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FACTSHEET

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Who Owns the Land in Latin America?

The status of indigenous and community land rights in Latin America

The question of who owns the world's lands and natural resources is a major source of contestation around the globe, affecting prospects for rural economic development, human rights and dignity, cultural survival, political stability, conservation of the environment, and efforts to combat climate change.

To inform advocacy and action on community land rights, RRI has published *Who Owns the World's Land? A global baseline of formally recognized indigenous & community land rights* ("the global baseline"),¹ which identifies the amount of land governments have formally recognized as owned or controlled by Indigenous Peoples and local communities across 64 countries, constituting 82 percent of global land area. The report focuses on community-based tenure regimes, which include any system where formal rights to own or manage land or terrestrial resources are held at the community level, including lands held under customary tenure regimes.

This brief summarizes findings on community ownership and control of lands in the 13 countries in Latin America that were included in the global baseline.

Key Findings

- In the 13 Latin American countries studied, Indigenous Peoples and local communities own or control 23 percent of land area, compared with 18 percent globally.
- Combined, Brazil and Mexico account for 67 percent of all land recognized and owned by Indigenous Peoples in Latin America, with Brazil contributing 44 percent and Mexico contributing 23 percent.
- In the nine South American countries studied, local communities and Indigenous Peoples own or control 20 percent of land area.
- Mexico, where Indigenous Peoples and communities own 52 percent of the country's land area, drives the results in the four Mesoamerican countries studied.² When the Mesoamerican results are assessed without Mexico, only 1.7 percent of land is owned or controlled by Indigenous Peoples or local communities.

Role of community-based tenure in Latin America

Communities in Latin America rely on the formal recognition of community-based tenure to support their livelihoods, agricultural activities, and cultural heritage. In Mexico, the *ejido* system of communal land ownership enables communities to access credit to improve capacity and agricultural output.³ A study of five community forestry initiatives in Guatemala, Nicaragua, and Bolivia found that communities' annual profits ranged from approximately US\$3,200 to over

US\$225,000, depending on the size of the forest under community management, the availability of infrastructure to move forest products to market, and other factors.⁴

Community land management can also deliver conservation benefits. A study of nine community forest concessions in Honduras found that seven had lower rates of deforestation than the surrounding buffer areas that were managed by settlers; four of the nine communities had deforestation rates that were

particularly low, ranging between 0.01 percent and 0.51 percent, as opposed to 1.40 percent in the buffer areas.⁵

Latin America Results

The global baseline identified two broad categories of formal recognition of community-based tenure regimes: “ownership” where Indigenous Peoples and local communities have a stronger set of land rights; and “control” where governments place significant restrictions on communities but do recognize some key rights, such as the right to manage their lands or the right to exclude outsiders from community lands.

Local communities and Indigenous Peoples own or control a significantly higher percentage of land in Latin America (owning 18 percent and controlling an additional 5 percent) than globally, where Indigenous Peoples and local communities own 10 percent of land and control an additional 8 percent (see Figure 1). This reflects the strong indigenous rights movements that arose in many countries after the fall of authoritarian regimes at the end of the 20th century. Newly formed constitutions recognized indigenous rights, in some cases for the first time, allowing Indigenous Peoples to take an increasingly active role in the new political landscape.⁶ However, recognition of community land rights has not occurred evenly throughout the region. In Mexico, agrarian reform began as early as 1917, whereas some

countries have not yet made substantial progress in recognizing communities’ land rights.⁷ Many countries are also now rolling back these rights to facilitate commercial investment, a trend further discussed below.

Mexico has the highest proportion of national land area owned or controlled by Indigenous Peoples and local communities (52 percent) in the Latin American countries studied, followed by Bolivia (36 percent), Peru (35 percent), and Colombia (34 percent) (see Table 1). Combined, Brazil and Mexico account for 67 percent of all land recognized and owned by Indigenous Peoples in Latin America, with Brazil contributing 44 percent and Mexico contributing 23 percent.

In addition to recognizing Indigenous Peoples’ and local communities’ rights to a larger percentage of land area in Latin America, more countries in Latin America than in Asia or Sub-Saharan Africa recognize communities’ full rights to own land, rather than simply designating lands for communities’ use. Three of the 13 countries (Colombia, Costa Rica, and Mexico) only recognize community-based ownership and seven countries have tenure regimes that recognize both community ownership and community control,⁸ while two countries (Guyana and Venezuela) only designate lands for Indigenous Peoples and local communities. Only Suriname has no community-based tenure regimes that recognize a robust enough bundle of rights to constitute community ownership or control under RRI’s methodology.

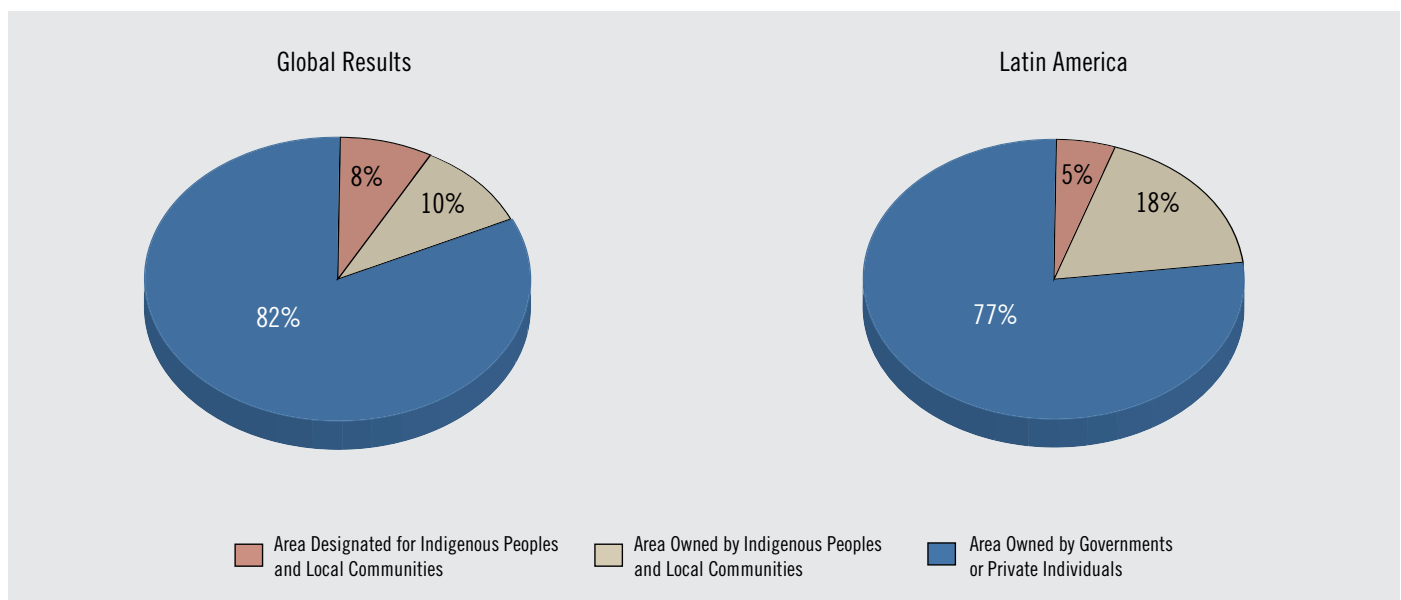


Figure 1: Comparing Results

Country	Total Country Area (Mha)	Designated for Indigenous Peoples and Local Communities		Owned by Indigenous Peoples and Local Communities		Total Area Designated for or Owned by Indigenous Peoples and Local Communities		Income Level
		Area (Mha)	Percent of Country Area	Area (Mha)	Percent of Country Area	Total Area (Mha)	Total Percent of Country Area	
Costa Rica	5.11	-----	0.00%	0.33	6.44%	0.33	6.44%	M
Guatemala	10.72	0.38	3.55%	1.40	13.04%	1.78	16.58%	M
Honduras	11.19	0.50	4.42%	1.07	9.55%	1.56	13.98%	M
Mexico	194.40	-----	0.00%	101.13	52.02%	101.13	52.02%	M
Sub Region Total	221.41	0.88	0.40 %	103.93	46.94 %	104.80	47.34 %	
Argentina	273.67	5.29	1.93%	2.74	1.00%	8.02	2.93%	H
Bolivia	108.33	0.47	0.43%	38.92	35.93%	39.39	36.36%	M
Brazil	835.81	77.19	9.24%	114.63	13.72%	191.82	22.95%	M
Chile	74.35	0.06	0.09%	2.25	3.03%	2.32	3.12%	H
Colombia	110.95	-----	0.00%	37.58	33.87%	37.58	33.87%	M
Guyana	19.69	3.80	19.32%	-----	0.00%	3.80	19.32%	M
Peru	128.00	9.27	7.24%	35.29	27.57%	44.56	34.81%	M
Suriname	15.60	-----	0.00%	-----	0.00%	0.00	0.00%	M
Venezuela	88.21	2.84	3.22%	-----	0.00%	2.84	3.22%	H
Sub Region Total	1,654.61	98.92	5.98 %	231.41	13.99 %	330.33	19.96 %	
Region Total	1,876.01	99.80	5.32%	335.34	17.87%	435.13	23.19%	
Global Total	1,0672.70	854.90	8.01%	1,084.71	10.16%	1,939.62	18.17%	

Patterns of Tenure Recognition in Mesoamerica and South America

Sub-regional comparisons are particularly interesting in the Latin American context. In the four Mesoamerican countries studied (Costa Rica, Guatemala, Honduras, and Mexico), only 0.4 percent of land was designated for Indigenous Peoples and local communities, while they own an impressive 47 percent of land. As shown in Figure 2, Mexico disproportionately influences the results for Mesoamerica, constituting 88 percent of the total land area and accounts for 97 percent of the area owned by Indigenous Peoples or local communities within the countries studied in the sub region. *When the Mesoamerican results are assessed without Mexico, only 1.7 percent of land is owned or controlled by Indigenous Peoples or local communities. South America more closely reflects the Latin American total, with 6 percent of its land designated for local communities and Indigenous Peoples and 14 percent of land owned by them.*

Challenges to Indigenous Peoples' and Local Communities' Land Rights

Many Latin American economies rely heavily on the export of natural resources. In 2012, extractive resources such as metals, precious metals, and mineral products made up more than half of all exports in Bolivia, Chile, Colombia, Guyana, Peru and Venezuela. Agricultural commodities accounted for at least 20 percent of exports in Argentina, Brazil, Guatemala, Guyana, and Honduras in the same year.⁹

To facilitate economic growth, commercial concessions are sometimes issued on lands held by Indigenous Peoples and local communities. Almost 6 million hectares of soybean concessions in Argentina and over 900,000 hectares of timber concessions in Peru overlap with lands claimed, designated for, or owned by local communities and Indigenous Peoples. Additionally, over 800,000 hectares of concessions for mining and oil exploration or production fall on indigenous land reserves in Colombia.¹⁰

Governments have begun rolling back the legal recognition of Indigenous Peoples' and local communities' land rights as part of efforts to scale up commercial exploitation of natural resources. The Peruvian Congress has passed a series of laws referred to as *Paquetazos* which weaken protections against the expropriation of land held by Indigenous Peoples and local communities in order to facilitate the issuance of commercial concessions. Indigenous Peoples and local communities are fighting to reverse and prevent similar legislation in Bolivia, Colombia, and Brazil. Legislation such as this can undermine all indigenous and community land rights; however, it poses the highest risk for people living in areas where they hold land in practice but lack formal recognition.

The areas where communities still lack legal recognition are vast, and in some countries the process for obtaining recognition is time consuming and costly. In Peru, for example, Indigenous Peoples formally own or control more than one-third of the country's land area (44.55 Mha); however, Peru's national Indigenous Federation of the Peruvian Amazon (AIDSESEP) estimates that an additional 20 Mha of land is eligible for formal recognition. Colombia formally recognizes Indigenous Peoples and communities' rights to own about one-third of the countries' land area. In the Caribbean region, however, experts estimate that up to 100,000 hectares of land is held by Afro-Descendant communities under

customary tenure, while only around 2 percent of these lands have been formally titled. Afro-descendant communities have filed claims to obtain title to an additional 10,853 hectares within the Caribbean Region, but the process to obtain formal title is costly for communities and can take years.

In many Latin American countries, property ownership is highly concentrated in the elite, and corruption and attacks on land rights advocates are a source of conflict amongst community, government, and corporate actors. This trend is exemplified by Colombia, where reports on the 2015 rural census state that the bottom 69.9 percent of the population occupies only 5 percent of the land area surveyed, whereas the top 0.4 percent of the population owns 41.1 percent.¹¹

The illegal transfer and appropriation of land is often facilitated through networks of business and government representatives and can result in violence when communities are displaced.¹² **Between 2002 and 2013, 760 land and environmental activists were reportedly killed across Latin America.** Brazil is by far the most perilous, experiencing over 400 environmental and land activist murders—an average of 37 deaths per year.¹³ Most recently, in September 2015, an indigenous leader was kidnapped by settlers in Nicaragua, as part of violent attacks that have left 30 dead since 2008, including 15 in the last year alone.¹⁴

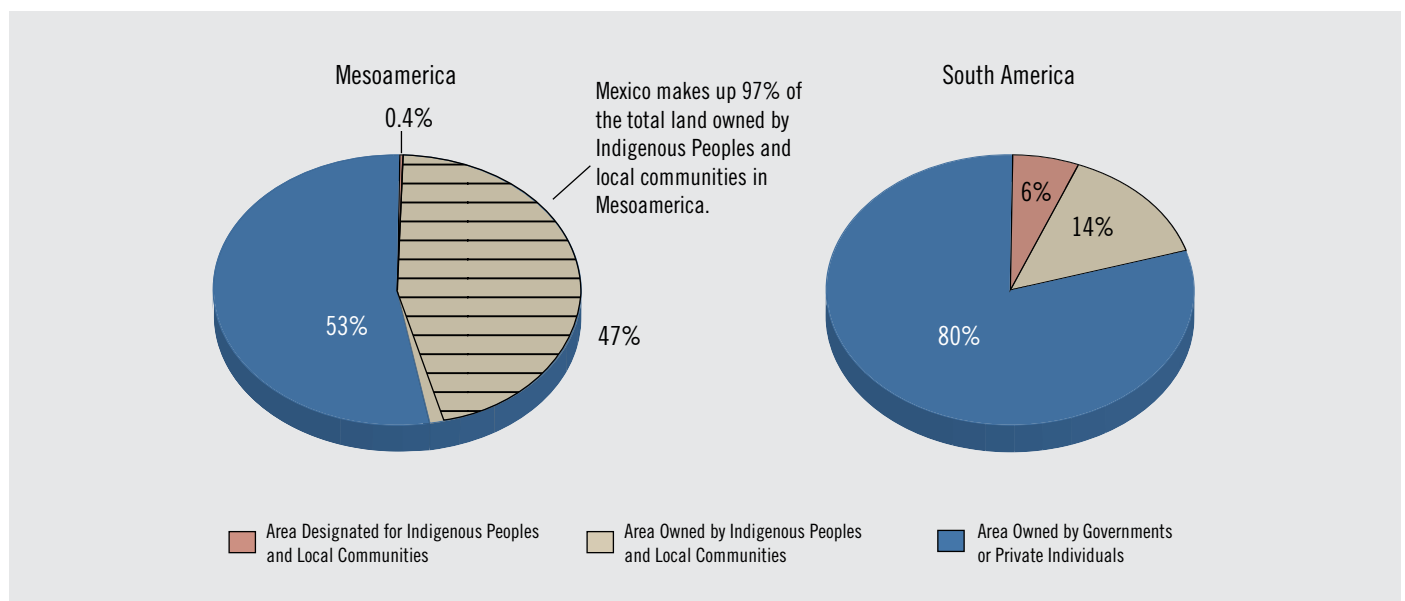


Figure 2: Mesoamerica and South America

Opportunities for Reform and Way Forward

There are, however, some positive developments in the region. Most recently, agrarian land reform has taken on a significant role in the ongoing peace negotiations between the Government of Colombia and the FARC, negotiations which made significant strides forward in September 2015.¹⁵ There have also been positive developments in Guatemala, where the parliament passed a bill appropriating almost US\$2 million for the preservation of forests.¹⁶ Although the level of funding approved is modest compared to earlier proposals, it is designed to help support a range of community forestry and smallholder initiatives.¹⁷

At the same time, while funding for sustainable forestry increased in Guatemala, not all developments in the region have been positive. The government budget for forest conservation in Mexico, for instance, is expected to decrease by almost US\$6 million.¹⁸ So despite indications of modest progress, great effort is still needed to secure gains and move towards tenure security.

- The area formally recognized under statutory law is much less than the area to which Indigenous Peoples and local communities hold customary rights. **Further action is needed to bridge that gap.**
- Latin America has recognized local communities' and Indigenous Peoples' land rights at a higher rate than either Asia or Sub-Saharan Africa; however, these gains are at risk due to recently enacted and pending legislation to promote commercial investment and curtail community land rights. **Governments need to work with Indigenous**

Peoples, local communities, and other stakeholders to develop strategies to achieve economic growth without undermining communities' rights to land and natural resources.

- Moreover, formal legal recognition of indigenous and community lands is an important first step, but is not sufficient to guarantee tenure security without effective implementation. **States and other actors must also respect, support and enforce such legal protections.**

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

Endnotes

- 1 This brief was prepared by Chloe Ginsburg, Nate Dobbin, and Ilona Coyle based on the full report: Rights and Resources Initiative. 2015. Who Owns the World's Land? A global baseline of formally recognized indigenous and community land rights. Washington, DC: RRI. <http://www.rightsandresources.org/publication/whoownstheland>.
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For more information on methodology and findings of the full report, please see: <http://www.rightsandresources.org/publication/whoownstheland>. To preserve the brevity of this summary, citations have been omitted unless they provide new information not discussed in the full report.

THE RIGHTS AND RESOURCES INITIATIVE

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