WHO OWNS THE WORLD’S LAND?

A global baseline of formally recognized indigenous and community land rights

Rights and Resources Initiative
September 2015
THE RIGHTS AND RESOURCES INITIATIVE

RRI is a global coalition of 13 Partners and over 150 international, regional, and community organizations advancing forest tenure, policy, and market reforms. RRI leverages the strategic collaboration and investment of its Partners and Collaborators around the world by working together on research, advocacy, and convening strategic actors to catalyze change on the ground.

RRI is coordinated by the Rights and Resources Group, a non-profit organization based in Washington, D.C. For more information, please visit www.rightsandresources.org.

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Preface

In recent years, there has been growing attention and effort towards securing the formal, legal recognition of land rights for Indigenous Peoples and local communities. Communities and Indigenous Peoples are estimated to hold as much as 65 percent of the world’s land area under customary systems, yet many governments formally recognize their rights to only a fraction of those lands. This gap—between what is held by communities and what is recognized by governments—is a major driver of conflict, disrupted investments, environmental degradation, climate change, and cultural extinction. While community land rights are garnering greater attention in national and international circles, the actual status and extent of legal recognition has not been well understood.

This report seeks to contribute to this field as the first analysis to quantify the amount of land formally recognized by national governments as owned or controlled by Indigenous Peoples and local communities around the world. The study includes data from 64 countries comprising 82 percent of global land area. It builds on the ongoing work of the Rights and Resources Initiative (RRI) to track ownership and control of the world’s forests, and expands that research to identify lands that are owned and controlled by local communities across all terrestrial ecosystems in the countries studied, including such diverse lands as grasslands in China, taiga in northern Canada, and rainforests in Brazil.

The finding that only 18 percent of land area in the countries studied is formally recognized as owned or controlled by local communities and Indigenous Peoples reveals the level of challenge facing the world today. Moreover, the findings that much of this recognized area is in just a few countries, that less than 5 percent of land is recognized as community owned or controlled in more than half of the countries, and that weaknesses and restrictions often impede the realization of rights, all demonstrate the need for action. Fewer than half of the countries studied have the legal frameworks in place to recognize communities’ and Indigenous Peoples’ full ownership rights to their lands.

We hope that this report will be used by community and Indigenous Peoples’ organizations, policy makers, advocates, investors, donors, and researchers to measure governments’ progress in formally recognizing Indigenous Peoples and communities’ rights to the lands that they have held in practice for generations. In addition, we hope that the findings will spur more action by all of these stakeholders to seize the many immediate opportunities for tenure reform as a way to close the gap between national laws, corporate practice, and communities’ rights.

As this report is the first effort to compile a global estimate of the formal recognition of Indigenous Peoples’ and communities’ land rights, we welcome comments and suggestions on how the methodology and results can be refined and improved in the future. Comments such as these have strengthened RRI’s forest tenure data and analysis for more than a decade. We look forward to your assistance as we refine our approach for future editions of the global baseline of indigenous and community land rights.

Andy White
Coordinator
Rights and Resources Initiative
Introduction

Ownership of the world’s rural lands and natural resources is a major source of contestation around the globe, affecting prospects for rural economic development, human rights and dignity, cultural survival, environmental conservation, and efforts to combat climate change. Historically, most rural lands were owned and governed by local communities and Indigenous Peoples under customary tenure systems. Over time, however, large areas of these lands have also been claimed by states under statutory law. In much of the so called “developed world,” this assertion of state claims has led to the reallocation of community lands to households and corporations as private property, though public ownership has remained important in some countries. In developing countries, states have often continued to assert direct claims over community lands, resulting in a situation of overlapping claims to lands that extend across large areas of the world to this day.

Communities are estimated to hold as much as 65 percent of the world’s land area through customary, community-based tenure systems. However, national governments only recognize formal, legal rights of Indigenous Peoples and local communities to a fraction of these lands. Some countries are in the process of recognizing communities’ rights, and estimates from those countries provide some indication of the size of these gaps in recognition. Recent work in India and Indonesia has identified approximately 40 million hectares (Mha) of customarily-held forest land in each country that has not yet secured formal, legal recognition. In Peru, estimates indicate that an additional 20 Mha of land is still due for formal recognition, and in the Caribbean region of Colombia, only around 2 percent of land held under customary tenure by Afro-Descendant communities has been formally titled. Many other countries have not yet established the legal authority for the recognition of communities’ land rights, and there is limited information on how much land is held by communities and still due recognition.

This report is designed to inform policy debates and action on community land rights by identifying how much land national governments have formally recognized as owned or controlled by Indigenous Peoples and local communities. It documents the land area under formally recognized community-based tenure regimes, where formal rights to own or manage land or terrestrial resources are held at the community level. The study compares data across 64 countries constituting 82 percent of global land area and aims to establish a global baseline of data on the legal recognition of local communities’ and Indigenous Peoples’ land rights. We hope that it can be used to promote and measure progress in recognizing and securing those rights over time.

When local communities and Indigenous Peoples lack formal, legal recognition of their land rights, they are vulnerable to dispossession and loss of their identities, livelihoods, and cultures. Pressures are increasing as governments issue concessions for forestry, industrial agriculture, large-scale mining, and oil and gas production on community lands. Disputes over land and natural resources are also a contributing cause of armed conflict.

By contrast, countries whose governments formally recognize customary land rights are making progress towards realizing human rights imperatives established in international frameworks such as International Labor Organization Convention 169 (ILO 169), the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and

Lands governed under community-based tenure systems often have well-established local institutions and practices for the stewardship of land and resources. These institutions and practices have historically helped to sustain large, intact ecosystems such as tropical forests, rangelands, and large-scale rotational agricultural systems. These ecosystems, in turn, provide a vital foundation for the livelihoods and food security of the estimated 1.5 billion local communities and Indigenous Peoples around the world who govern their lands through community-based tenure.

Formal, legal recognition of indigenous and community lands is necessary but not sufficient to guarantee tenure security, which also requires that states and other actors respect, support, and enforce such protections. Legal recognition does provide an essential foundation for securing community-based tenure rights. Community-based tenure can also be contrasted with the direct titling of individual lands, which has often resulted in negative impacts in areas with customary, community-based tenure systems. These impacts include the loss of land, particularly where titling establishes the rights of individuals to sell the land; increased conflict; disruption of ecosystems; and reduced access to vital common property resources by the politically and economically marginalized. Of course, within community-based tenure systems, Indigenous Peoples and local communities may adopt a range of approaches to land management, including managing lands as common resources, allocating areas to individuals or households to manage, or both.

These pressures, trends, opportunities, and challenges make the formal, statutory recognition of Indigenous Peoples and local communities’ land rights critically important for communities as well as national and international stakeholders. Increasing communities’ tenure security contributes to realizing national government goals to improve economic growth, as well as greater employment opportunities, political stability, and resilience. Where community land rights are respected and recognized in national law, communities can consider entering into partnerships with the private sector to establish responsible, secure, and sustainable investments. By promoting community land rights, bilateral and international development partners can establish enabling environments to reduce poverty, make progress toward the Sustainable Development Goals, combat climate change through mechanisms such as REDD+, and promote peacebuilding.

As demands for land tenure reform increase and national processes to recognize land rights advance, this report provides a baseline that documents the current status of formal, statutory recognition of community-based tenure. Section 2 of this report, on methodology, explains the scope of the study and how the data was collected and analyzed. Section 3 presents the results of the global baseline including breakdowns by country, income level, and region. Section 4 distills key findings from the analysis and discusses opportunities for reform, and Section 5 concludes by highlighting the importance of indigenous and community land rights for a wide range of actors and agendas at local, national, and international levels.
Methodology

The global baseline identifies the land area in 64 countries that is formally recognized—under national statutes—as owned or controlled by Indigenous Peoples and local communities. The analysis builds on previous work by RRI to track the ownership and control of forest land around the world, but expands beyond forests to consider the recognition of Indigenous Peoples’ and local communities’ land rights in other ecosystems. Countries in this report were selected to include a broad range of terrestrial ecosystems and to cover a large percentage of the earth’s land area.

Definitions and categories

This analysis uses “community-based tenure regimes” as its primary unit of analysis. “Community-based tenure” refers to situations in which the right to own or manage terrestrial natural resources is held at the community level. The term “regime” is used to indicate formal, legal recognition as expressed in a country’s statutes. Thus, community-based tenure regimes are a category that includes all situations where rights to own or manage terrestrial natural resources are held at the community level under statutory law.

RRI uses community-based tenure regimes as its unit of analysis for tenure tracking because this allows for the inclusion of a wide range of communities from different jurisdictions, reflecting a variety of political, cultural, and historical contexts. Using this category has allowed the global baseline to include indigenous communities in Brazil, First Nations in Canada, farming communities in Uganda, and forestry collectives in China. Community-based tenure regimes may be enacted explicitly to recognize the customary tenure rights of Indigenous Peoples and local communities, or they may seek to promote sustainable use of lands and natural resources or conservation objectives. As noted above, within community-based tenure regimes, rights-holders may adopt a range of approaches to land management, including common pool resource management and allocations to individual households.

Customary tenure has been recognized internationally as a basis for land rights regardless of the status of recognition under national law, but it is often not recognized by states. This study focuses on national level statutory recognition as a way to evaluate the state’s track record of recognizing Indigenous Peoples’ and local communities’ rights. The focus on statutory tenure as the unit of analysis is not intended to imply that property rights emanate from the state or that the state has the authority to deny customary rights.

Community-based tenure regimes can be contrasted with regimes establishing private ownership by individuals and corporations and with regimes establishing ownership and direct control by states. The pie charts in this report identify how much land is owned or controlled by Indigenous Peoples and local communities. The remainder of each country’s land is understood to be formally owned and controlled by (national or state) governments or by private firms and individuals. While most community-based tenure regimes are in rural areas, the analysis did not subtract urban areas from country area totals because these comprise only between 0.2 and 2.7 percent.
of global land area, depending on the methodology used to make the estimate. Country specific estimates for urban area were not available.\(^{16}\)

Community-based tenure regimes vary in the strength of the rights they allocate to Indigenous Peoples and local communities. Using the expanded bundle of rights elaborated in RRI’s analysis What Rights?\(^{17}\)—including rights of access, the right to withdraw natural resources, management rights, the right of exclusion, the right to due process and compensation in the event of government expropriation, and the right to hold tenure rights for an unlimited span of time—the global baseline divides community-based tenure regimes into two categories:\(^{18}\)

- **Land that is owned by Indigenous Peoples and local communities:** Land is considered to be “owned” where states have formally recognized that communities have certain rights which strengthen the security of their claims to land. It is defined in this analysis as an area where community tenure is unlimited in duration; communities have the legal right to exclude outsiders from using their resources; and communities are entitled to due process and compensation in the face of potential extinguishment by the state of some or all of their rights. In this analysis, alienation rights are not considered to be essential for community ownership.

- **Land that is designated for Indigenous Peoples and local communities:** Land in this category is governed under tenure regimes that recognize some rights on a conditional basis for Indigenous Peoples and local communities. While rights-holders have some level of “control” exercised through use, management, and/or exclusion rights over land, they lack the full legal means to secure their claims to those lands (i.e., they do not have all rights required under the “ownership” designation: the right to exclude, to due process and compensation, and to retain rights for an unlimited duration).

These definitions are designed to enable global comparisons across countries and do not always conform to definitions and perceptions of ownership in specific countries. For example, under Brazilian law, Indigenous Lands are held by the state on behalf of Indigenous Peoples, but are included here as “owned” because the tenure regime for Indigenous Lands includes the full bundle of rights that comprise ownership within this analytical framework.\(^{19}\) In Guyana, conversely, Amerindian Village Lands are recognized as indigenous-owned in the national context, but are included here as “designated for” Indigenous Peoples because communities’ rights to exclude outsiders from their lands—a key criterion for “ownership” in this framework—are limited.\(^{20}\)

This study reports on the area of land recognized by governments under community-based tenure regimes. This area data is one key dimension of the implementation of community-based tenure regimes. Tenure regimes are considered in this report to be “unimplemented” when no land area has been formally recognized under them. Importantly, however, even the formal recognition of land area under community-based tenure regimes does not ensure that communities enjoy these rights in practice, as formally-recognized rights may continue to be infringed upon (e.g., by allocation of overlapping commercial concessions) or undermined by a lack of enforcement or support by governments and other actors.
Some further caveats and clarifications are important for the reader to keep in mind. One is that this global baseline considers only national-level legally binding documents and regulations. Statements of policy and regulatory instruments (decrees, executive orders, etc.) are only considered when they implement or clarify the conditions under which rights already guaranteed by a constitution or other legislation should be exercised. Standalone statements of policy or regulatory instruments are not considered when they do not serve to interpret an underlying statutory or constitutional guarantee of property rights. This is because the interpretation, implementation, and enforcement of such policies are usually at the discretion of the executive branch of the government. Subnational legislation is not included within the scope of this analysis. Additionally, subsoil tenure rights are not addressed, although governments frequently reserve the right to issue concessions for the extraction of subsoil resources on community lands.

Customary law is a vital part of how land is managed in many of the countries surveyed. However, the results of this analysis do not generally include estimates of un-delimited lands held under customary law because the data is not available for most countries. Estimates of un-delimited customary lands held by communities are only included in the data table below for a handful of countries where (1) national-level statutes recognize customary rights without requiring the delimitation of community-based lands, and (2) general estimates of the area of community lands are available. Those instances are identified in the endnotes.

Commercial concessions significantly affect Indigenous Peoples’ and local communities’ lands, frequently giving corporations permission to exploit natural resources for extended periods of time, such as up to 99 years. However, because concessions generally do not establish areas designated for use or ownership by communities, most are not included within the scope of this study. Where tenure regimes establish community concessions, usually as lands designated for communities, these are included.

For the purposes of this report, land that is described as “held” by communities is occupied and governed by communities in practice; however, the communities may or may not have formal, legal rights to those lands. Lands that are “claimed” by communities are lands for which communities have initiated the legal or administrative processes required to obtain formal recognition of their property rights.

Data collection and review

The data for this global baseline data was collected and peer reviewed in two phases. First, country-level data was collected through a combination of expert consultancies for 48 countries and in-house desk research on 23 countries. Data was collected on the community-based tenure regimes enacted in each of these countries and on the area formally recognized under these regimes.

During the peer review phase of the study, the preliminary country data was submitted to people with relevant expertise to verify that the data was as complete as possible and based on the most up-to-date laws and regulations. RRI solicited reviews of country data from more than 900 people globally and collected more than 160 reviews of RRI’s results for individual countries. The global baseline contains data on the 64 countries for which sufficient, reliable data could be obtained.
This report is a first attempt to develop a global picture of community-based tenure rights in 64 countries. Every effort has been made to include only reliable and consistent information in the dataset; however, legal interpretations and data sources can vary. RRI welcomes comments and input that will enable improvements in the quality of the database and analysis.

**Formal Recognition of Indigenous Peoples’ and Local Communities’ Tenure Rights**

**Global results**

Table 1 summarizes the data collected on how much land is formally owned or controlled by Indigenous Peoples and local communities. The study includes 64 countries, whose total land area constitutes 82 percent of global land area. The term “global results” refers to the findings for the 64 countries included in the study.

The countries are listed by region and in alphabetical order within each region. Columns identify the total land area of each country, the area and percentage of land

### Table 1: Global Results—List of National Results Identifying Land Designated for or Owned by Indigenous Peoples and Local Communities

<table>
<thead>
<tr>
<th>Country</th>
<th>Total Country Area (Mha)</th>
<th>Designated for Indigenous Peoples and Local Communities</th>
<th>Owned by Indigenous Peoples and Local Communities</th>
<th>Total Area Designated for or Owned by Indigenous Peoples and Local Communities</th>
<th>Income Level</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CORE REGIONS STUDIED</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cambodia</td>
<td>17.65</td>
<td>0.58</td>
<td>3.30%</td>
<td>0.01</td>
<td>0.04%</td>
</tr>
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<td>China</td>
<td>942.47</td>
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<td>0.00%</td>
<td>465.70</td>
<td>49.41%</td>
</tr>
<tr>
<td>India</td>
<td>297.32</td>
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<td>0.00%</td>
<td>0.13</td>
<td>0.04%</td>
</tr>
<tr>
<td>Indonesia</td>
<td>181.16</td>
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<td>0.19%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Kazakhstan</td>
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<td>7.96%</td>
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<td>0.00%</td>
</tr>
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<td>40.07%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Lao PDR</td>
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<td>0.02</td>
<td>0.10%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Myanmar</td>
<td>65.33</td>
<td>0.05</td>
<td>0.07%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Nepal</td>
<td>14.34</td>
<td>1.92</td>
<td>13.41%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
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<td>Philippines</td>
<td>29.82</td>
<td>1.65</td>
<td>5.55%</td>
<td>4.71</td>
<td>15.79%</td>
</tr>
<tr>
<td>Tajikistan</td>
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<td>0.00%</td>
</tr>
<tr>
<td>Thailand</td>
<td>51.09</td>
<td>0.48</td>
<td>0.94%</td>
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<td>0.00%</td>
</tr>
<tr>
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<td>-----</td>
<td>0.00%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>46.99</td>
<td>30.29</td>
<td>64.46%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>42.54</td>
<td>-----</td>
<td>0.00%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Region Total</td>
<td>2016.41</td>
<td>64.52</td>
<td>3.20%</td>
<td>470.54</td>
<td>23.34%</td>
</tr>
<tr>
<td>Country</td>
<td>Total Country Area (Mha)</td>
<td>Total Area Designated for or Owned by Indigenous Peoples and Local Communities</td>
<td>Income Level</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>--------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Country</td>
<td>Total Area Designated for or Owned by Indigenous Peoples and Local Communities</td>
<td>Percent of Country Area</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Area (Mha)</td>
<td>Percent of Country Area</td>
<td>Area (Mha)</td>
<td>Percent of Country Area</td>
<td>Total Area</td>
</tr>
<tr>
<td>------------------------</td>
<td>--------------------------</td>
<td>-------------------------</td>
<td>------------</td>
<td>-------------------------</td>
<td>------------</td>
</tr>
<tr>
<td><strong>Latin America</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Argentina</td>
<td>273.67</td>
<td>5.2948</td>
<td>1.93%</td>
<td>2.7448</td>
<td>1.00%</td>
</tr>
<tr>
<td>Bolivia</td>
<td>108.33</td>
<td>0.4710</td>
<td>0.43%</td>
<td>38.9251</td>
<td>35.93%</td>
</tr>
<tr>
<td>Brazil</td>
<td>835.81</td>
<td>77.1912</td>
<td>9.24%</td>
<td>114.6353</td>
<td>13.72%</td>
</tr>
<tr>
<td>Chile</td>
<td>74.35</td>
<td>0.0614</td>
<td>0.09%</td>
<td>2.2555</td>
<td>3.03%</td>
</tr>
<tr>
<td>Colombia</td>
<td>110.95</td>
<td>-----</td>
<td>0.00%</td>
<td>37.5846</td>
<td>33.87%</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>5.11</td>
<td>-----</td>
<td>0.00%</td>
<td>0.3357</td>
<td>6.44%</td>
</tr>
<tr>
<td>Guatemala</td>
<td>10.72</td>
<td>0.3848</td>
<td>3.55%</td>
<td>1.4059</td>
<td>13.04%</td>
</tr>
<tr>
<td>Guyana</td>
<td>19.69</td>
<td>3.8040</td>
<td>19.32%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Honduras</td>
<td>11.19</td>
<td>0.5061</td>
<td>4.42%</td>
<td>1.0762</td>
<td>9.55%</td>
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<tr>
<td>Mexico</td>
<td>194.40</td>
<td>-----</td>
<td>0.00%</td>
<td>101.1343</td>
<td>52.02%</td>
</tr>
<tr>
<td>Peru</td>
<td>128.00</td>
<td>9.2744</td>
<td>7.24%</td>
<td>35.2965</td>
<td>27.57%</td>
</tr>
<tr>
<td>Suriname</td>
<td>15.60</td>
<td>-----</td>
<td>0.00%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Venezuela</td>
<td>88.21</td>
<td>2.8447</td>
<td>3.22%</td>
<td>-----</td>
<td>0.00%</td>
</tr>
<tr>
<td>Region Total</td>
<td>1876.01</td>
<td>99.80</td>
<td>5.32%</td>
<td>335.34</td>
<td>17.87%</td>
</tr>
<tr>
<td><strong>Sub-Saharan Africa</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Angola</td>
<td>124.67</td>
<td>-----</td>
<td>0.00%</td>
<td>0.0168</td>
<td>0.00%</td>
</tr>
<tr>
<td>Botswana</td>
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<td>16.4031</td>
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<td>12.62%</td>
<td>41.27</td>
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designated for Indigenous Peoples and local communities, the area and percentage of land owned by Indigenous Peoples and local communities, the combined total, and whether the country is considered a low, middle, or high income country. When a tenure regime has been enacted but no land has been recognized as owned or controlled by communities—i.e., where it has not been implemented—the cell contains a “0”. Where the country has no legislation in place establishing a tenure regime, the cell is marked with a dash “—”.22
In the table, both area estimates and percentages have been rounded to the nearest hundredth as a way to capture the results for countries where tenure regimes cover only a small area. In the text of the report, percentages are rounded to the nearest whole number for clarity.

Globally, 18 percent of land is formally recognized as either owned by or designated for Indigenous Peoples and local communities. Within the 18 percent:

- 10 percent of land in the countries studied is owned by Indigenous Peoples and local communities, and
- 8 percent of land in the countries studied is designated for (or “controlled by”) Indigenous Peoples and local communities.

These global figures are an aggregate of results which vary immensely at the national level. In half of the countries studied (32 of 64 countries), less than 5 percent of the country’s land area is owned or controlled by Indigenous Peoples and local communities. This can be contrasted with four of the 64 countries where formal statutes recognize rights of Indigenous Peoples and local communities to own or control more than 60 percent of the land area, including Papua New Guinea (97 percent), Tanzania (75 percent), Uganda (67 percent), and Turkmenistan (64 percent). Figure 1 shows how many countries recognize community-based property rights over which percentage of their total land area in 5 percent increments.

Eighty-eight percent (56 of 64) of the countries surveyed have at least one tenure regime that recognizes rights of Indigenous Peoples or local communities to own or control land, although some of these tenure regimes have not been implemented. Eight of 64 countries do not have any community-based tenure regimes. Among the 56 countries with community-based tenure regimes, 11 countries only have tenure regimes recognizing
full ownership rights. 28 countries only designate lands for Indigenous Peoples and local communities, and 17 countries have both types of tenure regimes.

The distinction between community-based tenure regimes that recognize full ownership and those that designate lands for Indigenous Peoples and local communities has practical implications. On land that is designated for Indigenous Peoples and local communities, communities may not have core rights such as access to due process and compensation if the government expropriates their lands. Some communities who have control over their land but lack full ownership rights may only retain their property rights for a term of years. Similarly, in some lands that are designated for Indigenous Peoples and local communities, communities may lack the right to exclude outsiders from community lands, or they may not have the legally recognized right to manage their lands. Lack of ownership rights may undermine incentives to invest in long-term improvements such as reforestation and limit the ability of communities to establish and maintain natural resource-based enterprises.

Five countries dominate the global results: China, Canada, Brazil, Australia, and Mexico. Together, these five countries contain about 67 percent of the global land area formally owned or controlled by Indigenous Peoples and local communities. Therefore, one or two countries drive the results in some regions. Two countries, China and Canada, contribute almost 44 percent of the global land area owned by or designated for Indigenous Peoples and local communities. If China and Canada were not included in the results of the global baseline results, the total percent of land owned or controlled by communities would drop by a third, from approximately 18 percent to 12 percent of land area (see Figure 2). Box 1 discusses China and Canada in more detail.
BOX 1: Countries Driving the Global Results – China and Canada

Community-based tenure regimes in China alone make up almost a quarter (24 percent) of the lands formally recognized as owned or controlled by communities globally. About 60 percent of community lands in China are grasslands, and 40 percent are forests.

Community-based tenure regimes in China were created by statute in the 1950s when all rural land was integrated into large collectives. This contrasts with the situation in many countries, where community-based tenure regimes have been enacted in response to “bottom up” pressure to formally recognize customary tenure and/or local management systems.

Starting in 1978, the Chinese government began to “decollectivize” rural lands, a process of breaking up the large collectives, which established varying degrees of property rights at the local community and household level in farmlands, grasslands, and forests. As a result of this process, household rights to agricultural lands have become functionally almost equivalent to private ownership. Thus, they have not been counted as communally-owned lands for the purposes of this global baseline.

In grasslands and forests, by contrast, local communities continue to hold rights at the community level, and governance of the land remains collective, although many decisions are also made at the household level. The recent forest tenure reforms clarified community authority to allocate lands to households and manage forests collectively. The management arrangements for community forests vary regionally, based on contracts at the collective level, and frequently include a mix of long-term private household use rights and community-based rights. Grasslands are also held collectively. Summer pastures are used by administrative villages, and winter pastures are used by smaller “natural villages.” Individual households obtain contracts for long-term use rights. These rights vary across China’s diverse regions.

Indigenous land ownership and control is also important in Canada. Community-based tenure regimes in Canada contribute 20 percent of the total land formally recognized as owned or controlled by local communities globally. Indigenous Peoples control vast areas of Canada; however, much of this land is located in the sparsely populated, far northern reaches of the country. Three quarters of the land that is owned or controlled by Indigenous Peoples is found in Canada’s Northern Territories, which include the Northwest Territories, Nunavut, and the Yukon, and is largely comprised of tundra and taiga. As of 2011, approximately 107,000 people—less than 0.1 percent of Canada’s population—lived in these territories.

Results disaggregated by region

There is significant variation across regions in the countries studied. The discussion below focuses primarily on Latin America, Sub-Saharan Africa, and Asia because these regions comprise a larger portion of global land area, they are largely made up of low and middle income countries, and the data was more readily available. Figure 3 shows the percentages of land owned or controlled by Indigenous Peoples and local communities in each region, while Figure 4 compares the types of tenure regimes enacted by countries in each region.

Among Asia, Latin America, and Sub-Saharan Africa, Asia has the largest total proportion of land formally owned or controlled by Indigenous Peoples and local communities (26 percent). However, China makes up the vast majority of the Asia results. Without China, the totals for the rest of Asia are less than 1 percent ownership and 6 percent control. In Latin America, the total area owned or controlled by Indigenous Peoples and communities is 23 percent, and this area is more evenly
distributed across the countries studied, with eight out of 13 countries (62 percent) recognizing community-based rights to more than 10 percent of their land area. In Sub-Saharan Africa, the total area owned or controlled by Indigenous Peoples and communities is 15 percent, with eight out of 19 countries (42 percent) exceeding 10 percent. Weaker forms of community control predominate in Africa, whereas community ownership is more prevalent in Latin America.
Latin America

The global baseline includes 13 countries in Latin America.129 Across these 13 countries, Indigenous Peoples and local communities own 18 percent of the land area, and an additional 5 percent of land is designated for community use.

Brazil and Mexico have the largest area of land owned or controlled by Indigenous Peoples and local communities in Latin America. They contribute 44 percent and 23 percent, respectively, of the total land owned or controlled by communities in the 13 Latin American countries. The countries where the highest percent of national land area is owned or controlled by Indigenous Peoples and local communities are Mexico (52 percent), Bolivia (36 percent), Peru (35 percent), and Colombia (34 percent).

Among the three focal regions, Latin America has the highest percentage of tenure regimes that recognize stronger forms of community ownership. Three of the 13 countries (Colombia, Costa Rica, and Mexico) only recognize community-based ownership and seven countries have both types of tenure regimes,130 while two countries (Guyana and Venezuela) only designate lands for Indigenous Peoples and local communities. Only Suriname has no community-based tenure regimes that recognize a robust enough bundle of rights to constitute community ownership or control under RRI’s methodology.

Asia

The global baseline includes 15 countries in Asia.131 Across these countries, Indigenous Peoples and local communities own 23 percent of total land area and 3 percent is designated for community use.

China drives the results in the Asia region, due to its size as well as the large areas of land considered as owned by communities under statutory law. China makes up 44 percent of the land area of the Asian countries studied, and contributes 87 percent of the total area owned or controlled by communities in the region. By contrast, in eight of the 15 Asian countries studied, less than 1 percent of the countries’ area is owned or controlled by Indigenous Peoples and local communities.133 Other Asian countries with more than 10 percent of land area under community ownership or control are Kyrgyzstan, Nepal, the Philippines, and Turkmenistan.

Within the 15 Asian countries, China and India only have tenure regimes that recognize community-based ownership.134 Cambodia and the Philippines have both types of tenure regimes—those that recognize ownership rights and those that designate lands for Indigenous Peoples and local communities. Nine countries only designate lands for Indigenous Peoples and local communities.135 Timor-Leste136 and Uzbekistan had no community-based tenure regimes.

Sub-Saharan Africa

Across the 19 countries studied in Sub-Saharan Africa, 13 percent of the area137 is designated for Indigenous Peoples and local communities, and only 3 percent is legally recognized as owned by Indigenous Peoples and local communities under community-based tenure regimes.

The smaller percentage of land owned or controlled by communities in Sub-Saharan Africa, as compared with Asia or Latin America, is due to a large cluster of countries in
which Indigenous Peoples and local communities own or control very little land. In eight of the 19 African countries surveyed, communities have legally recognized rights to own or control less than 1 percent of the country’s land area, including both agricultural and forested lands.\textsuperscript{138}

Africa also has the highest number of countries where national statutes recognize rights of communities to own or control more than half of the country’s land area: Tanzania (75 percent), Uganda (67 percent), Zambia (53 percent), and Botswana (53 percent). In Tanzania, Uganda, and Zambia, these numbers reflect the fact that national laws automatically recognize all customary community lands without requiring communities to register their lands. This automatic recognition reduces procedural requirements for formal registration of land that can be burdensome and deter communities from formalizing their land rights.\textsuperscript{139} However, where rights are not spatially delimited and registered, governments must take additional care to ensure that their actions respect customary ownership. For example, the Ugandan Constitution and Land Act of 1998 both recognize customary law. However, in practice, the government has issued concessions over customary lands without consultation and has not provided customary owners with the compensation or benefit sharing to which they are legally entitled because communities were unable to produce certificates of customary ownership.\textsuperscript{140}

All of the 19 African countries surveyed have enacted community-based tenure regimes, but with an overall orientation towards the weaker category of designation. Twelve countries only designate lands for Indigenous Peoples and local communities,\textsuperscript{141} five countries have both types of tenure regimes,\textsuperscript{142} and two countries—Angola and South Sudan—only have tenure regimes that recognize ownership rights for Indigenous Peoples and local communities. The Central African Republic and the Democratic Republic of the Congo have not implemented any of their community-based tenure regimes, and there is no data to establish the extent to which Chad and South Sudan have implemented their tenure regimes, if at all.

Other regions

Of the nine countries examined in the Middle East and North Africa,\textsuperscript{143} only four have community-based tenure regimes, all of which designate land for Indigenous Peoples and local communities.\textsuperscript{144} Only 5 percent of the total land area studied in the Middle East and North Africa is designated for Indigenous Peoples and local communities.

The global baseline study includes information for fewer countries in other regions: Australia and Papua New Guinea in Oceania; the U.S. and Canada in North America; and Norway, Sweden, Finland, and Russia in Europe. The countries examined in these regions are high income countries, with the exception of Papua New Guinea, which is a middle income country. Eighteen percent of the land area examined in Oceania is owned by Indigenous Peoples and local communities, and an additional 6 percent of land is designated for their use. In the two North American countries, Indigenous Peoples and local communities own 5 percent of the land area and control an additional 18 percent. In the four European countries studied, Indigenous Peoples and local communities own less than 1 percent and control just over 4 percent of total land area.
This section devotes particular attention to low and middle income countries because contestation over tenure tends to be most active in these countries (although some high income countries, such as Canada, are still resolving claims over disputed territories). Moreover, low and middle income countries are the focus of international development efforts, and can sometimes obtain Official Development Assistance when undertaking tenure reform. There is, however, some discussion of high income countries because of their large size. The 12 high income countries included in this study comprise 39 percent the world’s land area.

Here, the global baseline data is disaggregated by Gross National Income (GNI) per capita, using the World Bank Atlas Method Classifications. Low income countries have a GNI per capita of US$1,045 per year or less; middle income countries have a GNI per capita between US$1,046 and US$12,735; and high income countries have a GNI per capita of more than US$12,736.

Figure 5 shows that within the countries studied, Indigenous Peoples and local communities own or control a larger total percentage of land area in middle income countries than in low income countries. Communities also own and control a smaller percentage of land in high income countries when compared with low and middle income countries.
Across the **12 low income countries studied**, Indigenous Peoples and local communities own only 4 percent of the total land area, and control 10 percent. Tanzania, Zimbabwe, Mozambique, and Uganda are the countries in this set with the largest areas of community land; each contributes more than 10 percent of the total land owned or controlled by communities in low income countries. The two Asian low income countries included in the study (Cambodia and Nepal) have some land under community-based tenure regimes, but did not significantly influence the aggregate results. The fact that low income countries have made less progress in formally recognizing community-based lands is particularly problematic because the poor rely heavily on common lands for their livelihoods. A study from Zimbabwe estimated that the poorest 20 percent of people using communal areas relied on them for approximately 40 percent of their household income, including from many livelihood activities largely undertaken by women, such as the sale of wine, wild fruits and vegetables, and thatching grass.

Among the 12 low income countries, tenure regimes designating land for Indigenous Peoples and local communities are more common than those recognizing ownership. All of the low income countries studied had some type of community-based tenure regime; however, many were either totally unimplemented or had only been implemented on a very small scale. Eleven of the 12 countries have tenure regimes that designate land for Indigenous Peoples and local communities, and four of those countries also have tenure regimes that recognize full ownership rights. South Sudan only recognizes ownership rights; however, there is no documentation available on the current state of implementation of the community-based tenure regime in South Sudan.

**Forty middle income countries are included in the global baseline.** In these countries, Indigenous Peoples and local communities have ownership rights to over 18 percent of the land area; they have more limited rights over 6 percent of the total land area. China dominates the results, contributing 40 percent of the land owned or controlled by communities in middle income countries (all in the form of ownership). Brazil and Mexico contribute 17 and 9 percent, respectively. No other country contributed more than 5 percent of the total results for middle income countries. Nineteen middle income countries recognize communities’ rights to own or control more than 10 percent of their national land area.

More middle income countries have tenure regimes that designate land for community control than have tenure regimes recognizing community-based ownership. Twenty middle income countries designate lands for Indigenous Peoples and local communities; seven countries have both types of tenure regimes (ownership and control); seven only have tenure regimes that grant ownership rights; and the remaining six have no community-based tenure regimes.

Among the **12 high income countries studied**, more land area (9 percent) is designated for Indigenous Peoples and local communities than is owned under community-based tenure regimes (4 percent). A number of these countries’ histories were characterized by colonization and violent conquests of local people, thus diminishing, if not eliminating, customary holdings and peoples. In European countries, the royalty used the medieval feudal system to claim land and limit commoners’ property rights. These processes often endangered and even destroyed cultures using approaches that violate human rights and are not acceptable in the modern world.
Canada and Australia contribute the most land area owned or controlled by communities among the high income countries. Eight of the 12 high income countries studied have tenure regimes that recognize community-based ownership by Indigenous Peoples or local communities. Of these eight countries, five also have tenure regimes that designate lands for community control. Two countries—Sweden and Venezuela—only have community-based tenure regimes that designate lands for Indigenous Peoples and local communities. Saudi Arabia and Oman do not have any community-based tenure regimes.

**Community-based tenure recognition in fragile and conflict-affected states**

Fragile states are important to consider in discussions of community-based tenure because of the linkages between fragility, conflict, and disputes over land and access to natural resources. Fragile states are frequently affected by conflict, and disputes over land and natural resources are often a contributing cause of armed conflict. According to one study, “the dubious legal position of customary land interests” played a role in all but three of the 30 plus armed conflicts that took place in Africa between 1990 and 2009.

Progress in recognizing community-based land rights is strikingly weak in the fragile states included in this global baseline study (see Figure 6). The study includes 12 fragile states based on the World Bank’s 2015 list, six of which are low income countries and six are middle income countries. In these fragile states, only 2 percent of the land area is controlled by Indigenous Peoples and local communities and only a fraction of 1 percent is owned by them.

Some fragile states have used the post-conflict peacebuilding period as an opportunity to pursue community tenure reform. For example, in Liberia, disputes over land and natural resources related to customary ownership, conflicts between communities, and poor government administration of land and natural resources were among the structural causes of conflict. The government of Liberia and the international community recognized the

![Figure 6](image-url)
importance of addressing land tenure as part of the foundation for a lasting peace, and have taken the opportunity to work towards land reform and the recognition of customary rights (See Box 2). Prospects for tenure reform in other post-conflict countries—including Timor-Leste, Myanmar, and Colombia—are discussed in the following section.

**Key Findings and Opportunities for Reform**

The findings of this analysis on the area of land owned and controlled by Indigenous Peoples and local communities reflect significant social and political progress. Many countries have established community-based tenure regimes as a result of stronger mobilization of indigenous and community movements on the ground, increased government recognition of the benefits of secure community tenure, and broader global recognition of the centrality of indigenous and community land rights for the realization of global development goals.

**Key findings**

At the same time, the findings reveal significant challenges to the realization of community tenure security. One key finding stems from the fact that a large proportion of the lands formally recognized as owned or controlled by Indigenous Peoples and local communities is found in only a few countries. As highlighted, five countries—China, Canada, Brazil, Australia, and Mexico—make up 67 percent of the total global land area.

**Box 2: Land Tenure Reform in Liberia**

In 2008, Liberia established the National Land Commission and began the process of working toward land reform as part of its broader efforts to achieve lasting peace and stability, recognizing that “all the issues surrounding land in Liberia have to be resolved in order to maintain perpetual peace and stability; and to sustain the hard earned peace after so many years of Civil Conflict.” Since then, Liberia has enacted a national Land Rights Policy in 2013, which recognized customary tenure. Now, in 2015, the Liberian legislature is considering a draft Land Rights Act that would recognize customary tenure as a matter of law without requiring titling, an approach similar to the one used by Mozambique, Tanzania, Uganda, and Zambia. This would be an important development because experts estimate that 71 percent of Liberia’s land area is held under customary tenure. A significant concern, however, is the status of state-granted concessions. One provision in the draft Act states that concessions affecting customary land rights will be honored if they were issued prior to when the Act comes into effect; thus, communities will only be eligible to exercise their customary rights after the concession expires. This is particularly problematic in light of estimates that commercial concessions have been issued over approximately 75 percent of Liberia’s land area.

Even to the extent that existing laws and the draft Land Rights Act protect customary tenure, they will not eliminate tenure insecurity without robust procedural requirements and administrative capacity. Government agencies must be willing and able to coordinate their actions in order to avoid infringing on customary tenure when issuing concessions, designating protected areas, and taking other actions that could adversely affect communities’ property rights. Communities inhabiting over 30 percent of Liberia’s land area have already obtained titles for their customary lands in the form of Public Land Sale Deeds and Aboriginal Land Grant Deeds. Nevertheless, a lack of technical capacity, interagency coordination, and due process has led to instances where titled community lands have been expropriated without compensation to make way for concessions or protected areas. These problems point to the need for Liberia to build its technical, institutional, and administrative capacity to ensure that government and private actions do not undermine tenure security.
owned or controlled by communities. Just two countries—China and Canada—make up 44 percent. China, in particular, dominates the results due to its size and the large proportion of grasslands and forest owned by communities. China also affects the global proportion of lands that are owned by communities versus those designated for communities.

The extent of formal recognition is also very limited in many countries. Half of the countries studied (32 of 64) recognize less than 5 percent of the country’s land area as owned or controlled by Indigenous Peoples and local communities; 38 percent (24 of 64) recognize community ownership or control to less than 1 percent of the country’s land area; and in 23 percent of the countries (15 of 64), no land is owned or controlled by communities.

Another significant finding is that **in more than half of the countries studied, Indigenous Peoples and local communities have no formal, legal avenue to obtain ownership of their lands.** This is due to the fact that 12 percent of countries (eight of 64) have yet to enact any community-based tenure regimes, and another 44 percent of countries (28 of 64) only designate lands for community control and have no tenure regimes recognizing community ownership.

Most importantly, **the area formally recognized under statutory law is much less than the area to which Indigenous Peoples and local communities hold customary rights.** While each country is different in the amount of land held under customary tenure, estimates of customary lands in particular countries provide some hints as to the gap between the amount of land that is customarily held by Indigenous Peoples and local communities, and the amount of land to which they have formally recognized rights.

In Latin America, despite significant progress to date on the recognition of indigenous and community land rights, estimates from Peru and Colombia demonstrate that large areas of land held by Indigenous Peoples and local communities still remain to be formally recognized. Peruvian Indigenous Peoples formally own or control more than one-third of the country’s land area (44.55 Mha); however, Peru’s national Indigenous Federation of the Peruvian Amazon (AIDESEP) estimates that an additional 20 Mha of land are eligible for formal recognition. Colombia formally recognizes Indigenous Peoples and communities’ rights to own or control about one-third of the country’s land area. However, in the Caribbean region, experts estimate that up to 100,000 hectares of land are held by Afro-Descendant communities under customary tenure; only around 2 percent of these lands have been formally titled. Afro-descendant communities have filed claims to obtain title to an additional 10,853 hectares; however, the process to obtain formal title is costly for communities and can take years.

In Asia, Indigenous Peoples and local communities also hold traditional ownership over far more land than is formally recognized. In Indonesia, less than one quarter of 1 percent (approximately 0.2 percent) of the country’s lands is currently recognized as community owned or controlled. By contrast, an estimated 40 Mha are being proposed for recognition based on a 2013 ruling by the Indonesian Constitutional Court in favor of communities’ customary forest tenure rights. In India, it is estimated that only 1.2 percent of customarily held forest lands has been formally recorded and recognized.

In Sub-Saharan Africa, the large percentages of national territory estimated as customary lands in countries that automatically recognize customary tenure offer some indication of the scope of customary lands in the region. One expert estimates that up to 60 percent of Sub-Saharan Africa is subject to customary tenure.
Opportunities for reform

These examples demonstrate that in many jurisdictions, Indigenous Peoples and local communities hold far more land through customary tenure than is currently formally recognized—a situation that must be remedied in order to achieve tenure security. While these figures demonstrate the significant gaps that exist, there are also significant prospects for future reform as community-based tenure recognition gains traction at national levels and in international policy fora.

At the national level, countries in Africa, Asia, and Latin America are currently considering laws and policies that have the potential to improve formal tenure recognition for local communities and Indigenous Peoples.

- Several countries in West and Central Africa, for example, are considering new legislation and/or taking steps to implement recent advances in tenure reform. For example, the Liberian legislature is considering a draft Land Rights Act which would recognize communities’ customary land rights and provide for a national confirmatory survey of customary lands (see Box 2).178 In the Democratic Republic of the Congo, the government has issued implementing regulations for Local Community Forestry Concessions, is considering draft legislation on the rights of Indigenous Peoples, and has developed a draft decree for the implementation of customary rights.179

- In Asia, recent years have yielded significant judicial and legislative victories for the rights of Indigenous Peoples and local communities in countries like India and Indonesia; simultaneously, the countries recovering from conflict such as Myanmar and Timor-Leste are determining how to improve tenure security.180 In India, titles are being issued to communities based on their customary ownership as the country implements its 2006 Forest Rights Act; the area recognized for community tenure is anticipated to grow dramatically in coming years.181 Similarly, an Indonesian Constitutional Court decision in May 2013 invalidated Forestry Law 41 which claimed government ownership of customary forests.182 If fully implemented, the decision could increase the percentage of land owned or controlled by Indigenous Peoples and local communities from 0.25 percent to approximately 23 percent of Indonesia’s total land area, and almost 40 percent of the country’s forested lands.

- In Latin America, Indigenous Peoples and local communities have achieved significant progress towards obtaining formal recognition of their land rights. In recent years, however, these gains have been put at risk as governments take steps to roll back the recognition of rights and instead promote commercial investment. For example, the Peruvian Congress has passed a series of laws referred to as Paquetazos which weaken protections against the expropriation of land held by Indigenous Peoples and local communities in order to facilitate commercial concessions.183 Approximately 48 Mha of oil and gas concessions have already been issued even though they overlap with four territorial reserves, five communal reserves, and at least 70 percent of native communities’ land.184 Indigenous Peoples and local communities are fighting to reverse and prevent similar legislation that has passed or is pending in Bolivia, Colombia, and
Brazil. There are, however, some positive prospects for reform, including where communities have not yet obtained formal recognition of customary lands. For example, agrarian land reform is a significant issue in the ongoing peace negotiations between the Government of Colombia and the Revolutionary Armed Forces of Colombia.

There is growing recognition and action to address the roles international actors and policy processes can play in supporting or impeding national tenure reforms.

- The role of private sector companies and investors has been a focus of attention in light of the immense pressures that land-based concessions in the developing world place on community lands. A 2013 study of private sector concessions in 12 countries found that approximately 31 percent of the total hectares sampled had some overlap with lands held by Indigenous Peoples and local communities. In addition to the risks these overlaps pose to communities, the resulting conflicts pose significant financial and reputational risks to companies, ranging from project delays and cost overruns to the abandonment of projects. Private sector commitments through corporate land policies, certification schemes, and statements such as the New York Declaration on Forests indicate growing awareness by private sector actors of the need to respect and protect indigenous and community land rights. However, much remains to be done to mainstream such commitments and translate them into action.

- Fully realizing the post-2015 Sustainable Development Goals will also require the recognition of community based land rights. The outcome document Transforming Our World: The 2030 Agenda for Sustainable Development, prepared for adoption by the UN General Assembly in September 2015, includes ownership, control, and/or access to land among the targets to realize goals such as ending poverty and achieving global food security and gender equality goals. Secure community-based tenure will be essential to meeting these targets, given that an estimated 1.5 billion Indigenous Peoples and local communities govern their lands through community-based tenure systems. Community-based tenure security is particularly important to poverty reduction because common pool resources make up a significant proportion of the livelihoods of the rural poor. For example, a 2001 study estimated that US$5 billion (or 12 percent) of poor rural households’ annual income in India was based on their use of common-property resources.

As the system for monitoring progress toward achieving the Sustainable Development Goals is established, it will be essential to include indicators to track progress toward formal community-based tenure recognition. This report establishes a baseline against which to measure progress in the land area that is recognized for community control and ownership. Further research is needed to develop country and community-specific estimates of how much land Indigenous Peoples and local communities hold that has not yet been recognized. In addition, geographically referenced spatial data that maps land ownership—particularly community lands, but also public and individually-held lands and commercial concessions—would enable all stakeholders to identify where overlapping claims exist, work to resolve
associated conflicts, and avoid future infringements. In some cases, governments may need the assistance of development partners to build the technical and institutional capacity to create and keep this type of data current.

- The success of policies to mitigate climate change and promote forest restoration also hinge on secure community tenure. Comparative global research has found that legal forest rights for Indigenous Peoples and local communities and government protection of those rights tend to lower deforestation and carbon emissions, whereas deforestation rates tend to be higher where communities’ land rights are not secure.\textsuperscript{192} The potential impacts are significant: legally recognized community forests contain approximately 37.7 billion tons of carbon, and much larger amounts are contained within forests held under customary rights without legal recognition.\textsuperscript{193} Initiatives such as REDD+ and the Bonn Challenge can make significant progress towards reducing carbon emissions from forests by promoting the formal recognition of community-based forest rights.\textsuperscript{194}

As indicated in the discussion of national prospects for reform, different types of reform are needed depending on the circumstances in each country. In some countries, laws and policies still need to be put in place to recognize the lands Indigenous Peoples and local communities have managed for generations through customary tenure. In others, laws may recognize community control but need to be strengthened to also recognize more robust ownership rights. In many countries, the recognition of land area under community-based tenure regimes is limited, in part because procedural hurdles effectively prevent communities from establishing secure tenure rights. Community engagement and advocacy are still needed to address these challenges. Even where ownership is recognized, laws or regulations may limit certain uses of the land, particularly for commercial purposes.\textsuperscript{195} Incompatible laws governing other sectors such as the extractive industry, agribusiness, and conservation can also adversely impact indigenous and community land rights.

This study focuses on formal, statutory recognition because it is a necessary first step that must be in place before Indigenous Peoples and local communities can achieve tenure security. However, some jurisdictions establish robust tenure rights in their statutes but fail to honor those commitments in practice. The area data presented in this report is one key indicator of implementation, but tenure security also depends upon the extent to which governments are respecting and enforcing communities’ tenure rights on the ground.

**Conclusion**

Widespread, continued contestation over who owns the world’s land is a major constraint to progress on a wide range of development goals espoused by local peoples, national governments, and the international community. While progress to date in the recognition of rights offers hope, future progress depends on the concerted action and support of a range of national and international constituencies.

This report identifies the current state of community-based tenure recognition and opportunities for improvement. Now it is up to national governments, communities, policy advocates, bilateral and multilateral development partners, international
organizations, private sector investors, and other stakeholders to leverage this data to advance community-based tenure. Measures that can achieve this advancement include lobbying, legislation, regulation, administrative and institutional capacity building, and on-the-ground implementation. The stakes are high, because ultimately, community-based tenure security will determine whether Indigenous Peoples and local communities have the legal right to manage their lands as they choose—a question that strikes at the heart of rural peoples’ daily lives and has major implications for controlling climate change, ensuring food security, reducing political conflict, and protecting the world’s remaining natural resources.
Endnotes


3 Espinoza Llanos, Roberto and Conrad Feather. 2011. The Reality of REDD+ in Peru: Between Theory and Practice. Lima, Peru: Forest Peoples Programme (FPP), Central Ashaninka del Río Ene (CARE), Federación Nacional Nativa del Río Madre de Dios y sus Afluentes (FENAMAD) and Asociación Interétnica de Desarrollo de la Selva Peruana (AIDESEP); Personal Correspondence between Dr. Omaira Bolaños and Dr. Pablo Andres Ramos, dated July 9, 2015.


8 Alden Wily 2011.


10 Indigenous Peoples are recognized to hold customary rights to lands, territories, and resources under ILO 169 and UNDRIP. Some local communities also hold lands under customary or statutory tenure but do not self-identify as indigenous.


12 Property rights that are shared by communities are often referred to as “collective rights.” However, this report uses “community-based” as a more inclusive term, as “collective rights” are sometimes associated with socialist land policy.


15 As spatial estimates of private ownership and state ownership were not available for many of the countries studied, the global baseline reports only on community-based tenure regimes.


17 Rights and Resources Initiative 2012.

18 These categories are based on those presented in Rights and Resources Initiative 2014.


21 Another 131 U.N. member and observer states are not included within the scope of the study. While many are relatively small in area, several large countries in Asia (e.g., Afghanistan, Iran, Mongolia, Pakistan), Europe (e.g., Ukraine), Africa (e.g., Mali, Mauritania, Niger) were not included due to challenges in collecting or verifying data.

22 To identify unimplemented tenure regimes for countries where there are also implemented tenure regimes in the same category of ownership or designation, please see the endnotes for that country.

23 Regional and global totals are based on the unrounded figures.


26 For each country, this percentage is calculated as the area in the “Designated for Indigenous Peoples and Local Communities, Area (Mha)” column divided by the area in the “Total Country Area (Mha)” column.

27 For each country, this percentage is calculated as the area in the “Owned by Indigenous Peoples and Local Communities, Area (Mha)” column divided by the area in the “Total Country Area (Mha)” column.

28 For each country, this is calculated as the sum of the corresponding country entries in the “Designated for Indigenous Peoples and Local Communities, Area (Mha)” column and the “Owned by Indigenous Peoples and Local Communities, Area (Mha)” column.

29 For each country, this is calculated as the area entry in the “Total Area Designated for or Owned by Indigenous Peoples and Local Communities, Total Area (Mha)” column divided by the area in the “Total Country Area (Mha)” column.


33 This figure is smaller than the figure reported in Rights and Resources Initiative 2014 because it does not include lands under Joint Forest Management since this study is limited to tenure regimes established through national level legislation.

34 Refers to Community Reserves and Scheduled Tribes and Other Traditional Forest Dwellers Land (collective rights only); Spatial data for Community Reserves from: ENVIS Centre on Wildlife & Protected Areas, Hosted by Wildlife Institute of India, Dehradun and Sponsored by Ministry of Environment, Forests & Climate Change, Govt. of India. 2012. Accessed August 19, 2015. Available at: http://www.wiienvis.nic.in/Database/Community%20Reserves_8228.aspx; Spatial data for Scheduled Tribes and Other Traditional Forest Dwellers Land (collective rights only) is calculated as the sum of the area of collective rights where disaggregated data was available, including the states of Chhattisgarh, Maharashtra, Orissa, Rajasthan, West Bengal, Gujarat, Karnataka, and Tripura; Government of India, Ministry of Tribal Affairs. February 28, 2015. Monthly update on status of implementation of the Scheduled Tribes and Other Traditional Forest Dweller (Recognition of Forest Rights) Act, 2006 for the month of February, 2015. Available at: http://tribal.nic.in/WriteReadData/CMS/Documents/201504100257142394311MPRfortheMonthofFebruary,2015.pdf; This figure is smaller than the figure reported in Rights and Resources Initiative 2014 because this study only data where community and individual land ownership figures are disaggregated.

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Environment and Forestry, Social Forestry Department. 2015. As cited in Gindroz, Anne-Sophie. 2015. Personal communication, Southeast Asia Regional Facilitator, Rights and Resources Initiative, June 26.


37 Refers to Pastures allocated to local governments and managed by Pasture User Associations and Pasture in State Land Reserve; Pasture in the State Land Reserve is theoretically available for lease to Pasture User Associations, but the amount used as collective pasture land is unknown; Spatial data from: Kyrgyz State Cadastral and Land Register (GosRegister). 2014. As cited in Robinson 2014; Legislation consulted includes: Kyrgyz Republic. 2009. Law on Pastures No. 30. January 26.


41 Refers to Protected Area Community Based Resource Management Agreements (PACBRMAs) and Community-Based Forest Management Agreements (CBFMAs). An unknown amount of Community Based Forest Management Agreements may overlap with CADTs and/or CALTs. Where CBFMAs were issued prior to recognition of Ancestral Domain, the Indigenous Peoples/Indigenous Cultural Communities (ICCs) are required to respect the CBFMA for a period of 25 years. After this time, if the IPs/ICCs want to renew the agreement for an additional 25 years, a Memorandum of Agreement


43 Refers to lands allocated to local governments and available for lease by Pasture User Unions; Legislation consulted includes Government of Tajikistan. 2013. Law on Pastures; 177 Pasture User Unions have been registered under the 2013 Pasture Law, but no data is available for the area these registered PUUs cover; Policy Note. 2015. Provided by Haller, Claudia. 2015. Personal communication, Regional Programme for Sustainable Use of Natural Resources Advisor, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, July 16; Vahobov, Umed. 2015. Personal communication, ERCA National Coordinator, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, July 20; Personal communication between Zvi Lerman and Sarah Robinson, citing the Tajikistan Committee for Land Management. 2012.


47 Uzbekistan does not have a statutory or regulatory framework that provides management or ownership rights to Indigenous Peoples or local communities.

48 Refers to lands reserved by the government for Indigenous Peoples and local communities under the process of titling and ownership, and lands traditionally occupied by Indigenous Peoples in public and private lands. No data was available for the area of land reserved by the government for Indigenous Peoples and local communities. Some lands were reserved by the Province of Chaco by Executive Order, but this area has not been delineated; Legislation consulted

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30

Refers to Títulos de Merced Antiguos Indivisos, pueblo Mapuche (Antique Indivisible Gifted Titles, Mapuche)


Refers to Titled Community Lands. 2.841518 Mha have been demarcated over the period of 2005-2014. This figure includes and is not disaggregated for Indigenous Lands in Areas Under a Special Administrative Regime (ABRAE), established within protected areas; República Bolivariana de Venezuela. 2005. Ley Orgánica de Pueblos y Comunidades Indígenas. December 8, Revista SIC. 2014. Comunicado de la COIAM sobre el proceso nacional de demarcación de hábitat y tierras indígenas a los 15 años de aprobación de la Constitución Nacional. Centro Gumilla: Sic Semanal. December 9. Available at: https://sicsemanal.wordpress.com/2014/12/09/comunicado-de-la-coiam-sobre-el-proceso-nacional-de-demarcacion-de-habitat-y-tierras-indigenas-a-los-15-anos-de-aperacion-de-la-constitucion-nacional.


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72 Refers to Droits Collectifs (Collective Rights in the Private Domain) and Forêts Communautaires et Sacrées (Community and Sacred Forests); Legislation consulted for Collective Rights in the Private Domain include: Republic of Chad. 1967. Loi No.24 du 22 juillet 1967 sur le régime de la Propriété foncière et des droits coutumiers 22 juillet. Available at: http://www.droit-afrique.com/images/textes/fachat/chad%20-%20Propriete%20fonciere.pdf; Loi No.24 du 22 juillet 1967 requires the registration of lands in the private domain. Communities with customary rights can register their lands in the name of the collective (Art. 20); however, these rights are limited in duration (Art. 16). No spatial data was available for the area of collective rights in the private domain. However, this area is likely to be relatively small. As of 2013, only 4,092 private land titles of any type had been registered with the Chadian government.


77 Refers to Participatory Forest Management User Groups with signed Forest Management Agreements. According to the Kenyan Forests Act of 2005 (Articles 38, 45), members of forest communities are allowed to register community forest associations and to enter into management agreements with local authorities. Notably, the Forest Act of 2005 has been interpreted by some to allow individuals to form Forest Management User Groups and enter into Forest Management Agreements, which may open the door for this tenure regime to be used for private concessions. Participatory Forest Management User Groups can only attain the legal right to co-manage forest after signing a Forest Management Agreement. As of 2013, only 21 Forest Management Agreements had been signed; Government of Kenya. 2005. The Forests Act. Available at: http://faolex.fao.org/docs/texts/ken64065.doc; Spatial data from: Kenya Forest Service. 2013. As cited in Abdi, Mwajuma. 2013. Personal Communication. National Alliance of Community Forest Association (NACOFA). July 31.


81 Refers to Zones with Historical Culture Use and Value, and Forest Concessions to Communities; Legislation consulted for these tenure regimes includes: Government of Mozambique. 1999. Law No. 10/99 on Forest and Wildlife Act, Articles 13 and 16. July 7. Available at: http://faolex.fao.org/docs/pdf/ken127322.pdf; Government of Mozambique. 2002. Decree No. 12/2002 approving the Regulation on Forestry and Wildlife, Articles 7 and 25.2. June 6. Available at: http://faolex.fao.org/docs/pdf/moz1589.pdf; No areas have been designated as Zones with Historical Culture Use; however, the statutory and regulatory basis for tenure recognition is in place; Spatial data for Forest Concessions to Communities calculated as the sum of three community forest concessions existing in Mozambique as of 2013 with respective areas of 33,000 hectares, 20,000 hectares, and 40,000 hectares, totaling 99,000 hectares (0.099 Mha). While it is possible that some legal registration issues may still be outstanding, it is assumed that any such challenges have been resolved; Nelson, I. 2013. O Lado Social do Corte de Madeira nos Bosques de Miombo, na Zambézia, Moçambique Criando Parcerias com Pessoas e Florestas na Zambézia, Moçambique. Maputo, Mozambique: Justiça Ambiental. https://ingridlnelson.files.wordpress.com/2013/11/ingrid-portuguc3a3as-color.pdf.


Although tribal and customary law may be recognized at the local level in Libya, they are not statutorily recognized at the national level. Law No. 142 of 1970 declared unregistered and unused lands to be state property, effectively removing most land from customary ownership, and Law No. 7 of 1986 abolished all remaining private land ownership throughout the country. Furthermore, many types of private property rights are currently being contested in Libya due to the complex legacy of Law No. 4 (Government of Libya 1978), which allowed Libyans who did not own land to confiscate properties from individuals who owned multiple properties; Hursh, John. 2014. RRI Initial Findings: Libya. Unpublished report. Legislation consulted includes: Government of Libya. 1970. Law No. 142; Government of Libya. 1986. Law No. 7; Government of Libya. 1978. Law No. 4.


107 Refers to Category 3 lands within Modern Treaties (Comprehensive Claims) Settlement Areas and Historic Treaties and Additions (Specific Claims); Anderson 2015.

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110 Refers to Indigenous Owned and Managed land; Montreal Process Implementation Group for Australia and National Forest Inventory Steering Committee 2013.


112 This figure is a sum of the entries in this column, constituting the total land area of the countries included in this study.

113 This figure is a sum of the entries in this column, constituting the total land area designated for Indigenous Peoples and local communities within the countries included in this study.

114 This figure represents the percent of the total land area of the 64 countries studied that is designated for Indigenous Peoples and local communities. It is calculated by dividing the grand total of the “Designated for Indigenous Peoples and Local Communities, Area (Mha)” column by the grand total of the “Total Country Area (Mha)” column.

115 This figure is a sum of the entries in this column, constituting the total land area owned by Indigenous Peoples and local communities within the countries included in this study.

116 This figure represents the percent of the total land area of the 64 countries studied that is owned by Indigenous Peoples and local communities. It is calculated by dividing the grand total of the “Owned by Indigenous Peoples and Local Communities, Area (Mha)” column by the grand total of the “Total Country Area (Mha)” column.

117 This figure is a sum of the entries in this column, constituting the total area designated for or owned by Indigenous Peoples and local communities within the countries included in this study.

118 This figure represents the percent of the total land area of the 64 countries studied that is owned or controlled by Indigenous Peoples and local communities. It is calculated by dividing the grand total of the “Designated for or Owned by Indigenous Peoples and Local Communities, Area (Mha)” column by the grand total of the “Total Country Area (Mha)” column.

119 Egypt, Libya, Oman, Saudi Arabia, Suriname, Timor-Leste, Uzbekistan, Yemen. Based on our consultations with experts, the current state of Timor-Leste’s law is in flux, and there are multiple conflicting tenure regimes that do not leave a clear precedent for community-based ownership. See endnote 45 for additional information regarding Timor-Leste.

120 Angola, China, Colombia, Costa Rica, Finland, India, Mexico, Norway, Papua New Guinea, South Sudan, and the United States.


122 Argentina, Australia, Bolivia, Brazil, Cambodia, Canada, Chile, Guatemala, Honduras, Kenya, Liberia, Mozambique, Peru, Philippines, Russia, Tanzania and Uganda.
Rights and Resources Initiative 2012. As cited in Note 11.


Banks et al. 2003.


Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Guatemala, Guyana, Honduras, Mexico, Peru, Suriname, and Venezuela.

Argentina, Bolivia, Brazil, Chile, Guatemala, Honduras, and Peru recognize both types of tenure regimes.

For the purposes of this study, Middle Eastern countries are not included in the data for Asian countries. They are discussed as a separate region under “Other regions” on page 14.

Cambodia, China, India, Indonesia, Kazakhstan, Kyrgyz Republic, Lao Peoples Democratic Republic, Myanmar, Nepal, Philippines, Tajikistan, Thailand, Timor-Leste, Turkmenistan, and Uzbekistan.

India, Indonesia, the Lao Peoples Democratic Republic, Myanmar, Tajikistan, Thailand, Timor-Leste, and Uzbekistan.

There are also several tenure regimes in India that provide communities with such limited rights that they do not meet the RRI definition of lands controlled by Indigenous Peoples and local communities. India also has several sub-national tenure regimes at the state level which do not fall within the scope of this study.

Indonesia, Kazakhstan, Kyrgyz Republic, Lao Peoples Democratic Republic, Myanmar, Nepal, Tajikistan, Thailand, and Turkmenistan.

Based on our consultations with experts, the current state of Timor-Leste’s law is in flux, and there are multiple conflicting tenure regimes that do not leave a clear precedent for community-based ownership. See endnote 45 for additional information.


Angola, Central African Republic, Chad, Democratic Republic of the Congo, Ethiopia, Gabon, South Sudan, and Sudan.

Mozambique also automatically recognizes customary land rights. The 26 percent figure for Mozambique likely underestimates the national area under statutorily recognized community-based tenure regimes, because RRI could not find an estimate for the area held in unregistered community-based tenure regimes.


The tenure regimes for the Central African Republic, Chad, and Democratic Republic of the Congo are unimplemented.

The Central African Republic, Chad, Democratic Republic of the Congo, Ethiopia, Nepal, Uganda, and Zimbabwe. The tenure regimes for the Central African Republic, Chad, and Democratic Republic of the Congo are unimplemented.

Cambodia, Central African Republic, Chad, Democratic Republic of the Congo, Ethiopia, Liberia, Mozambique, Nepal, South Sudan, Tanzania, Uganda, and Zimbabwe.

Algeria, Bolivia, Botswana, Brazil, Cameroon, China, Colombia, Republic of the Congo, Costa Rica, Egypt, Gabon, Guatemala, Guyana, Honduras, India, Indonesia, Iraq, Kazakhstan, Kenya, Kyrgyz Republic, Lao Peoples Democratic Republic, Libya, Mexico, Morocco, Myanmar, Namibia, Peru, Philippines, Papua New Guinea, Sudan, Suriname, Tajikistan, Thailand, Timor-Leste, Tunisia, Turkmenistan, Uzbekistan, Venezuela, Yemen, and Zambia.

Algeria, Angola, Bolivia, Botswana, Brazil, Cameroon, China, Colombia, Republic of the Congo, Costa Rica, Egypt, Gabon, Guatemala, Guyana, Honduras, Kyrgyzstan, Mexico, Morocco, Namibia, Peru, Philippines, Papua New Guinea, Tunisia, Turkmenistan, and Zambia.

Algeria, Bolivia, Brazil, China, Colombia, Guatemala, Guyana, Honduras, Kyrgyzstan, Mexico, Morocco, Namibia, Peru, Philippines, Papua New Guinea, Tunisia, Turkmenistan, and Zambia.

Algeria, Cameroon, Republic of the Congo, Gabon, Guyana, Indonesia, Iraq, Kazakhstan, Kyrgyz Republic, Lao Peoples Democratic Republic, Morocco, Myanmar, Namibia, Peru, Sudan, Tajikistan, Thailand, Tunisia, Turkmenistan, and Zambia.

Bolivia, Brazil, Guatemala, Honduras, Kenya, Peru, and the Philippines.

Angola, China, Colombia, Costa Rica, India, Mexico, and Papua New Guinea. There are also several tenure regimes in India that provide communities with such limited rights that they do not meet the RRI definition of lands controlled by Indigenous Peoples and local communities.

Egypt, Libya, Suriname, Timor-Leste, Uzbekistan, and Yemen. Based on our consultations with experts, the current state of Timor-Leste’s law is in flux, and there are multiple conflicting tenure regimes that do not leave a clear precedent for community-based ownership. See endnote 45 for additional information regarding Timor-Leste.

Argentina, Australia, Canada, Chile, Finland, Norway, Oman, Russia, Saudi Arabia, Sweden, the United States, and Venezuela.


Argentina, Australia, Canada, Chile, Finland, Norway, Russia, and the United States.
161 Argentina, Australia, Canada, Chile, and Russia.


164 This study included 12 countries that were designated as fragile states in FY 2015. The Central African Republic, Chad, Democratic Republic of the Congo, Liberia, South Sudan, and Zimbabwe are low-income fragile states. Iraq, Libya, Myanmar, Sudan, Timor-Leste, and Yemen are middle-income fragile states.


172 De Wit and Stevens 2014.


174 Personal Correspondence between Dr. Omaira Bolaños and Dr. Pablo Andres Ramos, dated July 9, 2015.

175 Rights and Resources Initiative 2014. As cited in endnote 2.

176 Rights and Resources Initiative, Vasundhara, and Natural Resources Management Consultants 2015. As cited in endnote 2.

177 Liz Alden Wily estimates that up to 1,785.1158 Mha are held under customary tenure regimes in Sub-Saharan Africa. Alden Wily 2011. This constitutes 60 percent of the land area in Sub-Saharan Africa.


Rights and Resources Initiative, Vasundhara, and Natural Resources Management Consultants 2015. As cited in endnote 2.

Rights and Resources Initiative 2014. As cited in endnote 2.


Rights and Resources Initiative 2014. As cited in endnote 2.


For example, in Peru, the government claims that forested areas are part of the national patrimony and requires Comunidades Nativas to obtain government approval of management plans if they wish to commercially or industrially exploit forested areas for timber or non-timber forest products; it also sets forth criteria allowing the government to extinguish communities’ rights. Law No. 27308/2000 (Arts. 12, 18). Indigenous Peoples’ groups are currently advocating for more robust rights and greater autonomy in the management of their own lands.