



# Rights + Resources Initiative

A global coalition to advance forest tenure, policy, and market reforms.

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## Who Owns the Forests of Africa? An introduction to the forest tenure transition in Africa, 2002-2008



### KEY FINDINGS

- A survey of statutory forest tenure distribution in Africa shows that in 9 of the most-forested countries, almost all forests remain in the public domain. In Africa, government claims ownership of 98% of the forest area surveyed.

- A comparison among Africa, Latin America and Asia shows that Africa is far behind in the forest tenure transition. In Asia government claims ownership of 66% of the forest area surveyed, and in Latin America government claims only 33%.

- What stands in the way of effective tenure reform? In many cases, there is a lack of political will and momentum to recognize local and indigenous rights. Inadequate implementation and enforcement of reforms is also a challenge, even in places where the legal rights of indigenous peoples and forest communities are recognized.

- Government preference for industrial concessions and conservation over community rights and livelihoods has also hindered effective reforms. The lack of clarity in tenure systems has permitted governments to promote large concessions for logging, oil and mineral extraction, biofuels and other crops at the expense of forest peoples.

- There is an urgent need to expand and accelerate forest tenure reform. Governments of African countries have an opportunity to make better progress by creating a vision and a plan

for reforms; investing to accelerate reforms; defining, clarifying and strengthening property rights to ecosystem services; and strengthening knowledge and information about forest tenure.

- Tenure is complicated and diverse and undertaking tenure reforms is a complex social and political task. In many countries there is a need for greater social and political dialogue to enable consensus and commitments to reform.

### The world forest tenure transition in 2002-2008

In recent decades there has been a shift away from government control of forest land towards increasing access and ownership for indigenous groups, communities, individuals, and firms. This transition in statutory forest tenure (see box on page 5) was first observed in a 2002 publication titled *Who Owns the World's Forests?*<sup>21</sup> A 2008 publication titled *From Exclusion to Ownership?*<sup>22</sup> updated this analysis and measured the change

1. See White, Andy and Alejandra Martin. 2002. *Who Owns the World's Forests?: Forest tenure and public forests in transition*. Washington, DC: Forest Trends and Center for International Environmental Law.

2. See Sunderlin, William D., Jeffrey Hatcher, and Megan Liddle. 2008. *From Exclusion to Ownership?: Challenges and Opportunities in Advancing Forest Tenure Reform*. Washington D.C.: Rights and Resources Initiative.

### PARTNERS



in world statutory forest tenure from 2002 to 2008 on the basis of data from 25 of the world's 30 most forested countries, encompassing 80% of the global forest estate. The study showed that the forest tenure transition has continued during this period:

- The area of public forest land administered by government in 25 of the 30 most-forested countries has decreased from 2,583 million hectares (Mha) to 2,408 Mha (7%).
- The area of forest designated for use by communities and indigenous groups in these

countries has increased from 49 Mha to 76 Mha (55%).

- The area of private community and indigenous land in these countries has increased from 246 Mha to 296 Mha (20%).
- The area of forest land owned by individuals and firms in these countries has increased from 339 Mha to 461 Mha (36%).

In the 15 most forested developing countries where tenure can be accurately measured the area of

TABLE 1: STATUTORY FOREST TENURE DISTRIBUTION IN NINE OF THE MOST FORESTED COUNTRIES IN AFRICA, 2002-2008

Country (by descending forest cover)	Public				Private			
	Administered by government		Designated for use by communities & indigenous groups		Owned by communities & indigenous groups		Owned by individuals & firms	
	2002	2008	2002	2008	2002	2008	2002	2008
Dem. Rep. of Congo	109.20	133.61	0.00	0.00	0.00	0.00	0.00	0.00
Sudan	40.60	64.68	0.80	2.82	0.00	0.00	0.00	0.05
Angola	59.73	59.10	0.00	0.00	0.00	0.00	0.00	0.00
Zambia	44.68	42.44	0.00	0.10	0.00	0.00	0.00	0.00
Tanzania	38.50	31.79	0.40	1.58	0.00	2.05	0.00	0.06
Central African Rep.	22.90	22.76	0.00	0.00	0.00	0.00	0.00	0.00
Congo	22.06	22.01	0.00	0.46	0.00	0.00	0.00	0.00
Gabon	21.00	21.76	0.00	0.00	0.00	0.00	0.00	0.00
Cameroon	22.80	20.11	0.00	1.14	0.00	0.00	0.00	0.00
<b>Total (all cases)</b>	<b>381.46</b>	<b>418.26</b>	<b>1.20</b>	<b>6.10</b>	<b>0.00</b>	<b>2.05</b>	<b>0.00</b>	<b>0.11</b>

Note: All figures expressed in millions of hectares (Mha); numbers have been rounded. Citations for individual figures are available in the source document, Sunderlin et al. 2008.

TABLE 2: STATUTORY FOREST TENURE DISTRIBUTION IN SIX WEST AFRICAN COUNTRIES, 2002-2008

Country	Public				Private			
	Administered by Government		Designated for use by communities & indigenous peoples		Owned by communities & indigenous peoples		Owned by individuals & firms	
	2002	2008	2002	2008	2002	2008	2002	2008
Mali	nd	15.895	nd	0.705	nd	0.000	nd	0.000
Chad	12.317	11.221	0.000	0.700	0.000	0.000	0.000	0.000
Senegal	nd	12.771	nd	0.987	0.000	0.000	0.000	0.062
Burkina Faso	6.688	6.348	0.226	0.394	0.000	0.000	nd	0.052
Niger	4.742	4.125	0.626	0.873	0.000	0.000	0.000	0.008
Gambia	nd	0.414	nd	0.017	0.024	0.029	0.000	0.000
<b>Total</b>	<b>23.747</b>	<b>50.774</b>	<b>0.852</b>	<b>3.676</b>	<b>0.024</b>	<b>0.029</b>	<b>0.000</b>	<b>0.122</b>

Note: All figures expressed in millions of hectares; numbers have been rounded.  
Source: Sunderlin et al. 2008.

forest designated for use by or owned by communities and indigenous groups increased from 22% to 27% of the total forest estate.

Note that in this brief we focus on forest *land* tenure, but tenure over other forest resources (timber, non-timber forest products, carbon, sub-soil mineral ores, etc.) is often just as important. Moreover, although we focus only on tenure in this brief, the regulatory framework is also critically important because it specifies the rules regarding land use and who gets access to what resources.

**Africa’s forest tenure transition in 2002-2008**

Data on the African component of the world forest tenure transition is shown in the following table. Trends of special note shown in Table 1:

- In all nine countries almost all forests remain in the public domain.
- The area of forest designated for use by communities and indigenous groups has increased in five of the nine countries, from 1.2 to 6.1 Mha.

- The area of forest owned by communities and indigenous groups has increased from nothing to 2.05 Mha.

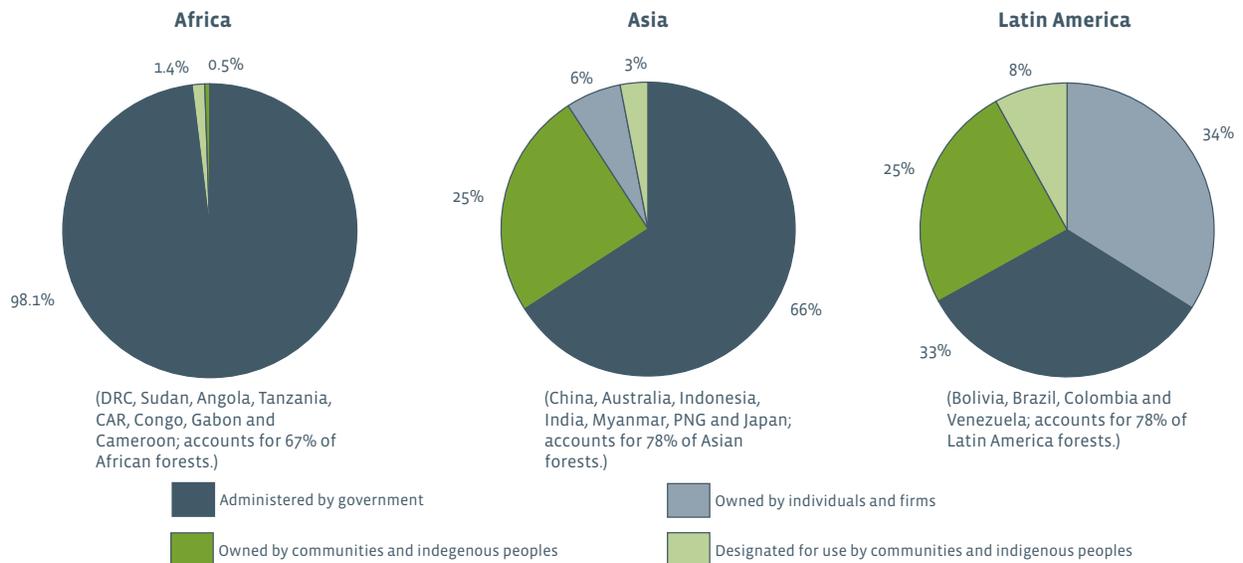
- The area of forest owned by individuals and firms has increased from nothing to 0.11 Mha.

Table 2 shows the statutory forest tenure distribution in six West African countries in 2002 and 2008. In contrast with Table 1, many of the cases in Table 2 have incomplete data cells. Nevertheless, we can see an increase in forest land designated for communities in Burkina Faso, Chad, and Niger, more ownership of forest land by communities and indigenous peoples in Gambia, and a greater area of forest land owned by individuals and firms in Niger and Senegal.

**Comparison of forest tenure transitions in Africa, Latin America and Asia**

The Africa pie chart in Figure 1 shows the forest tenure distribution in the nine African countries listed in Table 1, accounting for 67% of the forest estate in Africa. The Asia pie chart depicts the same

FIGURE 1: STATUTORY FOREST TENURE DISTRIBUTION AMONG THREE REGIONAL GROUPS, 2008



Source: Sunderlin et al. 2008.

## IN AFRICA, THE AREA OF FOREST AREA ADMINISTERED BY GOVERNMENT IS 98% OF THE TOTAL, WHEREAS IT IS 66% IN ASIA AND 33% IN LATIN AMERICA.

data for seven Asian countries (China, Australia, Indonesia, India, Myanmar, Papua New Guinea and Japan) which compose 78% of the forest estate in Asia. The Latin America pie chart shows the distribution for Bolivia, Brazil, Colombia and Venezuela. These four countries hold 78% of the forest estate in Latin America.

Africa is far behind Latin America and Asia in the forest tenure transition. In Africa, the area of forest area claimed by government is 98% of the total, whereas it is 66% in Asia and 33% in Latin America. In Africa, the area of forest designated for use by communities and indigenous groups is 1%, while this figure is 3% in Asia and 8% in Latin America. In Africa, the area of forest owned by communities and indigenous groups is 0%, as opposed to 25% in both Asia and Latin America. In Africa the area of forest owned by individuals and firms is 0%, whereas in Asia it is 6% and Latin America it is 34%.

### Challenges in conducting forest tenure reform

Six of the main obstacles that stand in the way of realizing effective tenure reform are described below.

**Lack of government political will and momentum to recognize local and indigenous rights:** Tenure reform and devolving land rights to local people is often politically contentious and forest agencies used to controlling forest lands are often reluctant to relinquish control. Governments are much more susceptible to being swayed by the formal business sector than by marginalized forest peoples, particularly when decentralization and devolution have not been effective at transferring power to the local level.

**Inadequate enforcement and implementation of the reforms:** Although legal rights have been conferred to indigenous peoples and communities in some forest areas, the recognition of these rights sometimes fails to achieve what was intended. In principle, endowing communities and individuals with private ownership of forests helps to overcome the aforementioned sense of exclusion and provides confidence that their lands cannot be taken away without due process. Nevertheless, even formal ownership does not always safeguard newly-recognized rights.

For example, in Liberia even those communities with formal title to customary properties (almost all of which have substantial forests) have no rights to the trees on that land. Moreover the law states explicitly that those people are unable to object to logging on their own lands and their consent is not required to lease their lands for logging or salvage. A new Community Rights Law, currently under review as a corollary of the forest sector reform, would overturn this law and grant stronger rights to communities.

**Lack of progress on complementary rights:** Non-tenure rights are also essential for forest peoples' wellbeing. Many forest people lack citizenship and thus have no legal personality, which undermines formal recognition of their property rights and resolution of contested claims under the rule of law. Human rights and gender rights are important. Indigenous peoples often suffer racial and ethnic prejudice. Women in forest communities are often deprived of rights, with men tending to dominate decision-making, control household income and exclude women from tenure systems.

**Government preference for industrial concessions and conservation over people:** Despite trends to support community titling and management, many governments have shown a persistent preference for industrial-scale over community-scale forest tenure and enterprises. Lack of clarity on tenure has

permitted governments to promote large concessions for logging, oil and mineral extraction, biofuels and other crops at the expense of forest peoples. The conventional approach to forest conservation compounds these pressures by creating public protected areas that restrict human access; millions of people excluded in this way suffer negative impacts on their livelihoods, culture and health.

population growth, slowed rural to urban migration, and deterioration of the quantity and quality of local resources. The dynamics may involve local elites laying claim to a disproportionate share of resources, but conflicts may also emerge among households of equal standing or among villages.

**Limited capacity in advancing reforms:** Difficulties in the pursuit of forest tenure reform can also be attributed to the limited will and capacity of the state to pursue them, including poor coordination among branches, budget constraints, lack of expertise and burdensome regulatory arrangements.

### Signs of progress

Although there are daunting obstacles to the realization of improved statutory forest tenure reform, there are some visible signs of progress:

**Recent policy changes:** In Mali, the 2002 Tenure Law recognized customary institutions and usage rights and granted communities and individuals the right to possess forests. The 2007 Forestry Policy reaffirmed the government's commitment to promoting community forest management. Important policy changes have also occurred in Angola, Cameroon, DRC, Gambia, Niger, Sudan and Tanzania.

**Research results demonstrate potential advantages:** Recent studies in various countries suggest that tenure reform can, and often does, improve wellbeing, provide the means to exclude

## IN MALI, THE 2002 TENURE LAW RECOGNIZED CUSTOMARY INSTITUTIONS AND USAGE RIGHTS AND GRANTED COMMUNITIES AND INDIVIDUALS THE RIGHT TO POSSESS FORESTS.

In the Democratic Republic of Congo, Tanzania, the Central African Republic, Gabon, Cameroon and Mozambique, the total area of forest lands under concession is 78.06 Mha, whereas the area of forest lands designated for or owned by communities and indigenous groups is 7.23 Mha, less than a tenth of concession lands.

**Competition within and among forest communities:** Conflicts over forest lands and resources result not just from the effects of outsiders, but also from resource competition within communities. Among the factors that propel this problem are growth of the market economy and commodification of local resources, the introduction of consumer culture, local

### Statutory tenure: What it is, and why we focus on it in this brief

Forest tenure systems determine who can hold and use forest lands and resources, for how long, and under what conditions. *Statutory tenure* is that which has been determined by the state and codified in law. Through the perspective of statutory tenure, most of the world's forests are owned by the state. Statutory tenure is contrasted to *customary tenure*, determined in most cases by local people. Through the perspective of customary tenure, people who live in and near forests own them, and the government does not. There has been a long history of contestation between these two tenure systems. In this brief we focus on statutory tenure not because it is most important, but rather because it is given more legal and political power and because it is more easily measured.

outside claimants and improve forest management and conservation. For instance, in Eastern and Southern Africa, some communities have gained security over the local forest commons through changes that have allowed people to own land in common; as a consequence, these landholdings were less vulnerable to appropriation by others.

**Climate change as a possible lever for change:** The emergence of financial mechanisms to encourage reforestation and mitigate carbon emissions from deforestation presents a possible opportunity for forest peoples. Those with ownership rights may have greater bargaining power to secure payments for their role in protecting forests and the ecosystem services they provide. The high visibility of forests in the climate agenda gives an opening to call for tenure reform and for fair compensation for those without secure forest tenure.

**The emergence of grassroots mobilization for forest tenure reform:** Another encouraging sign is the recent growth of organizations and networks supporting forest peoples, and an increasing degree of integration, inter-communication, and visibility that reflects the scale of both the threats experienced by forest peoples and the opportunities. A report on land rights and reform of governance in Africa remarks that “a more action-based and community-driven evolutionary process is needed,” because it will be important to “drive and sustain political will towards real removal of the chronic tenure insecurity of the poor.”<sup>3</sup>

### **Opportunities for making better progress**

How can we work to ensure that the positive trends and opportunities prevail over the many challenges

described above? Here is a list of the main opportunities for moving the forest tenure reform movement forward:

**Create a vision, share knowledge and improve understanding:** It is important that countries that have not yet initiated reforms develop an informed national dialogue and a vision for updating the allocation of tenure rights. Experience shows that people living in and around forests should be fully informed about and engaged in the process for forest tenure to succeed. All stakeholders must understand the changes proposed and have confidence to fully participate in the reform process.

**Invest to accelerate reforms:** Developing countries may need to enlist the help of multi- and bilateral agencies to support and finance forest reform, particularly large-scale projects such as tenure demarcation. Other activities that can speed up reform include improving data collection, clarifying existing tenure arrangements, building civic participation of forest peoples, and strengthening systems of governance in forest areas.

**Define, clarify and strengthen property rights to ecosystem services:** Beyond ownership of land and resources, it is also important to clarify the rights to ecosystem services provided by forest lands, including carbon sequestration, watersheds, biodiversity and ecotourism. These systems must be defined in a participatory process that recognizes customary systems of ownership and management rights to ecosystem services. The emergence of climate change as a major global issue underscores the importance of clarifying property rights to carbon not just locally, but also on a national scale.

**Strengthen knowledge and information about forest tenure:** To address the lack of information on tenure claims in the forest areas of most

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3. Alden Wily, Liz. 2006. Land Rights Reform and Governance in Africa: How to Make it Work in the 21st Century? New York: United Nations Development Program. p2.

countries, statutory tenure laws need to be clarified. It is equally important to establish accurate, detailed and publicly available information on ownership and control of resources. Without a robust legal framework for tenure rights or reliable census data on forest residents, future reforms in this sector will stand on a shaky foundation.

limited their participation in the benefits that forests provide. Most forest peoples still experience the exclusion imposed centuries ago. In spite of this exclusion and lack of official recognition, customary tenure and management systems in Africa are, by and large, remarkably robust. It is time for this era of injustice to end. The forest tenure transition should signify not just a change from government to non-government administration of forests, but also a shift from exclusion to ownership by forest people.

Forest tenure reform is also a practical priority. Addressing land and resource disputes and creating tenure security for all stakeholders can resolve violent conflicts, lay the foundation for stable and predictable investment by households, the government and the private sector, and contribute to national and regional economic growth. Resolving ambiguity in forest property rights is a key first step towards protecting and increasing the capacity of the global forest estate to sequester carbon, and thereby addressing one of the key causes of climate change. Forest tenure reform will benefit *all* of society, not just forest communities.

## THE FOREST TENURE TRANSITION SHOULD SIGNIFY NOT JUST A CHANGE FROM GOVERNMENT TO NON-GOVERNMENT ADMINISTRATION OF FORESTS, BUT ALSO A SHIFT FROM EXCLUSION TO OWNERSHIP BY FOREST PEOPLE.

### **The need for expanded and accelerated forest tenure reform**

In comparison to other regions of the world, Africa has made very little progress in the forest tenure transition. There is an urgent need to accelerate this transition and expand its scope across the globe, and Africa in particular. It is important that governments place a priority on ownership rights, as compared to mere use rights. Ownership rights are stronger and provide potentially more benefits to forest peoples. Among these potential benefits is a stronger legal basis for excluding claimants.

Clarifying and strengthening forest tenure, including the recognition of customary claims, is also an urgent ethical priority. Over the last two centuries, colonial powers and governments imposed control over forests, thereby challenging their customary rights and making them feel like strangers in their own home. Government control

#### **LEARN MORE**

The full document upon which this brief based, including the definition of terms, methods, and analysis, is:

Sunderlin, William D., Jeffrey Hatcher and Megan Liddle. 2008. *From Exclusion to Ownership?: Challenges and Opportunities in Advancing Forest Tenure Reform*. Washington D.C.: Rights and Resources Initiative.

The report is available online at [http://www.rightsandresources.org/publication\\_details.php?publicationID=736](http://www.rightsandresources.org/publication_details.php?publicationID=736).

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*The Rights and Resources Initiative is a global coalition to advance forest tenure, policy, and market reforms. RRI is composed of international, regional, and community organizations engaged in conservation, research, and development. For more information, visit [www.rightsandresources.org](http://www.rightsandresources.org).*

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