the justice metanorm in helping to produce and perpetuate the justice gap in global forest governance. Using two main field sites—the COP10 to the CBD and Laos, as well as in-country field sites within Laos—I show the manifestation of the justice metanorm in the justice practices of both the Lao state and INGOs (at the national and local scales) and through their justice positions and discourse at the global scale. I further demonstrate the mechanisms through which the justice metanorm exerts influence, namely through its institutionalization in a standard set of justice practices and through its habitualization.

The plan for the dissertation is as follows:

Chapter 2 presents an overview of global forest governance and the pursuit of justice in global forest governance. This chapter provides background to help provide the reader with a basic understanding of the major issues and critical junctures in global forest governance that have produced the current state of affairs.

Chapter 3 develops the conceptual framework or model for the dissertation. In particular, I show the relationships between the persistence of justice, metanorms, and the interests of non-state actors. I show how these variables interact with each other and also interact across vertical scales to produce a significant distance between deliberative space for responding to justice claims and the spaces where justice demands are made.

Chapter 4 demonstrates the presence of a metanorm in global forest governance and also establishes the multivalent nature of justice across multiple scales. I use ethnographic data from COP10 to analyze the deliberation of justice and highlight the roles of different actors and ideas of justice at play in the deliberative space for ABS negotiations. I also use data gathered through content analysis of policy and project documents, as well as data collected through interviews and surveys. This establishes the demand for an alternative meaning of justice, requiring the space and opportunity for norm contestation.

In Chapter 5 I show how both states and INGOs invoke their pursuit of the justice metanorm as a way of advancing their interests, therewith constraining the space for contesting the meaning of justice embodied in the metanorm at the national scale in Laos. I show how through their simultaneous, sometimes partnered and sometimes

independent translations of the justice metanorm into practice at the national and local

scales, INGOs and the state bypass opportunities to build congruence with the justice

metanorm. Although Laos is an unlikely place to expect compliance with the justice

metanorm, we largely see incorporation and adoption of the justice practices diffused

through the metanorm.

Chapter 6 explores the meaning of justice held by forest-dependent communities,

the state, and INGOs in Laos. The data demonstrate three distinct themes of justice that

partially align with the metanorm but largely diverge across the actor groups. These

meanings of justice, moreover, largely do not align with the dominant justice practices

adopted in Laos.

Chapter 7 concludes and suggests avenues for future research.

2. The Pursuit of Justice in Global Forest Governance

> Article 9(b): *"The problems that hinder efforts to attain the conservation and sustainable use of forest resources and that stem from the lack of alternative options available to local communities, in particular the urban poor and poor rural populations who are economically and socially dependent on forests and forest resources, should be addressed by Governments and the international community"* (UN Forest Principles, 1992).

> Article 12(d): *"Appropriate indigenous capacity and local knowledge regarding the conservation and sustainable development of forests should, through institutional and financial support and in collaboration with the people in the local communities concerned, be recognized, respected, recorded, developed and, as appropriate, introduced in the implementation of programmes. Benefits arising from the utilization of indigenous knowledge should therefore be equitably shared with such people"* (UN Forest Principles, 1992).

Although forest-dependent communities are an important stakeholder group and critical success factor for effective forest governance, the global conservation community simultaneously dichotomizes forest-dependent communities as forest destroyers and forest guardians. Two of the UN Forest Principles quoted above highlight these two positions: on the one hand, communities and their lack of livelihood options are a hindrance to conservation; on the other hand, their identities, cultures, and ways of knowing are intricately and directly tied to their relationships with and as stewards of the land and thus valuable and integral to the success of conservation. While not necessarily in direct contradiction with one another, the conflict between these dichotomies captures the precarious nature that communities find themselves in vis-à-

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vis forest conservation interventions. Although their rights are central to the success of conservation, conservation often relies on a violation of forest community rights. It is at this crucial crossroads—straddling the juncture between rights recognition and violation—that the global forest community has centered its pursuit of justice for forest-dependent communities in global forest governance.

In this chapter, I provide an overview of the current state of global forest governance, first examining the broader global architecture for forest governance. I then follow with a review of how the actors and institutions in global forest governance have addressed the question of justice, drawing first on the long-standing claims of injustice in forest governance followed by a discussion on the rise of justice-oriented approaches to forest governance. I then introduce the conventional explanations for the persistence of claims of injustice and offer three shortcomings of these arguments, giving rise to the puzzle of the justice gap in global forest governance.

2.1 From Government to Governance: the Evolution of Approaches to Global Forest Governance

Forests play an important role in environmental, economic, and social wellbeing. They contribute to ecosystem vitality, water quality, climate stability, industrialization, and provide food and fuel for billions of people worldwide. Although forests are spatially bound—that is, they are fixed (non-fugitive) resources—they provide goods across political boundaries, such as watershed maintenance and carbon sequestration; forests are an international commons. Forest governance, therefore, is important at

multiple scales, from local up through global scales. Today, global forest governance involves both state and non-state actors, where non-state actors are largely integrated into both formal and informal institutions for global forest governance across multiple scales of governance. Their integration reflects the broader shift in international relations from government to governance that took place slowly over multiple decades from the mid- to late-20th century (see Young, King, and Schroeder 2008; Keohane 2002). Three broad developments contributed to this shift: the emergence of new actors and agency beyond the state; the emergence of new mechanisms and institutions for addressing environmental problems besides state-oriented, treaty-based regimes; and, lastly, increasing segmentation and fragmentation of systems for governance (Biermann and Pattberg 2008, 280). In the next two sections of this chapter, I provide some historical background and context to illustrate how the broader shifts in global forest governance emerged alongside a justice agenda.

Forests, particularly in developing countries, were historically governed through local mechanisms. Local communities managed nearby forests according to their own needs and values. In the mid-20th century, however, there was a significant shift towards state control over forests, coinciding with the growth of commercial and industrial forestry (FAO 2009). States saw the potential to capture high rents from valuable tropical hardwoods and moved towards centralizing forest management. By the 1970s, a global demand for protected areas emerged and was gaining momentum. Developing nations, seeking funding from bilateral and multilateral donors, began closing off large areas of

forests as parks. Many governments embraced the exclusionary—or fortress—model of parks promoted by northern states and INGOs; this meant relocating human settlements that fell within park boundaries. In many cases, such as in, for example, Thailand and Brazil, relocation was forced and outbreaks of violence ensued. Although in many cases, local communities had long been stewards of the land, rapid population growth in some locales was compromising the sustainability of their practices (Berkes 2004). Soon, forest-dependent communities were the target of forest conservation interventions: at the extreme they were cast as forest destroyers, but more broadly were positioned as major contributors to forest loss and degradation, including the loss of non-timber forest values, such as biodiversity and ecosystem services.

Efforts to centralize forest governance frequently resulted in negative social impacts in forest-dependent communities, including increased marginalization of underrepresented groups, exacerbation of poverty, and severe restrictions on livelihoods. Civil society groups, development practitioners, and scholars quickly recognized the impacts that forest policies, especially protected area policies, had on forest-dependent communities. In the mid-1980s, scholars like Piers Blaikie and Harold Brookfield (1987) and Raymond Bryant and Sinead Bailey (1997), early political ecologists, began documenting the marginalization of local forest users in the pursuit of conservation and suggested that local communities were not always the main culprits in forest destruction and, in fact, had incentives to conserve resources and held ecological

knowledge on their local forests that could be valuable for achieving broader

conservation objectives.

The recognition of the possibility that local communities may have an interest in

conserving forest resources coupled with the fallout from the highly publicized negative

social impacts of state-driven conservation led to the emergence of a new approach to

governance: participatory management. Participation was emerging elsewhere on the

global scene and was considered a necessary condition for any development

intervention. At the same time emerged growing empirical evidence on governing the

commons. Elinor Ostrom (1990), the most famous of the commons scholars, theorized

that effective natural resource governance does not necessarily require externally

imposed regulations; communities could effectively manage common pool resources in

the absence of formal, state-sanctioned institutions. Approaches to forest governance,

which were still undertaken within states, included community-based management,

joint management, co-management, and decentralization. Conservation INGOs played a

key role in disseminating these new participatory approaches. Although centralized

control over forest resources was deemed ineffective and inappropriate and each of

these types of governance arrangements sought to increase the involvement of local

groups, states still maintained control and set the agenda for forest management within

their territories.

Beginning in the early 1990s, forests were increasingly seen as an issue of global

concern. The destruction of the Amazon—a focusing event in the environmental

discourse—was advancing at a rapid pace: northern states and civil society groups

feared the loss of the lungs of the earth. Both state and non-state actors were beginning

to strongly advocate for an international approach to forest governance, highlighting the

global commons nature of forests. Despite the momentum, however, no international

agreement on forest governance was reached at the 1992 UN Conference on

Environment and Development (UNCED) in Rio de Janeiro. Figure 1 provides an

overview of the broader trends in global forest governance. The linkages between forests

and other environmental issues, as well as the number of actors involved in global forest

governance, has grown rapidly over the past forty years.

	Through Late 1970s	Late 1970s - Early 1990s	Mid 1980s - 2000	21st Century
Trends	Commercial / Industrial Forestry Hunting	Commercial / Industrial Forestry Hunting Social Forestry Forestry-Poverty Linkages Wildlife	Commercial Forestry Community / Joint Forest Management Forestry-Livelihood Linkages Indigenous rights to forest resources Environmental concerns Watershed Management	Commercial Forestry Community / Participatory / Joint Forest Management Forestry-Livelihood Linkages Indigenous rights to forest resources Environmental concerns Climate change Desertification Biodiversity and land degradation
Actors	Government Industry	Government Industry Multilateral/Donor Agencies Forest-dependent Communities Research Institutions	Government Industry Multilateral/Donor Agencies Forest-dependent Communities Research/Scientific Institutions NGOs Civil Society Organizations	Government Industry Multilateral/Donor Agencies Forest-dependent Communities Research/Scientific Institutions NGOs Civil Society Organizations Media Citizens Groups

Source: Adapted from FAO 2009, p. 515

Figure 1: Trends in Global Forest Governance

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Despite the lack of agreement on an international forest regime at Rio, approaches to global forest governance continued to evolve. A number of international agreements, including the UN Convention to Combat Desertification (CCD), the CBD, and, most recently, the UN Framework Convention on Climate Change (UNFCCC) include references and mandates regarding forest governance. INGOs and businesses have become increasingly involved in forest governance initiatives; mechanisms for governance have expanded beyond traditional government-based approaches to include debt-for-nature swaps, third-party certification schemes, eco-tourism, and payments for ecosystem services (PES), among others. The rules and rule-making processes that determine how forests are governed are determined by an increasingly complex network of actors at international, national, and subnational levels (vertical segmentation) and across issue areas (horizontal fragmentation).

Many realists contend that it is not in the interest of states to invest in or comply with international institutions, especially because of the real or perceived loss of sovereignty in environmental decision-making (Dimitrov 2005). Yet, states are increasingly involved in a number of formal and informal global institutions to address forest issues (see Figure 2). This may be explained by states' interest in knowing how other states will behave: "general conformity to the rules makes the behavior of other states more predictable" (Keohane 2002, 30). Data show that states not only participate in international institutions, but they participate in an overwhelming number of institutions concerning the environment: a recent study by Ivanova and Roy (2007)

identified more than 60 international governmental organizations working within the context of more than 500 multilateral environmental agreements (MEAs). The proliferation of such a large number of institutions and organizations demonstrates the growing global consensus that environmental problems are not purely local in origin or impact and are thus no longer the sole responsibility of sovereign states. Forest governance is increasingly situated at the global scale, under the umbrella of a larger regime complex, which appears to be the dominant scale from which forest issues will continue to be guided (Humphreys 2006).
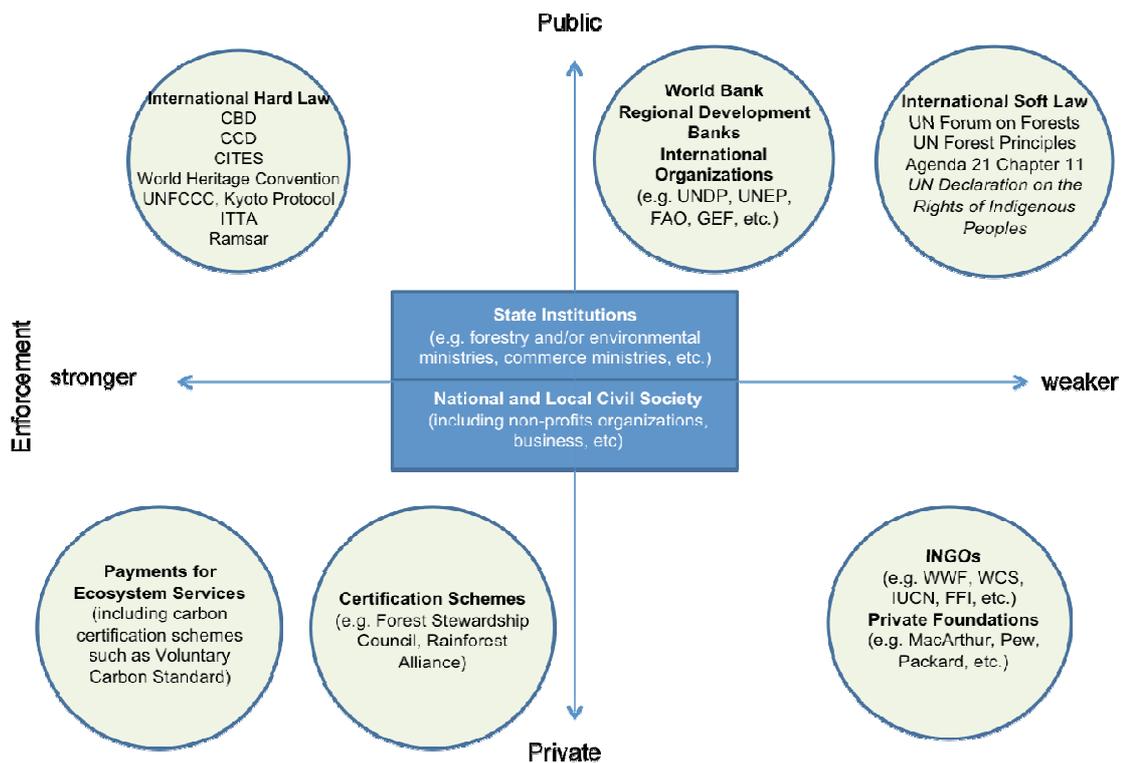
Figure 2: The Global Forests Regime Complex

2.1.1 The Global Forests Regime Complex

Today, the GFRC, with regime complex defined here as "a set of specialized regimes and other governance arrangements that are more or less loosely linked together, sometimes reinforcing each other but at other times overlapping and conflicting," is highly fragmented (Giessen 2013, 62; see also Keohane and Victor 2011; Rayner, Buck, and Katila 2010; Maguire 2013). It is comprised of a variety of both weak and strong public and private institutions that have complex financing relationships with target states and each other. For example, both PES and certification schemes are market-based, where funding comes from the consumers of the goods who pay the going market price. Market-based mechanisms are considered to be among the stronger institutions because if the products fail to perform to the established standards and consumer expectations, then, in theory the product should no longer be viable on the market. Thus adherence to and compliance with standards are strong incentives for the suppliers of the goods. International soft law institutions, on the other hand, generally have no financial mechanisms tied to them and, absent other strong incentives, are thus among the weakest institutions.

The majority of the institutions in the GFRC interact both in the policy arena and operationally on the ground. To illustrate how complex the networks between these institutions are, I draw from the example of governing forests for their carbon benefits. The World Bank's Forest Carbon Partnership Facility (FCPF) is a financial mechanism designed to support the contributions of developing countries to global climate change

mitigation through reduced deforestation and degradation, as well as carbon stock enhancement (e.g. afforestation, reforestation, and restoration). The FCPF responds to the mandates established under the UNFCCC and helps governments set up the national frameworks under which forest carbon projects can take place. Within these national frameworks, INGOs may, for example, set up a local forest carbon project that works with villagers and other domestic actors, such as local civil society organizations (CSOs), to reduce emissions from deforestation. To sell the carbon credits generated from their project, the INGO may partner with a carbon certification scheme, such as the Climate, Community, and Biodiversity Alliance (CCBA) to certify that they have adhered to certain community justice and biodiversity preservation standards, thus garnering their carbon credits a higher market price. The justice standards embedded in certification schemes are largely drawn from international soft law mechanisms such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), international hard law mechanisms such as the CBD, or best practices established by international organizations and INGOs. Although this example highlights how complex the governance of forests can be, it still largely only captures the linear aspects of these relationships. In practice there are many more feedback mechanisms, tensions, and relationships that link the constituent parts of the GFRC.

2.2 The Pursuit of Justice in Global Forest Governance

Linked to the shift from government to governance in global forest governance —and global environmental governance more broadly—is the emergence of a justice

agenda. An estimated 1.6 billion people on the planet are dependent on forest resources to some extent, with nearly 1 billion relying on forest resources for all or part of their livelihoods (Chao 2012). The vast majority of these forest-dependent populations, however, have unclear rights or tenure to the forest resources they depend on (Sikor and Stahl 2011). Their livelihoods and human security are tightly interwoven with global forest governance: global pressures to protect forests over the past thirty years have resulted in institutions that directly impact the ways in which forest-dependent peoples interact with forest resources, largely through restricted or altered access (M. Leach, Mearns, and Scoones 1999; Cotula and Mayers 2009; Doherty and Schroeder 2011). Over time, claims of injustice have persisted: assertions of colonization, marginalization and disenfranchisement of forest-dependent peoples, and privatization of common resources are some of the most severe allegations of injustice resulting from global forest governance. One indigenous leader captured one of the strongest claims of injustice in global forest governance in a statement at the CBD's COP10: "*CO_2lonialism…we are experiencing the symptoms of colonization…and…oppression.*"[1] These claims have become particularly visible following the introduction of REDD+ as a new policy mechanism in global climate negotiations (see Agrawal, Nepstad, and Chhatre 2011) — but have also been voiced in a variety of international venues, including the CBD, the United Nations Forum on Forests (UNFF), and in meetings leading up to the Rio+20 Summit. The

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[1] Tom Goldtooth, Executive Director of the Indigenous Environment Network, at the 10th Conference of Parties for the Convention on Biological Diversity, October 20, 2010.

resulting justice agenda pursued by forest-dependent communities in global forest governance, also termed a "rights agenda," includes three main elements: 1) equitable distribution of forest benefits; 2) recognition of forest peoples' identities, experiences, and knowledge; and, 3) self-determination through participation and representation in decision-making (Sikor and Stahl 2011, 1). A defining feature of the justice movement in global forest governance, as compared to the justice movements in international development, is that the agenda emerged directly from and is largely driven by grassroots demands, rather than from international and national organizations (Sikor and Stahl 2011, 2).

From small, local level projects to expansive international conventions, justice norms, principles, and practices are now broadly integrated into global forest governance. Many scholars have argued that unless global forest governance approaches are just and institutions are designed with a justice framework in mind, efforts to effectively govern forest resources will continue to fail to achieve desirable outcomes (Thomas and Twyman 2005; D. Schroeder 2009; Ribot 2005). Paavola (2007, 97) goes as far to suggest that justice may be the most important factor for regime effectiveness and legitimacy: "legitimate environmental decisions…have to reflect both distributive and procedural justice concerns." In response to the justice demands from forest-dependent communities, and recognizing the injustices of international forestry policies, scholars, INGOs, and other policy and civil society actors launched new initiatives in global forest governance to address the concerns of forest-dependent

peoples. At the global level, justice obligations to and rights of forest-dependent

communities are included in institutions and organizations across the GFRC.[2] Table 1

provides details on selected justice obligations and rights, as well as the associated duty-

bearers and rights-holders found across the GFRC, and links these rights and obligations

to specific institutions and organizations in the GFRC.

Table 1: Examples of Justice Rights and Obligations Related to Forest-dependent Communities in Global Forest Governance

Organization /Institution	Rights/Obligations	Description[i]
IUCN Resolution 1975/5 (1975)	Recognition, tenure	Devise means by which indigenous people may bring their lands into conservation areas without relinquishing their ownership, use, or tenure rights (FPP)
CBD (1992)	Recognition, participation, and benefits sharing	8(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices
Agenda 21 (1992)	Recognition, participation, and benefits sharing	15.4(g) Recognize and foster the traditional methods and the knowledge of indigenous people and their communities, emphasizing the particular role of women, relevant to the conservation of biological diversity and the sustainable use of biological resources, and ensure the opportunity for the participation of those groups in the economic and commercial

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[2] IUCN, for example, has a long history of resolutions and recommendations related to Indigenous Peoples. See Forest Peoples Programme for a comparative table of IUCN resolutions.

		benefits derived from the use of such traditional methods and knowledge
UN Forest Principles (1992)	Recognition, participation, benefits sharing, tenure	5(a) National forest policies should recognize and duly support the identity, culture and the rights of indigenous people, their communities and other communities and forest dwellers. Appropriate conditions should be promoted for these groups to enable them to have an economic stake in forest use, perform economic activities, and achieve and maintain cultural identity and social organization, as well as adequate levels of livelihood and well-being, through, inter alia, those land tenure arrangements which serve as incentives for the sustainable management of forests.
Forest Stewardship Council (1993)	Recognition, tenure	PRINCIPLE #3: Indigenous Peoples Rights -The legal and customary rights of indigenous peoples to own, use and manage their lands, territories, and resources shall be recognized and respected.
UNFCCC REDD+ Standards (2010)	Participation	Appendix I.2 (d) Implementation of all activities should…promote and support…the full and effective participation of all stakeholders, in particular indigenous and local communities…
World Bank Indigenous Peoples Policy (July 2005, revised April 2013)	Recognition, participation	10. Consultation and Participation. Where the project affects Indigenous Peoples, the borrower engages in free, prior, and informed consultation with them. To ensure such consultation, the borrower: (a) establishes an appropriate gender and intergenerationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the borrower, the affected Indigenous Peoples' communities, the Indigenous Peoples Organizations (IPOs) if any, and other local civil society organizations (CSOs) identified by the affected Indigenous Peoples' communities; (b) uses consultation methods appropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits; and

		(c) provides the affected Indigenous Peoples' communities with all relevant information about the project (including an assessment of potential adverse effects of the project on the affected Indigenous Peoples' communities) in a culturally appropriate manner at each stage of project preparation and implementation.
Climate, Community, and Biodiversity Standards (3rd edition, 2013; prior editions—2005, 2008)	Benefits sharing, recognition	CM2: The project generates net positive impacts on the well-being of Communities and the Community Groups within them over the project lifetime. The project maintains or enhances the High Conservation Values in the Project Zone that are of importance to the well-being of Communities.

[i]*Descriptions selected directly from convention, policy, and resolution, etc, texts unless otherwise noted*

At the national and subnational levels, initiatives centered largely on the development and proliferation of community-based and participatory approaches to forest governance (see Campbell and Vainio-Mattila 2003 for a review on the evolution of participatory and community-based approaches to conservation). Conservation interventions have largely (but not entirely) shifted away from exclusionary approaches, whereby communities were relocated, sometimes forcefully, from their homes in order to preserve forests towards more inclusive approaches (Peluso 1993; Peluso 2007), whereby local communities are involved in joint management or co-management schemes that focus on conserving resources for the benefit of local and global stakeholders (Agrawal and Gibson 1999; Berkes 2004). Forest governance institutions have increasingly adopted rights-based or participatory approaches premised on the notion that considerations of the wellbeing and involvement of forest-dependent communities is critical for institutional effectiveness (Ribot 2005; Sikor et al. 2010). Table

2 provides an overview of the national and subnational approaches to justice in forest governance with the corresponding justice demands in the forest-dependent communities' justice agenda identified earlier.

Table 2: Common National and Subnational Justice Practices

Justice practices or approaches	Associated justice demand
Community forest and land tenure reform	Recognition, Distribution
Community-based approaches	Participation
Ethnic mainstreaming	Recognition
Forest resource/development funds	Distribution
Free prior informed consent	Participation, Recognition
Gender mainstreaming	Recognition
Individual land tenure reform	Distribution
Integrated conservation and development	Participation, Distribution
Joint management approaches	Participation, Recognition
Mutually agreeable terms	Participation, Recognition
Participatory approaches	Participation
Prior informed consent	Participation
Safeguards	Participation, Recognition, Distribution

The breadth of justice practices and their depth of inclusion across the GFRC demonstrate the clear obligations of forest policy actors to deliver justice through their interventions, and the common set of national and subnational justice practices suggest that, in large part, these actors have taken seriously their obligations and are translating these into practice. One practice—participatory approaches—has, for example, become so popular that "it has become rare to find a forest or park management project proposal that does not talk about local participation in conservation" (Wells and Brandon 1993,

158; see also Campbell and Vainio-Mattila 2003). However, reviews on the effectiveness

of various types of forest governance interventions that often include meta-analyses

across multiple countries show that while many of the practices identified in Table 2 are

standard across contexts, they are, for the most part, ineffective at achieving their

objectives (Berkes 2004; Blom, Sunderland, and Murdiyarso 2010; McShane et al. 2011;

Wells and McShane 2004). Furthermore, they have failed to redress the justice concerns

of forest-dependent communities, as evidenced by the persistence of claims of injustice

visible in the media and at international events like the UNFCCC and CBD negotiations.

2.3 Conventional Explanations for the Persistence of Claims of Injustice

The incorporation of the role of communities into forest governance institutions

accompanied by mechanisms for delivering justice suggests that we would see fewer

claims of injustice. Yet claims of injustice persist, calling into question the ability of forest

governance institutions to effectively deliver justice to communities.

3. The Justice Gap Model: the Diffusion of the Justice Metanorm as a Constraint to Institutional Innovation

This chapter connects the insights that emerged in the prior chapters in order to explain the theoretical and empirical puzzles related to justice in global forest governance: *Why and how have claims of injustice in global forest governance persisted – and increased – despite ongoing efforts of policy actors to deliver on their justice obligations?* Approaches based on questions of institutional design or poor implementation provide a useful first step for investigating the production and perpetuation of a justice gap in global forest governance. As discussed in Chapter 2, however, the persistence of injustice in global forest governance is not solely the result of an absence of institutions, nor is it the failure of actors or a lack of political will to adopt policy innovations to promote justice in forest governance. In fact, both state and non-state actors have continued to employ a range of policy innovations designed to address the justice concerns of forest-dependent communities. Additionally, while weak implementation may account for some of the failures to successfully address injustices, this functional approach does not explain why actors would continue to spend billions of dollars each year to implement justice practices poorly. We can reasonably expect that there are both good and bad examples of implementation of justice practices, but, as the data in this dissertation show, even in cases where implementation is excellent, claims of injustice persist. These conventional explanations, detailed in Chapter 2, are insufficient for three primary reasons: 1) they fail to account for institutional stagnation and isomorphism in

global forest governance; 2) they presume that the meaning of justice embodied in current justice practices is universally accepted and relatively static; and, 3) they presume that the current institutional architecture for global forest governance supports the delivery of justice demanded by forest-dependent communities.

In this chapter, I overcome these weaknesses by proposing an alternative explanation for the persistence of the claims of injustice in global forest governance. I view the question of the persistence of injustice as one of institutional change whereby institutions adapt and respond to the constituents they are intended to serve. In this case, institutional change means the evolution of justice practices to address the justice demands of forest-dependent communities: if actors are working to fulfill their justice obligations but they recognize their efforts are not succeeding, why have they maintained the same justice practices over time? Theories of institutional change include both collective choice and evolutionary explanations. In the former, institutions emerge and change as the result of centralized and coordinated design and decision-making (Kingston and Caballero 2009). In the latter, institutions are the result of spontaneous, independent choices where the prevailing institutions are those that have been successful or are already familiar (Kingston and Caballero 2009; Ovodenko and Keohane 2012). A rich scholarship in new institutionalism seeks to identify the conditions under which collective choice or evolution prevails, and there is an equally informative body of literature that examines the phenomena of path dependence and institutional inertia where institutions are resistant to change (see also Kingston and Caballero 2009 for a

review of these different explanations). Underlying institutional emergence and change are values and norms that construct or guide the interests of actors involved in the institutional process (Checkel 1997). Norms, defined as shared standards of behavior and collective beliefs about expectations, can influence the design of institutions (rules and procedures) both through their effects on the interests of powerful actors and through their diffusion across multiple scales of governance (Checkel 1999).

To understand how norms affect the justice gap in global forest governance, I integrate theories of institutional emergence and change with theories of norm diffusion. I develop a model of the justice gap and direct attention to the norms, principles, and ideas of justice in global forest governance as fundamental components of any explanation of injustice. In particular, I argue that a powerful set of common global norms of justice—the justice metanorm—constrains the political space for deliberating justice, thereby limiting the institutional possibilities—including institutional change— for delivering justice to forest-dependent communities. In this model, the justice metanorm functions to enforce a particular understanding and operationalization of justice through its institutionalization across multiple scales of governance. In this chapter I construct a conceptual model that captures the hypothesized diffusion pathways of the justice metanorm.

The chapter proceeds as follows: first, I review the literature on the interactions between norms and institutions in global environmental governance to elucidate the roles of norms in shaping how global environmental governance occurs. I then introduce

and define the concept of the justice metanorm. In particular, I draw from the limited

existing literature on metanorms and metaregimes to specify the concept of metanorm

employed in this dissertation. I then situate my contributions within the literature on

norms and global environmental governance. This is followed by an introduction of my

conceptual model of the justice gap. I explain each component of the model and identify

the relationships between variables. In particular I link the diffusion of policy

instruments to the diffusion or norms to show how the institutionalization of the justice

metanorm, as evidenced through the prescriptive status of justice practices in global

forest governance, constrains the deliberative space for contesting norms. I conclude

with a discussion of my methodological approach and plan for testing the model in the

empirical chapters. The approach draws out the complexities of the relationships

between institutions and norms to create a new space for understanding both the

constraints to and opportunities for the pursuit of justice in global forest governance.

3.1 Norms and Institutions in Global Environmental Governance

Scholars of international relations and, increasingly, global environmental

politics have built a strong foundation of scholarship that emphasizes the importance of

norms in global governance. In particular, constructivists, through their investigation of

the origins and diffusion of norms, and the elucidation of the mechanisms and

conditions through which norms exert influence, offer an alternative to rational choice

approaches to understanding the formation and substance of state interests and their

subsequent effects on the behavior of global actors (Checkel 1998; Barnett and

Finnemore 1999; Finnemore and Sikkink 1998). In early scholarship of norm diffusion, researchers focused on examining why some international norms gain more traction in the domestic sphere than others (Acharya 2004). Later, scholars began to focus on identifying the causal mechanisms of norm diffusion; in other words, they asked how norms and ideas spread (Finnemore 1993; Risse, Ropp, and Sikkink 1999). In more recent literature, scholars have emphasized the roles of particular agents and political structures in shaping normative change (Acharya 2004, 240; Cortell and Jr. 2000). Of particular interest to this dissertation is the relationship between norms and institutions, especially in the realm of global environmental governance.

There are two primary, but related, pathways through which norms influence institutions and institutional processes in global environmental governance. First, norms establish the value orientations of institutions and therewith direct attention towards policy innovations that reflect those values (Conca 2006; Okereke and Dooley 2010; Moellendorf 2009). A growing body of literature has identified various norms, principles, and values that are embedded within and promoted through institutions for global environmental governance. For example, two main principles of justice in global environmental governance—Common but Differentiated Responsibilities and Common Heritage of Mankind—have been central guiding principles in most multilateral environmental agreements, particularly those related to global biodiversity governance (D. Schroeder and Pogge 2009; Okereke 2008b). O'Neill (2007, 28), however, argues that there has been a shift in the underlying norms in the global environmental governance

meta-regime, away from norms of equitable inter- and inter-generational development

promoted in 1992 towards a balance between economic growth or efficiency and

environmental protection, a value shift found across issue areas in global environmental

governance. Institutions in global environmental governance thus increasingly direct

attention towards policy actions that uphold, for example, norms of distributional justice

between states, reinforcing the neoliberal trends in global environmental governance

(Okereke 2008a). Beyond these more general normative trends, global environmental

politics scholars have identified specific norms that constitute the justice orientation of

global environmental governance, such as equity, rights, and justice-in-exchange

principles (D. Schroeder and Pogge 2009; McDermott and Schreckenberg 2009; Sikor

2013). Some of these norms apply solely to interstate relations but there is an increasing

emphasis on intrastate justice, that is norms for guiding state behavior towards citizens

as implementers of environmental policy within their territories. For example, with the

increasing emphasis on market-based approaches to governance (MacDonald and

Corson 2012), equity has become a standard interpretation of justice and/or fairness

embedded within most environmental governance institutions and their subsequent

interventions, applicable to both inter- and intrastate justice. Similarly, the importance of

epistemic communities and the associated knowledge norms, where knowledge is based

on scientific rationality, have been highly influential for determining the focus of

environmental governance interventions by defining problems and solutions (Haas

1989; Forsyth 2003; Raymond et al. 2014). The information disclosure norm of

transparency has transcended state-centered governance and is now prevalent in non-state market-driven forms of governance (Mason 2008). Perhaps the most ubiquitous norm of territoriality, namely state-centered sovereignty, is prevalent not only in global environmental governance but widely influential in global governance (Conca 2006; Bernstein 2002). And, lastly, participation norms have grown rapidly to permeate nearly every level of global environmental governance, from isolated, village-level projects to high-level international meetings and global certification schemes (Hufty et al. 2008; Campbell and Vainio-Mattila 2003; Hackel 1999). These norms are found broadly across the architecture for global environmental governance, suggesting a degree of consensus at the global level and establishing a values base in global institutional bargaining spaces.

Second, research on the larger architecture for global governance suggests that there is a growing trend towards institutional monocultures. This literature examines the causes of institutional monocultures through the lenses of institutional isomorphism, institutional inertia, and institutional blueprints and suggests three primary explanations: shared cultures, learning, and, norms (Autesserre 2010; Conca 2006; Gonzalez and Nigh 2005; Johnson 2013). Norms can, through the process of institutionalization, exert isomorphic pressures in institution building processes

(DiMaggio and Powell 1983; Aggarwal and Chow 2010).[1] They do this by laying the

normative foundation from which institutional negotiations are launched, where "norms

form structures that shape interactions among states and non-state actors" (Krook and

True 2012, 104). Indeed, norms shape the boundary conditions of the deliberative space

in which institutions are negotiated, designed, and adopted; as expressions of shared

beliefs and expectations, norms constrain the permissible scope of values and ideas

about justice under discussion. For example, Conca (Conca 2006, 27) identifies norms of

fixed territoriality, statist authority, and knowledge as scientific rationality that comprise

the "metanormative fabric" of global environmental governance resulting primarily in

regimes as the dominant institutional form when these three metanorms are

uncontested. Similarly, in domains where at least one these three metanorms remain

contested, such as water which often defies "the standard, territorial distinction between

the international and domestic spheres," for example, the metanormative fabric leads to

the continued absence of regimes (Conca 2006, 70). Aggarwal and Chow (2010, 264–266)

similarly argue that a "meta-regime," a concept that closely aligns with Conca's

"metanorm," comprised of a set of "consensually accepted" principles and norms guide

entire regimes. In effect, the only institutions that can emerge or are even

considered/discussed are those that comply with the existing, dominant norms and

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[1] Also see Autessere 2010 who identifies the existence of a "shared culture" that explains why and how
international peacekeeping missions in the Congo failed because the peacekeeping actors largely focused on
macro-level issues, prescribing peacekeeping practices that are further maintained through the
peacekeeping discourse.

principles, resulting often in institutional blueprints that are adopted across issue areas and scales.

3.1.1 Metanorms

Drawing from this rich literature on norms and global governance, I build upon the concept of metanorms to suggest the existence of a justice metanorm. In this dissertation I define metanorm as a set of common global norms, principles, and values—both substantive and procedural—that are maintained and enforced through their institutionalization and routinization in the rules and procedures at the international regime level (see also Conca 2006; Barnett and Finnemore 1999; Hufty et al. 2008; Mason 2008 refers to "norm complexes"). Metanorms can only emerge once its set of constitutive norms has been internalized by the actor or group of actors pursuing the norms at the global level, where the internalization of these norms by individual states or other actors (such as transnational advocacy organizations) is explained through the processes of norm socialization (Risse, Ropp, and Sikkink 1999; Risse et al. 2013). After the metanorm emerges, its bundled norms become institutionalized and routinized such that compliance with the metanorm at the global and even national levels is largely (though not entirely) unquestioned: "norm internalization by its very nature requires silencing, as meaning is made precisely by demarcating that which is outside the limits of discourse" (Krook and True 2012, 108). The consequences of noncompliance with the metanorm are largely indirect; there is no vengeance as required in Axelrod's concept of metanorm (Axelrod 1986). Rather, to diverge from the norms would result in the

indirect reputational costs, including loss of legitimacy that institutions and actors

derive from their adoption of the metanorm, as well as potential associated loss of

material benefits related to the norms, such as access to support or funds related to

complying with the metanorm. In summary, my operationalization of metanorm,

therefore, has two defining characteristics distinguishing it from a norm: 1) a metanorm

is a bundle or set of *global, commonly held* principles, values, and norms; and, 2)

compliance with the norm is enforced through its diffusion through *institutionalization*

and *routinization* mechanisms (see also Risse, Ropp, and Sikkink 1999 for a discussion on

institutionalization and habitualization in the norm spiral). In practice this means that a

metanorm can be observed through the presence of shared meanings and prescriptive

status.

This conceptualization of metanorm is not inherently deterministic. In contrast to

the concept of institutional inertia or arguments about culture, a metanorm does not

prescribe or provide the particular institutional architectures that emerge in

international institutional bargaining spaces (Conca 2006, 69). Instead, a metanorm

guides global governance by providing the "prior foundation of global norms within

which [institutional] bargaining takes place" (Conca 2006, 26; see also K. O'Neill 2007;

Aggarwal and Chow 2010 who define a similar concept using the term "meta-regime").

It provides the normative underpinnings for institutions that may be contested but

largely are not because of the consensual nature of the bundled norms embedded in the

metanorm. Furthermore, my operationalization of metanorm does not presume that the

initial emergence and acceptance of a metanorm is independent of power dynamics. Instead, a metanorm reflects the successful, long-term diffusion of a set of norms that were likely promoted and advanced by a set of powerful actors, in the case of global environmental governance, hegemonic states and big INGOs (Keck and Sikkink 1998; Barnett and Finnemore 1999; Bäckstrand 2006). The metanorm is the crystallization of a value orientation established through a set of common global norms.

3.1.2 Norm Content and Stickiness

Although the norms literature has demonstrated the ways in which norms can affect institutions, through their influence on the value orientations and especially their effects on the institutional architectures by establishing the normative foundation in institutional bargaining spaces, they only address part of the justice gap puzzle. Specifically, these norm-institutional pathways help us understand the influence of norms on the ways in which justice is conceptualized and institutionalized in global environmental governance. Each of these pathways can reinforce existing norms or, depending on the content of the norm, support the continued deliberation and evolution of norms. Yet these explanations do not address the dynamic content of norms, highlighting a "crucial tension" in the literature between the "relatively static depiction of norm content, juxtaposed against a comparatively dynamic account of norm creation, diffusion, and socialization" (Krook and True 2012, 104). In this dissertation, I conceptualize the justice gap as a governance gap that results from the misalignment of the meanings—the content—of justice embodied in the norms, principles, and values of

justice captured in the metanorm, embedded in justice practices, and as held by forest-dependent communities. I conceptualize the pursuit of justice as a struggle over meaning. Thus, how, when, and why meaning is constructed and reconstructed can shed light on the possibilities for justice. If, for example, there is limited deliberative space for contesting the content of norms, then the possibilities for justice are constrained. In this dissertation I contribute to this gap in the norms literature by uncovering the dynamic content of justice norms held by diverse actors across multiple scales of governance. In chapters 4, 5, and 6, I uncover the meanings of justice across scales, institutions, and actors in global forest governance to demonstrate the nature of the gap and highlight the importance of understand the content of norms in relation to their intended outcomes. Chapter 6 in particular emphasizes the dynamic, multivalent, and plural meanings of justice demanded by forest-dependent communities in Laos. These findings provide an empirical basis for understanding the nature of the justice gap and identify some institutional barriers to the pursuit of justice.

Furthermore and related to the question of the content of norms is the question of the stickiness of norms, which has also been understudied in the norms literature. If norms are generally dynamic, what causes some to become static? Because justice itself is a fundamentally normative endeavor, we cannot understand injustice without first uncovering the normative assumptions and orientations of the institutions designed to redress injustices and the stickiness of these norms. In this dissertation I argue that a justice metanorm (discussed in greater detail in the next section) by definition effectively

crystallizes a set of norms to establish a normative orientation in the institutional space

related to environmental governance. Although the metanorm does not prescribe

particular practices, it does promote the stickiness of its constitutive norms over time,

across scales, and across contexts. Thus, the metanorm acts as an enforcement

mechanism to limit the extent to which its constitutive norms can evolve. However, this

stickiness is not an inherent characteristic of the metanorm. Rather, it is through the

diffusion of the metanorm and the translation of its constitutive norms that actors

further reify the meanings of particular norms through the routinization or

habitualization of particular practices as well as the maintenance of established justice

discourses. As noted in chapter 2, justice practices in global forest governance, which are

strongly shaped by their underlying norms, have remained effectively stagnant over

time. In chapter 5, I explore the justice practices as they have been implemented in Laos

directing analytical attention to how different actors at the national scale translate the

justice metanorm into practice. These results demonstrate that despite the opportunities

to contest and reconstruct the meaning of norms through their translation into practice,

conservation actors instead maintain existing meanings of justice and adopt established

justice practices.

3.2 The Justice Gap in Global Forest Governance

In this section of the chapter, I draw from the norms and institutions literature to

construct a model of the justice gap in global forest governance, highlighting the role

that the justice metanorm has in constructing the distance (the gap) between the justice

experiences of forest-dependent communities and justice as conceived at the regime level, as well as showing how the diffusion of the metanorm can further perpetuate this gap. I introduce each variable in the model (see Figure 3) and highlight their relationships and feedback paths. For the purposes of this dissertation, the empirical work focuses almost exclusively on the downscale effects of the justice metanorm and less so on the feedback across scales. In other words, the primary contribution of this dissertation is to demonstrate the presence of the justice metanorm across scales of governance and illustrate its institutional and justice effects at the global, national, and local scales. In the analysis that follows, however, I emphasize the roles of two specific types of actors—the state and INGOs—as translators of norms into practice and illuminate the ways in which their translations of justice norms restricts the type of feedback that can make its way upscale in the model.
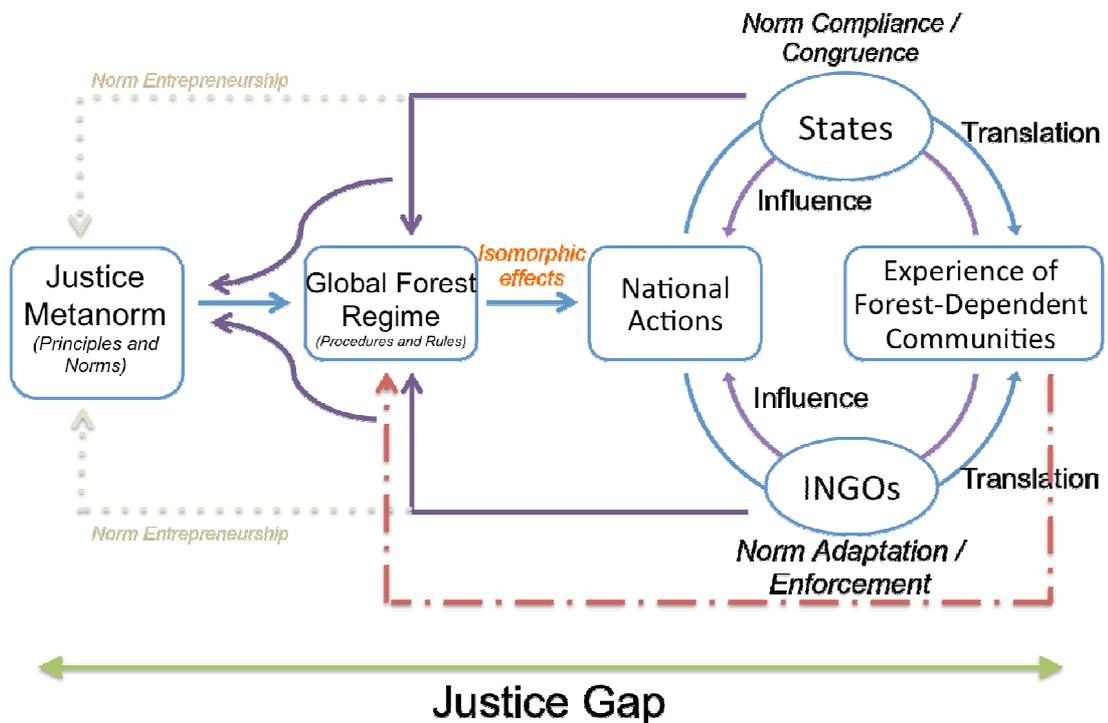
Figure 3: The Justice Gap Model

3.2.1 The Justice Metanorm

The central argument I advance in this dissertation is that a metanorm, specifically a justice metanorm, contributes both to the production and perpetuation of the justice gap in global forest governance. Recall that I specifically address justice for forest-dependent communities, that is I examine the justice dynamics where communities are the target of justice interventions, and do not intend to suggest that this same metanorm applies to interstate justice concerns. The justice metanorm embodies the following global norms and principles:

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1) *Who*: through action at the domestic level, states determine who the

rights-holders and duty-bearers are as well as what the indicators of

justice are. In other words, <u>states are the sole arbiters of justice</u> (Okereke

2008a); and,

2) *What*: justice is approached primarily through distributive and

procedural terms, where distributive justice is determined based on a

<u>justice-in-exchange</u> conception of justice that does not account for the

preexisting distribution of resources (D. Schroeder 2009; D. Schroeder

and Pogge 2009); and procedural justice is based on a <u>presence-as-</u>

<u>inclusion</u> conception of justice that requires the participation, but not

necessarily representation, of community members in project or program

events (Marion Suiseeya forthcoming; see also Auer 2000; Cooke and

Kothari 2001; Sandström 2009; Schlosberg and Carruthers 2010; Singleton

2000; Smith and McDonough 2001; Marion Suiseeya and Caplow 2013).

The contents of the metanorm comes not from those that are demanding justice

but from those that are supplying justice;[2] it reflects the dominant understanding of

justice being delivered through various policy channels in global environmental

governance. Thus, the meaning of the metanorm is constructed at the global scale. For

the sake of simplicity, I will refer to these three constitutive norms of the justice

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[2] Except to the extent that demands for justice are taken up and advocated for by norm entrepreneurs and advocates.

metanorm as norms of **authority, distribution,** and **participation**. Through the lens of the justice metanorm, justice exists when state-recognized, affected populations are informed of interventions and individual unit costs and benefits are equal according to units of efforts expended or goods produced. This understanding of justice resonates with the neoliberal trends in global environmental governance, which emphasize market-based and individual scale solutions to environmental degradation (Okereke 2008a). Moreover, the justice metanorm itself reflects the dominant territoriality metanorm of state-centered sovereignty in global environmental governance whereby determinations of justice are subject to the authority of the state within its bounded territories (Conca 2006). It is further reflected by the recent rise in literature that seeks to promote an alternative and more robust conceptualization of justice in global environmental governance—and global governance more broadly—that aims to promote more flexible, holistic, and people-driven ideas of justice founded upon democratic ideals of inclusion, recognition, and deliberation (Fraser 2009; Schlosberg 2007; Martin, McGuire, and Sullivan 2013). Notably absent from the justice metanorm is any conception of justice as recognition, which is arguably the most important and lacking justice in global environmental governance broadly (Martin, Akol, and Phillips 2013).

Situated in the justice gap model, the justice metanorm affects the justice experiences of forest-dependent communities through its influence on the global forest regime. It does so through two specific mechanisms. First, the institutionalization of the

justice metanorm as evidenced through an established (almost fixed) set of justice practices suggests that the contents of the justice metanorm are universal; that is, it appears that the substance of the justice metanorm is not contested. Second, the two primary actors responsible for the establishment and institutionalization of the justice metanorm—states and INGOs—continuously internalize the justice metanorm through habitualization and routinization; in other words, their approaches to forest governance routinely incorporate established justice practices based on the underlying conceptions of justice in the metanorm without challenging or reconfiguring the norms and ideas of justice embedded in the justice practices. This institutionalization and habitualization— two mechanisms for the final phase of norm internalization (Risse, Ropp, and Sikkink 1999)—leads to a focus on compliance where the justice discourse among the main forest policy actors (or duty-bearers) is occupied almost entirely by instrumental concerns related to the effective implementation of the prescribed justice practices. As evidenced the discourse on global environmental governance discussed in Chapter 4, the justice discussion is largely dominated by debates over effective implementation—not over the substance of what is being implemented. The concerns of rights-holders—those forest-dependent communities demanding justice—are effectively marginalized in the deliberative space. Thus, although there is the potential for some narrowing of the justice gap through the suite of justice practices institutionalized at the regime level, it is only partial and minimal because of how the duty-bearers translate the metanorm into practice.

In summary, the prevailing metanormative justice orientation in global forest governance is one characterized by an emphasis on justice as instrumental and measured through justice-in-exchange and presence-as-inclusion indicators, where states are the sole arbiters of justice. In other words, the justice metanorm is state-centric and justice is pursued as a way to achieve other objectives and goals, rather than an end in itself. Combined these norms and principles of justice constitute the substance of the justice metanorm, enforced via institutionalization and habitualization.

The challenge of the justice metanorm is although different actors can translate and/or build congruence with norms to adapt to micro-level contexts, these actors are simply mimicking the vaguely defined norms of justice embedded in the metanorm. Whereas institutions intentionally poorly define how norms should be implemented in practice such that actors can translate and build congruence, these actors appear to only partially translate these norms, if at all, to meet the local contexts. To illustrate how the justice metanorm exerts its influence, I document the emergence of shared meaning of justice and the prescriptive status of justice practices observed at the global and national levels.

3.2.2 Global Forest Regime Complex

Forests are one of many natural resources for which a comprehensive international convention, often referred to in the traditional IR sense as a regime, remains elusive. The absence of an international treaty or convention, however, is not equivalent to the absence of a global approach to forest governance (Giessen 2013;

Dimitrov et al. 2007). Building upon the idea that a regime or regime complex incorporates actors and institutions beyond the state, I define the global forest regime as the set of principles and norms—adopted by both state and nonstate actors—that promote sustainable forest management, conservation, and preservation (Gulbrandsen 2004; Humphreys 2006; Maguire 2013). These are promoted by a number of intergovernmental institutions (e.g. all three Rio Conventions—the CBD, CCD, UNFCCC, UNFF, FAO, etc), and non-state institutions and organizations such as the Forest Stewardship Council (FSC), WCS, IUCN, WWF, and CCBA, among others. Thus, the global forest regime complex incorporates all of these diverse institutions, organizations, and actors that promote and implement the principles and norms of sustainable forest governance (see Figure 2 in Chapter 2).

Although norms can influence the form and function of singular institutions, the overarching architectures in global governance, and the ways in which different actors pursue implementation of the rules and procedures established at the regime level, institutions, including regimes, are also vehicles for norm creation and diffusion. They provide deliberative spaces for actors to argue, discuss, and persuade others during the process of norm construction and they provide a structure through which norms can be adapted into practices.[3] At the regime level, in the justice gap model I propose, the

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[3] Risse and Sikkink (1999, p. 5) identify three causal mechanisms for norm internalization including instrumental adaptation and strategic bargaining; moral consciousness-raising, argumentation, dialogue, and persuasion; and institutionalization and habitualization.

effects of the justice metanorm are observed through the limited discourse in the global spaces in which institutions are designed, where discussions are limited to the existing justice norms embodied in the metanorm, either through self-enforcement (whether implicit or explicit, intended or subconsciously) or through enforcement by other actors in the same negotiation space (who may adopt different logics for redirecting the discourse to the constraints defined through the metanorm). Thus the "battleground of ideas" is preemptively constrained (Risse, Ropp, and Sikkink 1999, 7).

The subsequent institutional effects of the justice metanorm are observed through the isomorphic pressures it exerts on the justice practices adopted by states. The global forests regime does not specify the content or structure of the practices that states should adopt to fulfill their justice obligations. Instead, the content of the norms is sufficiently vague to allow states to interpret and pursue their own conceptualization and operationalization of specific norms, so long as they embrace the underlying conceptions of participation, authority, and distribution. Yet, despite the need for conservation actors to translate the norms into practice by building congruence to fit the local context, the justice practices in forest governance are remarkably similar across geographic spaces and implementing actor types. For example, in an examination of 56 forest carbon projects, Marion Suiseeya and Caplow (2013) found that the majority of projects adopted similar approaches to procedural justice in their projects and in some cases identical language was used. In a sense, the diffusion of the justice metanorm is

manifested thus through the diffusion of policy instruments (national actions), despite the fact that the justice metanorm itself does not prescribe specific actions.

Thus, the justice metanorm is effectively diffused through policy innovations designed to address the justice concerns. Policy innovations serve as conduits for norm diffusion. In other words, we see the widespread adoption of a particular set of justice instruments that are designed to deliver on the justice obligations of states and other policy actors. By adopting and upholding these policy innovations, different actors are serving as translators and enforcers of the justice metanorm. Aligning with Conca (Conca 2006, 27), I maintain that if these metanormative orientations are allowed to vary then different institutional forms may be possible. Thus opportunities for norm contestation at multiple scales of governance are critical for the pursuit of justice.

The diffusion of policy innovation is largely considered a success based on the number of countries or entities that have adopted the particular policy innovation. For example, gender mainstreaming bureaucracies are now embedded in nearly every developing country in the world, but there is little attention paid to whether or not the diffusion of policy innovation leads to measurable improvements for the targets of such innovations (at least on the meta-scale required to assess their impact) and little critical research on the substance of the norms that such policy innovations are diffusing (see True and Mintrom 2001). Importantly, however, in some cases, you can arguably claim that some of these policy innovations are "good" regardless of their impacts or the substance of the norms they seek to diffuse (e.g. such as gender equality). But the

important question in the case of justice is whether or not the diffusion of such policy innovations allows for the veiled (albeit often only partially veiled) perpetuation of injustice. In other words, is the adoption of policy innovations the end goal, or are we after something more – do we want to see substantive changes in the lives of those these policy innovations target? All too often the focus is on the adoption of a practice, rather than examining the extent to which the practices generate the intended impact in the target communities (Fraser 2009).

3.2.3 National Actions (Justice Practices)

The justice practices, or national actions to fulfill justice obligations, include laws, regulations, mission statements, project design guidelines, compliance requirements, and other policies designed to fulfill commitments made in the global forest regime. Because justice practices generally are not stand-alone initiatives, they are integrated into other national actions. For example, a state pursuing forest carbon credits will incorporate justice practices into its larger forest carbon program. Some common justice practices include, among others, participatory approaches, rights-based approaches, gender and ethnic mainstreaming, safeguard protocols, and a variety of distributive mechanisms, such as land tenure programs, village development funds, etc.

If the justice metanorm is diffused through institutionalization and habitualization mechanisms described earlier, then we would expect to see that the national actions in Laos are similar to the national actions adopted by other states and largely reflect the rules and procedures established at the regime level. We would not

expect to see significant variation in how the rules and procedures are translated into justice practices at the national level by the state or by INGOs. Moreover, these justice practices will have persisted through time—that is there would not be any substantial changes in the structure, function, or underlying conceptions of justice. To pose this as a counterfactual, in the absence of the justice metanorm, we would expect to see variation in how Laos in particular adopts and implements its justice obligations both in reference to how other states do so as well as compared to INGOs operating within Laos. In this dissertation, I have selected different types of policy and project interventions and identified the justice practices of these approaches. The limited diversity of national actions confirms the presence of a set of common justice practices in the Lao case, regardless of the forest governance goals or approaches (see Chapter 5).

3.2.4 Justice Agents—Duty Bearers: States and NGOs

Duty-bearers are those actors that rights-holders seek to hold accountable or those actors that are responsible for delivering justice to rights-holders (the forest-dependent communities in this model). They are justice agents in the sense that they have the "capacities to determine how principles of justice are to be institutionalized within a certain domain" (O. O'Neill 2001, 189). These agents translate the norms, rules, and procedures into justice practices at the national level and then implement this translation into practice at the local levels. Although generally states are considered the primary agents of justice, in the realm of forest governance in developing countries, especially where states have limited or weak capacity to fulfill their obligations, non-

state actors such as INGOs can serve as justice agents because they often possess the

capabilities to contribute to justice (O. O'Neill 2001 esp. pp. 191-194). Whereas states

derive their justice obligations through their commitments made in international treaties

and national laws, INGOs derive their obligations both through their own voluntary

commitments, as norm entrepreneurs and norm enforcers, and through the obligations

imposed by operating within states.

In early phases of norm diffusion, states and INGOs are engaged in what Risse

and Sikkink (1999) refer to as the process of norm socialization, that is they are seeking

to influence both the substance and diffusion of particular norms (Risse et al. 2013).

Once global actors have committed to upholding a particular norm or set of norms, the

responsibility is transferred to the national level, where national level actors build

congruence with the norms or adapt the policies and norms to their local conditions and

needs (Acharya 2004; Stevenson 2011). Domestic adoption of a norm relies on the

domestic salience of the international norm or the structural context in which the

domestic policy debate occurs (Cortell and Jr. 2000). Thus it is in the national policy

space that norms shift from guiding the design and development of institutions and

practices towards guiding the behavior and actions of the actors charged with

implementing policy. This generally occurs along two avenues detailed in the previous

section on national actions: first, through integration into national level policies, law,

regulations, and mission statements; and, secondly, through integration into individual

programs and projects.

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As the primary duty-bearers of justice in global forest governance, states and INGOs are critical actors in the justice experiences of forest-dependent communities. The justice experiences of forest-dependent communities rely on the translation of national actions into practice at the local scale. Moreover, states and INGOs serve not only as translators of the metanorm (through congruence, compliance, and/or enforcement) but they also mediate the concerns of the forest-dependent communities by responding directly to these concerns, sometimes adjusting their practices, and by influencing national actions. In essence, they translate the norms down to the local scale and bring experiences at the local scale up to the national and global scales.

In the justice gap model, the justice agents, through their roles as the primary translators of the justice metanorm into practice, have the ability to help narrow the justice gap by adapting the bundled justice norms to the local context while also integrating the local demands and needs for justice. They can influence national actions to stimulate normative change, which may include direct or indirect contestation of the justice metanorm and/or its constitutive norms. As detailed in chapters 4, 5, and 6, because of the dialectical nature of structure and agents, justice agents prove to be the critical navigators of the justice landscape, providing entryways or accessing leverage points for normative change or stagnation.

3.2.5 Local Justice Experiences—Forest-dependent Communities as Rights Holders

To date there has been limited research examining the local level impacts or effects of norm diffusion. And although the norms literature stops short of investigating the local effects of norm diffusion, as introduced earlier in this chapter, the primary purpose of most international norms is to stimulate domestic political change in order to affect positive change in communities. Most often, the anticipated change is for communities and individuals within the target state(s). For example, one of the most studied issues in norm diffusion is human rights. The ultimate goal of diffusion of the human rights norm is not simply the commitment of states to uphold human rights norms, rather it is compliance with the norms that result in improved lives and wellbeing for individuals and communities within a state (Risse et al. 2013). Thus, while the unit of analysis is often states, we should not forget that that individuals, households, and communities are ultimately the population that experiences changes resulting from norm diffusion. Similarly, in the case of justice in global forest governance, the target population is forest-dependent communities—identified as the rights-holders in this dissertation.[4] The local justice experiences are thus the result of the diffusion of the justice metanorm as translated by the state and by INGOs.

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[4] Positioning these communities as rights-holders does not absolve them of duties or responsibilities related to forest governance nor does positioning states and NGOs as duty-bearers strip them of rights. Rather it clarifies their role in the pursuit of justice in global forest governance as the target communities for whom justice is sought. I use this analytical distinction to highlight the relational nature of justice, namely that in all questions and claims of injustice, those making the claims are the rights-holders in the equation and the

Justice experiences must be contextualized through an examination of not only the stated expressions of justice or injustice by rights holders or their advocates, but in relation to their justice expectations, the efforts of justice agents to deliver justice, and the extent to which the justice norms pursued by justice agents align with the justice demands and needs of rights holders. In other words, compliance (or noncompliance) with the justice metanorm does not necessarily provide insights into the justice possibilities in any given context. Similarly, evaluations of effectiveness that do not consider the interactions between the nature of justice demanded and the nature of justice being supplied do little to advance our understanding of the justice gap in global forest governance, where the justice gap is the distance between the experiences of forest-dependent communities and the justice metanorm. Thus investigating how forest-dependent communities conceptualize justice and identifying the variables that contribute to the dynamic nature of justice can provide a clearer picture of the nature of the justice gap.

Rights holders are not simply the target recipients of justice practices in forest governance (e.g. fewer injustices and/or greater justice), they also can play a role in how

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actors against which they are making claims are the duty bearers. Similarly, duty bearers are seeking to reduce claims of injustice by delivering justice to forest-dependent communities. It is possible that some rights-holders are claiming rights that they have no formal (legal) basis for, but by positioning forest-dependent communities as the target populations of justice practices, states and NGOs are affirming the general proposition that these communities are the rights-holders in the equation and they are the duty bearers.

norms emerge, change, dissolve, and persist. In the justice gap model I propose, rights

holders can do this through traditional channels, i.e. contesting norms and practices

directly at the local level with state and INGO actors, or by jumping scales to national

and international scales to demand justice, contest norms, or assert their rights (Perrault

2003; Bavikatte and Robinson 2011). In chapter 6, I examine the meanings of justice held

by forest-dependent communities in Laos

3.3 Spaces for Norm Contestation

In this chapter I have introduced a model of the justice gap in global forest

governance to facilitate examination of the effects the processes of norm diffusion and

the roles that two sets of specific actors in global forest governance—states and INGOs—

play in diffusing the justice metanorm in global forest governance. Traditionally studies

of norm diffusion examine the process of norm diffusion, identifying five distinct phases

of norm socialization (repression, denial, tactical concessions, prescriptive status, and

rule-consistent behavior) in order to understand the variance in why and how some

international norms are adopted over others in different states (Risse et al. 2013, 6). And

while some studies have sought to understand the emergence and evolution of norms,

these explanations rely on norm entrepreneurs to stimulate normative change, which, in

global governance have often been "liberal" states or transnational advocacy networks

(Florini 1996; Risse, Ropp, and Sikkink 1999; Keck and Sikkink 1998). Although states

and INGOs can simultaneously serve as norm entrepreneurs, norm enforcers, and norm

translators where they both contest and uphold norms moving fluidly between local,

national, and global spheres of influence, often in opposition to each other, resulting in the norm contestation that results in norm evolution, in the realm of justice in global forest governance, they are increasingly synchronous in the norms that they pursue. In other words, states and INGOs are engaged in debates over norm compliance—not content. Thus, in the absence of powerful norm entrepreneurs, norms may become static. In this chapter I construct a model of the "justice gap" in global forest governance that identifies the relationships between the processes of norm diffusion and the justice experiences of forest-dependent communities.

The justice gap model I present in this chapter captures the norm diffusion pathways, highlighting the relationships between the structures (the metanorm, regimes, and national actions) and agents (justice agents and forest-dependent communities) across multiple scales in global forest governance. It helps us understand how the justice metanorm exerts influence both on the structure of forest governance and the agents charged with providing justice to forest-dependent communities. Equally important for understanding the production and persistence of the justice gap, however, are the processes through which meaning is created. That is, how do different actors and structures along the norm diffusion pathway construct and interact in the spaces for deliberating and debating the nature and meaning of justice? Similar to sustainable development, justice norms are norms that acquire "meaning through use" (Park 2009, 95), that is that the meaning of justice is determined by how justice is defined, pursued, and experienced (e.g. how it is operationalized) in a particular context that may differ

across contexts. To that end, I couple the tracing of diffusion pathways identified in the model with the identification and examination of the deliberative or political spaces in which meaning is constructed.

Across each scale of governance there is space—deliberative or political space—in which norm contestation can take place, sometimes simultaneously across multiple spaces. Within these deliberative spaces, contestation over norms gives meaning to justice norms and principles (Wiener and Puetter 2009; Park 2009). Identifying how these spaces are created, supported, or constrained along the norm diffusion pathway will help us understand the production and perpetuation of the justice gap by generating additional insights into:

1) The availability and accessibility of deliberative spaces;

2) How and the extent to which justice norms contested, constructed, and reconstructed at different scales of governance in these spaces; and,

3) How the justice metanorm and other institutional barriers constrain norm contestation across these spaces.

In the process of norm creation and diffusion (and eventual degeneration) that takes place across these deliberative spaces, different actors assume a variety of roles (see Panke and Petersohn 2012 for a discussion on norm generation). For example, there are norm entrepreneurs who pursue new or different norms, consumers who adopt and adapt norms, diffusers who aid in proliferating the norm across horizontal and vertical scales of governance, and enforcers who promote compliance with the norms (Park

2005). In some cases there may be only one or a handful or norm entrepreneurs whereas in other cases, we see a coalition of entrepreneurs especially as the set of actors involved in global governance has expanded beyond the state. The result is that norms are increasingly negotiated in a variety of venues across multiple scales of governance. In the realm of justice and global forest governance, INGOs have been the traditional norm entrepreneurs, with many conservation and development INGOs advocating on behalf of forest-dependent communities to promote more equitable and just conservation interventions (Keck and Sikkink 1998). INGOs have also served as key norm diffusers, especially in states where they are tightly integrated into the forest governance institutions of the state. States generally act as norm consumers as well as norm diffusers, but have also assumed the role of entrepreneurs. Local communities are increasingly jumping scales to pursue new norms (Perrault 2003).

Traditionally, international norms are largely negotiated within formal global institutions, such as, for example, treaty conventions where various policy actors converge to debate norms like sustainable development or Common but Differentiated Responsibilities to translate them into use. Much of the actual formation and negotiation of norms occurs over time and space where the meaning of norms remains dynamic and fluid. Once these international norms extend beyond the territory of the state, we typically observe higher contestation of norms (Wiener 2007). As these various nodes of governance overlap and interact, we start to see newly forged meanings of norms emerge. In the justice gap model presented above, the spaces for norm contestation

include fora at the global regime level, policy spaces at the national level, and through the interactions of norm enforcers and consumers with forest-dependent communities.

These spaces for contestation are the critical missing link in understanding the nature, production and perpetuation of the justice gap because it is within these spaces that the bundled norms of the justice metanorm, and therewith the justice metanorm, are given meaning. The pursuit of justice itself is a fundamentally normative enterprise, thus requiring the opportunity for ongoing norm contestation and evolution. Furthermore, the pursuit and provision of justice is a political act that, though the institutionalization and technocratization of justice via the justice metanorm, it has been depoliticized. If the political spaces constrain deliberation and norm contestation, then further norm evolution can be limited and the pursuit of justice restricted. In other words, because norm evolution occurs through contestation, contestation becomes a critical variable in the pursuit of justice.

4. Negotiating the Nagoya Protocol: Indigenous Demands for Justice[1]

On October 29, 2010, following two weeks of intense negotiations, parties to the

CBD adopted the Nagoya Protocol on Access to Genetic Resources and the Fair and

Equitable Sharing of Benefits Arising from their Utilization (Nagoya Protocol) at COP10

in Nagoya, Japan. Although points of contention were few, they were substantive:

beyond defining what resources and knowledge would be covered under the regime,

negotiations centered on determining how to fairly distribute benefits from the use of

genetic resources and deciding with whom benefits would be shared. Discussions

threatened to break down almost daily, as parties would not budge from their positions.

Just after the deadline to complete the final negotiations passed, negotiators announced

that no agreement on ABS could be reached. Many parties and observers left the room in

frustration; delegates were overheard saying, "we failed," and news of the failure

circulated rapidly throughout the conference venue.[2]

For ILCs, COP10 was a highly anticipated event for their pursuit of justice.[3]

Living in direct contact with the majority of the world's biological resources, ILCs are

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[1] An article version of this chapter is forthcoming in *Global Environmental Politics.*

[2] Field Notes, ABS Informal Contact Group (ICG), 10/28/10; Event #1798-Experiences in Implementing High Seas Marine Protected Areas.

[3] ILC is a formal CBD stakeholder category employed here to refer to formally designated ILC representatives and Indigenous Peoples more broadly. I use the term ILC in this chapter instead of forest-dependent communities.

often marginalized by conservation interventions. They bear the majority of livelihood costs associated with conserving biodiversity, receive few additional benefits, are often excluded from decision-making processes, and their traditional knowledge and beliefs are often positioned as inferior to "scientific" knowledge (Agrawal 1995; Colchester 2004; Reimerson 2013; Schlosberg and Carruthers 2010). They are steadily losing control over their resources and related traditional knowledge (Colchester et al. 2008; D. Schroeder 2009). In response, ILCs and their advocates have sought justice—understood here as embodying distributional, procedural, and recognitional dimensions—in diverse forums across multiple scales of governance, including the CBD (Martin, McGuire, and Sullivan 2013; Schlosberg 2004). At COP10, ILCs joined states, INGOs, and international governmental organizations (IGOs) to conclude nine years of formal ABS negotiations; an ABS regime would be a primary vehicle for ILC justice in the CBD.[4]

When Japan's president of COP10 announced the Nagoya Protocol after several hours of post-deadline, closed door negotiations, it was met with mixed reactions. These ranged from outrage to defeat to cautious optimism that the Protocol could become a "powerful tool for a more balanced implementation of the CBD's three objectives" (IISD 2010, 27). The CBD Secretariat characterized the agreement as "historic," emphasizing its balance of access and benefits, while also accounting for the role of traditional knowledge (CBD 2010b). Yet others have called the Nagoya Protocol "a masterpiece of

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[4] Formal negotiations on ABS began October 2001 at the Ad-Hoc Open-ended Working Group.

creative ambiguities," suggesting that it does little to address the justice concerns of ILCs (IISD 2010, 26). And while the full scope of the Nagoya Protocol's justice implications remains to be seen (it requires fifty ratifications to enter into force), it is unlikely to redress ILCs' primary justice concerns. Its approach to justice is arguably only minimally different from the status quo (Aubertin and Filoche 2011).

These outcomes are unsurprising. Absent a radical shift in power dynamics or powerful interests, it is unlikely that ILCs, a historically marginalized group of stakeholders, could significantly advance their interests (Betsill and Corell 2001; Fisher and Green 2004; Ford 2003; Okereke, Bulkeley, and Schroeder 2009; Reimerson 2013; Schlosberg and Carruthers 2010). Instead, ILCs and their advocates use events like COP10 to engage in discursive struggles that introduce new ideas, values, and norms that, over time, may shift the value orientation of global environmental governance (GEG) (Doolittle 2010; Ford 2003; Keck and Sikkink 1998; Perrault 2003; see also Hajer and Versteeg 2005). Combining collaborative event ethnography (CEE) with discourse analysis, I examine the nature and scope of the ILC justice discourse in the ABS negotiations to investigate how ILCs and their advocates enact their global pursuit of justice. Positioning the pursuit of justice as an enduring, incremental, and fundamentally normative struggle, my analytical focus on the deliberations illuminates how possibilities for justice are embedded within this struggle.

My argument unfolds as follows: drawing from the literature on civil society and global governance, I position the CBD as a site for discursive struggles for ILC justice.

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Following a detailed description of my methods, I describe the enactment of the justice

discourse in the COP10 ABS negotiations to demonstrate that although expressions of

justice were diverse and sometimes contested, delegates focused their deliberations on

debating *how* to deliver justice rather than debating the *meaning*—or underlying

conceptions—of justice. By focusing discussions on instruments of justice, stakeholders

directed attention towards compliance and effectiveness, implicitly affirming the

meaning of justice embodied in those instruments. This absence of contestation over

meaning illuminates the possibilities for and constraints to justice in global

environmental governance (GEG).

4.1 The CBD as a Site for Discursive Struggles for Justice

Scholars of GEG increasingly direct attention to questions of justice, investigating

its meaning and how justice and injustice are produced across multiple scales of

governance (Forsyth and Sikor 2013; Marion Suiseeya and Caplow 2013; Martin,

McGuire, and Sullivan 2013; Schlosberg 2004; Sikor 2013; Sikor and Stahl 2011).

Although justice is understood to be pluralistic, multivalent, and dynamic, there is a

growing consensus among scholars of GEG that environmental justice incorporates

three dimensions—procedural, distributional, and recognitional—where justice exists

when: 1) participation in political decision-making around environmental policy is

meaningful; 2) risks and benefits are equitably distributed; and, 3) diverse identities,

ways of knowing, and experiences are recognized (G. Walker 2009a; G. Walker 2012;

Martin, Akol, and Phillips 2013; Schlosberg 2013). For ILCs, justice demands attention to

concerns about recognition especially because GEG often directly impacts their ability to maintain their traditions, knowledge, and relationships with natural resources.[5] In practice, however, justice is largely approached through distributive and procedural terms, reflecting the prevailing neoliberal ideology in GEG (Humphreys 2009; Okereke 2008a). The pursuit of ILC justice, thus, relies on stimulating normative shifts to expand how policy-makers think about justice. It relies on engaging in discursive struggles whereby ideas and norms of justice can be deliberated and debated. Such contestation can contribute to the evolution of interests of powerful actors (see Checkel 1997; Fraser 2009; Humphreys 2009).

As an institution that provides unparalleled access for civil society and is underpinned by a global consensus on the importance of "participation, accountability and transparency" for effective environmental governance, the CBD affords ILCs and their advocates (often INGOs) an opportunity to pursue their justice agendas (Bäckstrand 2006, 470; see also Witter et al. 2011). More than two-thirds of COP10's registered participants were non-party delegates, including representatives of ILCs, INGOs, businesses, education and research organizations, and IGOs, among others.[6] Furthermore, the CBD has an explicit justice oriented mandate: in 1992 parties

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[5] See Schlosberg and Carruthers (2010_ for a more in-depth discussion on environmental justice and indigenous peoples.

[6] Compare this to UNFCCC COP18, where more than half of the registered participants, excluding media, were representatives from states.

committed to promoting fair and equitable benefits sharing related to the use of genetic and biological resources (Article 1) and traditional knowledge (Article 8(j)), and to protecting customary use of resources (Article 10(c)) (D. Schroeder 2009; D. Schroeder and Pogge 2009). Because of its relative openness to civil society and a clear ILC justice mandate, COP10 is a site where we would expect to observe ILCs and their advocates directly and indirectly enact their pursuit of justice.

Scholars of environmental politics have directed considerable attention to the contributions of civil society—particularly INGOs—in GEG, identifying their roles in agenda setting, providing expertise, and acting as moral and ethical agents advocating greater democratic participation in international policy-making (Bäckstrand 2006; Betsill and Corell 2001; K. O'Neill 2009; K. O'Neill, Balsiger, and VanDeveer 2004; Princen et al. 1994). The changing roles of INGOs and their relationships with states are the subject of increasing critique (for an overview, see Betsill and Corell 2001; Newell, Pattberg, and Schroeder 2012). In contrast to the past, where INGOs used "boomerang" strategies to influence states through outside channels in order to advance rights and justice agendas, they are now forming partnerships with states, accessing inside channels of influence, emblematic of global trends towards collaborative governance (Andonova 2014; Bernauer, Böhmelt, and Koubi 2013; Keck and Sikkink 1998). While INGOs may enhance the legitimacy, effectiveness, and democratic pursuit of GEG, their closeness to states may undermine their legitimacy as a voice for marginalized groups (Bernauer, Böhmelt, and Koubi 2013; Bexell, Tallberg, and Uhlin 2010). Of key importance to this article is the

idea that actors exercise power through language by constructing and reshaping

meaning, where non-state actors especially exercise agency through discourse and norm

entrepreneurship (Hajer and Versteeg 2005; Andonova and Mitchell 2010; K. O'Neill,

Balsiger, and VanDeveer 2004; H. Schroeder 2010). Even actors with limited agency,

such as ILCs, can affect change through discursive and rhetorical strategies (Doolittle

2010; Reimerson 2013; H. Schroeder 2010). Studying the performance of the pursuit of

justice thus illuminates potential mechanisms of influence and contextualizes the

outcomes of negotiations (Arts and Buizer 2009; Hajer 2006; Hajer and Versteeg 2005).

With this in mind, I direct attention to the enactment of the pursuit of ILC justice at

COP10.

4.2 Methods and Approach

To examine how ILCs and their advocates pursued justice during COP10 ABS

negotiations, I use collaborative event ethnography (CEE). CEE is a team-based method

for gathering and analyzing data at mega events. Researchers use a common analytical

framework to define and implement a research strategy, engaging with hundreds of

meetings in order to understand "both the formal and informal nature of conservation

policy-making in…international for[a]" (Brosius and Campbell 2010; Campbell et al.

forthcoming; Corson, Campbell, and MacDonald forthcoming). The method provides

insights on how different stakeholders pursue interests, articulate ideas, and strategize

across multiple, simultaneous events. It facilitates tracking of ideas, norms, and values

as they ebb and flow across venues. In addition to using a common analytical

framework to identify themes and issues, researchers share field notes, audio files, photographs, videos, and print materials. At COP10, we met multiple times every day to discuss observations and link findings across meetings.

4.2.1 Data Sources

Data include transcripts of audio files, field notes, and photos the CEE team collected during COP10. Events included official negotiations in Working Groups, Contact Groups, Friends of the Chair Groups, and Plenary as well as side events, press events, and the Ecosystems Pavilion (hereafter "side events"). Topically, the data include all ABS, indigenous peoples, and Article 8(j) events.[7] Article 8(j) of the CBD requires parties to "reserve, preserve and maintain knowledge, innovations and practices of indigenous and local communities…" as well as to "encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices," and is thus directly related to ILC justice (CBD 1992a). Article 8(j) negotiations occurred in Contact Groups and Friends of the Chair meetings. ABS regime negotiations primarily occurred in the ABS Informal Contact Group. The ABS Informal Contact Group chairs created three consultation groups to address specific negotiation sticking points comprised of subsets of stakeholders of the larger ABS Informal Contact Group. These groups were closed to non-party delegates, including members of our research team. Side events were organized by a variety of actors including,

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[7] Events where "indigenous" was in the event title but not specific to ABS or 8(j).

governments, ILCs, INGOs, IGOs, and the private sector. Although side events are not

part of the official negotiations, they are "opportunities to introduce experiences and

best practices of the parties and organizations and exchange information and views"

(CBD 2010a, 33). Their purpose is to serve as a secondary avenue for civil society to

affect change and influence the negotiations (Raustiala 1997). Collectively, I refer to all of

these events as the **ABS negotiations.**

During COP10 there were eighty ABS negotiation events: twenty-seven were

official events and the remaining fifty-three were side events.[8] In total, seventy-three

were open to non-party delegates, including our team. Of these seventy-three events, at

least one member of our team attended fifty-seven—or 78 percent—of the ABS

negotiations, comprising the data for this analysis. Additional data from four key

informant interviews, as well as from press releases, official policy documents, and other

media available during COP10 supplement the analysis. I triangulated transcripts with

field notes and photographs to identify nearly every individual speaker in each event.

4.2.2 Data Analysis

I analyzed the data by employing content analysis through a discourse analytic

approach to describe the struggle for ILC justice that unfolded at COP10 (Hardy, Harley,

and Phillips 2004). In my analysis, I soften two important assumptions in content

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[8] The total count of events was generated using CEE team logs, the Official COP Guidebook and the Earth
Negotiations Bulletin Daily Reports; it excludes cancelled events. See Campbell, Corson et al. (forthcoming)
for a broader overview of COP10.

analysis—that meaning is stable and language is readily divorced from its context—to

bring together the systematic and interpretive strengths of content and discourse

analysis, respectively (Herrera and Braumoeller 2004; Laffey and Weldes 2004). This

approach "provides an important way to demonstrate [the] performative links that lie at

the heart of discourse analysis" (Hardy, Harley, and Phillips 2004, 22). In particular, I

direct analytical attention to what was said, by whom, and in what contexts to trace the

linguistic regularities that give meaning to justice (Hajer and Versteeg 2005). Focusing

on what was said and positioning language not as "a neutral messenger of given

interests and preferences, but [as] influen[tial] [in] their very formation" contributes to

developing "explanations of why and how contingent concepts and practices came into

effect" (Feindt and Oels 2005, 166). This approach illuminates how language and

contestations over meaning in international negotiations shape justice possibilities for

ILCs (Checkel 1997; Fraser 2009; Hajer and Versteeg 2005).

I coded all expressions of ILC justice according to actor and event types.

Expressions of ILC justice are statements or actions used to demand justice, contest ideas

of justice, or articulate experiences of ILC injustice. With the exception of a separate

analysis of references to PIC identified in the results, expressions of justice do not

include discussions of particular justice instruments, such as PIC, unless the speaker was

specifically relating the instruments to a justice demand, idea, or experience. Through a

thematic analysis, I identified the dominant threads of the ILC justice discourse.

Descriptive statistics complement the analysis to highlight the frequency, location, and

characteristics of speakers and events linked to the expressions. The next section

describes the landscape within which the pursuit of ILC justice at the COP10 ABS

negotiations unfolded.

4.3 The Justice Landscape

4.3.1 The Agenda

Heading into the Nagoya meeting, ABS negotiators had to overcome three

sticking points: 1) whether to cover the **derivatives** of biological resources and not just

the raw resources in the regime; 2) whether to include **dual compliance** mechanisms (i.e.

compliance requirements for user and provider states); and, 3) how to incorporate

recognition and use of **traditional knowledge** into the regime.[9] Although the first two of

these issues did not explicitly target justice concerns, each was central to ILC's pursuit of

justice (see Table 3). Critical to the third point were parallel negotiations on Article 8(j)

that focused primarily on developing work plans, identifying a focal issue area to clarify

the scope of Article 8(j), and adopting a code of ethics to recognize and protect ILC

cultural and intellectual heritage. These negotiation issues framed the agenda within

which the pursuit of justice occurred.

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[9] Note that these three sticking points were also the topics of the three consultation groups that the chairs of the ABC Informal Contact Group formed.

Table 3: ABS Negotiation Issues and Related Justice Concerns

Negotiation Points	Unresolved at start of COP10	Primary Justice Concern Related to ILCs
Use of Genetic Resources and Derivatives	• Provider countries seeking a fair and equitable share of benefits generated from genetic resources and their derivatives found within their territories	• Distributional justice between users and providers
Compliance	• Provider countries seeking dual-compliance to promote more equitable share of the burden of proof • ILCs were trying to use compliance to gain recognition of their rights over traditional knowledge	• Distributional justice between users and provider countries • Justice as recognition for ILCs from states and users
Traditional Knowledge	• ILCs seeking to assert and protect their rights related to traditional knowledge to eliminate exploitation, receive an equitable share of the benefits derived from the use of traditional knowledge, and prevent loss of access to traditional knowledge and associated resources	• Justice as recognition and distributional justice between ILCs, providers, and users

The agenda and scope of COP10 were determined in advance, reflecting

outstanding issues from earlier working group negotiations leading up to the

conference. Although decisions formally occur in official events like Contact Groups,

side events are intended to facilitate access and voice and are thus one avenue of

influence for non-party delegates (Clark, Friedman, and Hochstetler 1998; Hjerpe and

Linnér 2010; Nasiritousi, Hjerpe, and Linnér 2014; H. Schroeder 2010; H. Schroeder and

Lovell 2012). Non-state actors, including ILC organizations, pursue their agendas by

linking their event topics to the official agenda.

Although ILC struggles for justice in GEG were highly visible leading up to

COP10, the pursuit of ILC justice in ABS negotiations was relatively muted (Bavikatte

and Robinson 2011). Instead of heated debates and targeted demands for ILC justice, the

justice discourse unfolded largely through rhetorical stories and statements as well as

through sharing of lessons learned. In particular, three threads emerged: demands for

fair benefits sharing; inclusion in decision-making processes; and recognition, discussed

in turn below. Table 4 demonstrates the prominence of each thread across the

negotiations.

(1)   Although a core mandate for the ABS regime and a key ILC justice

concern was *fair benefits sharing*, it was the least prominent thread at COP10. The ILC

demand for fair benefits is primarily one of distributive equity, balancing access with

benefits sharing. Contestations that emerged were minimal and along three fronts: first,

a tension between access and benefits, where many stakeholders felt that an emphasis

on access for users (e.g. states, research organizations, and the private sector)

overshadowed discussions on community benefits; second, debates over whether

benefits should be delivered through direct or indirect transfers (i.e. instruments); and, third, concerns that states neglected their obligations to ensure effective and appropriate benefit distribution to affected communities. Underlying these debates was a challenge to the CBD's conception of justice in benefits sharing—justice in exchange—where justice obligations are measured via exchange ratios without a necessary consideration of an equitable prior division of existing resources (D. Schroeder 2009; see also Langhelle 2000). While all delegates generally supported balancing access with benefits sharing, the deliberations centered almost exclusively on instruments for benefits sharing based on a justice in exchange concept; contestations over the meaning of justice in benefits sharing were virtually nonexistent.

(2)   The second most visible justice demand was for *equitable inclusion in decision-making processes*. This procedural justice demand emphasized the importance of equal representation, active participation, transparency, and trust for both instrumental and intrinsic reasons: "… it's [a] right…anyone has to be heard and every voice is important to be heard and especially this counts for those who are particularly affected by the decision made."[10] The struggle emerged through two arguments on representation. First, presence is not influence, drawing on examples where dissenting voices were silenced or ignored: "…we also have the right to say no."[11] Second, identity

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[10] Field Notes, #2000-Financing Protected Areas: Mobilization of Funds, NGO representative; See also Clayton 1998 and Schlosberg 2007 for discussions on procedural justice. Also see Fraser 2009.

[11] Field Notes, #1771-ABS Protocol: Key to Implement the CBD, ILC representative.

or group membership does not confer representation: "an indigenous brother was a mayor. He presented a document saying he'd done consultations but we realized it through a workshop. This is not similar to a consultation. Sometimes we think because it is an indigenous brother we should accept it with closed eyes but even indigenous peoples can deceive on this issue."[12] Underlying these contestations were challenges to norms of inclusion as presence without influence or representation. Similar to deliberations on benefits sharing, discussions on inclusion were redirected towards instruments for facilitating inclusion, such as PIC. The common response argued that the practices for including ILCs were the *right practices*, but that they suffered from the *wrong implementation*. By pointing towards poor implementation and/or under specification of the justice instruments, deliberations shifted away from debating underlying norms of inclusion as presence.

(3) The most prominent thread of the justice discourse was the struggle for *rights and recognition*. Specifically, ILC justice demands centered on rights to maintain and utilize traditional knowledge, resources, and institutions regardless of formal state legitimization of these rights; in effect, these were demands for self-determination and a difference friendly egalitarian conception of justice as recognition (see also Martin, McGuire, and Sullivan 2013; Martin, Akol, and Phillips 2013). They are intimately linked to ILC demands for both distributional and procedural justice, where justice through

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[12] Field Notes, #1878-FPIC: Experiences of Indigenous Peoples, ILC representative.

benefits sharing and inclusion are meaningless without recognition (Firestone 2003, 172).

This thread emerged through two avenues: first, through stories of ILC experiences of

injustices and lessons learned related to conservation policy, drawing on violations of

community land, resource, and knowledge rights, marginalization, and exclusion from

decision-making processes. Here, rights to access, manage, and benefit from

biodiversity, traditional knowledge, as well as the legitimacy of and right to maintain

customary institutions, were positioned as fundamental human rights.

Second, the demand for recognition unfolded as a struggle against the centrality

of the state as the sole arbiter of justice. This struggle was most prominent in debates

over PIC, the CBD's main instrument for justice as recognition and inclusion. PIC

accounted for 85 percent of all references to instruments for delivering justice across the

justice discourse. In ideal form, PIC is a procedural avenue for "insuring community

involvement, participation, decision-making, and self-determination" in ABS (Firestone

2003, 177). ILCs preferred adoption of Free Prior Informed Consent (FPIC) to PIC for

two reasons: first PIC generally applies only in cases where states have previously

recognized the rights of ILCs; and, second, the absence of "free" from PIC suggests

coercion can be used to obtain consent.

Despite the prevalence and visibility of these concerns, there was little

engagement on the underlying meaning of justice as recognition. Similar to the thread

on inclusion, a common response invoked the logic of *right practice, wrong*

implementation, redirecting the discussion to instruments rather than meaning. The

second common response invoked structural constraints—*rules of order*—embedded within the CBD to effectively eliminate debates over meaning. For example, states maintained that "Free" could not be added to PIC because the CBD as signed in 1992 only referred to PIC and was thus considered an established practice to be maintained.[13] Following this statement, there were no further discussions on FPIC in official events. Although these data demonstrate the centrality of contesting meaning to the pursuit of ILC justice, more than half (61 percent) of the discussion centered on instruments for justice.

Table 4: Distribution of Justice Discourse by Event Host

Event Host	% of Justice Discourse Expressions[1]	Justice Discourse by Thread[2]			Discussion of PIC/FPIC[3]		
		Benefits	Inclusion	Recognition	Total	PIC	FPIC
INGO	33%	6%	11%	17%	9%	4%	4%
ILC	19%	1%	8%	10%	54%	6%	47%
IGO	19%	≤1%	9%	9%	18%	9%	9%
Mixed (INGO/IGO)	14%	5%	4%	5%	6%	4%	1%
Official	**5%**	**≤1%**	**4%**	**1%**	**10%**	**8%**	**2%**
Secretariat	6%	2%	≤1%	≤1%	0%	0%	0%
Mixed (INGO/ILC/IGO)	2%	≤1%	≤1%	1%	0%	0%	0%
Other (Research/Donor)	2%	≤1%	≤1%	≤1%	3%	2%	1%
Total	100%	19%	37%	44%	100%	33%	64%

1) n = 216; 2) Does not include PIC/FPIC unless coded as part of a contestation/demand; 3) Discussion of PIC/FPIC refers to discussions on these as instruments, but were not specifically part of a justice demand or contestation

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[13] Field Notes, Article 8(j) Friends of the Chair, 10/22/10.

4.3.2 The Negotiation Space

Half of the ABS side events at COP10 foregrounded ILC rights and knowledge, while the rest focused on ABS more broadly. The majority of side events emphasized sharing experiences and lessons learned, as well as introducing new tools and ideas geared towards policy and project proponents. Approximately one-third, however, explicitly sought to influence negotiations by presenting language and policy options to be included in the ABS regime or by directing attention to issues deemed critical for the regime's success. It is in this negotiation space—the events and the interactions between events—where the struggles for justice transpired.

The following descriptive statistics provide an overall sense of the distribution of the justice discourse. Across the fifty-seven events, there were 216 expressions of ILC justice, averaging 3.8 expressions per event. Within the negotiation space, however, the justice discourse was confined to half of the events (twenty-four side and four official events, or 49 percent of ABS negotiations).[14] Moreover the justice discourse was not evenly distributed across these events. Three-quarters of the coded expressions of justice took place in ten side events and only 5 percent of justice expressions were articulated inside official events. Table 4 shows the percentage of the coded expressions that occurred across the negotiation space disaggregated by event host. These data demonstrate the confined pursuit of ILC justice in terms of its distribution across event

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[14] Discussions over PIC and FPIC that were not part of justice expressions took place in nine additional events.

types, and the prominent role of INGOs, ILCs, and IGOs in shaping the negotiation landscape.

Within the official events, justice as inclusion was the dominant thread resulting from the exclusion of ILCs from the ABS consultation group on traditional knowledge: "we are concerned we were not included in the final negotiations on [the traditional knowledge] paragraphs. IIFB is considering our position on the protocol. It is good practice [to] ensur[e] participation should be upheld in these negotiations."[15] There was one mention of justice through benefits sharing and two articulations of justice as recognition. Moreover, despite PIC's dominance as the CBD's primary justice instrument, debates on PIC and FPIC largely occurred outside official events: one individual side event accounts for nearly one-third of the PIC debate and three-quarters of the FPIC debate.[16] Beyond PIC debates, the justice discourse occurred mostly in events hosted by INGOs, followed closely by ILC and IGO events. Thus, despite the importance of an international ABS regime for ILC justice, the visibility and prominence of the ILC justice discourse during ABS negotiations was minimal. It emerged primarily in a handful of events with audiences dominated by non-state actors—not the party delegates negotiating the ABS regime.

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[15] Field Notes, ABS ICG, 10/28/10 afternoon session, ILC representative.

[16] Event #1878-FPIC: Experiences of Indigenous Peoples, hosted by the International Alliance of Indigenous and Tribal Peoples of the Tropical Forest—SEA Region.

4.3.3 Key Actors

Official events have specific rules of engagement for party and non-party delegates. According to the CBD Rules of Procedure, parties have full participation rights in official negotiation events: party delegates can introduce new text and recommendations and deliberate any topics related to the negotiations (CBD 1992b). Non-party delegates may actively participate at the discretion of the COP President, a responsibility that in practice at COP10 was delegated to the chairs of each session (CBD 1992b). Across the official events, ILCs had at least one seat at the negotiating table; in the Article 8(j) working group meetings, ILCs had three seats. The ABS Informal Contact Group provided seats for "Civil Society" and "Research Organizations."[17] In official events, these non-party delegates could participate, but had to secure support from a party delegate to provide new text or recommendations (CBD 1992b). Side events have no formal participation restrictions for any delegates.

Eight key groups of delegates emerged to shape the final Nagoya Protocol: ILCs, the Africa Group (Africa), the Like-Minded Megadiverse Countries (LMMCs; e.g. provider countries), INGOs, users (including user countries, research organizations, and related businesses such as the pharmaceutical industry), donors, IGOs, the Secretariat, and the host nation (Japan). Despite their interests in shaping the ABS regime, not all groups were engaged in the ILC justice discourse. For the purposes of this analysis, I

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[17] The participation of these stakeholders in the official negotiations was established in Decision VII/19 at COP7 in 2004. See: http://www.cbd.int/decision/cop/default.shtml?id=7756.

bluntly categorized these groups based on their roles in the discourse: ILCs as those demanding justice; INGOs as the "experts" advocating for ILC justice and advising both ILCs and states; and states as the primary target from which ILCs and INGOs demand ILC justice. Table 5 describes the interests of these groups and lists the most active actors within each group.

Table 5: Key Groups and Interests in the COP10 ABS Negotiations

Stakeholder Group	*Interests*	*Selected Active Actors*
ILCs	Self-determination, livelihood security	• International Indigenous Forum on Biodiversity • Indigenous Women's Biodiversity Network • Saami Council
INGOs	Legitimacy, reputation	• IUCN/CEESP • Third World Network • Church Development Service • Natural Justice • Global Forest Coalition
States	Sovereignty, acquiring and/or maintaining power, reputation, legitimacy	• Africa Group • Brazil • Like-Minded Mega-Diverse Countries (including GRULAC and Asia-Pacific Groups) • WEOG (including EU) • Canada • Australia • New Zealand • Japan

Among the more than seven thousand registered COP10 delegates, only seventy-nine directly engaged in the ILC justice discourse in the ABS negotiations. Table 6

demonstrates the degree of participation of these different actors and where they were most engaged. Where INGOs dominated the discourse, states barely participated. When States did engage, however, it was in both official and side events. In official events the CEE team had access to, the ILC representative only engaged in the justice discourse three times.[18] Two of these were acts of protest where the ILC representative highlighted ILC exclusion from the ABS consultation group on traditional knowledge without directly disputing the substance of a decision or agreement on text.[19] Although INGOs did not directly engage in official events because of structural constraints, the CEE team observed frequent consultations between INGOs and party delegates, as well as between INGOs and the ILC representative. For example, the key ABS negotiation advisor for the Africa Group was a lawyer from Natural Justice, an international INGO whose mission is to "to facilitate the full and effective participation of Indigenous peoples and local communities" in biodiversity conservation and governance across multiple scales.[20] Natural Justice also provided consultation to ILCs in other official events.[21]

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[18] Here ILC representative refers to the official ILC delegate seated at the negotiation table.

[19] Field Notes, ABS ICG, 10/27/10 morning and afternoon sessions.

[20] http://naturaljustice.org, accessed 12 March 2014; Field Notes, ABS ICG, 10/27/10 morning and afternoon sessions.

[21] Field Notes, Article 8(j) Friends of the Chair, 10/22/10.

Table 6: Participation in the ILC Justice Discourse

	Total # of delegates engaged in the discourse	Total % of contributions[3]	# of delegates who spoke…				% of total # of delegates engaged in discourse in…		% of contributions by justice thread[3]		
			once	2-5 times	6-10 times	≥11 times	Official Events	Side Events	Benefits sharing	Inclusion	Recognition
	79	100%	35	35	4	5	11%	89%	15%	34%	49%
INGO	21	50%	1	13	3	3	0%	100%	23%	29%	44%
ILC[1]	21	27%	8	12	0	2	10%	90%	7%	38%	56%
State	10	6%	8	3	0	0	40%	60%	0%	45%	55%
Other[2]	13	10%	9	4	1	0	8%	92%	31%	47%	22%
Unknown	14	7%	9	3	0	0	0%	100%	13%	38%	50%

1) *ILC here includes both the official ILC Delegate in the official events as well as delegates from Indigenous Peoples organizations and communities*
2) *Others mostly includes representatives from IGOs, as well as the Secretariat, Research Organizations, Media, and Donors; 3) n = 216*

Of the seventy-nine engaged delegates, four individuals were particularly outspoken, accounting for one-quarter of the ILC justice discourse (see Table 7). However, even these most outspoken delegates only engaged in the discourse across five total side events.

Table 7: Most Outspoken Delegates

Organizational Affiliation	# of events	% of total expressions[1]
Third World Network (INGO)	3	12%
Tanzania (Indigenous Peoples[2])	2	5%
Philippines (Indigenous Peoples[2])	1	5%
Ecoropa (INGO)	2	4%

1) n =216
2) Indigenous Peoples are analytically distinct from the ILC representative. They are individual delegates who identify as indigenous, representing one specific group or organization of Indigenous Peoples.

The ways in which the different actor types engaged in the justice discourse, as indicated in the discussion of the agenda above, was relatively similar. Although both

ILCs and INGOs were key actors directly contesting meaning, such moments of contestation were infrequent. Instead, deliberations focused on instruments and primarily unfolded between ILCs and INGOs.

Interestingly, the few heated contestations occurred in side events between INGOs and ILCs. For example, in one crowded event, a well-known and respected ILC rights activist from an INGO-moderated a panel on ICCAs. ICCAs are ILC managed protected areas of biological and ecological significance. The INGO representative promoted ICCAs as an important instrument—and possibly a silver bullet—for securing justice as recognition: "if you put it all together, [ICCAs are] a recognition of the self governance of indigenous peoples over their own territories."[22] An indigenous leader pushed back, however, suggesting that ICCAs deny justice as recognition, and that the "designation of ICCAs attack[s] [the] foundation of traditional institutions—it affects the struggle for land rights" and therewith the identities of indigenous peoples.[23] The INGO representative quickly dismissed these concerns by pointing to the need for FPIC and moved on to the next question, effectively ending deliberation.

These data show that overall engagement in the ILC justice discourse was highly limited. While some actors engaged across multiple events, the majority participated in

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[22] Field Notes, #2149-Strengthening What Works— Recognising And Supporting The Conservation Achievements Of Indigenous Peoples And Local Communities.

[23] Field Notes, #2149-Strengthening What Works— Recognising And Supporting The Conservation Achievements Of Indigenous Peoples And Local Communities.

fewer than five events—6 percent of the ABS negotiations. Not only was the overall

pursuit of justice limited in terms of engagement of different actors, there is no evidence

to suggest that there was significant translation of the discourse between official and

side events. Furthermore, the contestations over meaning, which were less frequently

articulated than debates over instruments, emerged primarily between INGOs and ILCs,

rather than between state and non-state actors. In the next section, I discuss these results

to examine possible explanations for the absence of debate over the meaning of justice.

4.4 Towards a Shared Meaning of Justice

The CBD provides ILCs and INGOs with relatively good opportunities to

directly engage in negotiations. The justice demands that emerged at COP10—for fair

benefits sharing, inclusion, and recognition—highlighted how contestations over

meaning are critical to the pursuit of ILC justice whereby the delivery of justice requires

changes to the existing conceptions of justice that underpin the CBD's justice practices.

However, even with the access provided to non-state actors at COP10, the pursuit of

justice was largely confined to debates over existing justice instruments or struggles

between ILCs and INGOs. Why was the struggle for ILC justice so muted in the ABS

negotiations?

One possible explanation is that both structural and capacity constraints limit

effective and representative participation. It is possible that not everyone who should or

would participate is able or willing to take the opportunity and thus only particular

discourses are represented (Dryzek and Stevenson 2011; Ford 2003). Furthermore, the

agenda for the negotiations is determined in advance, limiting the overall scope of the deliberations to existing sticking points. It is also possible that ILCs in particular are pursuing their justice agenda through other avenues—both within COP10 and outside of the CBD—because they cannot cover the large number of simultaneous events and have determined their efforts would be more fruitful in other arenas.[24] Alternatively, ILCs may pursue other avenues because their critiques are sometimes silenced by INGOs and states. Or maybe ILCs simply opting out, recognizing that they cannot compete within the system, especially when INGOs—ostensible advocates for ILCs— appear to be aligning more closely with states than ILCs in how they pursue justice. Yet, by engaging, even minimally, in the discourse of instrumentalization of justice as directed by states and redirected by INGOs, ILCs lend legitimacy to the agenda and the conceptions of justice that undergird the CBD's justice instruments of choice.

Reflecting closely on the role of INGOs and ILCs, another possible explanation emerges. In particular, the role of INGOs in redirecting the discourse towards an instrumentalization of justice and the absence of ILC contestation to this instrumentalization raises the possibility of a shared meaning of justice, or more precisely a justice metanorm that guides approaches to justice in GEG. Two indicators help establish the existence of a justice metanorm: first I identify the norms and practices that have "acquired a prescriptive, taken-for-granted status;" and, second I identify

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[24] See Hagerman et al.(2012) for evidence of the pursuit of ILC justice in the negotiations centered on climate change at COP10.

areas where shared meanings have emerged (Checkel 1997, 481; see also Conca 2006). Importantly, the existence of a metanorm does not suggest that it, nor its component norms and principles, are uncontested. Instead, a metanorm serves to constrain the institutional possibilities that can emerge from particular governance architectures (Aggarwal and Chow 2010; Conca 2006).

4.4.1 Prescriptive Status

The justice practices prescribed by the CBD in 1992, namely PIC and MAT, were the only practices deliberated and ultimately included in the Nagoya Protocol, despite their demonstrated ineffectiveness and the incompatibility of their underlying conceptions of justice—justice in exchange, inclusion as presence, and state centered authority—with the demands for ILC justice (Firestone 2003; Minter et al. 2012). Their inclusion in the Nagoya Protocol and the near exclusive emphasis on PIC in the negotiations demonstrates how the CBD's "norms tightly constrain the range of acceptable agreements" (Moellendorf 2009, 248). The role of INGOs is particularly important in maintaining the prescriptive status of these instruments, as well as their underlying conceptions of justice. In particular, similar to the effects of overemphasizing the distributional dimension at the expense of alternative dimensions of justice, the instrumentalization of justice depoliticizes its pursuit (Martin, Akol, and Phillips 2013). In effect, the INGOs' emphasis and redirection of the discourse towards PIC in particular reinforces the dominant justice framework of the CBD.

4.4.2 Shared Meaning

The instrumentalization of justice in the ABS negotiations also shifts the focus of the discourse towards questions of compliance and effectiveness rather than legitimacy and meaning. Thus, opportunities for normative shifts become fewer. The justice conceptions within the dominant instruments become de facto meanings of justice, despite the clear demand for alternative conceptions. For example, underpinning the two common responses to contestations of meaning—*right practice, wrong implementation* and *rules of order*—is the assumption that conservation actors have a unified understanding of justice, deeming contestation over meanings or practices founded on particular conceptions of justice unnecessary. The result is a limited deliberative space in which alternative justice possibilities could emerge.

The role of INGOs is particularly important for identifying instances of shared meaning: without instrumentalizing justice using established practices, the dominance of the underlying justice conceptions could be attributed largely to the exertion of power by states. In ABS negotiations, however, state and INGO conceptions of justice aligned, bound to the instruments they promoted. This may reflect the need for INGOs to adopt the dominant language of state led governance in order to source legitimacy from states, which they require to advance their interests (for example, Barnett and Finnemore 1999). It also reflects, however, the evolving divisions between INGOs as members of epistemic communities, providing advice and expertise related to the negotiations, and that of civil society, where activists critically engage in contestations over the content and norms of

international policy (Ford 2003). Thus, in the ABS negotiations, INGOs acted as norm enforcers (rather than norm entrepreneurs) supporting the existing conceptions of justice in GEG.

4.5 Conclusion

The COP10 ABS Negotiations demonstrate the challenges and complexities of the pursuit of ILC justice. In this article, I established the limited nature, scope, and engagement in the justice discourse and suggested the existence of a justice metanorm as one constraint to the pursuit of ILC justice. Not only was the pursuit of ILC justice enacted primarily by a handful of actors in a small subset of events, their engagement centered on deliberating *how* to deliver a pre-established notion of justice rather than tackling the questions of *what* and *whose* justice is demanded. Although plural, multivalent understandings of justice emerged at COP10, there was a convergence in the ABS negotiations towards a preexisting set of justice practices underpinned by particular justice norms and ideas. The absence of contestation over meaning is problematic because ILC justice ultimately demands shifts in the normative fabric and orientation of GEG—shifts that are only possibly through debates over the substance of justice.

These findings have a number of implications for how we understand contemporary GEG and its increasing emphasis on collaborative modes of governance (Andonova and Hoffmann 2012). First, despite the relatively broad access the CBD provides to non-state actors, including reduced barriers to active engagement in official

events, ILCs remain marginalized across the negotiation space. This signals the possibility that even as the deliberative space expands to include more actors, the space for introducing and contesting norms, ideas, and meanings remains constrained. Second, although INGOs have acted as powerful moral compasses in GEG, their role is shifting. While INGOs were the most engaged actors in the ILC justice discourse, they focused the discourse on instruments of justice rather the underlying conceptions of justice. This raises questions about the extent to which INGOs advocate for justice as demanded by ILCs, or whether INGO interests are evolving to align with those of states. Both questions are concerning for INGOs, whose legitimacy is derived in part from their representation of weaker voices in GEG, and for ILCs and others searching for greater representation in GEG. Third, the possibility of a justice metanorm introduces a new and potentially powerful variable for understanding the realm of institutional possibilities for delivering justice to ILCs, questioning the extent to which there is space to debate institutional designs for addressing justice as recognition. This finding resonates with that of other scholars who have identified the role of metanorms and meta-regimes in shaping the larger institutional possibilities both in GEG and global governance more broadly (see, for example, Conca 2006; Aggarwal and Chow 2010). Furthermore, and especially because of INGO support for the dominant conceptions of justice in the ABS negotiations, it is possible that the justice metanorm could extend its reach beyond state led GEG and into private, non-state, and hybrid forms of GEG, a possibility that demands further research into the existence and effects of a justice metanorm.

This analysis does not intend to suggest that ILCs made no gains towards justice at COP10. For example, the inclusion of references to the UNDRIP in the Nagoya Protocol is an incremental gain that represents subtle and important shifts in the justice landscape for ILCs (Bavikatte and Robinson 2011). As one key informant suggested, this language starts "pushing towards a certain kind of jurisprudence…it creates a new discourse of peoplehood… [that] is linked to certain practices, which is in turn linked to certain lands…"[25] Although it represents a significant movement towards ILC justice, to keep moving forward those interested in ILC justice need to shift the discussion from instruments to consider the substance of justice. Norm entrepreneurship remains a critical role for actors seeking to bring about the normative shift that ILC justice demands.

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[25]. Field Notes, Interview, October 28, 2010, INGO Representative.

5. Instrumental Justice: INGOs and the Translation of Global Forest Justice Mandates in Laos

The literature on norms and global governance suggests that norm shifts generally happen at the global level and new norms are subsequently diffused to domestic levels (Risse et al. 2013). However, although the struggle for justice for forest-dependent communities is fundamentally a normative one, the political space for norm contestation and subsequent shifts at the global level appears to be contracting as INGOs align more closely with states in the realm of justice and global forest governance (Marion Suiseeya forthcoming). More specifically, as presented in the previous chapter, INGOs and states at the global level are adopting shared meanings of justice. They direct debates towards effectiveness of and compliance with dominant instruments for justice based on the predetermined conceptions of justice embedded within the justice metanorm, rather than deliberating the underlying meaning and conceptions of justice (Marion Suiseeya forthcoming). Furthermore, states are positioned as the sole arbiters of justice. Thus, although forest-dependent communities, represented as "ILCs" in international policy-making spaces, have been able to ensure that the justice discourse in forest governance maintains its prominence in global arenas, their alliances with INGOs as traditional justice advocates in global forest governance—and therewith an important source of power and agency to stimulate normative shifts—are eroding at the global level. The effect of this at the global level is limited institutional change—institutional stagnation—over time.

Norm acceptance at the global level, however, does not necessarily lead to compliance or adoption at the domestic level. Moreover, the constraints to the deliberative space in the international policy making arena do not necessarily translate into constraints at the domestic level. Generally the substance of norms—their meaning and what gives rise to the practices for norm compliance—is intentionally vague at the international level such that states and other domestic actors can build congruence with and localize norms and therewith constructing meaning to enhance the domestic salience and legitimacy of international norms (Cortell and Davis 1996; Keck and Sikkink 1998). The processes of norm contestation at the domestic level can contribute to the emergence of locally contextualized meanings of justice that either undermine or reinforce the justice metanorm. These adapted norms may result in diverse and differentiated justice practices at the national and local scales. Thus, where the space for contesting and reconstructing the justice metanorm and its constituent norms is limited at the global level, it may exist at the domestic level.

In this chapter I direct attention to the ways in which the state and INGOs as justice agents translate the justice metanorm and its constituent norms into practice and ask *to what extent and how are the normative struggles for justice taking place at the domestic level?* Using Laos as a case study, where the role of INGOs in creating deliberative spaces is especially important because of the existing limited political space for citizens and civil society to engage in processes of contestation, I investigate the nature of the justice gap in Laos. Specifically, I examine how states and INGOs translate the justice

metanorm and its constituent norms into practice and ask to what extent normative struggles over justice take place at the national and subnational levels, both through the processes of norm diffusion as well as through the deliberative spaces these agents create for norm contestation (and further diffusion), therewith shaping the justice experiences of forest-dependent communities in Laos. I identify the justice practices and examine them through the lens of the justice metanorm to identify instances of norm contestation and meaning reconstruction. Despite the unlikelihood that Laos would comply with international justice norms and practices, based on its poor compliance with human rights, transparency, and anti-corruption obligations, the state has mainstreamed its justice obligations in global forest governance into its forest institutions. Moreover, the state and INGOs deploy nearly identical policies, practices, and procedures, suggesting that the justice metanorm and its constituent norms have a high degree of domestic salience.[1]

The paper proceeds as follows: I first specify the types of INGOs I focus on in this dissertation and their role in the norm diffusion process. I then set the stage for understanding Laos' engagement in global forest governance. This includes an overview of forests and forest institutions in Laos. This is followed by an examination of the role of the state and INGOs as the primary justice agents for ILCs. I then introduce the most

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[1] The next chapter examines, however, whether or not the meanings of justice embedded in the metanorm align with those of the state, INGOs, and forest-dependent communities in Laos and finds that there is a significant gap between them.

common justice practices and direct analytical attention to the rationale employed by the state and INGOs when adopting justice practices. In the analysis and discussion, I point to the rationales embraced by INGOs that maintain justice as instrumental,[2] aligning their justice practices with those of the states. I conclude with a discussion of the implications of the instrumentalization of justice for the pursuit of global forest justice, emphasizing the constraints to the deliberative space.

5.1 INGOs as Norm Diffusers

As briefly alluded to earlier in this dissertation, INGOs often serve as moral agents in global governance. Globally, and especially in Laos—an authoritarian, one-party state with effectively no local civil society organizations—INGOs have long served as moral compasses in global governance. As norm entrepreneurs they pursue agendas pushing states to alter their value orientations in governance (Betsill and Corell 2008). For example, INGOs have contributed to important shifts in the normative orientation of environmental and human rights regimes (Keck and Sikkink 1998; Wapner 2002; Risse et al. 2013), introducing the concepts of rights-based approaches to conservation, among others (Sikor and Stahl 2011). They do so not only as beneficent actors but also because their legitimacy and credibility is tied, in part, to their effective pursuit of moral and ethical agendas (Slim 2002; see also Starobin and Weinthal 2010). Furthermore, INGOs

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[2] Instrumentalization is defined as the process of inscribing social and political values into technological arrangements that are used to achieve particular ends (Bos 2008; Boudreau 2007).

can create deliberative spaces where these spaces otherwise do not exist. For example, initiated primarily through the efforts of INGOs, the space for non-state actors to engage in global environmental governance, especially in international regime negotiations, has expanded significantly to embrace multi-stakeholder democratic models of governance (Bäckstrand 2006). ILC Representatives, for example, now have seats at the negotiation table at the CBD and are slowly increasing their influence (Witter et al. 2011). And although INGOs are credited with pursuing new global norms to influence global forest governance to secure commitments to participation, indigenous knowledge, women, and benefits sharing in institutions across the GFRC (Humphreys 2008), there is a large body of literature critical of INGOs that documents how INGOs often pursue preservationist objectives with high human costs and must increasingly navigate multiple conflicts of interest (see, for example, Chapin 2004).

Such conflicting findings point to the need to carefully consider the diversity among NGOs and how the characteristics of NGOs shape their roles and relationships in global forest governance, including their contributions to the norm diffusion process. In this study, I adopt Betsill and Corell's (2008, 4) broad definition of NGOs, where "an NGO is an organization that (1) is not formed by intergovernmental agreement, (2) has expertise or interests relevant to the international institution, and (3) expresses views that are independent of any national government" (see also Oberthur et al. 2002). Thus, by definition, we should expect NGOs to operate distinctly and independently from the

state. I differentiate between global INGOs, which are those NGOs that operate across multiple scales of governance, regional INGOs, which are NGOs that operate primarily within multiple domestic arenas, and local INGOs, which are NGOs that operate within one domestic arena outside of the state in which they originated, i.e. they are governed by citizens of another state (see Table 8). There are also domestic NGOs, which emerge and operate within one state and are governed by citizens of that state. Regardless of the scale at which they operate, all NGOs may perform one or more of the following functions: influence decision-making (of states and other governmental bodies, organizations, firms, and/or individuals at both international and domestic levels), direct implementation, civil society formation, and monitoring/compliance activities (Betsill and Corell 2008).

Table 8: Differentiating NGOs by Scale of Operation

Scale	Characteristics
Global INGOs	- Operates across multiple scales of governance
Regional INGOs	- Operates primarily at the domestic level in multiple states in one region
Local INGOs	- Operates primarily at the domestic level within one state that is outside the home state of the founders or originators of the INGO
Domestic NGOs	- Emerges and operates primarily at the domestic level within one state

The scale at which an INGO operates determines, in part, how that INGO interacts with global norms, and, of interest to this dissertation, the justice metanorm. Because the metanorm itself has no agency without an actor to diffuse and enforce it, I direct my attention to global INGOs who were instrumental in pursuing the justice metanorm in the GFRC. Through their multi-scaled engagement, these actors serve, along with states, as core diffusers of norms and policy innovations (see Figure 3 in Chapter 3). Regional and local INGOs, as well as domestic NGOs also play a role in the norm diffusion process, but because they do not often participate in decision-making outside of the domestic space, their direct, independent participation in norm creation, diffusion, and evolution processes is constrained within the domestic sphere. Through domestic engagement they can seek to influence states or global INGOs to transport their ideas and contestations up to the global arena.[3] Directing my attention, thus, to global INGOs operating in Laos provides opportunities to observe and analyze the diffusion process across all scales of governance, including how global INGOs respond to the feedback of other INGOs, and identify the mechanisms through which the justice metanorm exerts influence on the justice experiences of forest-dependent communities.

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[3] Although, as briefly discussed in Chapter 3, local level actors are beginning to jump scales directly to the global level, bypassing global INGOs, states, and other actors that have traditionally navigated between the international and domestic spaces.

Although there is considerable diversity in the mandates and missions of INGOs working in the forest governance sector, the INGOs of interest to this study integrate both environmental and human rights values into their work; in addition to their conservation priorities they frame their ambitions and contributions through a human rights lens, integrating justice norms and practices into their project and program designs. Despite the incorporation of justice ideas into their work, however, these INGOs are not necessarily motivated by justice. To observe the effects of the justice metanorm, thus, we cannot assume that all INGOs are motivated by justice and that they would pursue more effective justice practices in the absence of the metanorm. Instead, I argue that if the justice metanorm does constrain the behavior of forest governance actors, we should expect to see an alignment of policies and practices and limiting of the deliberative space in the domestic sphere to consider alternative institutions and pathways to justice. We should see a convergence of ideas, practices, and norms between the state and global INGOs, despite the distinct and independent interests of these two types of actors.

The legitimacy of INGOs in global environmental governance is linked not only to their roles as effective moral agents. They also require—and source—legitimacy from the states within whose jurisdictions they operate as well as from the vulnerable and marginalized communities they claim to represent or protect in their conservation efforts. INGOs are faced with a *triple legitimacy dilemma*: they must balance the often-

competing expectations and demands of states, communities, and the global community in order to maintain legitimacy and ensure their survival and persistence as organizations. Thus, although INGOs could pose a threat to "minimize the influence, authority, and primacy of states in world politics" by providing alternative and more desirable forms of governance (Tamiotti and Finger 2001, 56; see also Rosenau 1990), for the most part their strategies have been directed towards stimulating normative shifts in the overall architecture for global environmental governance (Wapner 2002). Given that the operational meaning of most international norms is constructed at the national and subnational levels (Wiener 2007), we can expect that, as moral agents, INGOs would directly engage in shaping the meaning of these norms both directly through contestation and by creating deliberative spaces in which contestation can take place in the domestic arena.

5.2 Global Forest Governance and Laos

Since 1986, the year the Lao government adopted the New Economic Mechanism, marking the beginning of their transition to a market-based economy, the number of international organizations, donors, and NGOs working in Laos has steadily increased. The initiatives undertaken by the global community in Laos have focused on poverty alleviation and economic development, with a strong emphasis on rural and natural resource sector programs. Natural resources, and especially forests and forest resources, are considered vital for Lao communities, the Lao state, the region, and the global community. Official reports estimate current forest cover in Laos to be around

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40.3%, a decline of more than 4% since 1990 (Vientiane Times 2011); other estimates

suggest a higher rate of loss with a current forest cover between 35% and 40% (World

Rainforest Movement 2007). Forests provide food, fuel, and shelter, as well as bundles of

other instrumental and intrinsic values captured under an ecosystem services

framework, such as biodiversity, water and air quality, and carbon services.

Additionally, forests are the primary resource, exported in the form of raw timber, used

to repay state debts to Vietnam for their assistance in the Second Indochina War.[4] In

addition to their high value for the Lao economy, local livelihoods, and conservation,

however, the expansive forests of Laos have long been a source of conflict: conflicts

between preservationists and developers, between those who view the forests as

inherently valuable and those who view them as symbols of a lack of civilization or

progress, and between the state and the rural poor (Singh 2012). As the realm of global

forest governance expands to include the values of forests as carbon sinks, linking forest

conservation with climate change, a new conflict is emerging, one characterized by the

struggle to determine which forest values are ultimately the most important. And,

although Laos has yet to see the fears of carbon land grabs emerge as witnessed in other

poor, tropical forested countries (Rights and Resources Initiative 2014), globally the new

surge of capital directed towards large-scale carbon sequestration has heightened the

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[4] Personal communication, Government Representative, August 23, 2011, Vientiane, Laos. See also Singh (2012).

sense of uncertainty and distrust about the future of the world's forests, especially among INGOs who have long served an advocates for forest-dependent ILCs in Laos.

With support from bilateral and multilateral donors, as well as from INGOs, the Lao government has made international commitments to conserve forests and to preserve biodiversity as a signatory to the CBD and, most recently, as a recipient of funding through the UN-REDD and FCPF programs. Linked to these international forest conservation obligations are a set of justice obligations that have emerged in response to claims of injustice by ILCs, including marginalization, theft of resources, and loss of access. The CBD and, more recently, REDD+ guidelines have sought to promote participatory conservation and benefits sharing as two avenues through which justice for ILCs can be delivered (Rosendal and Andresen 2011; Jagger et al. 2012). Because the Lao state has limited capacity, especially in terms of human resources and technical capacity (similar to most other Least Developed Countries), they rely heavily on the international community to help develop and implement policies and initiatives.

Forests in Laos are governed primarily under the Forestry Law, first enacted in 1996, with subsequent revisions in 2004 and 2007; the Forestry Law is again under revision, ongoing since 2011 although it is unclear when the National Assembly will finalize the revised law. The objectives of the Forestry Law include:

> *"…maintaining a balance of nature, making forest and forestland stable sources of living and use for the people, ensuring a sustainable condition and protection of the environment, water resources, protection from soil erosion and maintenance of soil quality, protecting plants, tree species wildlife and aquatic life, as well as contributing gradually to national socio-economic development"* (Ministry of Agriculture and Forestry, Lao PDR 2007).

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In Laos' Forestry Law, forests are delineated into three types of forests: production, protection, and conservation forests. Although individuals and communities do not have legal ownership over forests in Laos, which are the sole property of the national community managed by the state, individuals may own transferrable use rights. The Forestry Law also recognizes customary use of forests and forest resources but does not provide guidance on legal mechanisms to support customary use. To implement the Forestry Law and related laws and policies, the Government of Laos (GOL) has maintained five major programs since 1988: 1) protected area and biodiversity management (since 1988), 2) shifting cultivation reduction program (since 1993), 3) land and forest allocation (since 1993), 4) community forestry and non-timber forest products (since 1993), and 5) focal site strategy and village relocation and consolidation program (since 1994, revised in 1998) (Whiteman 2004). In this dissertation, I focus on projects under the GoL's protected area and biodiversity management program because of its clear linkages to the global forests regime.

5.3 Justice Agents in Laos

Within this overarching institutional structure, there are two primary types of actors implementing forest governance projects—that is those actors charged with translating policy into practice at the national and subnational levels: government

agencies and INGOs.[5] Both of these actors also serve as the primary justice agents in forest governance interventions in Laos.[6] Government actors involved generally include departments and divisions from two ministries, the Ministry of Agriculture and Forestry (MAF) and the Ministry of Natural Resources and Environment (MONRE), as well as their respective line agencies at provincial, district, and village levels. Among the INGOs involved in forest conservation governance, there are three driven by conservation missions with a significant presence in Laos: WCS, WWF, and IUCN.[7,8] The directors of both WWF and WCS are foreign expatriates; IUCN is co-directed by a Country

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[5] Although there is a small and growing civil society in Laos, comprised of local non-profit associations, it has only emerged since the 2010 Decree on Non-profit Associations that formally permitted the establishment of such organizations. Prior to this decree, a small handful of local civil society organizations operated most often in partnership with donors and IOs, such as the Gender and Development Group that has since become the Gender and Development Association. There are two national agencies—the National Front for Reconstruction and the Lao Women's Union—that the government refers to as civil society organizations, but they are effectively arms of the party that help disseminate party policies and coordinate party activities at local scales. Generally these organizations have not been heavily involved in forest conservation governance project design and management.

[6] See discussion on justice agents in Chapter 3.

[7] Technically, IUCN is an international organization that has both state and non-state members. In Laos, however, they operate most similarly to WWF and WCS as INGOs rather than international organizations such as the Food and Agriculture Organization of the UN (FAO). Thus, for the purposes of this analysis, I include them as an INGO.

[8] Two other INGOs, Village Focus International (VFI) and the Global Association for People and the Environment (GAPE), are also intensely involved in both forest and land governance but with more targeted regional foci in Laos and an emphasis on community development. Beyond these INGOs, there are a number of donor and IO initiatives, such as the Japanese Volunteer Center. Again, however, many of these projects emphasize rural community development and poverty alleviation, although some of their activities may involve forest conservation. Similar to the legal landscape in Laos, there are many cross-sectoral projects and initiatives with potentially overlapping mandates, but for this analysis, I am focusing only on those actors driven by conservation missions rather than those driven by other rural development missions that may have spillover conservation effects.

Representative who is a Lao national and a Program Coordinator who is a foreign expatriate. Unlike in more democratic states where INGOs may operate largely independently from the state, INGOs operating in Laos must have a formal relationship with at least one government agency and require an operating permit issued by the Ministry of Foreign Affairs. In practice this means that INGOs must justify their presence in Laos by demonstrating how their work helps support the goals and objectives of the Lao government. They must also provide reports to and gain approval for programs of work from the government in order to renew their permits and visas.

Generally these three INGOs help support the government meet their international conservation obligations and implement the Forestry Law and other conservation-related laws through one of three main arrangements:

1) Partnerships: INGOs and government staff work share responsibility for developing, implementing, and evaluating policies and projects. The government dedicates staff to the initiative and there is usually a cost-sharing arrangement between the INGO and the government agency, with each entity maintaining separate budget lines for the project.

2) Advisory services: INGOs offer technical advice and expertise to government initiatives. This may include drafting or reviewing draft policies, regulations, and legislation, or it may include development of project and grant proposals. Such services may also include direct implementation activities

such as flora and fauna surveys or training in technical areas as requested by the government.

3) Parallel projects: INGOs develop, implement, and evaluate projects that align with government priorities or obligations. Government staff are often involved during strategic points of the project, such as project inception, evaluation, and closure and this involvement is supported through INGO project budgets, but day-to-day management of projects is the responsibility of the INGO.

Ultimately, in each of these arrangements, all project designs and policy proposals are subject to government approval and supervision, but the degree and scope of involvement of the government varies. Generally, however, even under partnership and advisory services relationships, INGOs often introduce new ideas and opportunities that the government may be interested in pursuing under one of their five major forest programs. Under each of these arrangements, INGOs build capacity, contribute human and financial resources, and provide technical expertise. In some cases, INGOs provide funding for government staff positions, but in most cases they work with existing government staff or second INGO staff to a government agency.

Each of these INGOs has been operating in Laos for varying lengths of time (WCS since the 1980s, WWF since 1990, and IUCN since 1992) and they have maintained

a steady presence with ongoing relationships with the government.[9] Among other things, these INGOs have helped establish Laos' National Protected Area system, supported its accession to the CBD, Ramsar Convention, UNFCCC, the World Heritage Convention, and the CCD, and provided training to government field staff across the country. They have also contributed to drafting key legislation and policies such as the Forestry Law, the Programme of Work on Protected Areas, the Forest Strategy to 2020 (FS2020), the National Biodiversity Strategy and Action Plan (NBSAP), and the REDD+ Readiness Plan Implementation Note, among others. Additionally, and perhaps most relevant to this research, these INGOs have developed and implement dozens of forest conservation projects in every province across Laos. In effect, these INGOs are a primary conduit for the diffusion of conservation knowledge, best practices, and policies from the global to national and subnational scales.

Common amongst the missions of the three primary conservation INGOs in Laos is recognition of the importance of forest resources to the livelihoods of local communities and a commitment to promoting sustainable livelihoods alongside conservation. For example, IUCN's mission in Laos is "to ensure that the ecosystems and natural resources of Lao PDR are effectively conserved and sustainably utilised in an equitable manner that contributes to the socio-economic development of the

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[9] http://laos.wcs.org/AboutUs/HistoryMission.aspx;
http://wwf.panda.org/what_we_do/where_we_work/greatermekong/our_solutions/;
http://www.iucn.org/about/union/secretariat/offices/asia/asia_where_work/lao/iucn_lao_iucn_laopdr/.
Accessed 17 March 2014.

country"("About IUCN Lao PDR" 2014). Although IUCN is the only INGO of the three to invoke a principle of justice—equity—in their mission statement, project documents from all three INGOs revealed a long-standing commitment to promoting justice in their programs, aligning both with government policies and global directives. Specifically, approaches to justice in INGO project documents and in government documents reflect different dimensions of justice: the majority of projects prioritize procedural and distributional justice, although all projects embed practices to address all three dimensions of justice (procedural, distributional, and recognitional) (see Schlosberg 2004; Schlosberg 2007).

5.4 Justice Practices in Laos

To understand how justice norms are translated into practice by the state and INGOs, I draw primarily from data gathered in interviews with 63 key informants, including INGO, government, donor, and IO representatives, expert consultants to the government, and 168 households (see Tables 9 and 10 in Chapter 6) across the country, as well as field observations from September 2007 – June 2009 and September 2012 – March 2013. I also gathered project documents and policies related to the government's first major program in forestry: protected area and biodiversity management, which is also the oldest, ongoing program in Laos. The sample of projects included all those

implemented by or in partnership with one of the main conservation INGOs in Laos

(WWF, WCS, or IUCN) involving at least one national protected area in Laos.[10]

Table 9: Key Informant Interviews

Key Informant Category	Number of Individuals Interviewed
Government Representatives – Ministerial Level	9
Government Representatives – Provincial Level	6
Government Representatives – District Level	8
INGO/Regional NGO Representatives	9
Local Civil Society Representatives	8
Donor (bilateral and multilateral) Representatives	6
Donor Project Representatives	12
Other Experts	5
Total	**63**

[i] *The majority of key informants were interviewed two or more times*

An analysis of the project and policy documents reviewed for this study revealed

three common justice practices: **participation, gender and ethnic mainstreaming, and**

land allocation, reflecting the three main dimensions of justice—procedural,

recognitional, and distributional.[11] In addition to these common instruments, all projects

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[10] Note that all of the projects included in the sample have been funded at least in part at one point in time by the World Bank although they are run independently by INGOs.

[11] Safeguards is another common justice tool in projects funded by multilateral donors like the World Bank and are gaining attention with the rise of REDD+, but I do not discuss these in this paper because they are primarily used by the World Bank in the project appraisal period to determine whether or not a project requires additional measures be taken to safeguard women or ethnic minorities (among other target issues). Only one of the projects in my sample triggered a safeguard – the ethnic minorities safeguards, requiring an ethnic peoples plan for the project.

referenced benefits sharing through both direct and indirect means, such as village revolving funds and, most commonly, revenue generation through ecotourism development. There is also a recent rise in the adoption of FPIC in conjunction with REDD+ projects, but this was not a common activity in the projects sampled for this dissertation. Notably, most of these practices emerged in Laos not in response to claims of injustice among forest-dependent communities in Laos but in response to pressure from the international best practices. I discuss each of these in turn below and examine the values, ideas, and dimensions of justice embedded in each practice with an eye towards the explicit and implicit rationale behind the adoption of these practices as expressed in documents and interviews. Attending to the rational behind the adoption of particular justice practices provides insights on how justice is or is not instrumentalized by different justice agents. When justice is instrumental, justice agents are not pursuing justice as their primary motivation, but rather see compliance with justice obligations as a means to some other more functional ends, such as the achievement of conservation or livelihood goals. This is problematic because when justice is the means, not the ends, justice agents do not always engage in norm contestation or create the deliberative spaces that are necessary to produce justice for forest-dependent communities.

5.4.1 Participation

Ubiquitous among conservation and development projects around the world, participation is a similarly pervasive approach to forest governance in Laos. It is the

primary mechanism for ensuring community awareness of and involvement in forest

governance efforts in Laos. In theory, participation could contribute towards promoting

procedural justice and narrowing the justice gap by responding to global forest-

dependent community demands for *inclusion and representation* in decision-making

processes (see Marion Suiseeya forthcoming). Through such inclusion and

representation in decision-making for forest governance, conservation actors could

promote participation parity and more democratic approaches to forest governance—

both indicators of procedural justice—while also expanding the political space in which

forest-dependent communities can pursue justice (Boudreau 2007; Fraser 2009). In this

sense, participation could be a critical tool for producing multiple dimensions of justice.

Laos provides a clear mandate for participatory approaches to forest

governance: "the participatory approach to development and management is the official

policy of the Government as supported by the Forestry Law, the Water and Water

Resource Law and other legislation, decrees and instructions" (MAF 2005, 36). Nearly all

policies, regulations, decrees, strategies, and project guidelines related to forest

governance require participation of local communities. As one high-level ministerial

official noted, "our main objective is participatory forest management for any category

of forests. We should get people involved and they should get benefits from it."[12] In

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[12] Personal communication, Government Representative, 11 March 2013, Vientiane, Laos.

other words, forest governance in Laos does not exist without the participation of forest-dependent communities.

Although the purpose of this research is not to evaluate the extent to which justice practices are effective or complied with in Laos, to understand the pursuit of justice I do need to scrutinize *how* each practice is conceptualized and operationalized. In the case of participation, its meaning in government and INGO project documents is difficult to discern and its practice is rarely specified.[13] In the Lao language there is a critical distinction between two words that are both translated into English as "participation" — *gan-mii-khao-huam* and *gan-mii-suan-huam*. The former refers to passive forms of participation, such as attending meetings and receiving information. The latter refers to more active forms of participation, such as contributing to decision-making, volunteering in patrolling and monitoring activities, planting trees, or joining a handicraft or vegetable production group. Although my direct observations of project activities revealed that projects employ both passive and active forms of participation to varying degrees, in the realm of decision-making, there is rarely any active participation from forest-dependent communities. One important exception to this is the solicitation of villager input for deciding alternative livelihood activities, which was common across state and INGO projects, but community input is rarely, if ever, solicited for the larger project design, including decisions about the necessity for and scope of a project.

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[13] Marion Suiseeya and Caplow (2013) find similar results in an examination of forest carbon projects from around the world.

The most common participation activity across projects was information dissemination. This includes holding village meetings, distributing posters, fliers, or information booklets, and supporting radio advertisements to distribute information about laws, regulations, and policies, as well as general educational materials about biodiversity and forest conservation. Although the underlying rationale for this kind of participation was similar across both state and INGO projects (namely that villagers who have knowledge or information will change their behavior towards the target resource), the approach to dissemination of laws in particular varied between government and INGO projects, with INGOs engaging more creative forms of dissemination such as through posters and radio spots, where government dissemination frequently involved a village or district official reading the text of the law at a village meeting or over the village loudspeaker. The most innovative dissemination practices emerged through WCS' Integrated Ecosystem and Wildlife Management Program (IEWMP) partnership project that used community theaters and concerts as an educational tool; it is now being replicated in other INGO projects.[14] Whereas INGO approaches sought to find a way to transform information into useable knowledge, government-led approaches focused on distribution (the indicators, however, of dissemination were the same across projects, namely total number of villagers reached through dissemination activities). Notable during my time in Laos was an emerging

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[14] Personal communication, INGO Representative, February 9, 2013, Vientiane, Laos.

tension between INGOs and the state regarding the selection of content to disseminate. In one example where Village Focus International (VFI) disseminated information about villager *rights* as established in the Land Law (the maintenance of such rights was considered a core justice criterion among INGO respondents), the project's Memorandum of Understanding was not renewed in late 2012 and the project was subsequently shut down. Although the official reasoning for this decision was not made available to the public, many interviewees suggested that the government was not comfortable with disseminating information to villagers that could empower individuals. Government pressure to selectively disseminate information represents one of many constraints to effective and meaningful participation in Laos.

In some cases INGO actors identified and recognized the constraints to meaningful participation in Laos within their project design documents—recognition not conceded in government project documents. For example, WCS notes the "hierarchical culture" of governance in Laos that delineates how projects are designed and managed (WCS 2004, 33). WCS therefore operates in direct partnerships with the government, decentralizing implementation of activities to district and village level government agencies without directly engaging villagers in the project design and implementation (WCS 2004).[15] Although they recognize this constraint, WCS notes the importance of using an integrated conservation and development approach and

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[15] Note that villagers are not included in the list of key project stakeholders.

identifies villager participation as a critical factor for achieving the project's conservation objectives, but does not include villagers in their list of key project stakeholders (WCS 2004). In practice, hierarchies in Laos restrict participation along lines of authority—there are "prescribed norms of engagement in public venues"[16]—whereby only those with the appropriate ranking and designated authority, or relationships to those in power, exercise agency. And while INGO project proponents recognized the power differentials in Laos that often lead to either an absence or coercion of participation,[17] they maintained that participation is an important standard practice, one that often signals to donors that they are following global best practices.[18]

In another example, an international expert who has been working in biodiversity conservation in Laos for more than fifteen years noted that when villagers in one project he advised selected the alternative livelihood activities, the main activity—raising large livestock—was not suited to the local landscape and ultimately failed. In his view, this outcome exemplified participation gone awry, whereby the mandate for community participation detrimentally outweighed the needed livelihood benefits the project might have otherwise generated.[19] Instead the expert argued that

[16] Personal communication, INGO Representative, February 21, 2013, Vientiane, Laos.

[17] Personal communication, INGO Representatives, May 12, 2008, August 19, 2011, November 3, 2012, Vientiane, Laos.

[18] Personal communication, INGO Representative, August 13, 2011, Vientiane, Laos.

[19] Personal communication, Donor Project Consultant, January 27, 2013, Vientiane, Laos.

villagers should participate in order to receive benefits from projects, not to contribute to decision-making.[20] This kind of rationale—that benefits should be received in exchange for some contribution of time or labor—was the most oft cited reason for participatory approaches by government officials and in both INGO and government project documents.

Reflective of critiques already documented extensively in the participatory development literature, the practice of participation in Laos is fraught with both structural and capacity constraints (see Cooke and Kothari 2001; Campbell and Vainio-Mattila 2003). Yet, despite these constraints that are especially palpable in Laos, both INGOs and the state engage participatory approaches: participation is characterized as an important means to achieve both conservation and livelihood objectives; it is a box on a checklist that must be ticked. Participation is valued not because of its potential for supporting empowerment and promoting democratic approaches to governance, but because it is considered a necessary approach and best practice for achieving a global conservation ideal. Its adoption signals compliance with established best practices, is an important mechanism for disseminating knowledge and therewith stimulating individual behavioral change with regards to the target resource, and allows project proponents to readily assign individuals in a community to one of two groups—those who participate and should receive project benefits and those who shouldn't.

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[20] Personal communication, Donor Project Consultant, January 27, 2013, Vientiane, Laos.

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5.4.2 Gender and Ethnic Mainstreaming

Gender and ethnic mainstreaming are common practices in international development that require considerations of the gendered and ethnic implications of policies (Krook and True 2012, 105). Mainstreaming requires that policies and projects design inclusive mechanisms targeting ethnic minorities and women in order to recognize the differentiated contributions of and impacts to women and ethnic minorities in different policy arenas, including forest governance. Although not marketed specifically as justice instruments, gender and ethnic mainstreaming are tools through which conservation actors can promote justice as recognition by laying the foundation for recognizing the gender and ethnically differentiated needs and impacts related to forest governance efforts. Recognition facilitated through gender and ethnic mainstreaming could contribute to better representation and inclusion in programs and projects (including decision-making processes), more just or equitable benefits sharing and enhanced legitimacy of forest governance interventions and the actors behind these interventions. Difference-friendly approaches to forest governance could ideally result in fewer injustices for individuals and communities who might otherwise be required to assimilate to dominant cultural practices in order to meaningfully participate in or benefit from forest governance initiatives.

Both gender and ethnic mainstreaming are fully integrated into Lao forest laws, policies, and programs, recognizing the differentiated risks and vulnerabilities linked to gender and ethnicity that require deliberate and tailored attention (see, for example,

GOL 2004; MAF 2005; MAF 2007). For example, government policies like the NBSAP commonly highlight the risks and inequities that more vulnerable groups face: "[especially] ethnic groups…are facing accelerated inequity in relation to the lowland population by having increasingly lower incomes in relative terms"(GOL 2004, 18). To ensure that individuals and communities who identify with the more vulnerable or marginalized groups in society are not at greater risk of injustice, laws and regulations in Laos stipulate the need to both recognize gender and ethnicity in policies, programs, and projects and require measures to mitigate potentially greater negative impacts on, for example, women and ethnic minorities. These measures may include the establishment of material and procedural targets delineated along gender or ethnic lines. For example, the Lao government's FS2020 dedicates an entire section to gender mainstreaming (5.3.5), requiring that policy makers and project proponents "ensure a more equitable share of responsibilities in natural resource management [and] equitable access to resources (education, extension, training and production inputs such as credit and financial services)" (MAF 2005, 61). And while some of the mainstreaming tools employed in Laos address concerns surrounding participation or representation, such as gender segregated meetings and the use of local languages in meetings or for disseminating information, mainstreaming generally occurs during the planning phases of policy and project development where stakeholder analyses reveal the potentially uneven distribution of costs and benefits along gender or ethnic lines.

Despite, however, the ubiquity of mainstreaming in policy and project documents in Laos, beyond the recognition of gender and ethnic differentiated needs and vulnerabilities in policy and project documents, there are few specific activities identified or implemented at the field level to address these needs and overcome these vulnerabilities. None of the documents analyzed for this research included targeted gender or ethnic analyses (beyond a standard stakeholder analysis), gender or ethnic budgets, or specific gender and ethnic monitoring indicators. In fact, the majority of forest governance interventions are designed using an established set of activities that have persisted over time despite their known differentiated impacts on women and ethnic minorities, suggesting that gender and ethnic mainstreaming are not fully integrated in practice. Two notable examples include village patrolling units and shifting cultivation interventions, discussed in turn below.

5.4.2.1 Example: Forest Patrolling

All forest governance interventions in Laos have dual environmental and socio-economic goals: they aim for positive impacts on environmental quality (such as, for example, reduced forest loss and degradation) and livelihoods (e.g. poverty alleviation). Forest patrolling is one of the most common activities pursued in forest governance interventions because it creates jobs, promotes villager participation, may contribute to reduced illegal logging, hunting, and/or harvesting of non-timber forest products, and is one avenue through which traditional and local knowledge can feed into a project or program. Among the projects analyzed for this dissertation, villager patrolling was the

dominant job creation and alternative income generation activity and the only activity generating income with funds disbursed directly from the project.[21] As members of a patrol team, villagers patrol designated forest boundaries or areas on foot and report on the conditions or activities they see taking place. These patrols can last anywhere from one to several days. Although women are more likely than men to spend the majority of their earned income on their family, therewith contributing greater livelihood improvement benefits (Kennedy and Peters 1992), in the villages I visited, all members of the patrol teams were male. This, in itself, is not problematic: social and cultural norms across diverse ethnic groups in Laos present a number of constraints for women to participate in patrolling activities. For example, women are the primary caretakers of children and the elderly and cannot be gone from home for extended periods of time, patrolling is dangerous, etc. It is troublesome, however, because there are no direct, immediate income opportunities targeted specifically towards women: patrolling activities provide a gender-differentiated advantage to male villagers in project areas. Male villagers are provided with a new direct income opportunity—jobs paid directly by the project—while females are provided primarily with indirect income opportunities, the possibilities for which are inextricably linked to market access and supply/demand trends and are thus inherently less reliable and more risky than direct

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[21] Direct income refers to jobs created and paid for directly by the project. Indirect income comes from alternative, generally market-driven, livelihood activities established or subsidized by the project, such as raising livestock or weaving.

income opportunities.[22] Male villagers, through patrolling activities, are also more directly linked to the project management and knowledge construction. To be clear, patrolling is only one of multiple benefits promised in most forest governance interventions. It is not necessarily a sustainable source of income (e.g. if the project ends, so do the jobs). But, this is an illustrative example of how, despite recognition of the gender-differentiated needs and impacts of projects identified during project planning, projects do not generally move beyond the identification of the need for recognition beyond the planning phase. The continued adoption of patrolling as a primary mechanism for benefits sharing in projects without a similar direct income-generating activity targeting women suggests that recognition of possible gender-differentiated impacts or needs in the project planning phase is sufficient for meeting the justice obligations related to recognition without any requirement to actively address the gendered needs of affected villagers. Thus, both INGOs and states can meet their obligations by adhering to the minimal conceptions of justice specified under the justice metanorm and adopting routine practices with little additional effort or action.

5.4.2.2 Example: Ending Shifting Cultivation

In the late 1980s and early 1990s, shifting cultivation became a media sensation. News reports, vivid photographs, and well-funded campaigns targeted "slash and

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[22] Indirect income opportunities do have the advantage, however, of not being tied directly to the project and could thus continue beyond the lifetime of the project. Ideally projects would include both direct and indirect income opportunities for males and females.

burn" agriculture as the primary culprit of forest loss and degradation. Large INGOs, western donors and states, and international organizations launched multiple campaigns to stop slash and burn agriculture worldwide. Partly in response to these global trends and also to commitments made under international agreements and to donor agencies, the Lao government also pursued a campaign to end shifting cultivation in 1989 that continues today. Shifting cultivation is a common agricultural practice in Laos, particularly among the upland and highland ethnic minority communities, whereby villagers cultivate land on a rotating basis,[23] clearing and burning the land to be used that season and leaving other plots to regenerate. With sufficient fallow periods as prescribed in the dominant rotational shifting cultivation practices in Laos, burning and regeneration of vegetation promotes soil health and productivity (Vandergeest 2003; Lestrelin 2010). Fallow lands are also important sources of food, medicine, and construction materials (Krahn 2005). And, although the discourse surrounding shifting cultivation in Laos promotes a "deforestation myth" that shifting cultivation is the main cause of forest loss and degradation (Lebel, Garden, and Imamura 2005; Forsyth 1996; A. Walker 2003), the data show that there are actually nine primary drivers of deforestation, many of which contribute much more significantly to large-scale

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[23] Only one ethnic group in Laos—the Hmong—practice primary or pioneering shifting cultivation, or clearing of virgin forest lands, for agricultural production.

deforestation than shifting cultivation (Lestrelin et al. 2013).[24] In fact, recent studies

show that "shifting cultivation has not played a key role in large-scale deforestation

since the middle of the 20th century" (Lestrelin et al. 2013, 13).

From an environmental perspective, the effects of the campaign to end shifting

cultivation has had unintended environmental consequences, such as the reduction of

biodiversity associated with fallow lands, increased erosion, loss of soil nutrients, poor

soil quality, and loss of access to food and medicinal sources (which all have cascading

distributional justice effects)(Van Gansberghe 2005; Rerkasem et al. 2009). More

significantly, however, from a justice perspective, these efforts have serious and

detrimental distributional and recognitional effects for the majority of Laos' upland and

highland ethnic minorities, including, for example, increased malnutrition rates among

children and loss of identity (Krahn 2005). The predominant tactic for eliminating

shifting cultivation is the often forced relocation of villages to roadside areas or the

consolidation of multiple villages of separate ethnic groups.[25] Other tactics, which are

more common in the forest governance interventions of interest in this dissertation,

include stabilization of use of existing lands through the demarcation of singular

household land plots (land allocation), where each family is provided with up to three

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[24] The nine primary drivers include: unsustainable harvesting from production forests, pioneering shifting cultivation, agricultural expansion, industrial tree plantations, mining, hydropower development, infrastructure development, fire, and urban expansion (Lestrelin et al. 2013, 10).

[25] Village consolidation and relocation is also marketed as a way to meet development goals, such as access to schools and health care.

hectares of household agricultural land (National Assembly of Lao PDR 2003; MAF 2007). With all of these tactics, the campaign to end shifting cultivation essentially requires that ethnic minorities who practice shifting cultivation divorce themselves from parts of their identity, where their identities are strongly linked to their relationships with the land (Li 2002). It is a program of social engineering, one designed to cultivate the unity and solidarity required for the continued legitimacy of the ruling party by stripping or deconstructing the diverse identities of the more than 240 ethnic groups (IFAD and AIPP 2012). These ethnic-differentiated impacts are widely recognized among INGO staff and international experts. One key informant told me, "the policy to eradicate shifting cultivation does not give villagers a fair chance" to maintain or improve their livelihoods.[26] Yet despite these troubling ethnically-differentiated impacts of the end to shifting cultivation, this policy is still pursued by the state and INGOs (through land allocation activities) in Laos as one of the main activities in forest governance interventions.[27]

The two examples above—forest patrolling and ending shifting cultivation—demonstrate how established practices in global forest governance that have recognized, negative, gender- and ethnic-differentiated justice effects in communities are frequently

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[26] Personal communication, Donor Project Consultant, March 12, 2013, Vientiane, Laos.

[27] In early 2013 a new discourse on acceptable "rotational" agricultural practices was emerging and being promoted as a sustainable way to promote conservation and livelihoods. While not substantively different from shifting cultivation, rotational agriculture might be a large enough shift in rhetoric to lead to more ethnically-appropriate, integrated forest-agricultural management approaches. See, for example Castella et al (2013).

selected without the necessary mitigation or balancing of the justice effects. The adoption of these activities occurs despite the integration of routine gender and ethnic mainstreaming practices. In these examples, it appears that gender and ethnic mainstreaming was not considered beyond the initial analysis conducted during the project design phase.

Gender and ethnic mainstreaming are the most conspicuous examples of the routinization of justice practices in the diffusion of the justice metanorm in Laos. Conservation actors routinely identify the gender- and ethnic-differentiated impacts of their projects in their project designs, yet continue to adopt conservation practices that have negative, sometimes severe, justice effects on women and ethnic minorities without mitigating these effects. However, because their project documents reference the dominant justice practices of mainstreaming (and in many cases complete a stakeholder analysis identifying the most vulnerable groups), donors, other INGOs, and the global community credits these actors as complying with established global standards of justice practices. Moreover, there was a notable absence of discussion of gender or ethnicity in the key informant interviews. Only a handful of key informants mentioned gender and ethnic issues in forest governance, one of whom represented the Gender and Development Association, a local civil society organization in Laos that can be considered an outlier because of its primary gender mission.[28] The absence of discussion

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[28] See www.gdglaos.org

of gender and ethnic-differentiated impacts of projects may reflect constraints imposed by the state. One key informant noted, for example, "there are no minorities in Laos. Calling people minorities means they are not equal and we are all equal."[29] Furthermore, "indigenous" is a term that is effectively forbidden from use in Laos because it suggests that there are insiders and outsiders among the Lao population, a concept which threatens to undermine the unity and solidarity promoted by the Party.[30] While they may face constraints imposed by the state, such as limiting their categorization of identified ethnic groups affected by their projects to only the 49 officially recognized by the state, these constraints should not be construed as excuses or arguments not to pursue mainstreaming practices. There is room for creativity in how INGOs pursue justice, such as by selecting additional activities that mitigate the negative gender- and ethnic-differentiated impacts already known to conservation actors in Laos, rather than continuing to fail to adjust established blueprints for forest governance.

The absence of discussion of gender and ethnic issues in my interviews reminds me of my visit to a field office of a National Protected Area in northern Laos in December 2007.[31] Although the field office was small—three rooms and a separate bunkhouse for the living quarters for the fifteen protected area staff—one of the offices

[29] Personal communication, Government Representative, January 22, 2013, Vientiane, Laos.

[30] Personal communication, INGO Representative, October 25, 2010, Nagoya, Japan; see also IFAD and AIPP (2012).

[31] At the time of my visit, funding for projects in this protected area had dried up, but the gender office had been established by the prior IUCN project.

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had a large sign over the door: "Gender Office." I was surprised. At that point I had

already visited nearly half of the National Protected Areas throughout Laos[32] but had

yet to see an office space in the field dedicated to gender. Generally in Laos at the field

office level, gender responsibilities are one of many that an individual field staff member

might have or they are delegated to the local representative of the Lao Women's

Union.[33] When I opened the door to the Gender Office, however, the room was

completely empty—there was no desk or chair, just empty space. This vacant physical

space is reflective of the emptiness of compliance with gender and ethnic mainstreaming

standards in global forest governance. The inclusion of gender and ethnic

mainstreaming in project designs serves largely as an indicator of compliance to donors

and the global community (i.e. an instrumental purpose), rather than an attempt to

reduce injustice or produce justice for forest-dependent communities. While we might

expect this behavior from the state—paper-based compliance with the norm—INGOs

are in no way restricted to comply only on paper. The established global standards are

minimum—not maximum—standards.[34] Given the unique role of INGOs as historical

norm entrepreneurs and as moral agents, we can reasonably expect them to challenge

[32] In 2007 there were 21 National Protected Areas in Laos.

[33] The Lao Women's Union is a government-sponsored mass organization that aims to promote women in all aspects of Lao society. Similarly, the Lao Front for National Construction is a mass organization charged with handling ethnic issues, among others.

[34] These standards are minimum because there is an expectation that project actors in each unique context will adjust, adapt, and develop standards appropriate to their specific case. See, for example, World Bank (1998).

the status quo and push the state to move beyond what is required on paper and pursue justice standards beyond their minimum. At a minimum we could expect perhaps not that INGOs are pursuing justice but that they are preventing continued injustice in their projects. The minimal standard of justice should not simply be ticking off the boxes on a checklist for preventing injustice but should include tailored, contextualized, and justice-impact oriented activities. In practice, however, both the state and INGOs similarly use these standards to signal their fulfillment of their justice obligations to the global community. Justice for them is instrumental and their obligations can be fulfilled through routine practices.

5.4.3 Land Allocation

Land allocation is the process by which individual households are granted full usufruct rights primarily to agricultural lands and where common property lands, such as village and forest lands are demarcated.[35] It is generally accompanied by land use planning and is thus commonly referred to as Land Use Planning and Land Allocation (LUPLA). Through the clear delineation of allowable uses and associated regulations, LUPLA could reduce forest loss and degradation. It is a standard activity found in every forest and land governance project in Laos, especially those in upland and highland areas targeted for the eradication of shifting cultivation, as well as nearly every rural

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[35] All land in Laos is owned by the state for the benefit of the Lao nation. Thus, there are no constitutional rights to land ownership in Laos.

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development project. As a benefits sharing—and thus distributional justice—mechanism, land allocation is the most common direct benefit found in forest governance projects in Laos. Ideally, LUPLA involves the identification of existing and proposed land uses and villages boundaries, followed by the division of agricultural lands equally to each household accompanied by a land use certificate. Under the Land Law, households have the right to three hectares of land for rice production, a small plot for a house, and access to common grazing and forestlands (National Assembly of Lao PDR 2003). If fully executed, land allocation could increase tenure security, thereby improving livelihoods (Wiebe and Meinzen-Dick 1998) and facilitate community participation in conservation efforts.[36] As a justice practice, LUPLA essentially provides villagers with a set unit of equal benefits (in this case three hectares of land), regardless of any preexisting distribution of use rights or customs, household size, needs, or capabilities. LUPLA facilitates the transformation of land into capital through which individual households can engage in market-based exchanges (Baird 2011; Barney 2009; Barney 2007; Dwyer 2013a). In some cases LUPLA may have significant positive redistributive benefits and could prevent the loss of village commons to investors or appropriation by other villages or government agencies.

Evidence, however, suggests that the process of land allocation in Laos falls far short of its functional goals. Although LUPLA has been carried out at least once in 65%

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[36] Personal communication, INGO Representative, April 3, 2008, Vientiane, Laos; see also MAF (2005, 53).

of villages across the country, no rural households have been allocated permanent

usufruct rights to their land since land allocation began in 1989 (Fey 2007). There are also

few cases where rural households have been allocated temporary land-use certificates,

which are valid for three years (Fey 2007). Because LUPLA has been carried out multiple

times in many villages (due largely to the government's requirement that LUPLA be

part of rural development projects), there is little understanding and much confusion

among villagers about which land use plan applies and how long the plan will be in

effect. Those villages where LUPLA has been completed and village lands are clearly

delineated and recognized are increasingly targeted by foreign investors for land

concession agreements,[37] where village leaders agree to grant use rights on village forest

lands in exchange for a pre-paid lump sum amount. In one village in central Laos in

2011, for example, the village was promised one dollar per hectare per year for a 50 year

concession period, totaling $50 per hectare for the length of the agreement.[38]

Beyond the difficulties of implementation, LUPLA, as discussed earlier, has

significant, negative ethnic-differentiated impacts.[39] Furthermore, LUPLA has been

linked to the destruction of social capital, thereby weakening the fabric of society to

manage conflict through traditional channels and ultimately undermining the diverse

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[37] Personal communication, INGO Representative, October 19, 2012, Vientiane, Laos.

[38] Personal communication, , INGO Representative October 19, 2012, Vientiane, Laos.

[39] Personal communication, multiple interviews, Donor Project Consultants, January 23, 2013, Vientiane, Laos.

traditional institutions found across Laos (Fujita and Phanvilay 2008; see Ministry of Justice 2011 for an overview of customary institutions in Laos). For the most part, and depending on the primary ethnic make-up of any given village, villages have traditional land governance institutions where the borders between villages are blurred.[40] With LUPLA, these boundaries become fixed and sometimes contested, especially when access to customary food and medicinal sources is affected (Marion Suiseeya 2008). INGOs recognize the challenges associated with LUPLA, identifying the loss of valuable time and resources required to engage in a process that is at best ineffective and can result in increased vulnerability in poor villages. In discussing the challenges with LUPLA, one key informant noted, "land is the most critical issue [for conservation and development]…but everyone is afraid to stand up for villagers,"[41] suggesting that LUPLA does not resolve the land issues in Laos and, in some cases exacerbates them.

Part of LUPLA's poor record is due to broader land and natural resource governance challenges in Laos: the institutional landscape for governing the environment and natural resources continues to evolve and has many agencies with often overlapping and sometimes conflicting mandates (see also Singh 2012), there is limited capacity to implement and enforce policies and regulations;[42] and fragmented decentralization has resulted in ambiguity about who has the authority to issue land use

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[40] Personal communication, Donor Project Consultant, February 1, 2013, Vientiane, Laos.

[41] Personal communication, INGO Representative, January 22, 2013, Vientiane, Laos.

[42] Personal communication, Government Representative, March 6, 2013, Vientiane, Laos.

certificates.[43] Poor implementation is also due in part to a lack of political will on the part of the government to actively pursue more effective implementation of the land allocation policy. Despite the centrality of poverty eradication in the government's development agenda, more secure land tenure for villagers can reduce some of their socio-economic uncertainty that contributes to the government's ability to maintain its power and control to make decisions over its land and natural resources without being held accountable by its citizens. It is thus in the interest of the government to maintain some degree of uncertainty among their citizens.

The challenge with LUPLA, however, is not simply its ineffectiveness or the government's poor record of implementation. To be certain, without some degree of successful implementation, it is difficult to determine the extent to which land use certificates could contribute to poverty alleviation. Nevertheless, INGOs' continued integration of LUPLA into their projects, often multiple times over a short span of time in the same villages, with no discernible socio-economic or environmental benefit, is troubling not least because of its existing record of harm and injustice. When asked why their projects continue to employ LUPLA as a main activity, the common response was that it is what the government required. One key informant from an Asia-wide INGO noted more generally, "it is better to work within the system so that you aren't putting people at risk," referring to the risks posed to INGOs (both staff and the organizations as

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[43] Personal communication, INGO Representative, January 22, 2013, Vientiane, Laos.

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a whole), villagers who are actively engaged in projects, and sympathetic government staff.[44] Working within the system, however, does not require exact replication of government practices. Land allocation is thus another instance where INGOs instrumentalize justice: although the rhetoric behind the adoption of land allocation is its potential as a benefits sharing mechanism through which villagers gain increased tenure security, the underlying rationale of its adoption promotes the interests of the INGOs over the justice experiences of forest-dependent communities.

5.5 Justice as Instrumental

The results presented above demonstrate how INGOs in Laos limit their justice practices to those that align with state justice practices, the same policy innovations diffused with the justice metanorm (see chapter 3), regardless of the type of arrangement the INGO has with the government. Not only are the necessary struggles over the meaning of justice not taking place, but the practices employed to produce justice further limit opportunities for contestation.

INGOs and the state employ participation, gender and ethnic mainstreaming, and land allocation to pursue a minimal conception of justice necessary to achieve other goals, without consideration of the extent to which these practices can effectively produce justice. In many instances, INGOs expressly recognize that these practices not only fail to produce justice but, in some cases, produce injustice. Yet adopting these

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[44] Personal communication, INGO Representative, January 31, 2013, Vientiane, Laos.

practices signals compliance with the justice metanorm and its constituent norms, even if the practices are contextually inappropriate, produce injustice, or are poorly implemented. As the earlier discussion of justice instruments illuminated, INGOs face a number of constraints to their operations in Laos, for example the requirement to comply with government policies by including LUPLA in all projects. Other political constraints, such as the nonrecognition of many ethnic groups, and cultural constraints, such as the hierarchical nature of Lao culture which affects how individuals participate in formal settings, directly impact how INGOs approach and structure their operations in Laos, including their relationships with the government. Taking a broad view of the situation in Laos, poor implementation, limited capacity, an unfavorable institutional environment, and a lack of political will on the part of the government are all plausible explanations for the empty pursuit of justice on the part of INGOs and the state.

Yet, other organizations, including smaller, regional INGOs and a handful of local non-profit associations have successfully innovated their justice practices within these same constraints, while also facing much more significant financial and, at times, political constraints. For example, VFI has been a leader promoting community land titles as a way to promote tenure security and distributional justice based on community conceptions of justice. The Global Association for People and the Environment (GAPE) has successfully promoted community-driven, rights-based conservation efforts in

enclave communities in Xe Piane National Protected Area for nearly a decade.[45] In both of these cases, the organizations have opened up deliberative spaces in which forest-dependent communities can contribute to constructing the meanings of conservation, wellbeing, and justice that they envision and wish to pursue. The actions of these other organizations indicate that the political and institutional environment in Laos is not unequivocally hostile for the pursuit of justice in global forest governance.

To understand why INGOs do not act as norm entrepreneurs in the domestic space to contest and reconstruct meanings of justice, I direct attention to the different rationales that INGOs and the state employ to explain their adoption of various justice practices. Conservation actors in Laos adopt one or more of three rationales when employing justice practices in their programs: 1) reciprocal rationale, whereby communities should participate in conservation in order to receive benefits; 2) knowledge dissemination rationale – if communities have information about the importance of conservation, then they will no longer engage in their destructive behavior and will develop a sense of pride over their forests; and, 3) standard practice rationale, where participation is considered to be a standard tool to enable the achievement of project goals (and is a signal to project donors), including the importance of a sense of community ownership over a project. Notably absent from these rationales is the adoption of justice practices simply for their justice-promoting qualities, or the

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[45] See http://www.gapeinternational.org

intrinsic value of justice in forest governance. Both state and INGO actors adopt the same rationales with no discernible difference noted in project documents. With regards to participation, however, government officials in interviews more frequently invoked the reciprocal and knowledge dissemination rationales, while INGO representatives pointed towards the knowledge dissemination and standard practice rationale more frequently. Moreover, both state and INGO actors adopt the same language and approaches to justice in their project designs, regardless of whether the INGO has a partnership, advisory, or parallel arrangement in Laos. Importantly, with the exception of participation, the most common rationale for adopting justice practices for both the state and INGOs was the standard practice rationale. Justice as pursued through these practices is thus a means to achieve other ends, which ultimately limits the possibilities for justice.

The INGOs' instrumentalization of justice limits the possibilities for justice in two primary ways: first, by not engaging in the normative struggle that is required for the pursuit of justice, INGOs are shirking their duties as moral agents. Second, in their diffusion of the justice metanorm through justice practices, they do not seek to adapt these practices to create opportunities for deliberation that could be possible within the cultural, social, and political constraints in Laos. They do nothing to contest and contextualize the norms to fit the justice demands of communities in Laos, despite their own observations that the practices they adopt produce or exacerbate injustice. They rely on explanations of poor implementation and a lack of political will on the part of the

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government to deflect attention from their own responsibilities as justice agents to protect vulnerable communities. Where INGOs could open up space for normative struggles to advance the pursuit of justice, they opt to restrict their activities to those well within the existing boundaries imposed by the government. Thus, although they maintain legitimacy in the eyes of the state by restricting their activities to those well within the boundaries established by the state, they simultaneously undermine their credibility as actors operating independently of and as a counterbalance to the state. Through the routinization of these practices, INGOs have effectively severed the possibilities for creating additional deliberative spaces to contest and reconstruct the meaning of justice. They are complicit in maintaining the absence of deliberative space.

Ultimately, over the long term, INGOs will face a crisis of legitimacy: although they can maintain legitimacy in the eyes of the state by hiding their nonaction behind the veil of a strong state, INGOs will eventually begin to lose legitimacy in the eyes of the vulnerable and marginalized communities they claim to represent. This, in turn, will affect their legitimacy in the eyes of the philanthropists underwriting their work and the global community that regularly praises the ethical and moral leadership exhibited by these organizations. They will be faced with a difficult ethical dilemma of deciding between their short- and long-term interests, the latter of which I would argue is pursuing justice for the groups they claim to advocate for.

The justice metanorm alone does not require the blind adoption of established justice practices, nor does it necessarily require viewing justice as instrumental. It

establishes a particular values orientation—a minimal conception of justice—that INGOs, states, and other conservation actors can build upon and innovate. Although nothing formally restricts INGOs to adhere only to the minimal standard of justice, they opt to do so: they pursue short-term, rational interests that align more closely with those of the state than those of the communities they claim to advocate for. It is this dialectical relationship between institutions and agents, whereby INGOs diffuse the metanorm and act as justice agents, that constrains the space for producing justice. The challenge of the justice metanorm is that actors can do the bare minimum and gain legitimacy, but must not actually pursue justice as demanded by forest-dependent communities. The justice metanorm thus allows the perpetuation of injustice in a variety of ways, as demonstrated in this chapter. In the case of Laos, not only are the necessary struggles over the meaning of justice not taking place, but the practices employed to produce justice further limit opportunities for contestation.

While the evidence presented in this chapter suggests that INGOs instrumentalize justice, it does not allow us to understand the extent to which the conceptions of justice embedded in the practices pursued by INGOs align with the justice demands of forest-dependent communities in Laos. These data do not tell illuminate the precise nature of the justice gap, but instead call into question the landscape of possibilities for justice. In the next chapter, I turn towards questions of the meaning of justice, examining the conceptualizations of, demands for, and criteria for justice among forest-dependent communities and conservation actors in Laos. .

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6. Justice Demands in Laos: Discovering the Meaning of *Khwaam-nyuu-dtii-tham*

I argue in this dissertation that if the underlying conceptions of justice embodied in the metanorm do not match the nature of justice being demanded at the local scale, then we will continue to see claims of injustice persist regardless of how well the selected justice instruments are implemented. Using Laos as a case study in the last chapter I demonstrated how justice practices in Laos, adopted by both the state and INGOs, largely align with those envisioned at the global scale. In this chapter I demonstrate how the justice metanorm and the justice practices employed in Laos do not match the ideas of justice held by villagers. To do so, I conducted interviews with an extensive base of stakeholders, including villagers, to uncover their ideas of justice. As the data in this chapter show, despite the similarities in how the government and INGOs pursue justice through common practices, their ideas of justice vary significantly and, most importantly, do not align with the meanings of justice held by forest-dependent communities. Furthermore, in this chapter, I extrapolate the barriers to justice that INGOs themselves have identified, raising questions about their decisions to employ the set of justice practices they use in Laos.

The chapter proceeds as follows: I first introduce the methods for capturing the meaning of justice held by different types of actors in forest governance in Laos. I then present the data through a thematic analysis, highlighting the three distinct approaches to justice held by forest-dependent communities, government representatives, and

INGO representatives. I conclude with a discussion on how these data align and diverge from the justice metanorm and the justice practices adopted in Laos.

6.1 Methods to Understand Meaning

To capture the nature of the meaning of justice held by different stakeholders in Laos, I gathered data through structured and semi-structured interviews. The data were collected in three phases. In the first phase (2007-2009), I interviewed forest-dependent communities in three villages primarily focusing on how villagers engaged with and experienced forest governance interventions. Phase One villages (Ban Keng Bit, Ban Koh Bong, and Ban Tha Paiban) were located in two National Protected Areas in central Laos (see Figure 4).
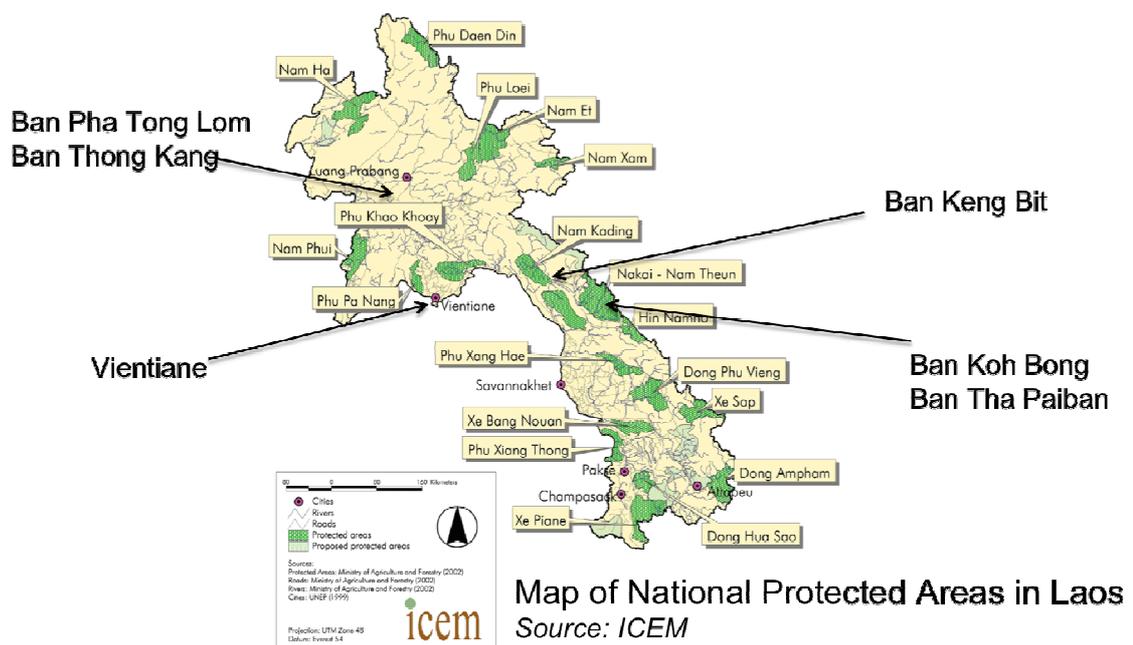
Figure 4: Field Sites in Laos (Phases 1-3)

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In the second phase (2011), I collected data from key stakeholders—forest policy actors—in Vientiane using a semi-structured interview protocol. During this phase I was primarily interested in understanding how national forest policy actors design their approaches for allocating rights and delivering justice to forest-dependent communities in their forest governance interventions. In the third and final phase (2012-13), I used a common structured interview guide across stakeholder groups at the national policy level and in two additional villages located in northern Laos (Ban Pha Tong Lom, Ban Thong Kang). The questions were geared towards generating comparable data across stakeholder types in three main areas: perceptions of forest-dependent community experience with forest governance interventions, perceptions of justice in forest governance interventions, and definitions or conceptualizations of justice. Copies of the interview protocols are available in Appendix B. I supplemented the interviews with observations and informal conservations in enclave villages in an additional seven National Protected Areas across Laos as well as at government meetings and policy forums. A complete list of villages, events, and organizations is provided in Appendix C. Table 10 provides the demographics of the samples from each village. Table 11 provides the demographics for the other key stakeholders who were interviewed for this project. The majority of the key informants were interviewed at least twice during the course of the research.

Table 10: Phase 3 Village Sample Demographics

	Ban Pha Tong Lom	Ban Thong Kang
# HH in Sample (% of total village HHs)	37 (43%)	62 (65%)
Male Respondents	20	33
Female Respondents	17	29
Ethnicity	Khmu (66%); Lao (21%); Lao-Khmu (10%); Ngouan (2%); No Response (2%)	Khmu (51%); Lao (29%); Katu (7%); Hmong (7%); Xaek (2%); No Response (2%)
HH Average Annual Income	9,501,613 Kip	5,847,222 Kip
US$1 = 7659 Kip (May 1, 2013)	$1240/year	$763/year
Average HH Size	5.13	5.85
Primary Income Activities[i]	Plantation - 57%, Upland rice - 51%, 16% - Paddy rice, 16% - construction	Plantation - 89%, Paddy rice - 20%, Upland rice - 19%
Average Forest Dependency	Moderate	Moderate-High

[i]*does not equal 100% because some families have more than one primary livelihood activity*

Table 11: Phase 3 Key Informant Stakeholder Demographics

Type of Organization	# of Respondents	% Lao Nationals
Government	7	100%
INGO	17	29%
Donor (Bilateral)[i]	7	29%
Donor (Multilateral)[i]	3	33%
Research Organization or Expert Advisor	13	0%
Local Civil Society Organization	10	100%
Total	**57**	**44%**

[i]*Donor-funded project consultants included in the donor category*

The overarching purpose of the interviews was to capture the meaning of justice and how different households, communities, and other stakeholders experience and/or conceptualize justice in forest governance interventions. I utilized a reflexive approach to research that allowed me to adapt and adjust questions as required by the changing field dynamics. In practice this meant allowing interviews to evolve organically around a set of standardized questions in Phase 3 of the research. Individual respondents steered the direction of the interviews beyond these questions. This approach better captures the richness of the justice experiences and expectations of individuals but also provided some comparable data. The data presented in this chapter are primarily from Phase 3 of the research, supplemented by interviews and observations collected during the first two phases.

To analyze the data I applied a discourse analytic approach to content analysis, similar to the approach used in chapter 4 (Hardy, Harley, and Phillips 2004). Discourse analysis assumes that reality is socially constructed, where discourse is "a constitutive set of structures and practices, that do not merely reflect thoughts or realities, but rather structure and constitute them" (Herrera and Braumoeller 2004, 16; Laffey and Weldes 2004). Discourse analysis is thus a process whereby the nature of meaning is disentangled and contextualized to help understand the power dimensions and implications behind the use of language. Content analysis, on the other hand, is a positivist research approach that generates analytical categories and coding frames applied systematically to textual analysis (Hardy, Harley, and Phillips 2004; Neuendorf

2004). It assumes that meaning is stable and that language is readily divorced from the context in which is employed. By blending these two methodological approaches, I can capture general trends in justice meanings across stakeholder groups and contextualize the meaning that individuals ascribe to justice based on their own experiences and relationships with forest

6.2 The Nature of Justice in Laos

6.2.1 Setting the Stage

As expected, the term "justice" in Laos is a highly charged and politicized term. Laos is a closed society with very little space for dissent. When first discussing the research with representatives from INGOs and donors in Laos, I was often met with an expected cynicism of the impossibility of justice: "do they [the government] even *want* to deliver justice?"[1] Many key Lao stakeholders, particularly those in the civil society, highlighted the very limited political space for discussing issues of justice and fairness: "you cannot say *boh mii nyu-tii-thaam* (this is unjust) to the government. You just can't say that. That is only for the government to decide."[2] Instead, forest-dependent communities may make requests to the government to help them solve a conflict in order to restore their livelihoods in some form or another.[3] This is a more acceptable

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[1] Personal communication, INGO Representative, February 20, 2013, Vientiane, Laos.

[2] Personal communication, Civil Society Representative, January 28, 2013, Vientiane, Laos.

[3] Personal communication, Civil Society Representative, March 14, 2013, Vientiane, Laos.

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way for communities to seek redress. Justice — and the delivery of justice — is clearly

within the authority and realm of the government. To suggest injustice would be seen as

equivalent to criticizing the government: "we have the law, we know the law, but we

cannot use the law."[4] In other words, the term justice has a forbidden nature.

During the time I carried out the third phase of field research, from September

2012 to April 2013, the political climate in Laos changed dramatically. In late October

2012, Laos' membership to the World Trade Organization (WTO) was approved and it

hosted the Asia-Europe People's Forum (AEPF), the civil society preamble to the 9th

Asia-Europe Meeting (ASEM), a state summit bringing together heads of state and

government from 29 European countries, the European Commission, 20 Asian countries,

and the ASEAN Secretariat (ASEM 2013). There was a sense of enthusiasm and

optimism that Laos was opening up and that civil society would continue to increase its

role in promoting development across Laos. This optimism started to crumble during

the AEPF and in a series of events that followed.[5] In many of the AEPF sessions,

particularly those surrounding energy and hydropower development, government

officials were posing as villagers claiming that they were very happy to be resettled so

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[4] Personal communication, Villager, March 3, 2013, Ban Thong Khang, Laos.

[5] While these events all occurred in sequence, they are not necessarily related to one another. The simply serve as an illustration of the unsettling change in tone towards any actions or statements that could be considered dissent by the Lao government.

the controversial Xayaboury dam on the Mekong River could be constructed.[6]

Government officials intimidated and harassed one woman who spoke out against

plantation concessions in her village both directly after the session and then again when

she returned home to her village.[7] On December 8, 2012, Anne-Sophie Gindroz, widely

known for her advocacy for pro-poor development and the former Country Director of

Helvetas Swiss Intercooperation, a Swiss-based INGO, was ordered to leave the country

within 48 hours due to her "unconstructive attitude towards the Lao government"

(Vandenbrink 2012). One week later, on December 15, 2012, one of the most prominent

leaders in Lao civil society and the Lao organizer of the AEPF, Sombath Somphone,

disappeared after being stopped by traffic police. Within days of Sombath's

disappearance, many of the top leaders in Lao civil society fled the country for extended

holidays. They have all since returned. Sombath is still missing.[8] In order to protect the

key informants that kindly gave their time and insights to assist with this research, all

individuals, organizations, and agencies will remain anonymous. The only attributions

made will refer to the stakeholder type the key informant belongs to (e.g. civil society

organization, donor, INGO, government, villager, and research organization or expert).

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[6] Personal communication, INGO Representative, November 13, 2012, Vientiane, Laos; INGO Representative, February 26, 2013, Vientiane, Laos.

[7] Personal communication, INGO Representative, November 7, 2013, Vientiane, Laos; INGO Representative, February 6, 2013, Vientiane, Laos.

[8] See http://www.sombath.org for more information.

6.2.2 The Meaning of Justice

The word for justice in the Lao language, *khwaam-nyuu-dtii-thaam (ຄວາມຍຸຕິທຳ)*,

also translates as fairness and impartiality. In recent years, a new word adopted from

Thai and English, *fair*, is slowly gaining traction as a more common household word to

make claims of fairness (or lack thereof), although so far its usage is limited to middle

and upper class Laotians who have access to Thai television or other Thai media. These

translations, however, yield few insights into what it means to experience justice and

injustice. To assess how people in Laos understand and assess justice, that is what kind

of meaning of justice they construct, I asked respondents a series of questions. These

include questions related to how forest-dependent communities experience injustice,

how they judge or assess a situation to be just or unjust, including their expectations of

justice in forest governance projects, as well as one broad, open-ended question, "what

is justice?" Data collected on these three points provide insights into how individuals

construct a meaning of justice: stories of injustice provide insights into expectations,

providing a relational waypoint for assessing justice; criteria for determining justness

illustrate an ideal notion of justice; and definitions of justice illuminate and synthesize

the values that respondents attribute to justice. Because I asked all respondents the same

series of questions, I can draw out the similarities and differences between how different

types of stakeholders conceive of and operationalize justice. Although many consider

justice a forbidden word in Laos, I was able to uncover how respondents understand

and perceive experiences of justice and injustice through this series of questions.

Three distinct themes surrounding the meaning of justice emerged during the interviews: *justice- as-trust, justice-in-exchange, and justice-as-rights*. Although there was some variation within each group of stakeholders, the greatest variation was between groups, whereby forest-dependent communities primarily expressed an understanding of justice-as-trust, government officials emphasized justice-in-exchange, and INGOs advanced an idea of justice as rights. For the most part, except where noted, other international actors, such as donors and research organizations and experts, aligned with INGOs, as did local civil society organizations. I discuss each of these themes in turn below. The views of Lao nationals working with INGOs, CSOs, and donors tended to align more with INGO representatives than government representatives, although there was some cross-over in ideas.

6.2.2.1 Justice-as-Trust

Stories of injustice provide insights into the effects that forest governance interventions on the lives of forest-dependent communities. They can shed light on the expectations that different actors have—expectations that shape how they judge processes and outcomes. Although we might expect that villager expressions of justice in Laos might be highly restricted due to fear and government constraints, I was still able to capture a rich understanding of how villagers conceive of and expect justice. For them, the pursuit of justice is not an overt political struggle as we see in global negotiations. Instead the struggle for justice manifests itself through their pursuits of self-preservation, which often requires deference to authority while simultaneously

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capitalizing on opportunities presented through government policies that are generally considered harmful or unjust for communities. For example, Dwyer (2013b) points to how forest-dependent communities are gaining power by using government land concession policies to secure tenure. In this study, many examples of injustice were distributional, such as loss of access to land or resources or complete loss of resources associated with, for example, LUPLA processes. Household respondents in Ban Pha Tong Lom frequently referred to their restriction of access to the forest as an example of injustice, stating that being asked to stop cutting trees was not fair. Because, however, there are no effective rights or recognition under the Lao law due to omission and the absence of enforcement (or rule of law), the primary way that villagers expressed a sense of injustice was through experiences of broken promises. In other words, injustice is not seen as an explicit violation of rights but as a violation of trust between those governing and those being governed where expectations are established through government policies. For example, household respondents frequently recounted stories of broken promises and inequality with regards to land allocation:

> *"ຄວາມຍຸຕິທາຍັງບໍ່ທັນມີການແບ່ງປັນຄອບຄົວທີ່4ເຫັຕ່າ ແຕ່ເບື້ອທີ່ຕົວຈິງມີພຽງແຕ່2-3 ເຮັກຕາ, ບາງຄອບຄົວ4ເຫັຕ່າແຕ່ຫາ6ເຮັກຕາກໍ່ມີ"*
>
> *"There is no justice when we are told every family will be given four hectares of land but in reality we only receive 2-3 hectares, while other families receive four, five, or six hectares."*[9]

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[9] Personal communication, Villager, March 4, 2013, Ban Thong Kang, Laos.

And, although many villagers in Ban Thong Kang reported they were not familiar with the term justice, there were a handful of examples of limited resource access similar to those heard in Ban Pha Tong Lom: respondents talked about the limits to harvesting timber in their forest and unequal land distribution. When presented with examples of situations that respondents from other villages had described as unfair and/or unjust, the common response was simply, "*bpen luang bokatii*" – "that's the way things are."[10] Villagers stated they weren't concerned with issues of fairness and justice; rather, they pointed to government policy as the source for determining how decisions over natural resources should be made and how benefits should be distributed.

These claims and stories of injustice as lost or limited traditional access to forests, land, as well as broken promises, that I heard in these two villages in northern Laos resonated with the stories of injustice heard through activist networks in Southeast Asia and shared by INGO representatives in Laos, where injustice was related to land grabbing, e.g. the loss of access to land and other natural resources.[11] This larger collection of claims of injustice, however, is not limited only to forest governance interventions but are increasingly associated with development trends in Laos more

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[10] Personal communication, Villager, March 3, 2013, Ban Pha Tong Lom, Laos.

[11] See also the case study database assembled by the Land Issues Working Group at http://www.laolandissues.org

broadly, where households and communities lose land or access to natural resources to agribusiness concessions or infrastructure projects.[12]

While stories of injustice can be heard across the landscape in Laos, these stories are generally muted. Household respondents did not make specific demands for justice or rights. Rather, they focused primarily on the importance of certainty of the conditions under which they may pursue their livelihoods: "the government has to set the policy and then we will know what to do."[13] Respect for authority combined with strong conflict aversion preferences shape how communities define justice, where justice helps maintain unity and harmony within communities and between communities and the government. Household respondents reflected these values in their definitions of justice. Five themes dominated respondents' definitions of justice: unity, honesty, equality, transparency, and not being taken advantage of. Similarly, when asked what criteria they use to determine the justness of a situation, household respondents' three most common criteria were that any actions were in accordance with the law, that they were aware of the decision-making process, and that they trusted the decision-making process (see Table 12).

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[12] The same trends are found also in neighboring Cambodia.

[13] Personal communication, Villager, March 4, 2013, Ban Thong Kang, Laos.

Table 12: Most common justice criteria among household respondents

Criteria	% of HH respondents
Accordance with the law	46%
Awareness of decision-making process	36%
Trust in decision-making process	36%

In other words, household respondents expected that relationships, including relationships with the government, be built on a foundation of trust, where forest-dependent community expectations reflect government statements, policies, and promises, the execution of which should center on values of unity, honesty, equality, and transparency. Villagers have adopted the rhetoric of unity, aligning with government campaigns for a unified Lao identity and state yet they also expressed dismay over the lack of honesty they have some to expect from the government, leading to a significant erosion of trust. Trust violations threaten unity and harmony, and introduce uncertainty, which forest-dependent communities ultimately experience and describe as injustice. These criteria suggest that even if projects are not always successful in achieving their stated objectives, as long as project and policy implementation is transparent and honest, and that there are equal opportunities to participate in and benefit from projects, most forest governance interventions would deliver justice. Thus, although injustice in Laos manifests itself largely in material, distributional terms, discussions with forest-dependent communities suggest that justice cannot be delivered solely through distributional means but rather are delivered through trust.

This finding supports results in other research on social justice in environmental governance that suggests that the process is often more important than the outcomes in terms of how communities determine the justness of projects (Gross 2008). Furthermore, it is not necessarily the lack of rights that is unjust, rather it is the uncertainty that accompanies unfulfilled promises and the opaqueness of policy and project processes to be unjust. Justice-as-trust helps communities pursue self-preservation. Justice is thus about managing expectations. Clearly established rights and avenues for enforcing those rights are one avenue for building trust and promoting transparency in the sense that rights help establish a sense of certainty of the conditions under which forest-dependent communities can pursue their livelihoods.

6.2.2.2 Justice-in-Exchange

Government representatives, when asked about injustices in forest governance, pointed to the importance of balancing villager rights with villager obligations to the national community: "these have to go together."[14] Respondents' maintained that "forest resources are for the national community" where the government is responsible for ensuring that forest-dependent communities are the stewards of these national resources and for distributing these benefits to the national community.[15] Government respondents focused overwhelming on the importance of calculating and distributing

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[14] Personal communication, Government Representative, March 16, 2013, Vientiane, Laos.

[15] Personal communication, Government Representative, March 11, 2013, Vientiane, Laos.

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materials benefits. Injustices in their minds result not from government policies or even necessarily poor implementation[16] but from unrealistic expectations of villagers where villagers are demanding too many material goods compared to their contributions: "villagers will say a project is unfair once the project ends and the benefits stop."[17] One government representative noted that "villagers receive too many benefits and participate too much" in forest governance projects. Justice in the eyes of government officials should be measured on an exchange basis where one unit of input could be exchanged for an equally valuable unit of output. The value of inputs, however, is not equal between individuals. Instead, the input of an individual and what they deserve in return for that input is determined, in part, be that individual's personal connections of status in society: "you have to look at the person. It depends on their education. It depends on their job. Fairness depends on their position."[18] Injustice under this conception of justice would be an instance where a villager receives too many or too few benefits based on their individual contributions to the project.

The emphasis on benefits sharing is further reinforced through the focus on outcomes over process. In general, government representatives viewed poor implementation of LUPLA and insecure tenure as challenges to achieving equitable

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[16] Although weak implementation is often recognized by government officials who point to a lack of human resources and financial capacity to fully implement programs and projects

[17] Personal communication, Government Representative, March 6, 2013, Vientiane, Laos.

[18] Personal communication, Government Representative, March 22, 2013, Vientiane, Laos.

benefits sharing, not as injustices themselves. One high-level government official noted that, "the outcome is more important than the process. There should be a clear outcome and [villagers] should understand how to get benefits."[19] This focus on outcomes is linked to the belief that, "if people will not feel confident they will get something from [the project]," then the project will not succeed.[20] Thus, justice is instrumental. This emphasis on distribution—of calculating and distributing material benefits—strongly aligns with the justice metanorm's justice-in-exchange conception of justice.

6.2.2.3 Justice-as-Rights

Reflective of their role as counterbalances to the state (White 1994; Keck and Sikkink 1998; Betsill and Corell 2008), INGOs were the most outspoken justice advocates in Laos. They expressed dismay by the limitations for pursuing and delivering justice in the existing institutional environment in Laos. INGOs assume the role of guardian of the poor and vulnerable, framing their programs and projects around the discourse of promoting equitable and rights-based forest conservation. It is not surprising, then, that INGOs and other international actors in Laos overwhelmingly relate the pursuit of justice to the establishment and enforcement of rights.

In particular, INGO respondents highlighted the effective absence of rights either through the non-existence of these rights, the regular violation of some established

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[19] Personal communication, Government Representative, February 21, 2013, Vientiane, Laos.

[20] Personal communication, Government Representative, March 11, 2013, Vientiane, Laos.

rights, and the lack of enforcement of other established rights. They noted, for example,

that with the "expanding circle of rights" related to forests resulting from initiatives like

REDD+, it is increasingly important to ensure that forest-dependent communities secure

the "resource rights that they already perceive to have."[21] Without secure and clear

rights, INGO respondents emphasized, villagers are likely to face continuing injustice

related to their access to and dependency on forest resources. Yet, the establishment of

rights is far outside the purview of INGOs and is, with one important exception, not the

focus of INGO justice practices. The exception to this is VFI's RightsLINK project. Its

primary activity centered on disseminating existing laws and regulations to villagers

and helping villagers navigate the government bureaucracy to assert their rights.[22]

Generally, however, as demonstrated in the last chapter, INGOs pursue justice for

forest-dependent communities through participatory approaches, mainstreaming, and

LUPLA.[23]

    Although the establishment of rights is outside the realm of possibilities for

INGOs, and for the most part so is enforcement, they can play a role in facilitating

villager assertion of rights through process-oriented mechanisms. Reflecting this avenue

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[21] Personal communication, INGO Representative, February 7, 2013, Vientiane, Laos.

[22] RightsLINK piloted its first phase from 2009-2012 in Salavanh Province. In December 2012, however, after three years of operation, the governor of Salavanh revoked the Memorandum of Understanding that allowed VFI to implement their project in the province and the project has since ceased.

[23] Recall that LUPLA implementation focuses almost exclusively on land use planning and has never resulted in permanent land use certificates

for justice as rights, INGO respondents commonly identified forest-dependent

community involvement in decision-making processes and inclusion of vulnerable

groups in projects as two top criteria for determining the justness of a situation. INGO

representatives further captured their vision of justice as rights, and the process as the

realization of those rights, by defining justice as the ability to "give your opinion

without fear of reprisal."[24] Justice is about the ability and capability to pursue and

exercise rights (see Sen 2009).

Despite INGO emphasis on processes and rights, they recognize that they do not

(and often cannot) effectively implement the justice practices they embed in their

projects. While discussing the centrality of community consultations during the

planning of a REDD+ project, one INGO Representative responded to questions about

the effectiveness of these consultations by saying, "it's a one to two hour meeting. How

much could they [villagers] really understand? There is no real concept of participatory

mechanisms."[25] An advisor for a different donor project noted, "FPIC is not free, but an

auditor will say it is…"[26] The often empty pursuit of justice through mechanisms like

FPIC and other participatory approaches results in part from the structure of how

INGOs must operate in Laos: "the government promotes 'implementation in

partnership,' but many times [we] are not allowed to see what's going on." INGOs—and

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[24] Personal communication, INGO Representative, February 21, 2013, Vientiane, Laos.

[25] Personal communication, INGO Representative, February 24, 2013, Vientiane, Laos.

[26] Personal communication, Donor Project Consultant, February 6, 2013, Vientiane, Laos.

donors—operate in Laos at the pleasure of the government and in many ways view themselves also as victims of the government. To operate in Laos, INGOs cannot be seen as threatening the power base of the government and must thus constrain their activities to those that the government views as promoting the priorities and agenda of the government.

One regional INGO Representative crafted a detailed landscape of the justice possibilities in Laos. The representative first noted that villager demands for justice are likely to be underemphasized by villagers: "Power imbalances keeps [villager] expectations in check. There is constant self-censorship…it's rare to see someone who will speak out strongly against the policy."[27] Self-censorship and suppression of justice demands, INGOs argue, make it difficult to determine what kind of justice villagers demand. However, self-censorship is one way in which forest-dependent communities maintain unity and promote harmony, thus avoiding potential conflict with each other and with the government.

Despite these political constraints and the recent setbacks further limited assertion of rights, the justice landscape in Laos is shifting. An INGO representative noted, "we see a shifting of how fairness is understood by different people. The line of fairness has stretched. It is fair for villagers to now ask for compensation and to know their rights. But the system has a static understanding of fairness and these shifting lines

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[27] Personal communication, INGO Representative, February 21, 2013, Vientiane, Laos.

of fairness [among villagers] are threatening fairness. Villagers are closing the gap. The government's response is to make a symbolic action[28] to squeeze the circle of fairness and change the boundary conditions."[29] In many ways, the government's reaction to villager assertions of rights suggests that the overall political climate is changing, where justice may no longer be a passive pursuit but rather demands more direct and concerted efforts on the part of INGOs.

6.2.2.4 Common and Divergent Ideas of Justice

Despite the discernible differences in understandings of justice between the state, INGOs, and forest-dependent communities in Laos, there were also some similarities. For example, common amongst government and INGO respondents was the importance of including vulnerable communities as a key criterion for determining the justness of an intervention, where projects that do not target these vulnerable communities may not be determined as just. Where these two groups of stakeholder diverged, however, was with regards to measuring justice. Where government officials emphasized the material outcomes of interventions as the key way of observing justice, INGOs emphasized rights and process.

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[28] The symbolic action the INGO Representative references is the disappearance of Sombath Somphone.

[29] Personal communication, INGO Representative, February 21, 2013, Vientiane, Laos.

6.3 Multivalent Justice in Laos

As expected, the data herein show that justice is multivalent, that is that different actors maintain diverse meanings of justice (G. Walker 2009b). Where justice for forest-dependent communities is often about trust and the effects that trust has on certainty and their ability to pursue self-preservation, government respondents largely envisioned justice as a calculation of material benefits based on a principle of justice-in-exchange. INGOs promoted an idea of justice as rights, which closely aligned with the dominant discourse on rights-based forest governance among INGOs in the global sphere. These distinct ideas of justice and the disconnect between forest-dependent community ideas of justice and those conceptualizations held by the government and INGOs, demonstrate in part the nature of the justice gap in forest governance in Laos. Part of the gap manifests as a disconnect in meaning between the duty bearers and rights holders, whereby the duty bearers responsible for producing justice for forest-dependent communities pursue a meaning of justice that does not align with the justice demanded by rights holders. Where justice for forest-dependent communities is about building trust and managing expectations, to government officials, justice is about delivering material outcomes and benefits. For INGOs, justice is about securing and enforcing rights.

These visions of justice are not mutually exclusive and, in fact, could largely be pursued in parallel and be complementary. The challenge, however, comes when the pursuits of the government and INGOs undermine forest-dependent community

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pursuits of justice or the absence of consideration for forest-dependent community ideas of and demands for justice becomes a hindrance to the realization of forest-dependent community ideas of justice. In other words, process is important. Even if the justice practices pursued by the government and INGOs were more effective, if the process by which the outcomes of those practices are pursued undermines justice-as-trust, the justice envisioned by forest-dependent communities, then ultimately injustice still prevails.

The three justice themes that emerged in the interviews are not entirely disconnected from the justice metanorm. For example, the underlying norm that states should serve as the sole arbiters of justice, both defining whose justice and what justice, aligns closely with the expectations of both forest-dependent communities and the government in Laos. While the acceptance of this on the part of communities in Laos largely reflects the underlying power dynamics and hierarchy in Lao society, forest-dependent communities do maintain a high degree of respect for authority: "Laos until recently has been very peaceful. There has been no strong action by the Lao population, but this doesn't mean people are happy. Their ideas of fairness are shaped by self-preservation but also respect for authority."[30] The ability to pursue their livelihoods and wellbeing—self-preservation—is a critical variable in how forest-dependent

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[30] Personal communication, INGO Representative, February 6, 2013, Vientiane, Laos.

communities assess justice. Part of the pursuit of self-preservation is deference to authority, maintenance of harmony, and the promotion of unified views.

Furthermore, through the pursuit of justice-in-exchange and justice-as-rights, the state and INGOs focus largely on the outcomes, viewing justice as instrumental for achieving their project objectives, while potentially neglecting the process, a part of which involves communicating and establishing expectations. Ultimately, if justice is delivered, then whether it was achieved for instrumental or moral purposes is irrelevant. Again the challenge resides in the extent to which an instrumental pursuit of justice obscures opportunities for justice. Under the current circumstances in Laos, it appears that an instrumental pursuit is a potential barrier to securing justice-as-trust primarily because the instrumental pursuit in Laos does not provide the deliberative space in which ideas and conceptions of justice can be contested and trust can be built.

Lastly, although government respondents did not talk about community participation or involvement in decision-making in their responses to questions about the meaning of justice, they did frequently reference the importance of community participation as a determinant of project success. In practice, as INGOs alluded to and as I observed in the field, participation and inclusion are measured through presence: if villagers attend an informational meeting, then the intervention is deemed "participatory" and/or "community-based." If INGOs are interested in pursuing justice as rights, then they would be better served by more fully contributing to democracy building initiatives, to building the trust that is needed between themselves and

villagers to advance justice. In other words, INGO should strive towards participation parity in their projects (Fraser 2009).

There is a scalar tension in the pursuit of justice. Although justice as demanded by forest-dependent communities does not necessarily match the conceptions of justice embedded in the metanorm, but also does not preclude it. More important in the eyes of villagers is this notion of trust, something that is largely absent from the patriarchal roles that both the government and INGOs assume in Laos. These results help us understand how and why the government only partially diffuses the justice metanorm and why INGOs fail to adapt or build congruence with the metanorm. In highlighting the differences between the ideas of justice these actors hold and the justice practices they pursue, we can begin to see how the justice practices allow both groups to pursue their own interests while maintaining a justice discourse. In other words, their interests are masquerading as justice.

7. Conclusion: The Nature of the Justice Gap

For more than three decades, scholars, policy makers, and practitioners have sought to address the justice concerns of forest-dependent communities, yet claims of injustice persist. Conventional explanations that suggest a lack of political will to fulfill obligations, poor implementation, or unreasonable justice demands overlook the normative dimensions of the pursuit of justice, whereby the struggle for justice is a struggle over meaning. By ignoring the normative underpinnings of institutions and approaches to justice in global forest governance, however, we neglect a primary and significant barrier to the pursuit of justice. In this dissertation I argued that three variables—a justice metanorm, limited deliberative space, and forest governance actor interests—interact to serve as barriers to justice for forest-dependent communities by constraining how forest governance actors discuss and conceptualize justice. In particular, my findings show that the metanorm has led to the adoption and perpetuation of practices that are neither appropriate nor effective in the context, and neither the state nor INGOs in Laos are seeking to change them. Instead, these practices: produce injustice by placing undue burdens and demands on forest-dependent communities; obscure barriers to justice, particularly the limited political space for discussing, debating, and seeking justice; and allow different actors to maintain credibility for promoting justice through the adoption of common justice practices, thus

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limiting the opportunities to consider alternative pathways to justice and promote the

necessary institutional evolution.

7.1 A Multidimensional Gap

The justice gap is a gap not defined by the absence of institutions or poor

implementation of existing practices to address justice concerns, or simply the absence

of justice in global forest governance. It is much more complex and multidimensional.

As shown in this dissertation, the justice gap is a gap in meaning, a gap between justice

practices and demands, and also an implementation gap. Moreover, there is a scalar

tension in the pursuit of justice that reflects a spatial gap between the spaces in which

forest governance actors construct the meaning of justice norms and the spaces in which

these actors, especially communities, experience justice and injustice.

The practices adopted in Laos represent a kind of ideal justice, whereby if these

practices were implemented as envisioned by many transnational justice activists, they

could possibly contribute to delivering justice as demanded by forest-dependent

communities. However, because compliance with the practices diffused through the

global forest governance architecture is the responsibility of the state and where

outcomes that are judged do not include justice outcomes, the practices fall significantly

short of producing justice and, in many cases, may produce or exacerbate injustice.

Thus, as envisioned in the global forest governance architecture, INGOs can and should

be pursuing a more robust translation of these norms into practice (as we can largely expect states to do the bare minimum as full realization of justice as demanded by forest-dependent communities could undermine or threaten the power of states). To move towards justice, the process of translation should include further deliberation and contestation over meaning in order to identify the most appropriate and likely pathways towards justice in a given context.

The findings revealed a second characteristic of the justice gap, namely the gap between the ideas of justice held by key actors and the justice practices that they pursue. As demonstrated in Chapter 5, the state and INGOs in Laos pursue similar justice practices, focusing primarily on procedural mechanisms, including participatory approaches, and recognitional mechanisms, e.g. gender and ethnic mainstreaming, with very limited implementation of land allocation as the dominant distributional mechanism in Laos. How they define and understand justice, however, is distinct, with the state emphasizing distributional ideas of justice and INGOs emphasizing rights, reflecting primarily a conception of justice as recognition as well as procedural justice to a more limited extent. The government's policy regarding land allocation, which calls for equal allocation of land to all villagers (National Assembly of Lao PDR 2003), regardless of the needs and contributions of single households, does not reflect the hierarchical conception of distributional justice articulated by government respondents.

The egalitarianism of the land allocation policy does, however, align more closely with the ideas of justice held by forest dependent communities. Moreover, neither the participatory or mainstreaming practices adopted by INGOs reflect their understanding of justice as rights, except to the extent that their activities include dissemination of laws and regulations to villagers. Although in an ideal sense, participatory and community-based approaches could promote villager empowerment and more democratic approaches to forest governance, there are significant political and operational constraints to realizing these objectives in Laos, including freedom of speech restrictions, limited human resource and financial capacity.

These constraints reflect an additional characteristic of the justice gap as it manifests itself in Laos—an implementation gap. Discounting the gap between the conceptualizations of justice that the state and INGOs hold and the practices they pursue, these actors, especially INGOs, recognize the constraints to pursuing their ideal justice and the justice embodied in the practices they adopt. Yet, they continue to adopt these practices, essentially transforming justice practices into empty mechanisms, whereby the state and INGOs can maintain the rhetoric of justice and portray an image of fulfilling their justice obligations, while their interests simply masquerade as justice.

7.2 Implications

These findings should not be interpreted to suggest that participation or the other common justice practices should be eliminated from the set of tools used to promote justice. For example, FPIC may, in fact, be a desirable practice, regardless of whether or not it is locally demanded or immediately appropriate for the context. The challenge, however, is in understanding how the justice metanorm constrains innovation and opportunities for facilitating justice. As we can see in the case of Laos, the justice metanorm is both mediated and constrained by the state: the long-term, partial diffusion of the justice metanorm and the INGOs lack of adaptation to the local context allow the practice of participation to persist while simultaneously deterring any challenge or contestation to the norm at the national scale. In effect, the justice metanorm is not mediated **enough** to generate momentum—and thus leverage—for alternative approaches to justice. Thus, the question of justice in global forest governance becomes a question of institutional change. How justice is defined and diffused determines the scope of justice possibilities that can be sought and delivered through the global forests regime. Unless new leverage points to provoke norm – and thus institutional – change are found, the power of the justice metanorm will continue to perpetuate the justice gap in global forest governance.

My research has a number of implications, both for policy makers and scholars. First, for scholars and practitioners of global environmental governance and sustainability, my research raises questions about the extent to which justice can be facilitated for local communities under the existing metanormative fabric. If justice is, in fact, a necessary condition for effective and sustainable environmental governance, then architects of REDD+, for example, must more carefully consider the meta-normative underpinnings that guide the design and development of institutions. They should adopt approaches that allow for dynamic and multivalent understandings of justice to rise up within the institutional architecture. For scholars of social movements and the role of non-state actors in global governance, this work raises questions about the shifting role of NGOs – from norm entrepreneurs to norm enforcers – and a potential narrowing of the deliberative space for justice at the regime level and the subsequent justice effects. The growing chasms between INGOs and local civil society organizations in global forest governance further highlight an emerging legitimacy crisis, whereby the legitimacy that INGOs derive as advocates for marginalized, forest-dependent communities is eroding through the pursuit of their own interests, which while presented as the pursuit of justice, is at the expense of cultivating a deeper understanding of the nature of justice held by forest-dependent communities. For scholars of democracy, this work points to the potential for how presumably democratic

approaches to resource governance, such as participation and FPIC, can be used to legitimize authoritarianism. Lastly, for scholars and practitioners interested in environmental justice, my research suggests the need for continued conceptual and empirical work that more closely examines the tensions between the nature of justice being demanded and supplied and the extent to which these can be reconciled in a grander theory of environmental justice. Such a theory should strive to account for the scalar tensions inherent in the pursuit of justice in global environmental governance.

Questions of justice and injustice have been and are likely to remain a prominent theme in the discourse on global forest governance. As the actors living in direct contact with forest resources, forest-dependent communities maintain a paradoxical position in global forest governance: they hold and contribute traditional knowledge related to managing forest resources, have a vested interest in the long-term productivity of the services that forests provide, and may ascribe intangible yet highly valuable spiritual and cultural values to their forests that promote sustainable management and thus position forest-dependent communities as stewards. At the same time, forest-dependent communities' reliance on and immediate economic interests in forest resources may, especially in combination with high population growth and poverty, undermine efforts to sustainably govern forest resources thus threatening both their livelihoods and the global services that forests provide, including ecosystem, environmental, and economic

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services. Absent radical economic and political shifts to alter how communities interact

with their local forest resources, forest-dependent communities will remain an

important, and perhaps determinant, variable in global forest governance. Because of

the integral role that forest-dependent communities thus play in global forest

governance, the effects of efforts to govern forests on these communities will continue to

command attention from state and non-state actors. Thus, to the extent that global forest

governance interventions continue to produce injustice, addressing justice concerns will

remain a central—and perhaps necessary—task in global forest governance.

Appendix A: List of Acronyms

ABS	Access and benefits sharing
AEPF	Asia-Europe People's Forum
ASEAN	Association of Southeast Asian Nations
ASEM	Asia-Europe Meeting
CBD	Convention on Biological Diversity
CCBA	Climate, Community, and Biodiversity Alliance
CCD	Convention to Combat Desertification
CEE	Collaborative event ethnography
CITES	Convention on the International Trade of Endangered Species
COP10	Tenth Conference of Parties
CSO	Civil society organization
FAO	UN Food and Agricultural Organization
FCPF	Forest Carbon Partnership Facility
FPIC	Free prior informed consent
FS2020	Forest Strategy to 2020
FSC	Forest Stewardship Council
GAPE	The Global Association for People and the Environment
GEG	Global environmental governance
GFRC	Global Forest Regime Complex
GOL	Government of Laos
ICCA	Indigenous Community Conservation Area
IEWMP	Integrated Ecosystem and Wildlife Management Program
IGO/IO	International governmental organization/international organization
ILC	Indigenous and local communities
INGO	International non-governmental organization
ITTA	International Tropical Timber Agreement
IUCN	International Union for the Conservation of Nature
LUPLA	Land Use Planning and Land Allocation
MAF	Ministry of Agriculture and Forestry
MAT	Mutually agreed terms
MONRE	Ministry of Natural Resources and Environment
NBSAP	National Biodiversity Strategy and Action Plan
PES	Payments for ecosystem services
PIC	Prior informed consent
REDD+	Reduced emissions from deforestation and degradation
UN	United Nations
UNCED	UN Conference on Environment and Development
UNDRIP	UN Declaration on the Rights of Indigenous Peoples'
UNFCCC	UN Framework Convention on Climate Change
UNFF	UN Forum on Forests
VFI	Village Focus International
WCS	Wildlife Conservation Society
WTO	World Trade Organization

WWF   World Wildlife Fund

Appendix B: Stakeholder Interview Protocol

Institutional Dynamics in Natural Resource Management in Laos

Stakeholder Interview Protocol

A1	Can you tell me about the natural resource management projects, if any, you have been involved with and how you were involved with them? *If they need clarification on the project type: Natural resource management projects can include any projects that aim to conserve and/or sustainably manage natural resources. These may include projects for: forests, protected areas, non-timber forest products, land, fisheries, wetlands, biodiversity, and rivers.)Hydropower is not considered a natural resource management project.*
A2a.	Approximately how many natural resource management projects have you been involved in? [Number]
A2b.	What was your role in each of the projects you have been involved in? (List each project and their role).
A3	Using your best guesses, how did villagers participate in the project design/planning phase of the most recent project you were involved in? *(If the respondent needs examples: receive information about the project, attends one meeting about the project, attends many meetings about the project, provides ideas for improving the project design, provides consent and approval of the project design, voices disagreement in official meetings about the project design, makes decisions on the project design, etc.)*
A4	What types of benefits do you believe villagers have received, if any from the projects you are familiar with? If the project is still ongoing, what kinds of benefits do you expect villages will receive from the project? *(If the respondent needs examples: improved access to services like clean water, education, healthcare, markets; business or employment opportunities; direct cash payments; improved environmental awareness; permanent or temporary land titles; protection of timber and non-timber resources; satisfaction from helping conserve resources for future generations; training and capacity building opportunities).*
A5a	Natural resource management projects not only provide benefits but they also impose costs on different groups of people. In all of the projects you are familiar with, what costs do you believe the projects imposed on villagers? *(If the respondent needs examples: loss of access to forest and land resources, direct or indirect costs to attend meetings, loss of decision-making power, lost revenue, lost opportunity costs from stopping hunting and shifting cultivation, etc)*
A5b	Are there any costs that villagers should not have to bear? If yes, please explain.

A6		Sometimes there are conflicts or disagreements in natural resource management projects. These may be conflicts directly related to project design and implementation, or they may be conflicts that arise as the result of project implementation, such as conflicts over land or resource access or conflicts regarding how benefits should be distributed. Give me an example of a conflict or disagreement related to a project that you are familiar with. What was the conflict about, and how was it resolved (if at all)? *Enumerator: ask follow-up questions on who was involved in the conflict, who was involved in resolving the conflict, what different organizations and offices were involved in resolving the conflict, what the outcome was.*

	Read to Participants: **Now I will ask you questions about your perceptions of fairness in natural resource management projects. Please answer to the best of your ability using your best guesses.**	
		Give me an example of a time when you have heard others say that they found a natural resource management project to be unfair. What did they talk about and what did they mean by unfair?
	8a	On a scale of 1 to 5, where 1 is very unfair and 5 is very fair, how fairly are the needs of villagers usually represented in natural resource management projects? Representation means that the needs of the villagers are considered and addressed in the design and implementation of the natural resource management project.
		[1] Very unfair [2] Unfair [3] Neither fair nor unfair [4] Fair [5] Very fair [98] don't know [99] N/A
	8b	Should villagers have less, more, or no change in representation in natural resource management projects?
		[1] Less representation [2] More representation [3] No Change [98] Don't know [99] N/A
	9a	On a scale of 1 to 5, where 1 is never and 5 is always, do you believe villagers usually receive a fair share of the project benefits and rewards?
		[1] Never [2] Rarely [3] Sometimes [4] Often [5] Always [98] Don't Know [99] N/A
	9b	Should villagers receive none, less, more, or the same amount of the project's benefits and rewards?
		[1] None [2] Less benefits [3] More benefits [4] No change [98] Don't know [99] N/A
10		Benefits from natural resource management projects can include both direct and indirect transfers. Direct transfers are cash payments made directly to a project-identified stakeholder, such as the government, the

		Village Development Fund, or households. Indirect transfers include benefits that villagers may receive, such as: new employment or business opportunities; improved access to water and sanitation services, schools and health care; increased awareness of environmental issues; land titles; protection of timber and non-timber forest resources; and training opportunities. In your opinion, which benefit transfer type is most fair to villagers in project areas: direct or indirect transfers? Please choose only <u>one</u> and discuss why you believe it is the most fair. You can also tell me you don't know or that you do not wish to answer.	
			Why?
	]	Direct Transfers	
	]	Indirect Transfers	
	]	Don't Know	
	]	Decline to answer	
1 1 a		What criteria do you use to determine whether a project is fair or not? Please select the three most important criteria below. You can also tell me that a criterion is not important.	

a n k		No t important	Notes
]	How much you were involved in the decision-making process (1)		
]	How much you trust the decision-making process (2)		
]	Whether you agree with the decision(3)		
]	The personal costs you bear to be involved in the project (4)		

]	The project helps you fulfill your obligations to your family and/or community (5)	
]	Whether your personal status in society was respected by the project (6)	
]	The most vulnerable people are included in the project (7)	
]	Accordance with the law (8)	
]	Whether the decision causes conflict between people (9)	
]	Whether the project is in accordance with your religion or belief system (10)	
]	Whether the project contributes to nation-building (11)	
]	Whether the project promotes solidarity/harmony (12)	
]	Whether there is agreement among all of the stakeholders in the project (13)	
]	How much you benefit (14)	
]	How much you benefit compared to others (15)	
]	How fair the decision-making process was (16)	
]	Whether the decision-making process in the project is transparent (17)	
]	How much information you have about the project (18)	
1 1	Are there any other criteria you use to determine whether a project is fair or not? Is yes, please explain.	

b	
A12	What is justice? How would you define this term? Please provide examples.

Read to Participant: In this last part of the survey, I will ask you more general information about yourself. This information will help me better analyze all of the survey responses I collect.	
B. Demographic Information – Villager	
2.1. Name of respondent	
2.2. Gender	[1] Male [2] Female
2.3. Relationship to Head of Household?	[0] No [1] Yes
2.4. Age of respondent	[Years]
2.5. Ethnicity/language group (list from the 2005 Lao National Front Report)	Lao-Tai [1] Xaek [2] Nhouan [3] Tai [4] Thaneua [5] Phouthay [6] Yang [7] Lao [8] Lue Mon-Khmer [9] Khmou [10] Katang [11] Katu [12] Kriang [13] Kree [14] Khmer [15] Ngouan [16] Cheng [17] Samtao [18] Sadang [19] Xuay [20] Xingmoun [21] Nhaheun [22] Ta-Oy [23] Triang [24] Tri [25] Toum [26] Thaen [27] Bid [28] Brao [29] Pakoh [30] Pray [31] Phong [32] Makong [33] Moy [34] Yrou [35] Yae [36] Lamed [37] Lavi [38] Oy [39] Oedou [40] Harak Chine-Tibet [41] Singsily [42] Sila [43] Lahu [44] Lolo [45] Hor [46] Akha [47] Hanyi Hmong-Iu Mien [48] Hmong [49] Iewmien [95] Other:_____ [-99] Refuse
2.6. What languages are spoken in your household? *Mark all that apply*	[1] Mother Tongue: _____ [2] Lao [95] Other:_____
2.7. Can you read and write?	[0] No [1] Yes
2.8. Religion	[1] Buddhist [2] Animist [3] Christian [0] No religion [95] Other _____ [-99] Refuse

2.9. How many years have you lived in this village?	[Years]
2.10. How many total people, including children, live in your household?	[People] [-9] Don't know
2.11. Does the number of people in your household change depending on the season?	[0] No [1] Yes
2.12. If yes, which season?	[0] Does not change [1] Rainy season [2] Dry season
2.13. If yes, where do they go?	[0] Do not go [1] School [2] Work [3] Look for work [95] Other:_____
2.14. What is the main source of household income?	[1] Farming (paddy) [2] Farming (upland) [3] Factory employment [4] Plantation employment [5] Business owner [6] Construction job [7] Office job [8] Timber and non-timber forest products [95] Other: _____
2.15. What is your household's average annual income?	_____ [kip/year] [97] Decline to Answer [98] Don't Know
2.16. What types of forest resources does your household use regularly?	[1] Timber [2] Bamboo for construction materials [3] Rattan [4] Mushrooms [5] Wildlife for household consumption [6] Grazing lands for livestock [7] Medicine [8] Spiritual lands [9] Bamboo for household consumption [10] Other food products for household consumption [95] Other: _____
2.17. How much of your household's food do you grow each year?	[1] None [2] Very little [3] Some [4] More than half [5] Most [98] Don't Know [99] N/A

2.18. How much of your household's food do you collect from the forest each year?	[1] None [2] Very little [3] Some [4] More than half [5] Most [98] Don't Know [99] N/A
2.19. How much of your household's food do you buy each year?	[1] None [2] Very little [3] Some [4] More than half [5] Most [98] Don't Know [99] N/A
2.20. Do you have any responsibilities on any village or government committees? If yes, which ones?	[1] Village Head [2] Village Development Committee [3] Village Forestry Committee [95] Other: _____

Enumerator, please make note by observation

C. Housing quality: observation only	
10.1. Size of house/compound: *(Observe, don't ask)*	[1] Large (4 and above rooms) [2] Medium (2 to 3 rooms) [3] Small (1 room)
10.2. Type of wall: *(Observe, don't ask)*	[1] Leaf [2] Bamboo/Rattan [3] Timber/Wood [4] Cement bricks [95] Other: _____
10.3. Type of window: *(Observe, don't ask)*	[1] No windows [2] Uncovered windows (window but no shutters) [3] Window with wooden shutter [4] Window with glass [5] Window with mosquito screen [6] Window with mosquito screen and shutters [95] Other: _____
10.4. Type of roof?	[1] Thatch/Leaves [2] Iron sheets [3] Tiles [95] Other: _____
10.5. Trash in the yard or near the house?	[0] No [1] Yes
10.6. Food waste in the yard?	[0] No [1] Yes
10.7. Animals in the house?	[0] No [1] Yes

Part D – Demographic Survey / Identifier Information – ALL OTHER (non-villager)

Read to Participant: In the third part of the survey, I will ask you more general information about yourself. This information will help me better analyze all of the survey responses I collect.

D. Demographic Information – All Other (non-villager)	
2.21. Name of respondent	
2.22. Gender	[1] Male [2] Female
2.23. Age of respondent	[Years]
2.24. Nationality	
2.25. Current Position	
2.26. How many years have you held your current position?	[Years]
2.27. How many years have you been working in natural resource management	[Years]
2.28. How many years have you been working in Laos?	[Years]
2.29. Can you describe your current responsibilities?	
2.30. How much longer do you anticipate staying in your current position?	[Years]
2.31. Do you have responsibilities on any national or regional committees related to natural resource management? If yes, which ones?	

Appendix C: Data Collection Sites

List of Data Collection Sites, Agencies, and Organizations

1	AusAid: Australian Development Agency
2	CGIAR/CIFOR
3	CGIAR/Water Challenge
4	CIDSE
5	Community Knowledge Support Association
6	CORD, Vientiane
7	CWRWC, Vientiane
8	Department of Forestry/Ministry of Agriculture and Forestry
9	Department of Forestry/Ministry of Agriculture and Forestry
10	Division of Production Forestry/Department of Forestry/MAF/SUFORD
11	Ethnic Advisor
12	Ethnic Advisor
13	Ethnic/Gender Advisor, UNDP
14	Faculty of Forestry, National University of Lao PDR
15	Forest Carbon Asia
16	Gender Development Group
17	GIZ Land Law Project
18	GIZ REDD+ Project
19	Green Community Alliance
20	Helvetas
21	International Fund for Agricultural Development, Vientiane
22	IUCN—Lao Country Office
23	Japan International Volunteer Center
24	Japanese International Cooperation Agency PAREDD project

25	Lao Biodiversity Association
26	Ministry of Agriculture and Forestry (including Division of Forest Resource Conservation, Department of Forestry, Division of Production Forests, REDD+ Office, Forest Development Fund)
27	Multi-Ethnic People Adapting to Climate Change (AIMA)
28	National Agriculture and Forestry Research Institute
29	National Assembly
30	National Land Management Authority
31	Other Experts: Biodiversity, Ethnic Groups, Lao History, Linguistics
32	Participatory Development Training Center (PADETC)
33	Provincial Agriculture and Forestry Offices (Bolikhamxay, Savannakhet, Khammouane, Oudomxay, Luang Namtha, and Champasack Provinces)
34	SUFORD/Department of Forestry
35	Swiss Development Cooperation
36	The Agro-Biodiversity Initiative (TABI)
37	The Center for People and Forests (RECOFTC), Vientiane and Bangkok
38	UNDP—Laos Office
39	University of Bern, Vientiane
40	US Embassy
41	Village Focus International
42	Villages: Ban Thong Kang, Ban Pha Thong Long, Ban Keng Bit, Ban Tha Pai Ban, Ban Koh Bong
43	Wildlife Conservation Society—Laos Office (including field offices in Bolikhamxay and Khammouane Provinces)
44	World Bank, Vientiane and Bangkok
45	World Wildlife Fund—Laos Office (including field office in Champasack Province

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Biography

Kimberly R. Marion Suiseeya was born January 7, 1978 in Albuquerque, New Mexico. She received a Bachelor of Arts degree, with honors in majors, in International Relations and Politics and German Studies from Scripps College in May 2000. Following her undergraduate studies, Kimberly served in the US Peace Corps in Guyana (GUY-8). She traveled extensively and worked in community development and conservation in Thailand, Laos, New Hampshire, and Vermont before beginning her Master of Arts in International Environmental Policy at the Monterey Institute of International Studies in 2005. In 2006 Kimberly received a Switzer Environmental Leadership Fellowship and in 2007 she was awarded a David L. Boren Graduate Fellowship to pursue research and language studies in Laos. She completed her MA in August 2008 and was a Protected Area Management Advisor to the World Bank's Lao Environment and Social Project (LEnS) until June 2009.

During her doctoral studies at Duke University's Nicholas School of the Environment, Kimberly received multiple fellowships, including: Switzer Professional Development Grant (2010, 2012), Lazar Scholarship for International Environmental Leadership (2011), Duke University Center for International Studies Graduate Award for Research and Training (2011), US Department of Education Foreign Language and Area Studies Fellowship (2011), Kenan Graduate Fellowship (2011), Dissertation Research Travel Award (2012), Graduate Summer Research Fellowship (2012, 2014),

International Dissertation Research Fellowship (2012), F.K. Weyerhaueser Fellowship (2012), and the Katherine Goodman Stern Fellowship (2013).

Her published articles and reports include: "In Pursuit of Procedural Justice: Lessons from an Analysis of 56 Forest Carbon Projects" (2013) with Susan Caplow, "Methods and Global Environmental Governance" (2013) with Kate O'Neill, Erika Weinthal, Steven Bernstein Avery Cohn, Michael Stone, and Benjamin Cashore, "Negotiating the Nagoya Protocol: Indigenous Demands for Justice" (forthcoming in August 2014), "Case Study: The Emerald Triangle Forest Complex" (2012), "Sustainable Natural Resource Management of Mountainous Regions in Laos" (2008) with Nathan Badenoch, and Eco-efficiency: a practical path to sustainable development. A reference for Eco-efficiency partnerships in North-East Asia (2007) with Sangmin Nam and Rodrigo Fuentes.

Upon graduation, Kimberly will be joining the faculty in the Department of Political Science at Purdue University as a tenure-track Assistant Professor.