

Seeds for Reform:

International Obligations & Status of Indigenous Peoples', Afro-descendant Peoples', and Local Communities' Forest Tenure Rights in National Law

Executive Summary



Women carry bundles of wood on their heads, India. Photo by Society for Promotion of Wasteland Development (SPWD). 2012.

Indigenous Peoples, Afro-descendant Peoples, and local communities have long been stewards of the world's forests and the resources therein, maintaining a relationship with their territories that is fundamental to their spiritual, cultural, economic, social, and political rights and the protection of those ecosystems. Following decades of national and international advocacy by rightsholders and their allies, land tenure security for both communities and community women is now recognized as an integral component of international human rights law.

Yet, communities' tenure rights remain inadequately protected under national laws. More than two decades since the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and 10 years after the inclusion of tenure security indicators in the Sustainable Development Goals (SDGs), Indigenous Peoples, Afro-descendant Peoples, and local communities face increasing threats to their territorial rights. Unprecedented levels of violence and criminalization; displacement and land grabbing with causes ranging from resource extraction to alleged solutions for climate change to organized crime; erosion of civic space; and rollback of aid, all put the human rights of Indigenous Peoples, Afro-descendant Peoples, and local communities at heightened risk and highlight the fragility of the progress achieved internationally in the recognition of these rights.

This report offers an updated assessment of the status and strength of Indigenous Peoples', Afro-descendant Peoples', and local communities' statutory forest tenure rights across 35 countries in Africa, Asia, and Latin America.

Methodology

This report builds on Rights and Resources Initiative's (RRI) extensive monitoring of the bundle of community-based tenure rights in key forest countries in the Global South for more than a decade. The analysis assesses 35 countries across Africa, Asia, and Latin America, with 5 countries featured in the dataset for the first time: Ecuador, Ghana, Lao PDR, Madagascar, and Nicaragua. While the primary focus of this report, as well as the underlying data collected, is on forests and forest tenure rights, some of the community-based tenure regimes (CBTRs) identified by RRI may also pertain to collective land tenure more broadly. This overlap reflects the integrated nature of land and forest governance in many contexts. Users of this report should thus be aware that certain findings may extend beyond forested areas to include other types of land but should not assume they do.

The report identifies 104 CBTRs, used as the unit of analysis to allow identification and comparative analysis of the distinct legal frameworks by which Indigenous Peoples', Afro-descendant Peoples', and local communities' tenure rights are recognized under national law. Employing a Depth of Rights Methodology, the study assesses the **bundle of rights** collectively held by communities under each CBTR. This methodology examines the forest rights of communities as recognized under national law to access, withdrawal, management, exclusion, due process and compensation, and alienation, as well as the duration of these rights. Based on assessment of the bundle of rights comprising each CBTR, RRI subsequently classifies the strength of such legal frameworks as "owned by Indigenous Peoples, Afro-descendant Peoples, and local communities;" "designated for Indigenous Peoples, Afro-descendant Peoples, and local communities;" or "government administered," according to RRI's Statutory Forest Tenure Typology.

Alongside the 2024 update of the Depth of Rights, this study introduces two contextual indicators on i) free, prior and informed consent (FPIC), and ii) the right to use resources or areas for cultural and/or religious purposes. In assessing the extent to which national laws recognize communities' FPIC rights, RRI examines the statutory recognition of FPIC within each CBTR according to the language used in applicable national law.

Key findings

- 1. Since the adoption of the SDGs in 2015, 11 new legal frameworks, or CBTRs, recognizing some form of community-based forest tenure were established across 7 of the 35 countries analyzed. Most of these new CBTRs (9) were recognized in Africa.** Five of the 11 new CBTRs recognize the full bundle of rights constituting community forest ownership.
- 2. Despite the continued expansion of protections for Indigenous Peoples, Afro-descendant Peoples, local communities, and community women under international law, reforms to domestic legal frameworks have been inconsistent in their impact on community-based forest tenure rights.** While 46 percent of CBTRs underwent some reform between 2016 and 2024, these reforms resulted in both rollbacks and improvements to indicator assessments across the CBTRs analyzed. The overall bundle of communities' recognized rights was expanded in only 3 CBTRs (2 in Africa and 1 in Asia).
- 3. Still less than half (44) of all CBTRs legally recognize the full bundle of rights constituting community forest ownership, demonstrating that the increasing number of CBTRs does not necessarily indicate stronger recognition of the tenure rights of Indigenous Peoples, Afro-descendant Peoples, and local communities. A critical gap remains between the legal recognition of community-based tenure**

rights and the implementation of these rights in practice. Recognition of rights in perpetuity and of the right to exclude third parties—critical for the intergenerational protection of community forest lands and resources and thus required for classification of legal frameworks as owned by communities under RRI’s methodology—are the least frequently recognized indicators among those assessed.

4. **Legal regimes aimed at recognizing customary or community-based rights provide the most robust protection of the bundle of rights,** followed by use/exploitation-oriented CBTRs and conservation-oriented CBTRs.
5. **Communities’ rights to manage their forests are recognized across 71 percent of CBTRs but frequently remain subject to state approval of management plans and rarely include provisions specifically addressing women’s right to participate in community-level governance processes.** Legislative provisions adequately protecting women’s rights to vote in community-level governance bodies are found in only 2 CBTRs, and just 5 CBTRs adequately recognize their right to participate in community-level leadership bodies. In instances where CBTRs overlap with conservation areas, communities’ management rights are often reduced or restricted.
6. As of 2024, **nearly all CBTRs allow at least some form of forest resource use; however, the scope of recognition for these rights varies widely.** The law often includes **restrictions on commercial or subsistence uses and fails to account for the cultural, spiritual, and religious significance of forest areas** for Indigenous Peoples, Afro-descendant Peoples, and local communities.
7. **Across the three regions assessed, only half of CBTRs recognize FPIC rights for at least some types of communities,** with lower levels of protection in Africa and Asia than in Latin America.
8. The right to due process—including prior notice, consultation, access to information, and judicial or administrative recourse—is essential for safeguarding the forest tenure of Indigenous Peoples, Afro-descendant Peoples, and local communities. **While 82 percent of CBTRs globally recognize at least minimum rights to due process and compensation, in 29 percent of these CBTRs, due process rights entail only the right to judicial or administrative recourse, and not the right to prior notice and consultation**—indicating gaps in the full protections for access to justice required under international human rights standards.

Recommendations

With only 5 years remaining to achieve the objectives of the 2030 Agenda for Sustainable Development, urgent action is needed to bring national realities in line with both international human rights law and the advocacy, needs, and essential stewardship roles of Indigenous Peoples, Afro-descendant Peoples, and local communities. Despite vast advancements within international and regional human rights mechanisms in the recognition of the forest tenure rights of communities, and the women within these communities, progress is increasingly threatened by climate change, extractivism, authoritarianism, shrinking civic space, and the rise of unregulated “green” initiatives that often proceed without communities’ free, prior, and informed consent. Within this context, it is imperative that:

Governments, supported by rightsholder and civil society organizations:

1. Fully recognize the bundle of tenure rights comprising community forest ownership, including explicit recognition of the land and forest tenure rights of women and youth within communities.
2. Recognize the collective tenure rights of Afro-descendant Peoples within national legislation and ensure their inclusion in the development of international law and mechanisms.
3. Guarantee the FPIC rights of Indigenous Peoples, Afro-descendant Peoples, and, as applicable, other non-Indigenous tribal communities, in engagements with both government and private sector actors, ensuring the active and meaningful participation of community women, elders, and youth.
4. Regulate carbon rights and ensure community rights to benefit from ecosystem services.
5. Harmonize national legal frameworks across sectors to ensure community-based rights to resources, including land, forest, ecosystem services, and freshwater, are consistently defined and applied.

Donors and supporting allies:

1. Provide technical assistance to government, private sector, and conservation actors to ensure that the tenure and governance rights of Indigenous Peoples, Afro-descendant Peoples, and local communities, including community women and youth, are fully respected, irrespective of the status of their rights under national law, and to monitor progress in this regard.
2. Develop funding pathways and mechanisms that provide flexible, consistent, and long-term support to Indigenous Peoples, Afro-descendant Peoples, local communities, and community women's organizations and associations, including by minimizing administrative barriers that hinder rightsholder organizations from accessing or using dedicated funding.

Private sector entities, conservation organizations, and nature-based project proponents:

1. Actively work with communities to ensure that all landscape-level investments and interactions, including all climate and conservation initiatives, advance the recognition and realization of communities' tenure rights; adhere to FPIC; and ensure community-defined terms and leadership are at the center of decision-making over all community territories.
2. Adhere to and implement the highest international standards for human rights and environmental due diligence and engagements with Indigenous Peoples, Afro-descendant Peoples, and local communities, as defined by the Land Rights Standard and articulated in other guiding principles such as the UN Guiding Principles on Business and Human Rights, the Gender Dimensions of the Guiding Principles on Business and Human Rights, and the UN Environment Programme's Core Human Rights Principles for Private Conservation Organizations and Funders.

About the Rights and Resources Initiative (RRI)

RRI is a global coalition of over 200 organizations dedicated to advancing the forest, land, and resource rights of Indigenous Peoples, Afro-descendant Peoples, local communities, and the women within these groups. RRI leverages the power of its global coalition to amplify the voices of local peoples and proactively engage governments, multilateral institutions, and private sector actors to adopt institutional and market reforms that support the realization of rights. Its members capitalize on each other's strengths, expertise, and geographic reach to achieve solutions more effectively and efficiently. By advancing a strategic understanding of the global threats and opportunities resulting from insecure land and resource rights, RRI develops and promotes rights-based approaches to business and development and catalyzes effective solutions to scale rural tenure reform and enhance sustainable resource governance. For more information, visit rightsandresources.org.

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