



*The Carbon Rights  
of Indigenous Peoples,  
Afro-descendant  
Peoples, and Local  
Communities  
in Tropical and  
Subtropical Lands  
and Forests*

A SYSTEMATIC ANALYSIS  
OF 33 COUNTRIES



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# ACKNOWLEDGMENTS

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# 1. INTRODUCTION

Due to limited progress in reducing carbon emissions in industrialized countries, global interest in using nature-based climate solutions (NbS) has never been greater among governments, corporations, and NGOs. In principle, NbS are meant to leverage multilateral, bilateral, and private finance to fund initiatives to protect, manage, and restore ecosystems to mitigate and remove carbon emissions while simultaneously generating social and environmental co-benefits.<sup>1</sup> However, many NbS schemes, especially those involving private carbon markets, have been criticized for their lack of transparency, climate integrity, and adverse social impacts on affected communities.<sup>2</sup> Despite a growing lack of confidence in the purported benefits of the voluntary carbon market, carbon trading projects and investments continue unabated.<sup>3</sup>

As an indication of the growing demand for NbS, as of October 2024, 91 countries have signed or negotiated bilateral agreements or otherwise expressed their intention to collaborate in carbon market transactions and activities under Article 6.2 of the Paris Climate Agreement.<sup>4</sup> If fully realized, cumulative carbon removal activities in the net-zero pledges in these countries' Nationally Determined Contributions (NDCs) would require NbS to cover an amount of land roughly equal to what is used globally for agriculture.<sup>5</sup> Operationalizing a global carbon market under Article 6.4 raises further questions on how even greater demand for land-based carbon sequestration projects will play out on the ground.

To date, NbS have prioritized actions with low opportunity costs in rural landscapes of developing regions, ignoring the primary drivers of deforestation, forest degradation, and biodiversity loss (that is, global supply chains for agriculture, timber, mining, and other commodities).<sup>6</sup> These initiatives frequently overlap with the lands and territories of Indigenous Peoples,<sup>7</sup> local communities,<sup>8</sup> and Afro-descendant Peoples.<sup>9</sup>

However, just over half (56 percent) of the lands known to be customarily held and used by these communities have so far been legally recognized by governments.<sup>10</sup> Because these are regions where land and carbon rights often lack clarity, are contested, or are otherwise unrecognized, NbS risk depriving communities of their land and natural resource rights, which are often integral to their livelihoods and cultures. NbS activities that infringe upon the rights and tenure security of Indigenous Peoples, Afro-descendant Peoples, and local communities are not only inconsistent with international law, but they also generate uncertainty and conflict that jeopardizes the integrity and legitimacy of carbon sequestration schemes for governments and investors.

Since UNFCCC CoP29 in November 2024 and the nominal approval of Article 6.4, the regulatory landscape has been rapidly changing. This report and accompanying data provide a snapshot of carbon rights in a world where there is massive institutional demand for carbon trading to work<sup>11</sup> and significant uncertainty about whether market mechanisms will deliver credible, fair, and equitable results.<sup>12</sup> **This report examines the current state of play as countries prepare for the operationalization of Article 6.4, offering a systematic analysis of the recognition of the carbon rights held by Indigenous Peoples, local communities, and Afro-descendant Peoples in 33 countries in Africa, Asia, and Latin America as of August 2024.**<sup>13</sup>

Section 2 presents the methodology underlying this report. The subsequent sections are organized around the four key domains of domestic law and policy that shape the status of carbon rights: the general recognition of rights to forest territories, lands, and resources (Section 3); the regulation of carbon trading (Section 4); the governance of safeguards, benefit-sharing, and tenure in the context of REDD+ and carbon trading (Section 5); and the rules relating to due process, fairness, and compensation in carbon trading (Section 6). Section 7 concludes with an overview of key findings and their implications for policymakers and practitioners.

The goal of this report is to increase the ability of governments, communities, civil society, international organizations, donors, and business actors—including project proponents and carbon standards—to assess the status of carbon rights in tropical and subtropical lands and forests, with a view to taking steps to protect and enhance these rights in the context of expanding global interest in NbS. **Our findings reveal that most governments have not adopted the legal and policy reforms needed to recognize and safeguard the carbon rights of Indigenous Peoples, Afro-descendant Peoples, and local communities.** The systematic failure to recognize and protect the carbon rights of affected communities undermines both the credibility of market-driven NbS and the ability of Indigenous Peoples, Afro-descendant Peoples, and local communities to exercise their rights and autonomy over their customary territories. Governments, international organizations, donors, corporations, and other proponents of NbS must take steps to ensure that land-based carbon sequestration efforts respect, protect, and enhance the full bundle of rights held by Indigenous Peoples, Afro-descendant Peoples, and local communities.

## 2. METHODOLOGY

### 2.1 Definition of carbon rights

Many organizations define carbon rights as a legal claim or entitlement to the benefits generated by activities that sequester or remove carbon from the atmosphere.<sup>14</sup> The equitable and transparent attribution and enforcement of communities' claims to benefits from land-based climate mitigation activities can serve as an important safeguard to ensure they are adequately involved in and compensated for NbS that take place on or affect their territories, lands, and resources. However, this narrow definition of carbon rights is premised on the notion that carbon has been or will be rendered into a tradeable asset through a law or contractual arrangement.<sup>15</sup> This problematic assumption may undermine communities' right to provide or withhold their consent to NbS.<sup>16</sup> It may also advance a de facto commodification of natural resources that is inconsistent with the unique relationship of Indigenous Peoples to nature, which is rooted in a relationship of kinship and reciprocity.<sup>17</sup> Finally, defining carbon rights as claims to benefits does not capture the wider range of rights that Indigenous Peoples, Afro-descendant Peoples, and local communities may assert in relation to NbS activities and the lands and resources which NbS may target.

## BOX 1. INTRODUCTORY OVERVIEW OF KEY CONCEPTS

**Reducing Emissions from Deforestation and Forest Degradation (REDD+):** Refers to climate mitigation activities that seek to reduce greenhouse gas emissions, including conservation of forest carbon stocks, sustainable management of forests, and enhancement of forest carbon stocks.

**Jurisdictional REDD+ (J-REDD+):** Refers to REDD+ activities implemented at the subnational and/or national level across large political jurisdictions, usually by governments as part of national plans and policies.

**Paris Climate Agreement:** A legally binding international treaty on climate change adopted in 2015 that aims to limit the global average temperature increase to 1.5 degrees Celsius, keeping it well below 2 degrees above pre-industrial levels.

**Article 6.2 of the Paris Climate Agreement:** Allows countries to trade emission reductions and removals directly with one another through bilateral or multilateral agreements.

**Article 6.4 of the Paris Climate Agreement:** Creates the framework for an international carbon market overseen by a United Nations Supervisory Body where project developers register their projects for validation, verification, and issuance of high-quality carbon credits.

**Voluntary Carbon Market (VCM) and Voluntary Carbon Standard (VCS):** To generate carbon offsetting credits from activities like REDD+ and enable credit trading.

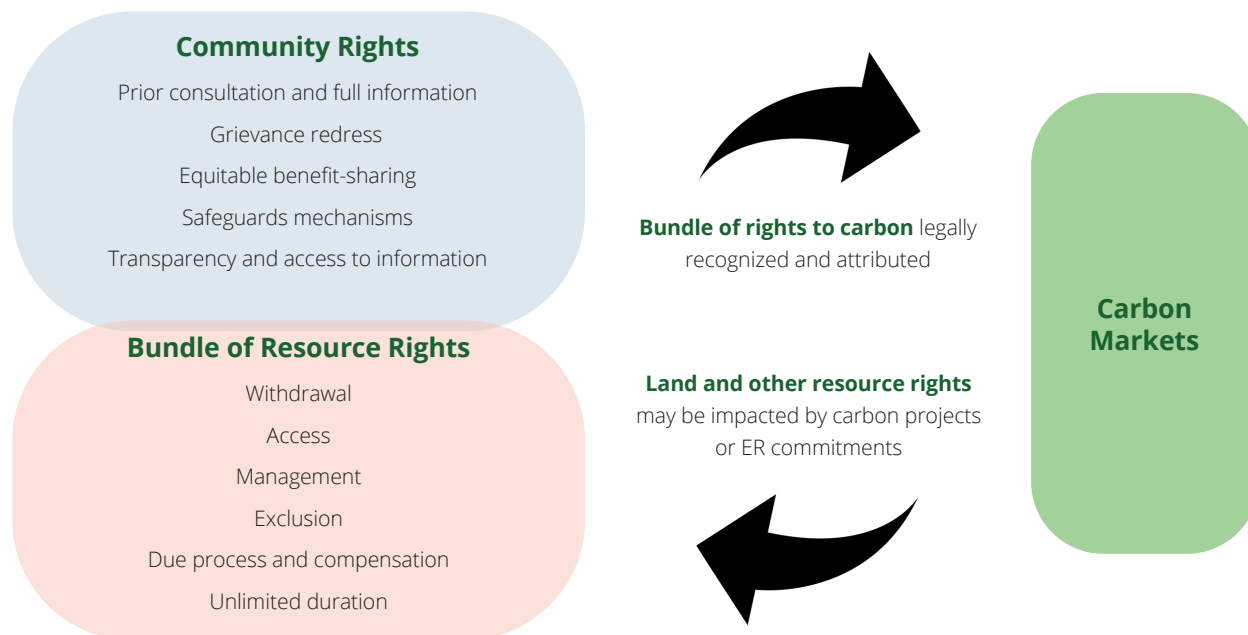
**Community-based tenure:** Denotes “arrangements in which the right to own or govern land and/or natural resources (such as freshwater) is held at the community level by Indigenous Peoples, Afro-descendant Peoples, and/or local communities,” whether or not these arrangements are legally recognized.<sup>18</sup>

**Community-Based Tenure Regime (CBTR):** A distinguishable set of national, state-issued laws and regulations governing “all situations under which the right to own or manage terrestrial natural resources is held at the community level.”<sup>19</sup>

In line with the Rights and Resources Initiative (RRI)'s Depth of Rights Methodology,<sup>20</sup> this report focuses not only on the legal claim to benefits generated by NbS, but on the full bundle of rights that Indigenous Peoples, Afro-descendant Peoples, and local communities, including the women within these groups, may exercise over their lands and resources, as well as the broader set of community rights that are central to any effectual safeguard system.

As shown in Figure 1, this view of carbon rights is informed by i) the longstanding bundle of rights framework that details distinct rights of access, withdrawal, management, exclusion, due process and compensation, and the duration of those rights held by communities over carbon and the lands and territories on which it may be sequestered; and ii) drawing on UN REDD+ guidance and other efforts, community rights to free, prior and informed consent (FPIC) or prior consultation and full information as applicable, grievance redress, equitable benefit-sharing, safeguard mechanisms, and transparency and access to information. The rise of

**FIGURE 1. CARBON TRADING AND RESOURCE RIGHTS**



carbon markets compels urgent clarification over community rights to carbon assets and services, including communities' right to manage, trade, or otherwise benefit from carbon and their ability to exercise the aforementioned bundle of rights in relation to their lands and territories. Trade in carbon implies a legal recognition or attribution of carbon as an asset or service and the operational recognition that such activities can result in positive or negative repercussions for communities and their rights.

## 2.2 Nature and scope of analysis

This report provides a systematic assessment of whether, how, and to what extent carbon rights have been recognized by national-level laws and policies that address the rights of Indigenous Peoples, Afro-descendant Peoples, and local communities, the administration and management of land and forest tenure, and the governance of climate mitigation, REDD+, and carbon trading. To complete this analysis, we coded 35 national-level indicators concerning the strength of the carbon rights held by legally recognized communities, including two indicators that refer to the rights of women or gender equity.<sup>21</sup>

These indicators were coded through an in-depth legal analysis of an original dataset of national laws and policies adopted by the 33 countries included in this study as well as RRI's existing dataset of the depth of rights<sup>22</sup> that govern 99 community-based tenure regimes (CBTRs)<sup>23</sup> identified in these countries. As presented in Table 1, our systematic assessment covers 33 countries in Africa (11), Asia (9), and Latin America (13). These countries hold an estimated 67 percent of the world's tropical and subtropical forests<sup>24</sup> and have a combined rural population of 1.54 billion people, equal to more than 44 percent of the world's rural population.<sup>25</sup> These countries were selected because they are among the most targeted for growing carbon market activities and are recognized for addressing or needing to address issues relating to Indigenous Peoples', Afro-descendant Peoples', or local communities' resource rights.

**TABLE 1. LIST OF COUNTRIES INCLUDED IN THIS REPORT**

Africa	Cameroon, Democratic Republic of the Congo, Republic of the Congo, Gabon, Ghana, Kenya, Liberia, Madagascar, Mozambique, Tanzania, and Zambia
Asia	Cambodia, Indonesia, India, People’s Democratic Republic of Lao, Nepal, Papua New Guinea, Philippines, Thailand, and Viet Nam
Latin America	Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Peru, and Suriname

This report rests on the assumption that sound and equitable national laws and policies are essential for ensuring that NbS advance—rather than undermine—the rights of Indigenous Peoples, Afro-descendant Peoples, and local communities. However, it is important to note that the effectiveness of any law rests on the extent to which it is implemented by governments and respected by corporations, NGOs, and other stakeholders. **Our analysis provides a starting point for taking stock of the legal risks associated with NbS in different countries and identifying the legal reforms that are needed to ensure that they benefit rather than harm local populations.** Our findings do not include data on the implementation of carbon and other associated rights on the ground. Further research is needed to understand the concrete outcomes of national laws and policies for Indigenous Peoples, Afro-descendant Peoples, and local communities in these countries.

### **3. GENERAL RECOGNITION OF RIGHTS TO FOREST TERRITORIES, LANDS, AND RESOURCES**

A domestic legal framework that recognizes the distinct status of Indigenous Peoples, Afro-descendant Peoples, and local communities as rightsholders and respects their fundamental rights is essential for ensuring that efforts to preserve or enhance carbon sequestration are in full compliance with international human rights law.<sup>26</sup> However, our findings indicate that most countries in our study lack the full set of domestic laws that would enable these groups to exercise their substantive and participatory rights in relation to proposed or prospective land-based carbon sequestration efforts.

#### **3.1 Recognition of substantive rights to forestlands and tenure security**

The collective rights held by Indigenous Peoples, Afro-descendant Peoples, and local communities provide the primary legal foundation for the recognition and exercise of their carbon rights. Only 21 countries in our study have constitutions, judicial decisions, or general laws that provide these communities with overarching legal protection of their collective rights to forest territories, lands, or resources.<sup>27</sup> Twelve countries do not provide any protection for the collective land and forest rights of the aforementioned groups. Most of these countries are in Africa (Cameroon, Democratic Republic of the Congo, Republic of the Congo, Gabon, Madagascar, and Tanzania), three are in Asia (Cambodia, Lao PDR, Nepal, and



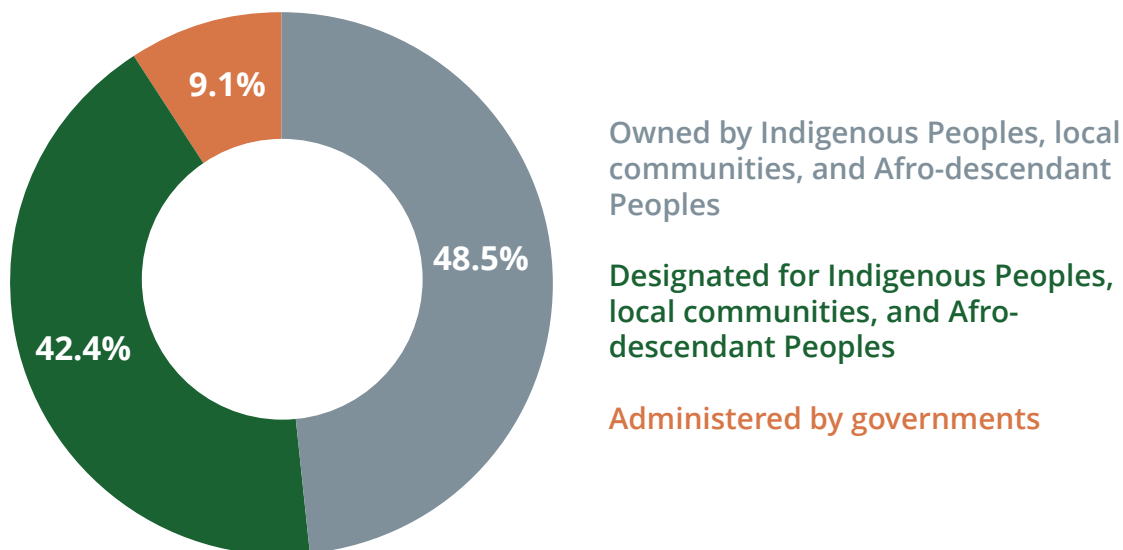
Viet Nam), and one is in Latin America (Suriname). In the absence of such overarching protections, communities' ability to advance and secure their carbon rights in the context of land-based climate mitigation laws, policies, and projects is likely to be far more challenging.

The existence of laws that provide communities with the right to own or manage territorial natural resources at the community level, referred to as CBTRs,<sup>28</sup> provides a strong foundation for recognizing and protecting the carbon rights of Indigenous Peoples, Afro-descendant Peoples, and local communities. All 33 countries in this study have laws or regulations that enable communities to secure CBTRs. However, the bundle of rights associated with CBTRs may vary considerably.

In this study, **most of the reviewed CBTRs offer limited tenure rights to affected communities.** Of the 99 regimes in our dataset, only 42 are classified as owned by Indigenous Peoples, Afro-descendant Peoples, and local communities, 9 are administered by governments, and 48 have been designated for these groups. The latter two land regimes fall short of providing communities with the full bundle of rights required for ensuring that land-based climate mitigation initiatives respect their autonomy and serve their interests and self-determined priorities.

Because each CBTR is specific to a particular identified group and does not apply across all communities in a given country, some communities may have strong legal protections whereas others may lack such security. Similarly, even if laws to secure community forest tenure exist, this does not mean that they have been fully realized over all claimed areas (in part or in whole), nor in the specific context of carbon sequestration initiatives. Of concern is the fact that 52 of the CBTRs in our dataset were established or last updated prior to 2008—the year when REDD+ readiness schemes and pilot projects were launched across the developing world. Since most of these tenure regimes pre-date large-scale efforts to conserve or enhance carbon stored in forests, it is unlikely that they include rules specifically relating to rights to control, manage, and benefit from land-based carbon mitigation policies and projects.<sup>29</sup>

**FIGURE 2. CBTRs ACROSS 33 COUNTRIES**



## BOX 2. THE NORTHERN RANGELAND TRUST PROJECT

The Northern Rangeland Trust (NRT) project in Kenya is an illustrative example of the risks of carbon projects proceeding with unclear tenure. The expansive project spans over 1.9 million hectares and includes 27 communities. The project started in 2004, before the government of Kenya created protections for communal land rights in the Community Land Act of 2016. When the NRT project was negotiated, in the absence of formally recognized community committees, the company setting up the project created their own community panels. As communities living on the land asserted their rights to register their communal land and establish community land management committees, they began to realize the scope of the carbon project involving their land. Feeling that their rights were not adequately represented during the initial negotiations, many communities demanded a renegotiation of the contract. This resulted in a pause for the project—and questions in a market already skittish about reputational risks for social impacts. Recognizing the challenge created by unclear tenure in this large project, the government of Kenya sought to reduce the risk of revisiting this problem by requiring in the 2024 Climate Change Act Regulations that all project developers have to define who has tenure rights to the land being used before starting a project.<sup>30</sup>

A land administration regime that provides transparency and accountability in the registration and enforcement of tenure claims is essential for providing communities with the data needed to secure their land and resource rights. Laws that require that all land tenure claims be included in a national registry were identified in 23 countries and 22 of these further specify that the national registry should be publicly available. On the other hand, 10 countries do not appear to have any legal requirements regarding the registration of land tenure claims in a publicly available registry at the national level. This lack of transparency increases the likelihood of corruption and fraud in land transactions<sup>31</sup> and undermines the ability of Indigenous Peoples, Afro-descendant Peoples, or local communities to ensure that their carbon rights are recognized and protected.

### 3.2 Recognition of participatory rights

The participatory rights of Indigenous Peoples, Afro-descendant Peoples, and local communities in land-based carbon sequestration activities<sup>32</sup> flow from the right to participation enshrined in international human rights law<sup>33</sup> and the principle of public participation in international environmental law.<sup>34</sup> In addition, communities benefit from an enhanced set of participatory rights under specialized human rights instruments that recognize their distinct status and unique and close relationship with their traditional lands and customs.<sup>35</sup>

The strongest expression of participatory rights is the right to FPIC, which provides rightsholders with the authority to provide or withhold consent to laws or activities that affect their lands, resources, or rights. **Although the recognition of the right to FPIC is a key element of a rights-based approach to the governance of carbon sequestration efforts, it is absent in most countries reviewed in this study.** Close to half of the countries reviewed (16 out of 33) do not have any constitutional provisions or general laws that recognize Indigenous Peoples', Afro-descendant Peoples', and local communities' right to FPIC, while six others recognize this right in a manner that is undefined

or unenforceable. As such, only 11 countries in our dataset, five of which are in Latin America, have explicitly recognized and defined FPIC as an enforceable right in their constitutions, a general law, or as a result of a court decision. Of the 17 countries that recognize FPIC in some way, 13 specify that this right is exercised by institutions created and governed by Indigenous Peoples, Afro-descendant Peoples, and local communities. Ensuring that these groups exercise their right to FPIC through institutions they control is vital for advancing their self-determination, safeguarding their traditional cultures, decision-making practices and knowledge systems, and empowering them to protect their lands and resources in a way that reflects their priorities and values.

Our report also considers whether countries have recognized the rights or requirements to prior consultation and full information of Indigenous Peoples, Afro-descendant Peoples, and local communities in the governance of lands, forests, or environmental impact assessments. Although all 33 countries in our study have at least one community or segment of the population that identifies as Indigenous,<sup>36</sup> only 16 countries recognize the right of Indigenous Peoples to be consulted in contexts that concern their lands or rights. Of the 12 countries in our dataset that are known to have Afro-descendant Peoples,<sup>37</sup> only five have laws that guarantee rights to prior consultation and full information for Afro-descendant Peoples.

### **BOX 3. CASE STUDIES FROM LIBERIA AND GUYANA**

#### **FPIC in Liberia**

Through years of struggling with logging that was closely tied to corruption and political unrest, Liberia created strong laws requiring FPIC before any activities on community lands took place (National Forestry Reform Law of 2006). It came as a surprise when the national government announced that it had promised 10 percent of national land to a 30-year deal with Blue Carbon.<sup>38</sup> Pointing to the country's strong history of respecting FPIC and communal land rights, civil society and the environmental ministry pushed back on the carbon deal and created a moratorium on any further deals until the country establishes a carbon framework that respects existing rules for land rights and FPIC.<sup>39</sup>

#### **Land Tenure and FPIC in Guyana**

Controversy over an ART-TREES carbon project in Guyana shows the complications that can arise when weak tenure rights are combined with unclear FPIC processes.<sup>40</sup> Though the majority of the population of Guyana lives in the capital city, Indigenous Peoples have protected its rich forests for generations. The Amerindian Act of 2006 provides village councils with the ability to hold title and rights over village land, but according to numerous International Human Rights Bodies, the Act fails to provide the Indigenous People of Guyana with full tenure and FPIC rights. The result is that many Indigenous communities in Guyana are not formally recognized<sup>41</sup> or do not hold land titles. When the government hosted an FPIC process for a carbon project under the new ART-TREES framework, it claimed the project was on government forestland and only consulted Indigenous representatives recognized by the national government. Consultation sessions within villages were criticized for not including local languages and for failing to reach full consent within communities. A formal appeal to ART-TREES by Indigenous groups was denied on procedural grounds,<sup>42</sup> but Indigenous groups continue to garner attention voicing their dispute in the media and in public for their inclusion in the project and revisions to the ART-TREES framework.

Finally, 25 countries require that local communities be consulted and provided with full information as part of the legal requirements associated with environmental impact assessment regimes. Six countries generally recognize some form of public participation, but without a defined process or procedure for doing so. Two countries (Panama and the Philippines) do not have any legal requirements relating to prior consultation and full information as part of their environmental impact assessment laws, although both countries guarantee the right to FPIC in other contexts. While it is not clear whether and to what extent carbon sequestration projects may fall within the ambit of these laws, they do not appear to provide a strong legal foundation for safeguarding the participatory rights of local communities.

## 4. REGULATION OF CARBON TRADING

Community rights to carbon and national-level carbon regulations are closely interlinked. While a number of countries have established (or are in the process of setting up) frameworks to coordinate Jurisdictional-REDD+ (J-REDD+) activities, the regulation of the voluntary carbon market (VCM) continues to lag across most countries reviewed. Clarifying community-level rights to control, manage, or benefit from carbon assets or services is even further behind, leaving a vacuum in resolving conflicts or protecting marginalized peoples on whose land VCM projects may be attractive.

National frameworks for regulating carbon markets are necessary to responsibly manage how carbon projects interact with communities and jurisdictional programs or initiatives should ostensibly specify benefit-sharing arrangements with affected communities. However, to ensure transparency and fair compensation, communities' right to engage as equals in the negotiation and development of benefit-sharing agreements is paramount, and clear community rights are a critical starting point for fair and transparent dialogue with more powerful actors.

In Section 4.1 we review how countries approach regulating carbon markets at the national level. We review community carbon rights in Section 4.2.

### 4.1 Country-level carbon regulation in the context of carbon trading

Among our selected sample of countries with strong incentives to be at the forefront of market-based climate financing processes, **more than half do not have carbon trading regulations.** Just 45 percent (15 out of 33) have regulations related to carbon trading. Of those, 13 have developed some form of regulation or oversight over both VCM and national-level J-REDD+ schemes, and two (Cambodia and Zambia) have laws that relate only to J-REDD+. Many countries, however, are moving ahead with overlapping but distinct approaches to engage with carbon markets even within their own ministries. The Philippines, for example, has a number of active programs and approaches that aim to take advantage of the growing VCM<sup>43</sup> but has no overarching framework to coordinate activities or resolve conflicts (see Box 4).

Even if not regulating carbon trade explicitly, a step in safeguarding community rights is having their rights to control, manage, or benefit from carbon recognized in some legal or regulatory way. Broadly, rights to carbon assets or services are legally defined in 14 out of 33 countries, whether as a state-level right to



## BOX 4. THE POLITICS OF INCLUDING LAND RIGHTS IN CARBON POLICY

As many governments are rushing to create new carbon policy, whether and whose land rights are protected in these policies often relates to which ministries are involved and which stakeholders are consulted. For example, in the Philippines in early 2024, multiple ministries created pieces of draft carbon policy. The Ministry of Finance, aiming for carbon markets to be a new revenue stream for the government, created inputs focused on maximizing the national government's revenue share. The Department of Environment and Natural Resources, in contrast, was focused on its mandate to protect national parks and forests and coordinate the various government bodies involved in forest preservation. At the same time, the National Commission on Indigenous Peoples released Supplemental Guidelines on Free and Prior Informed Consent for Forest Carbon Projects, setting out procedures to protect the land tenure and right to participation for Indigenous Peoples. The distance between the language in these different policies resulted in many delays and often made it difficult for stakeholders to know how best to engage in the process. The Philippines is not alone. On the sidelines of CoP29 in November 2024, governments from Nigeria to Chile reported on the challenges of coordinating inputs from multiple ministries while drafting carbon policies.

manage or claim benefits from carbon or as a community-level right to do so. In 10 other countries, some kind of right to carbon assets or services is implicit or can be inferred based on other laws and policies. Laws around carbon are ambiguous or inconclusive in six other countries. Bolivia singularly prohibits the commodification of carbon and other ecosystem services, although this may be changing.<sup>44</sup> In some cases, a general recognition of entitlement to control, manage, or benefit from carbon may even be defined differently for different CBTRs, as is the case in Guatemala and Panama. In these cases, rights to carbon assets or services are recognized at the community level except for Peasant Settlements in Panama, where rights to carbon benefits are more legally ambiguous.

Finally, countries vary in how they assess carbon as property. In most cases (17), countries link carbon or tradeable credits to land rights or a resource pool (for example, trees or soil). In five countries, carbon is defined as public property and is generally managed by the state. In four countries, carbon is treated as a separate entity, a property interest itself. For example, Gabon's 2021 Climate Change Law (Ordinance No. 019/2021) defines rights to carbon for the purposes of regulating credits and clarifies the circumstances of legal ownership of a Gabonese carbon credit. In the remaining seven countries, the proprietary interest of carbon is ambiguous or inconclusive.

## 4.2 Community carbon rights in the context of carbon markets

At the community level, **the right to use, manage, or benefit from carbon as an asset or service is recognized or defined in one-third of the countries reviewed, though few explicitly recognize such rights.** Twelve countries identify procedures communities must follow to claim their carbon rights, such as documenting legal ownership of land and applying for carbon trade permits. The procedures for securing carbon rights were unclear in 20 countries. In Tanzania, procedures were identified for three out of their five CBTRs.

However, **community-based rights to carbon assets or services are explicit in only three of our 33 countries.** Within those three, only Indonesia and Peru recognize the rights of communities to engage in carbon markets across all CBTRs, while the Republic of the Congo recognizes rights to carbon benefits for only some CBTRs. In nine countries, the state retains ownership of carbon. For example, Mozambique’s Constitution declares that “natural resources in the soil and the subsoil, in inland waters, in the territorial sea, on the continental shelf and in the exclusive economic zone shall be the property of the State” (Article 98). This is interpreted to include carbon, and there has been no subsequent devolution of carbon rights to communities. For 12 other countries, community-level carbon rights are not explicit but inferred and rights are generally seen as tied to land or forest ownership (Ghana’s framework also implies community-level recognition of rights but not through land, per se). So, in the case of Costa Rica for instance, this ensures that communities with clearly defined land titles also hold property rights over the carbon stored therein. In two other countries, community rights to carbon are different for each CBTR. In the remaining seven countries in our dataset, community-level rights to carbon are undefined, inconclusive, or otherwise too ambiguous to be clearly placed into a legal category.

Open and transparent carbon project registries are needed to ensure fair and transparent carbon markets.<sup>45</sup> Yet, in most countries (21), we found no evidence of a project registry. Of the 12 countries that have developed such a platform, six were not publicly accessible (online), four provided information on proposals and approvals, and two gave information on carbon sales transactions only. No registry provided access to documentation of the specific agreements between communities and project developers.

**TABLE 2. THE LEGAL RECOGNITION OF RIGHTS TO CARBON ASSETS OR SERVICES**

Country	Carbon Assets or Services are Not Legally Recognized or Results are Inconclusive	Owned by State	Inferred Rights to Carbon Assets or Services	Explicit Recognition of Community Rights to Carbon Assets or Services
Cameroon	X			
Democratic Republic of the Congo		X		
Republic of the Congo		2 CBTRs		3 CBTRs
Gabon		X		
Ghana			X	
Kenya	X			
Liberia			X	
Madagascar		X		
Mozambique		X		

Country	Carbon Assets or Services are Not Legally Recognized or Results are Inconclusive	Owned by State	Inferred Rights to Carbon Assets or Services	Explicit Recognition of Community Rights to Carbon Assets or Services
Tanzania			X	
Zambia		X		
Cambodia		X		
Indonesia				X
India			X	
Lao People's Democratic Republic			X	
Nepal		X		
Papua New Guinea	X			
Philippines			X	
Thailand			X	
Viet Nam		X		
Bolivia	X			
Brazil		6 CBTRs	2 CBTRs	
Colombia			X	
Costa Rica			X	
Ecuador		X		
Guatemala			X	
Guyana			X	
Honduras	X			
Mexico	X			
Nicaragua			X	
Panama	1 CBTR		1 CBTR	
Peru				X
Suriname	X			

Region: ■ Africa ■ Asia ■ Latin America

## 5. NATIONAL READINESS FOR REDD+ AND CARBON TRADE

The status of the carbon rights held by Indigenous Peoples, Afro-descendant Peoples, and local communities can also be assessed by analyzing whether and how they have been included in national-level laws and policies adopted to facilitate jurisdictional and market-based REDD+ activities. Our findings illustrate that progress toward the realization of key elements of REDD+ readiness that matter for communities has yet to materialize, undermining their ability to access benefits, compensation, or justice in the context of carbon sequestration activities that affect their lands. Despite years of international investments in REDD+ readiness, countries have yet to create the enabling conditions for the equitable sharing of benefits, nor have they effectively addressed the risks for the rights, tenure security, cultures, and livelihoods of affected communities.

### 5.1 Safeguards, benefit-sharing, and grievance redress mechanisms in jurisdictional and market-based REDD+

Per the Warsaw Package for REDD+ adopted under the UNFCCC,<sup>46</sup> domestic REDD+ readiness requires the development and operationalization of an information system that provides country-level information on how the Cancun safeguards<sup>47</sup> are being addressed and respected by REDD+ interventions. In the Durban Platform, the UNFCCC CoP further specified that these systems must be implemented at the national level for all REDD+ activities “regardless of the source or type of financing”<sup>48</sup> and through a country-driven approach that ultimately provides “transparent and consistent information that is accessible by all relevant stakeholders and updated on a regular basis.”<sup>49</sup> To date, 26 out of 33 countries have established fully operational safeguards information systems (SIS) for their REDD+ activities and three countries have taken steps to design or operationalize their systems. Although the existence of such systems is a basic requirement for REDD+ readiness, four countries (Bolivia, Nicaragua, Republic of the Congo, and Thailand) do not appear to have made any progress in establishing one. Finally, and more importantly, the adequacy and levels of implementation of these systems are largely unknown, that is, whether and to what extent any of these REDD+ safeguard information systems report information relating to market-based carbon trading projects.

Another key component for an effective and equitable REDD+ regime is a national benefit-sharing mechanism, law, or policy, ideally one that specifies a minimum allocation of benefits generated by carbon sequestration initiatives to affected communities.<sup>50</sup> **However, most countries (18 out of 33) in our dataset have yet to design a mechanism for sharing benefits with affected communities.** Eleven countries have designed benefit-sharing mechanisms but lack a minimum allocation of benefits to communities, and only three of these countries have established and operationalized these mechanisms. Four countries have a benefit-sharing mechanism defined in a policy that includes an established minimum allocation requirement of benefits to affected communities, but none of these appear to be operational. The lack of progress in establishing fair and transparent benefit-sharing mechanisms ultimately risks undermining the rights of Indigenous Peoples, Afro-descendant Peoples, and local communities to be compensated for the carbon conservation or sequestration initiatives that affect their lands and territories.



## BOX 5. BENEFIT SHARING WHEN INDIGENOUS PEOPLES ARE THE PROJECT DEVELOPER

One complication in equitable benefit-sharing can be the amount of revenue retained by the project developer, often an NGO or for-profit company that is familiar with carbon processes, to move a project through validation and accreditation. The Kimberley Land Council in Australia retains 100 percent of the revenue from carbon credits as the project developer of an Indigenous fire management project.<sup>51</sup> The revenue for the project goes toward additional fire management and other community development plans agreed upon by the Traditional Owners. A similar project in Arnhem is also Aboriginal-owned and operated, with 95 percent of the revenue re-invested into Aboriginal ranger groups to provide local employment.<sup>52</sup> In both cases, the Indigenous Peoples hold title over their land<sup>53</sup> and are eligible to have legal rights<sup>54</sup> over the carbon, resulting in a streamlined process for project registration in the national carbon crediting system.

### Multi-tiered benefit-sharing in REDD+ Ghana

Carbon rights are undefined in Ghana and there is no recognition for Indigenous Peoples. However, a legacy of transparency and benefit-sharing in the mining sector coupled with a deep commitment to multi-stakeholder dialogue resulted in a robust benefit-sharing system.<sup>55</sup> The project revenues<sup>56</sup> are split between the government, which retains 27 percent, and the “Hotspot Intervention Areas,” or HIAs. Money for the HIA is split again between farmer groups, traditional authorities, and communities. Involving these different stakeholder groups has a positive impact on the effectiveness of the project because it requires changes in farming practices and community land use. The distribution across communities is directly linked to performance.

International human rights law mandates that Indigenous Peoples, Afro-descendant Peoples, and local communities are entitled to access administrative, judicial, and other accountability mechanisms and remedies when their rights are violated by climate actions, including by land-based carbon sequestration activities carried out by governments and private actors.<sup>57</sup> In countries with properly resourced legal systems that function by the rule of law, domestic courts are the primary institution to which communities should turn for violations of their rights. However, many of the countries with the highest potential for NbS suffer from weak internal governance and have legal systems that are largely inaccessible to communities. In this context, countries must create national grievance redress mechanisms (GRM) that apply to carbon sequestration activities. We found that 13 countries have yet to establish a national GRM for carbon conservation and sequestration projects. Nine countries have designed, but not yet operationalized, their GRMs. Only 11 countries have a fully operational national GRM. However, all GRMs designed or operationalized by these 20 countries apply to jurisdictional REDD+ initiatives only. **In sum, no country in our dataset appears to have a mechanism that can provide Indigenous Peoples, Afro-descendant Peoples, and local communities with a form of redress when they are adversely affected by private carbon conservation and sequestration initiatives.** Notwithstanding ongoing efforts to enhance access to justice within the context of existing legal institutions, it is vital that host countries ensure access to some form of GRM that applies to all carbon trading activities. Moreover, such GRMs should be designed and assessed in light of the effectiveness criteria set out in Principle 31 of the UN Guiding Principles on Business and Human Rights.<sup>58</sup> Moreover, such GRMs should be designed and assessed in light of the effectiveness criteria set out in Principle 31 of the UN Guiding Principles on Business and Human Rights (see Box 6).

## BOX 6. EFFECTIVENESS CRITERIA FOR NON-JUDICIAL GRIEVANCE MECHANISMS

**“In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:**

- (a) Legitimate: Enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes.
- (b) Accessible: Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access.
- (c) Predictable: Providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation.
- (d) Equitable: Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice, and expertise necessary to engage in a grievance process on fair, informed, and respectful terms.
- (e) Transparent: Keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake.
- (f) Rights-compatible: Ensuring that outcomes and remedies accord with internationally recognized human rights.
- (g) A source of continuous learning: Drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.

**Operational-level mechanisms should also be:**

- (h) Based on engagement and dialogue: Consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.”

**TABLE 3. NATIONAL BENEFIT-SHARING AND GRIEVANCE REDRESS MECHANISMS**

Country	Is a Benefit-Sharing Mechanism Designed?	Is a Benefit-Sharing Mechanism Operational?	Is a Minimum Allocation of Benefits to Communities Included?	Is a Grievance Redress Mechanism Designed?	Is a Grievance Redress Mechanism Operational?
Cameroon	No/ Ambiguous	No	No	No/ Ambiguous	No
Congo, Democratic Republic of the	Yes	No	No	Yes	Yes
Congo, Republic of the	Yes	No	No	Yes	No
Gabon	No/ Ambiguous	No	No	Yes	No

Country	Is a Benefit-Sharing Mechanism Designed?	Is a Benefit-Sharing Mechanism Operational?	Is a Minimum Allocation of Benefits to Communities Included?	Is a Grievance Redress Mechanism Designed?	Is a Grievance Redress Mechanism Operational?
Ghana	Yes	No	Yes	Yes	No
Kenya	Yes	No	No	Yes	No
Liberia	No/ Ambiguous	No	No	Yes	Yes
Madagascar	Yes	No	Yes	Yes	No
Mozambique	Yes	No	Yes	Yes	Yes
Tanzania	No/ Ambiguous	No	No	No/ Ambiguous	No
Zambia	No/ Ambiguous	No	No	No/ Ambiguous	No
Cambodia	No/ Ambiguous	No	No	No/ Ambiguous	No
Indonesia	Yes	Yes	No	Yes	Yes
India	Yes	Yes	No	No/ Ambiguous	No
Lao People's Democratic Republic	Yes	No	Yes	Yes	No
Nepal	Yes	No	No	No/ Ambiguous	No
Papua New Guinea	No/ Ambiguous	No	No	No/ Ambiguous	No
Philippines	Yes	No	No	No/ Ambiguous	No
Thailand	No/ Ambiguous	No	No	No/ Ambiguous	No
Viet Nam	Yes	Yes	No	Yes	No
Bolivia	No/ Ambiguous	No	No	No/ Ambiguous	No
Brazil	No/ Ambiguous	No	No	Yes	Yes
Colombia	No/ Ambiguous	No	No	Yes	Yes
Costa Rica	Yes	No	No	Yes	Yes
Ecuador	No/ Ambiguous	No	No	Yes	Yes
Guatemala	Yes	No	No	Yes	Yes
Guyana	No/ Ambiguous	No	No	Yes	Yes
Honduras	No/ Ambiguous	No	No	No/ Ambiguous	No
Mexico	Yes	No	No	Yes	Yes
Nicaragua	No/ Ambiguous	No	No	No/ Ambiguous	No
Panama	No/ Ambiguous	No	No	No/ Ambiguous	No
Peru	No/ Ambiguous	No	No	Yes	No
Suriname	No/ Ambiguous	No	No	Yes	No

Region: ■ Africa ■ Asia ■ Latin America

## **BOX 7. KICHWA COMMUNITY OF THE PERUVIAN AMAZON GAINS RIGHT TO THEIR TERRITORY AND REDD+ BENEFITS**

The Kichwa people were required to leave land they had lived on for generations when the Cordillera Azul National Park was created in 2001. When the park became part of a REDD+ carbon project, the Kichwa people did not receive any revenue. They responded by taking multiple national and regional ministries to court for violating their land rights and their right to benefit from a carbon project.<sup>59</sup> In late 2024, the court ruled in favor of the Kichwa community, entitling them to access their land and benefit from the REDD+ project.

## **5.2 Support for tenure rights in REDD+ and climate mitigation strategies**

Policies for REDD+ and climate mitigation provide an opportunity to advance the recognition and enforcement of the land tenure rights of Indigenous Peoples, Afro-descendant Peoples, and local communities. Efforts to enhance such rights must moreover take into account and address gender disparities in land access and management and be developed in a manner that empowers women within their communities. To assess whether and how countries are pursuing these opportunities, we analyzed their national REDD+ strategies as well as the most recent version of the NDCs<sup>60</sup> submitted by these states to the UNFCCC Secretariat.

To start, nearly all (28 out of 33) countries in our dataset explicitly include the clarification of forest tenure for Indigenous Peoples, Afro-descendant Peoples, and local communities as a component of their national REDD+ strategies. However, analysis shows that commitments seldom carry over to NDCs. Only three countries explicitly commit to strengthening or expanding these rights in their NDCs and a further six countries commit to using existing laws and mechanisms for doing so. As a result, most countries (24) do not refer to the tenure or natural resource management rights of communities in their NDCs. This omission of rightsholders from national policy increases the risk that communities' rights and interests are not considered in national initiatives and priorities, compounding existing significant threats to their rights and livelihoods.

Commitments to clarify the tenure rights of women or ensure gender equity as a component of a state's national REDD+ strategy or NDC also fall short of what is required to advance gender parity in land and forest governance. Even where women's rights are included, they are not attached to legally binding protections for Indigenous, Afro-descendant, and local community women's governance rights. While 21 countries include a general reference to the rights of women, gender equity or gender mainstreaming in their national REDD+ strategies, only two (Colombia and Guatemala) include the clarification of the tenure rights of women as a component of their national strategies. However, both Colombia and Guatemala fail to provide adequate protection for the governance rights (voting and leadership) of community women, as per recent RRI data.<sup>61</sup> Of the five CBTRs in these countries, only one includes legal provisions that protect women's rights to vote and to meaningfully participate in community-level decision-making bodies. Ten countries do not refer to gender or women's rights in any way in their REDD+ strategies. Only four countries include clear commitments to the clarification of the tenure rights of women as a component of their NDCs. Twenty-four countries refer to the importance of gender equity or mainstreaming in their NDCs but do not address the need to clarify and strengthen the tenure



rights of women. Five countries do not include any references to gender or women's rights in their NDCs. Across all 99 CBTRs in this study, only 11 provide protection for community women's voting and leadership rights. In sum, the potential role of REDD+ policies for strengthening the tenure security of communities, including the women within these communities, remains unfulfilled.

## 6. DUE PROCESS, FAIRNESS, AND COMPENSATION

When FPIC is respected and rights are in place, communities should have avenues to stop processes and projects, or otherwise make grievances known. This transparency is key for communities to trust in engaging in carbon project schemes. We assessed countries and coded metrics related to how transparent countries are with respect to carbon projects and procedures for bringing problems forward. Due process related to carbon projects is often distinctly defined for different CBTRs, so we evaluated all 99 CBTRs independently.

**Overall, we found that explicit carbon-related transparency and due process are rare.** Only three countries guarantee any communities' rights to challenge carbon projects explicitly. Among these, Viet Nam and Mexico extend this protection to all CBTRs, and Guyana guarantees due process for some but not all CBTRs. In most other countries (26 out of 33), communities have a general right to challenge governmental decisions or projects, which, in theory, includes carbon market issues. In Ghana, Lao PDR, and some CBTRs in Gabon and Zambia, community rights to challenge the government are unclear. We note that even when there is on-paper clarity (for example, in Guyana), community efforts to exercise such rights can face considerable hurdles. The government of Guyana and ART-TREES have systematically rejected the grievances of Indigenous Peoples in the country.<sup>62</sup>

### BOX 8. PARTICIPATION FOR WHOM?

#### Recognizing the gendered impacts of carbon projects

Though it has not been studied widely, lessons from other land-based investments and gender roles in nature preservation indicate strong gendered impacts of carbon projects. For example, in many regions, women hold the responsibility to collect and sometimes sell firewood. If a carbon project requires avoiding selling firewood, then women in that community are more likely to lose access to individual economic power. If that revenue is transferred to a collective group decision-making space, they are often less likely to have political power to affect how carbon revenues are used. Recognizing this challenge, some countries are considering how to protect gendered participation within their governance of land-based investments. The Customary Land Rights Act of Sierra Leone requires that 30 percent of the community consenting to a project on their communal land must be women.<sup>63</sup> This provision emerged from a history of intentional exclusion<sup>64</sup> of women's voices in decision-making as well as observations about the tendency for women to bring longer and more community-oriented views to decision-making discussions. As the government of Sierra Leone is drafting its carbon policy in 2025, retaining fidelity to these progressive land rights is top of mind.

A key tenet of fair due process is a general right to compensation for harm. This right is recognized in some but not all CBTRs. Of the 99 CBTRs, communities have rights to compensation over harm in 78 of cases (in some cases, this indicates a general right to compensation in national law rather than a CBTR-specific law). However, only six CBTRs explicitly recognize this for carbon projects, all of which are in the Republic of the Congo and Peru. In 44 CBTRs, communities don't have rights to contest carbon programs explicitly, but a general right to compensation for harm exists for all citizens. In 26 CBTRs, communities' rights to receive compensation from carbon projects can be inferred through land or forest rights or, in just two cases (both in Indonesia), tied to carbon rights directly. In 21 CBTRs, communities have no explicit right to compensation.

Summarizing this at the national level, 21 countries recognize a general right to compensation across all CBTRs, eight countries of which implicitly or explicitly recognize this in the context of carbon transactions specifically. The right to compensation varies by CBTR in nine countries, and three countries generally do not recognize a right to compensation.

Third-party assessment and verification of projects are the final areas where we document the legal codification of fairness and due process. National laws and regulations are unclear or do not address requirements for independent third-party audits for monitoring and verification of carbon additionality from projects in nearly half (15 out of 33) of the countries. Communities' access to legal support was not present in over half (17 out of 33) of countries, and guaranteed access to information on carbon projects was also lacking in one-third of the countries assessed. Only five countries recognize rights to audits in the context of carbon projects, and only three reference access to legal support in such cases. In 21 countries, however, project developers must provide some (20 out of 33) or all (1 out of 33) information on project activities, risks, revenues, and GRMs with communities.

## **7. CONCLUSION AND KEY RECOMMENDATIONS**

Despite more than 15 years of international support and investment in national REDD+ readiness programs and other related initiatives, progress toward the comprehensive and meaningful recognition of community rights remains slow. Our findings demonstrate that most governments have failed to adopt the legal and policy reforms needed to recognize and safeguard the carbon rights of Indigenous Peoples, Afro-descendant Peoples, and local communities. The systematic failure to recognize and protect the carbon rights of affected communities is apparent in all four domains of domestic law and policy assessed in this report.

### **7.1 Key findings concerning the general recognition of rights to forest territories, lands, and resources**

A domestic legal framework that gives full effect to the rights of Indigenous Peoples, Afro-descendant Peoples, and local communities, and the women within these communities, to their forest territories, lands, and resources is an essential requirement to ensure that NbS initiatives are carried out in a fair and equitable manner. However, most of the countries in our study have yet to put in place the overarching

set of laws and regulations that provide these groups with the full bundle of rights of access, withdrawal, management, exclusion, and due process and compensation over their lands and resources.

Twelve countries do not protect the overarching collective forest, land, and resource rights of Indigenous Peoples, Afro-descendant Peoples, and local communities in any way. Sixteen countries do not have any constitutional provisions or general laws that recognize communities' right to FPIC. While 33 countries in our study have laws or regulations that enable communities to secure CBTRs, more than half of the 99 CBTRs in our study fall short of providing these groups with a full bundle of rights and over three-quarters of those CBTRs (88) fail to provide protections for community women's governance rights. In addition, most of the CBTRs we reviewed pre-date 2008, the year when large-scale efforts to conserve or enhance carbon sequestered in tropical forests began and are thus ill-equipped to address the risks to communities posed by emerging activities that use carbon as a tradeable commodity.

These deficiencies in the legal systems of countries that are likely to host NbS schemes threaten the rights, autonomy, livelihoods, and tenure security of Indigenous Peoples, Afro-descendant Peoples, and local communities. **Governments must strengthen their domestic legal frameworks to safeguard the rights of communities to control, benefit from, and receive due process and compensation for NbS activities that affect their lands or resources or apply to the ecosystem services and functions that directly or indirectly flow from their sustainable livelihoods and cultural practices.**

## 7.2 Key findings concerning the regulation of carbon trading

In the context of ongoing negotiations for the finalization of an international market mechanism (Article 6.4) and tradeable mitigation outcomes (Article 6.2) in support of national net-zero strategies, failure to recognize and give effect to the collective forest, land, and carbon rights of communities, including their rights to FPIC, invariably undermines both the credibility of market-driven climate solutions and the ability of Indigenous Peoples, Afro-descendant Peoples, and local communities to exercise their rights and autonomy over their customary territories.

Even in countries that recognize community-based rights to control, manage, or benefit from carbon, there is a risk of NbS crowding out basic recognition and protection of land rights, as is feared in Indonesia.<sup>65</sup> The failure of governments, especially in countries where carbon trading is likely to be most active, to ensure gains for communities in the context of J-REDD+ extends to private carbon trading and is a clear step backwards for protecting the rights of Indigenous Peoples, Afro-descendant Peoples, and local communities. **National-level carbon regulations must not only address issues related to activities that stem from Articles 6.2 and 6.4 but also ensure community rights are respected in interactions with the VCM.** Ideally, countries will ensure basic rights at a fundamental level, but new carbon-based regulation may present opportunities to increase community rights around specific domains as a first step.

## 7.3 Key findings in the governance of safeguards, benefit-sharing, and tenure in the context of REDD+ and carbon trading

After close to two decades of multilateral and bilateral support for domestic REDD+ readiness, progress in establishing key elements of an effective domestic legal framework for managing results-based payments

for carbon sequestration has been uneven. Two seemingly positive developments are that 26 countries have established SIS for their J-REDD+ activities, and 28 countries explicitly include the clarification of forest tenure for Indigenous Peoples, Afro-descendant Peoples, or local communities as a component of their national J-REDD+ strategies. However, both SIS and the recognition of the need to clarify rights were set in motion during early REDD+ negotiations, and evidence suggests that these have so far had limited effect on the advancement of community rights.

In general, progress toward meeting key elements of REDD+ readiness that matter for communities appears to have stalled, undermining their ability to access benefits or justice in the context of carbon sequestration activities that affect their lands. Only 15 countries have designed or implemented benefit-sharing policies that apply to results-based payments generated through J-REDD+ initiatives. Of these, only four countries have established a minimum allocation requirement of benefits to affected communities. Eleven countries have operational national GRMs for J-REDD+ schemes. However, no country appears to have set up a GRM that includes private carbon trading activities.

**Governments, donors, and international organizations must take steps to ensure that the key elements needed for fair, transparent, and equitable NbS schemes are in place and that they extend to both public and private carbon trading initiatives.** The design of SIS, benefit-sharing laws and policies, and GRMs must align with states' obligations under international human rights law. Finally, the development and implementation of such measures must not come at the expense of the long-term reforms needed to strengthen domestic legal systems and judicial institutions in these countries.

## **7.4 Key findings concerning the rules relating to due process, fairness, and compensation in carbon trading**

These deficiencies in the legal and regulatory frameworks of countries participating in NbS or that intend to do so put communities at risk, ultimately limiting their ability to derive benefits from the landscapes they own and manage. The limited number of reforms since 2008 suggests that investments in NbS processes to date (for example, REDD+ readiness) have done little to strengthen community rights over the past decades. They also fail to provide a stable legal environment conducive to the development and implementation of NbS interventions that can deliver real climate, social, and environmental benefits, as noted in Article 4 of the Paris Agreement's call for climate actions that take into account the need for equity, poverty alleviation, and sustainable development.

These risks are further magnified by the fact that most of the world's tropical and subtropical countries with a high potential for NbS are also amongst the weakest in terms of transparency, accountability, and effective application of the rule of law. From the perspective of public or private investors, the pursuit of NbS in poorly governed countries carries additional levels of risks that can largely be mitigated by ensuring that the rights and contributions of those who effectively own and manage the lands and forests targeted by emission reduction schemes are duly recognized and compensated.

**Respecting and implementing rules and rights around due process, fairness, and compensation are fundamental necessities for projects initiated external to communities.** Especially for carbon markets, already on shaky reputational ground for overblown claims of additionality, transparency around how communities are impacted and share in the potential benefits is crucial to maintaining credibility and

market confidence. Minimum standards for benefit-sharing mechanisms and clear processes for project developers and communities should be established to ensure equitable implementation of NbS.

## **7.5 The urgency of advancing communities' carbon rights and their role in the carbon crisis**

Drawing on traditional knowledge rooted in ecocentric worldviews, Indigenous Peoples, Afro-descendant Peoples, and local communities, and particularly the women within these communities who act as knowledge keepers and often hold the key to communities' relationships with nature, have a demonstrated track record of effective and sustainable stewardship of their customary lands and resources. In this context, well-designed and ethical NbS initiatives—along with interventions to address the transnational drivers of global demand for commodities and the deep, rapid, and sustained reductions in greenhouse gas emissions called for by the Intergovernmental Panel on Climate Change—could be used to strengthen the tenure security, cultures, and livelihoods of Indigenous Peoples, Afro-descendant Peoples, and local communities, as well as the women within these communities.

Given the growing interest and investments in NbS, it is critical that governments and the broader international community take steps to advance effective, equitable, gender-transformative, and sustainable climate actions that respect the human rights of affected communities and contribute to the eradication of poverty per Article 4 of the Paris Agreement. As this report highlights, this must include efforts to actively protect and scale up the recognition of the carbon rights of Indigenous Peoples, Afro-descendant Peoples, local communities, and the women within these communities through overarching legal reforms and mechanisms as well as measures specifically adopted to address risks and opportunities tied to carbon trading.

## ENDNOTES

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- 5 Dooley, Kate, Kirstine Lund Christiansen, Jens Friis Lund, Wim Carton and Alister Self. 2024. Over-Reliance on Land for Carbon Dioxide Removal in Net-Zero Climate Pledges. *Nature Communications*, 15(9118). doi:10.1038/s41467-024-53466-0.
- 6 Seddon, Nathalie, Alexandre Chausson, Pam Berry, Cécile A.J. Girardin, Alison Smith and Beth Turner. 2020. Understanding the Value and Limits of Nature-Based Solutions to Climate Change and Other Global Challenges. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 20190120. doi:10.1098/rstb.2019.0120.
- 7 For RRI, the term "Indigenous Peoples" follows the definition, or "statement of coverage," contained in the International Labor Organization Convention on Indigenous and Tribal Peoples in Independent Countries. Therefore, it includes peoples who identify themselves as Indigenous; tribal peoples whose social, cultural, and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; traditional peoples not necessarily called Indigenous or tribal but who share the same characteristics of social, cultural, and economic conditions that distinguish them from other sections of the national community, whose status is regulated wholly or partially by their own customs or traditions, and whose livelihoods are closely connected to ecosystems and their goods and services. While RRI recognizes that all people should enjoy equal rights and respect regardless of identity, it is strategically important to distinguish Indigenous Peoples from other stakeholders. They have a distinct set of rights linked to their social, political, and economic situation as a result of their ancestry and stewardship of lands and resources vital to their well-being.
- 8 Recognizing that local communities are not formally defined under international law, RRI considers that they encompass communities that do not self-identify as Indigenous but who share similar characteristics of social, cultural, and economic conditions that distinguish them from other sections of the national community; whose status is regulated wholly or partially by their own customs or traditions; who have long-standing, culturally constitutive relations to lands and resources; and whose rights are held collectively.
- 9 As per the Declaration of Santiago of 2000, the States of the Americas defined Afro-descendant as "the persons of African origin who live in the Americas and in the region of the African Diaspora as a result of slavery, who have been denied the exercise of their fundamental rights." (See the Durban Conference and Program of Action or the International Decade for People of African Descent. Available at: [https://www.un.org/en/durbanreview2009/pdf/DDPA\\_full\\_text.pdf](https://www.un.org/en/durbanreview2009/pdf/DDPA_full_text.pdf).) In Latin America and the Caribbean, constitutional and legal recognition of Afro-descendant Peoples' collective tenure rights is based on their special cultural, ethnic, and spiritual relationship with land.
- 10 Rights and Resources Initiative. 2023. *Who Owns the World's Land? Second Edition*. Rights and Resources Initiative, Washington, DC. doi:10.53892/MHZN6595.
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- 13 Although this report builds upon the technical report on carbon rights released by RRI in 2021, its scope and methodology differ in three important ways. First, the definition of carbon rights adopted in this report is much broader than the one used in the 2021 report, which focused on carbon rights as entitlements to benefits from carbon trading. Second, because of the comprehensive definition of carbon rights adopted in this report, we have examined a broader set of national-level



indicators across several domains of law and policy. Finally, the sample of countries analyzed in 2021 is not the same as the one selected for this report. See Rights and Resources Initiative. 2021. Status of Legal Recognition of Indigenous Peoples', Local Communities' and Afro-descendant Peoples' Rights to Carbon Stored in Tropical Lands and Forests. Rights and Resources Initiative, Washington, DC. doi:10.53892/MLQQ5744.

- 14 See, for example, UN-REDD Programme. n.d. "Glossary: Carbon Rights." UN-REDD Programme, Rome. Available at: <https://www.un-redd.org/glossary/carbon-rights>; Knox, Anna et al. 2012. Forest Carbon Rights Guidebook: A Tool for Framing Legal Rights to Carbon Benefits Generated through REDD+ Programming. USAID, Washington, DC, 7. Available at: [https://www.land-links.org/wp-content/uploads/2016/09/USAID\\_Land\\_Tenure\\_PRRGP\\_Forest\\_Carbon\\_Rights\\_Guidebook\\_011314.pdf](https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_PRRGP_Forest_Carbon_Rights_Guidebook_011314.pdf).
- 15 Streck, Charlotte. 2020. Who Owns REDD+? Carbon Markets, Carbon Rights and Entitlements to REDD+ Finance. *Forests* 11(9): 959, 7. doi:10.3390/f11090959.
- 16 The term "prior" is a key requisite for respecting the right to FPIC. See Center for People and Forests and GIZ. 2011. Free, Prior, and Informed Consent in REDD+ Principles and Approaches for Policy and Project Development, 20: "Consent is initially to be sought at the project identification/concept stage. Consent from communities should also be sought when governments, both national and sub-national, are developing REDD programs; and Consent is sought and maintained at various agreed points in the REDD+ project development process prior to proceeding to the subsequent phase."
- 17 Salmón, Enrique. 2000. Kincentric Ecology: Indigenous Perceptions of the Human–Nature Relationship. *Ecological Applications*, 10(5):1327–1332. doi:10.2307/2641288.
- 18 Rights and Resources Initiative and Environmental Law Institute. 2020. Whose Water? A Comparative Analysis of National Laws and Regulations Recognizing Indigenous Peoples', Afro-descendants', and Local Communities' Water Tenure. Rights and Resources Initiative, Washington DC, 19. doi:10.53892/DRQB6907.
- 19 Rights and Resources Initiative. 2017. Power and Potential: A Comparative Analysis of National Laws and Regulations concerning Women's Rights to Community Forests. Rights and Resources Initiative, Washington, DC. doi: 10.53892/PMYV6840.
- 20 Rights and Resources Initiative. 2017. Bundle of Rights Methodology and Statutory Typology. Rights and Resources Initiative, Washington, DC. Available at: <https://rightsandresources.org/wp-content/uploads/RRI-Bundle-of-Rights-Methodology-and-Statutory-Typology.pdf>.
- 21 The coding protocol used in this study is available at: Rights and Resources Initiative. 2025. Coding Protocol for Systematic Analysis of Carbon Rights. Rights and Resources Initiative, Washington, DC. Available at: <https://rightsandresources.org/wp-content/uploads/CarbonRightsReport2025-Protocol.pdf>. In 2024, RRI published the policy brief: State of Indigenous Peoples', Local Communities', and Afro-descendant Peoples' Carbon Rights in Tropical and Subtropical Lands and Forests, which summarizes the anticipated findings from the present report. The policy brief's analysis was based on RRI's Tenure Tracking data collected as of 2021 pending peer review validation, whereas the current report has been updated to reflect complete, validated data as of December 2024. As a result, there may be differences in data and findings that appear between the policy brief and this report due to updated RRI Tenure Tracking data.
- 22 Despite relying on RRI's Depth of Rights Methodology, this study evaluates a different set of countries from those assessed by RRI's forthcoming Depth of Rights report. RRI's forthcoming Depth of Rights report will assess the status of the rights of Indigenous Peoples, Afro-descendant Peoples, and local communities across 35 countries. Amongst those 35, only 30 overlap with the 33 countries evaluated in the present study. The present study further evaluates three countries (Costa Rica, Honduras, and Suriname) that will not be a part of RRI's Depth of Rights analysis.
- 23 See Rights and Resources Initiative. 2024. "Tenure Tracking Tool." Rights and Resources Initiative. Accessed October 28, 2024. Available at: <https://rightsandresources.org/tenure-tracking/>. For some countries, the legal rules may apply to all CBTRs collectively. Whenever there is variation within the country for different CBTRs, this is acknowledged in the analysis. A CBTR is defined as "a distinguishable set of national laws, regulations, and case law governing all situations under which the right to own or manage terrestrial natural resources is held at the community level." See Rights and Resources Initiative 2023.
- 24 Forest estimates based on data from the Food and Agriculture Organization of the United Nations. See FAO. 2020. Global Forest Resources Assessment 2020. FAO, Rome. Available at: <https://fra-data.fao.org/assessments/fra/2020/WO/sections/extentOfForest/>. See also FAO. 2016. Forest Resources Assessment Working Paper 186. FAO, Rome.
- 25 The World Bank. 2023. Rural Population Dataset. Accessed November 8, 2024. Available at: <https://data.worldbank.org/indicator/SP.RUR.TOTL>.

- 26 In a resolution recognizing the right to a clean, healthy, and sustainable environment, the UN General Assembly affirmed that states are obliged to respect, protect, and fulfill human rights when they act to protect the environment. See UN General Assembly Resolution 76/300. 2022. "The Human Right to a Clean, Healthy and Sustainable Environment." UN General Assembly, 76<sup>th</sup> Session, Suppl. No. 49, UN Doc. A/RES/76/300. Available at: [https://digitallibrary.un.org/record/3983329/files/A\\_RES\\_76\\_300-EN.pdf](https://digitallibrary.un.org/record/3983329/files/A_RES_76_300-EN.pdf).
- 27 Often included in a constitution or a general law, overarching collective rights apply to all communities that belong to one of the three groups included in this study (Indigenous Peoples, local communities, and Afro-descendant Peoples) regardless of whether they exercise property rights through a community-based tenure system.
- 28 RRI defines CBTRs as owned by communities when communities have access rights, withdrawal rights, management rights, exclusion rights, unlimited duration of rights, and rights to due process and compensation. CBTRs are defined as designated for communities when communities access rights and withdrawal rights, as well as either management rights or exclusion rights. When CBTRs are categorized as owned by communities, they are understood to have a full bundle of rights to exercise tenure over their forests and lands. Tenure over water or carbon is not accounted for in this classification. See Rights and Resources Initiative 2023.
- 29 Uncertainties concerning the legal treatment of carbon and the risks they pose to the rights and tenure of communities were first raised in RRI's initial report on carbon rights. See Rights and Resources Initiative. 2014. Status of Forest Carbon Rights and Implications for Communities, the Carbon Trade, and REDD+ Investments. Rights and Resources Initiative, Washington, DC. Available at: [https://rightsandresources.org/wp-content/uploads/ForestCarbon\\_Brief\\_web.pdf](https://rightsandresources.org/wp-content/uploads/ForestCarbon_Brief_web.pdf).
- 30 See Kenya, Climate Change [Carbon Markets] Regulations, 2024, Article 16(g).
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- 32 See Office of the United Nations High Commissioner for Human Rights. 2009. Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship Between Climate Change and Human Rights. UN Doc. A/HRC/10/61, 15 January 2009, para. 81–83.
- 33 See, for example, International Covenant on Civil and Political Rights, adopted December 16, 1966; UNGA Res. 2200A (XXI); 21 UN General Assembly Rec. Supp. (No. 16) at 52; UN Doc. A/6316 (1966); 999 U.N.T.S. 171, entered into force March 23, 1976, Art. 25.
- 34 See, for example, Declaration on Environment and Development. Report of the United Nations Conference on Environment and Development. UN Doc. A/CONF.151/6/Rev.1 (1992), Principles 10 and 22.
- 35 For Indigenous Peoples, see United Nations Declaration on the Rights of Indigenous Peoples; UN Human Rights Council Resolution 2006/2, September 13, 2007; UN Doc. A/RES/61/295, Arts. 10, 11(2), 19, 28, 29(2), and 32(2); Convention Concerning Indigenous and Tribal Peoples in Independent Countries, ILO Convention No. 169; 72 ILO Official Bull. 59; 28 ILM 1382 (1989), Arts. 4, 5, and 13–19. For local communities, see UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UN Declaration on the Rights of Peasants), adopted by the UN GA Res. 73/165, UN General Assembly Rec. 73<sup>rd</sup> Session, Supp. No. 49; UN Doc. A/RES/73/165, December 17, 2018. Available at: [https://digitallibrary.un.org/record/1661560/files/A\\_RES\\_73\\_165-EN.pdf](https://digitallibrary.un.org/record/1661560/files/A_RES_73_165-EN.pdf). For Afro-descendant Peoples, see Organization of American States. n.d. The Afro-descendant Theme in the Americas. Available at: <https://www.oas.org/dil/afrodescendants.htm>.
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