



# THE END OF THE HINTERLAND:

Forests, Conflict and Climate Change



## THE RIGHTS AND RESOURCES INITIATIVE

The Rights and Resources Initiative (RRI) is a strategic coalition comprised of international, regional, and community organizations engaged in development, research and conservation to advance forest tenure, policy and market reforms globally.

The mission of the Rights and Resources Initiative is to support local communities' and indigenous peoples' struggles against poverty and marginalization by promoting greater global commitment and action towards policy, market and legal reforms that secure their rights to own, control, and benefit from natural resources, especially land and forests. RRI is coordinated by the Rights and Resources Group, a non-profit organization based in Washington, D.C. For more information, please visit [www.rightsandresources.org](http://www.rightsandresources.org).

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## AT A GLANCE: RIGHTS AND RESOURCES 2009–2010

Forests have long been a hinterland: remote, “backward” areas largely controlled by external, often urban, actors and seen to be of little use to national development or the world except as a supply of low-valued natural resources. 2009 marks the beginning of the end of this era: Forest lands are booming in value for the production of food, fuel, fiber and now carbon. New global satellite and communications technology allow the world to peer into, assess the value of, and potentially control forests from anywhere in the world. More than ever, forests are bargaining chips in global climate negotiations and markets.

This unprecedented exposure and pressure, and risk to local people and their forests, is being met by unprecedented levels of local organization and political influence, providing nations and the world at large tremendous opportunity to right historic wrongs, advance rural development and save forests.

But the chaos in Copenhagen at COP15 laid bare the looming crises that the world will face if the longer-term trends of ignored rights, hunger, and climate change remain inadequately addressed in 2010. While the era of the hinterland is ending, the future of forest areas is not yet clear. There will be unparalleled national and global attention and investment in forests in 2010—but who will drive the agenda and who will make the decisions? Will forest areas remain controlled from beyond? On whose terms will the hinterland be integrated into global markets and politics?

This report takes stock of the current status of forest rights and tenure globally, assesses the key issues and trends of 2009, and identifies key questions and challenges that we will face in 2010.

## **ACKNOWLEDGEMENTS:**

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Cover Photo by Ben Powless, an independent advocate for Indigenous rights. A demonstration during the negotiations of the United Nations Framework Convention on Climate Change—Copenhagen, Denmark, December 2009.

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# CONFLICT, CLIMATE CHANGE AND COMMUNITIES

2009 will be remembered for the global economic recession and the chaotic attempts to address climate change. But it might also be remembered as a year when governments were overthrown for ignoring local land rights, and when there was finally widespread realization that addressing long-standing questions over forest and land rights and tenure is required for addressing global crises of food security, war and climate change. In March the government of Madagascar was ousted, a move accelerated by widespread resistance to the government handover of half the island's arable land to a South Korean corporation. This reality awoke many to the real political consequences of the volatile combination of insecure land rights, persistent government control of land and forests, and booming demand for commodities like food, fuel and speculative forest carbon. If nothing else, 2009 revealed the looming crises of conflict, hunger and climate change that face us unless the issues of local rights and political empowerment are urgently addressed.

Indeed, and ironically, the Copenhagen summit neatly captured the contradictions and challenges of the year. Despite its unclear and limited outcomes, COP15 was one of the most important global negotiations to date, and indigenous and other community leaders were organized and at the table,

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## 1 | LIBERIA: ONE BIG STEP FORWARD, SEVERAL STEPS BACK

After several years of contentious debate, the President of Liberia signed the Community Rights Law in October 2009. In many ways this was a huge milestone, not only for Liberia but also for Africa. The Community Rights Law is the most progressive in the region, with strong language that clearly recognizes community rights to forests. Yet overregulation and inclusion of provisions that empower local political elites have largely undermined this progress. Equally as disconcerting, several weeks before signing the bill into law, the President approved an extensive set of new industrial logging concessions, despite recognized irregularities with the bidding process, inconsistencies with the Community Rights Law and critical questions as to whether conditions for industrial logging exist in forests high-graded for years to finance the Liberian civil war at the cost of local interests. 2010 will be a critical year, when we see how the Community Rights Law is implemented and whether REDD supports the conventional logging industry and conservation models or upholds local rights. The good news is that civil society and government are making ambitious plans to address these issues, but the path is steep.

influencing global decisions about the future of the planet. Yet at the end of the summit, these same leaders returned home to forests where many do not have government-recognized rights to the land and trees they have used for generations. The flood of money now promised to their governments to help maintain tropical forests and secure additional carbon—some US\$3.5 billion, which is twice current ODA for forests—is both putting new and unprecedented pressures on forest lands and also offering unprecedented opportunity to secure the rights and development of local people.

*In the Congo Basin, the forest area allocated to industrial concessions is 46 times the forest area allocated to local communities.*

Concern over the global land grab, at least in the press, has focused on agricultural lands. Yet the same issues of the lack of recognition of indigenous and customary land rights, and government or corporate takeover have long plagued forests, drylands and wetlands in most developing countries. Unrecognized collective rights are a primary cause of widespread poverty, human rights abuse, inequality and political exclusion. Perhaps not surprisingly then, two-thirds of ongoing violent conflicts today are driven by contested claims to land and resources.<sup>1</sup>

Since colonial times, the state has exerted its control over and undervalued the complex local uses of rural forests, drylands, and wetlands diverting rural land to its own extractive or commercial ends. The critical need for tenure reforms that recognize collective and customary rights over natural resources have been largely ignored by governments and development agencies. The imbalanced role of governments and the vested interests that they have sponsored have undermined local economies and—rather than sustaining national public goods—have resulted in vast overuse, including deforestation and degradation, overgrazing and overdrawn aquifers. In the Congo Basin, the forest area allocated to industrial concessions is 46 times the forest area allocated to local communities. Thus, it is no surprise that the vast majority of global carbon emissions from forests come from government-claimed areas.<sup>2</sup> Forest communities have long been fighting for more control over their forests. Now, clarifying forest tenure and governance has become a priority for some global leaders and even carbon traders. If and how local, national and global actors deal with these issues will determine the future of forest areas.

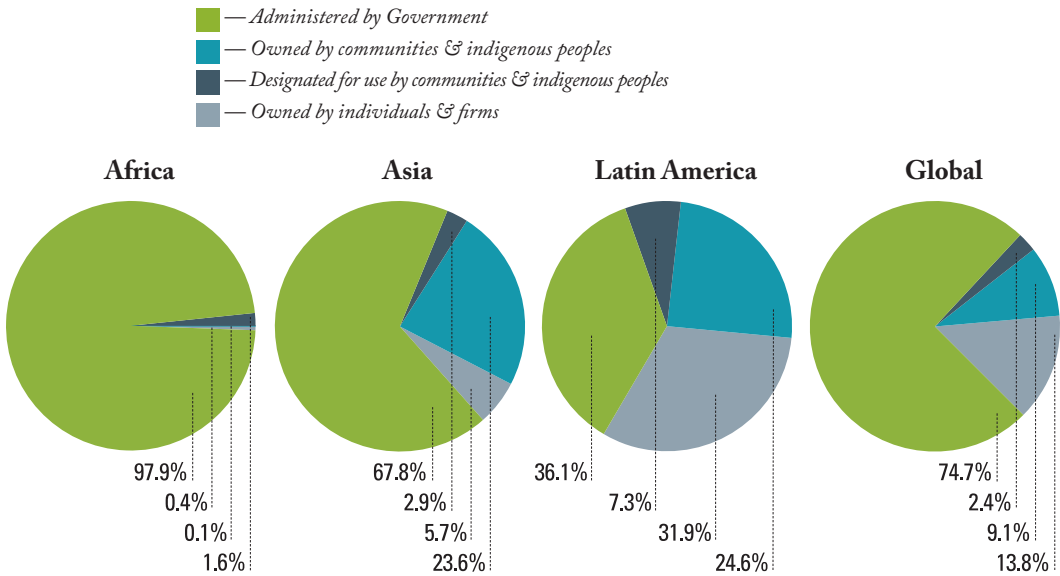
Without understanding the way in which forests are owned and managed, the world risks more failed attempts to slow deforestation and promote rural development.

# THE STATE OF FOREST TENURE TODAY: SOME PROGRESS BUT NOT MUCH

Today, governments claim to own about 75% of the world’s forests, and just a little more than 9% are legally owned by communities and Indigenous Peoples.<sup>3</sup> This unbalanced pattern of statutory ownership has begun to change over recent decades, but state ownership claims remains particularly dominant in Africa. Figure 1 shows the extent to which the states have recognized the tenure rights of Indigenous Peoples and communities in Africa, Asia and Latin America. Latin America has done the most to legally recognize the tenure rights of Indigenous Peoples and forest communities; Africa and Asia have not yet made similar progress. In fact, at the present rate of change it would take 270 years for the tenure distribution in the Congo Basin to match that of the Amazon Basin.

Figure 2 reveals the trends within data on forest tenure change between 2002 and 2008: a transition away from pure state ownership of forest lands and toward greater recognition of lands owned and administered by communities, households and private firms. The rate of devolving forest tenure from states

**FIGURE 1: FOREST TENURE BY REGION, 2008**



SOURCES: Sunderlin et al. 2008; ITTO/RRI 2009. Data includes 36 of the world’s most forested countries, representing 85% of world forests.<sup>4</sup>



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## 2 | CHINA: THE LARGEST FOREST TENURE REFORM IN HISTORY —AND MUCH MORE TO DO

China's recent forest land reform was initiated in the early 2000s, but the impacts of these reforms were not known until 2009 when a national-level survey was completed. The reform is arguably the largest tenure reform in world history, affecting over 400 million landowners and 100 million ha of forest. The reform enables collective forest owners to reallocate their use rights to households, or keep them as collective. New research shows that there was a small but significant shift towards household tenure, but other collectives shifted towards collective management. Individual tenure increased slightly in 7 of 8 provinces surveyed. These resulted in increased farmer incomes, and increased tree planting.<sup>5</sup> This research also finds collectives adjusting their property regimes to changing social and economic conditions, suggesting that the reforms will enable local people to adapt to climate change. There is clearly much more to do, including ensuring respect for ethnic land tenure and rights in traditional land use systems, establishing mechanisms for legal redress and regulations to govern the land market and guard against elite capture within communities. China's experiences with reform offer important lessons for other countries now considering the recognition of collective land rights.

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to communities and individuals varies greatly across regions, with Latin America making the most positive change between 2002-2008.

This tenure transition from state to communities and households is both a reinstatement of traditional governance patterns and a modern development of more equitable governance, rule of law, and defense of human rights. People in developing countries are demanding their rights to land and resources, as the world and local economies come closer together.

This transition can be peaceful and incremental, but more often than not, it has been more confrontational. The revolutions in Mexico in the early 20th century or China in the 1950s, for example, transferred the majority of forests from the state and large landholders to collectives and households. In Europe and the US, communities and households own the majority of forestlands. In New Zealand and Canada, there are a long processes of Māoris and First Nations claiming their forest rights (*see Box 7*), and in Latin America, some Indigenous Peoples have won legally recognized territories. Ongoing court case and negotiations between indigenous communities and immigrant populations demonstrate that issues of rights and land are never fully resolved. But in a large part of the developing world, state domination over resources put in place during the colonial period has not given way to alternative models, and post-colonial legislation continues to assign rights to governments at the expense of local people. Even where governments have begun reforms, implementation is slow and chronically under-resourced and

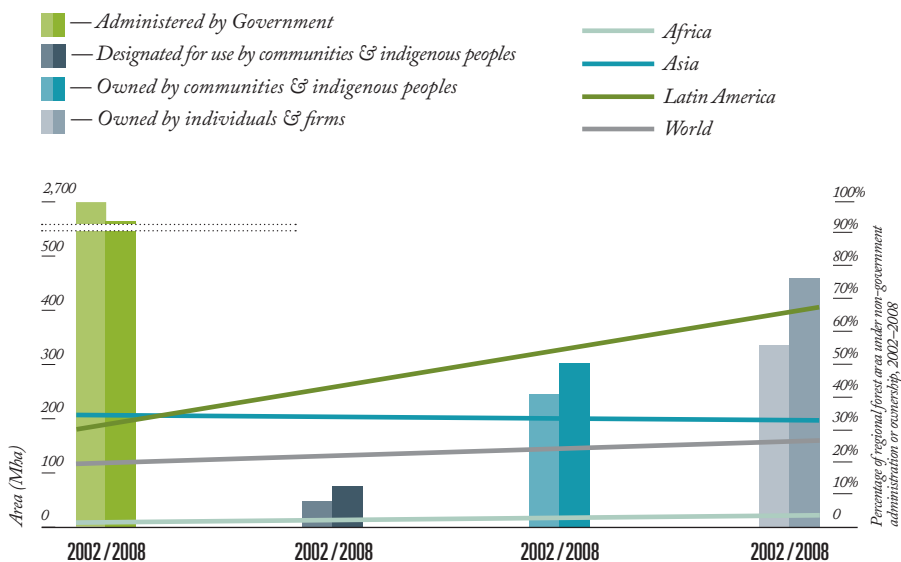
often still opposed by recalcitrant ministries (*see Box 5*).

Government tenure data must be considered with care because reform processes are slow and official statistics tend to underreport significant progress. Official data also tend to ignore the real fuzziness between “forests” and “farms,” and much official forests are actually farms and vice-versa. Potentially even more misleading is that the terms “trend” and “transition”

*At the present rate of change it would take 270 years for the tenure distribution in the Congo Basin to match that of the Amazon Basin.*

suggest unidirectional positive progress, obscuring the reality that there can be (and often are) reversals or simultaneous regulations that limit the real effects of tenure reforms. Governments can both recognize rights and (legally or not) take them away, rendering local people unable to effectively defend, use and benefit from their rights. Governments can also make the requirements for exercising rights so burdensome that the right is rendered useless.

**FIGURE 2: CHANGES IN GLOBAL FOREST TENURE 2002-2008**



SOURCES: Sunderlin et al. 2008; ITTO/RRI 2009. Data includes 36 of the world's most forested countries, representing 85% of world forests.<sup>4</sup>

# BEYOND THE HINTERLAND: KEY ISSUES AND TRENDS SHAPING A NEW ERA

There was unprecedented attention and action on forest rights and tenure in 2009, and tenure played a key role in many of the issues of the year. This section lays out the global issues and trends that are beginning to shape the future of forest areas, taking stock of progress and backsliding, recognizing that there will be winners and losers, but also recognizing that the way forest and rural tenure issues play out in 2010 will determine the shape and direction of forest governance and use for decades to come.

## POSITIVE LEGAL STEPS: RECOGNIZING INDIGENOUS PEOPLES AND COMMUNITY RIGHTS

*“Our ancestors fought for and won their freedom from slavery... We fight for and won ours for legal recognition, controlling and managing our territory.”*

– S. Hugo Jabini, Saramakan representative and Goldman Environmental Prize award recipient, 2009<sup>6</sup>

All in all, 2009 was a good year for forest rights and tenure. Many countries are now prioritizing tenure reform for its value for all sectors of society, including the private sector. Violent backsliding and intransigence continued in some places such as Peru (*see Box 3*), but new global recognition of the issues and an unprecedented level of indigenous and community organization has begun to show results. The substantial progress made in inserting the rights agenda into the Reducing Emissions from Deforestation and forest Degradation (REDD) debate is a testament to the long and hard work of many advocates around the world.

In 2009, Indigenous Peoples successfully took additional steps towards legal recognition of rights to important territories, especially in Latin America. Following decades of deadly clashes between indigenous inhabitants and encroaching ranchers and miners, the Brazilian Supreme Court ruled in March 2009 that the land rights accorded to the Raposa Serra do Sol indigenous reserve in 2005 stand, signaling a potential shift in wider State regularization of indigenous customary claims, even in the face of local political opposition.<sup>7</sup> There have even been some positive steps toward clarifying carbon ownership. An exhaustive legal study commissioned by Forest Trends found that the Surui people are the legal owners of forest-carbon rights related to their lands in Rondônia, Brazil, under both Brazilian and international law.<sup>8</sup>

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### 3 | “TOO MUCH FOR TOO FEW”: WHOSE RIGHTS WILL PREVAIL IN PERU?⁹

On June 5, 2009, along the jungle backroads of the Peruvian Amazon indigenous protesters and military police clashed violently, leaving nearly 100 dead.<sup>10</sup> The “Bagua Massacre” brought world attention to a seething conflict over rights to resources, in forests where indigenous groups’ titles to ancestral lands overlap with nearly 45 million ha under contract for oil and gas exploitation.<sup>11</sup> Protesting a series of presidential decrees that undermined their early and hard-won rights to ancestral forest lands, a coalition of indigenous groups occupied key oil installations and roads. After 57 days of occupation, President Alan Garcia threw military force behind the infamous axiom—too much land for too few people,<sup>12</sup>—violently evicting the protestors and upholding the decrees in defiance of Peru’s ratification of the ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples. With no legal recourse for the incalculable damages by oil and gas extraction on their waterways, flora, fauna and livelihoods, indigenous leaders now challenge this rampant legal hypocrisy and have begun to establish the parameters of a debate, not only in Peru.

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In Suriname the Saramaka—a recognized community of descendants of escaped slaves—were awarded the Goldman Environmental Prize for their struggle to protect their forestlands, and resulted in a precedent-setting decision by the Inter-American Court of Human Rights, recognizing the Saramaka collective lands in a legally binding ruling (*see Box 8*).<sup>13</sup>

## **UNREST AND CONFLICT: “THE CONSTITUTION IS MADE OF PAPER, THE BAYONET IS MADE OF STEEL”**

This old Haitian proverb neatly, if horribly, recalls the fragility of law and the power of violence. Conflicts between forest communities and outsiders (loggers, miners, hunters) are not a new phenomenon. Earlier in history, conflicts were often limited in number, and short in duration—with forest communities quickly overwhelmed by an external power. 2009 was different. Just as powerful global investors and national governments realized the enormous potential profit to be made from the remaining tropical forests, violent conflicts in and over forests sparked and raged anew. Deadly conflicts in Peru (*see Box 3*) and the repression of a longstanding insurgency in India (*see Box 5*) are the most prominent examples, but long-overlooked local disputes over resource rights have spun into international conflicts in Afghanistan and the Niger Delta—where insurgents are beginning to spread along the West African coast.<sup>14</sup> These examples are indicative of more to come. As the demand to control forest resources increases, so will violent conflict over these valuable resources.

## REDD: THE HARD-TO-SWALLOW LOW-HANGING FRUIT

*“We know that REDD will need new laws, land reform and new institutions. But if countries do not perform they will not be paid. This is payment for services. The consequences if we fail are enormous.”*— Hans Brattskar, Director of Norway’s International Forest and Climate Initiative<sup>15</sup>

As the dust settles from the chaos in Copenhagen, it is clear that REDD is going forward with at least US\$3.5 billion more behind it—more than doubling ODA for forests—but without the framework or standards to guide it responsibly. This suggests that we are entering a phase of continued uncertainty, and possibly even more speculation in the near-term. The combination of new money and limited controls dramatically raises the risks and pressures on forests and forest peoples. The current lack of a comprehensive architecture for REDD means that the carbon market and funding will be global, but that justice and legal redress will have to be meted out locally.

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### 4 | PAPUA NEW GUINEA: CARBON COWBOYS AND CORRUPTION

In 2005 Papua New Guinea made international news by encouraging “rainforest countries” to organize to receive financial support for preserving their forests; but by 2009 Papua New Guinea was often cited as an example of what to avoid in implementing REDD. In fact, carbon trading in Papua New Guinea has begun without legislative approval and oversight, without even the existence of formal forest carbon markets. Despite the pretense of regulation by the Office of Climate Change and Environmental Sustainability (OCCES), in 2009 carbon brokers began to sell derivative products, share offerings and investments. The scale of corruption has varied widely. Looking to profit from local forests, conmen roamed the countryside and charged about US\$3 per person in exchange for carbon rights. Australian-backed firms reportedly signed up landowners, sometimes at gunpoint, to REDD deals, and obtained government authorization and accreditation from international firms, which in turn allowed millions of dollars to be raised in stock-market share deals on the prediction of revenue.<sup>16</sup> At the other extreme, State-backed carbon securities were issued and then apparently sold by middlemen into the international voluntary market. Moreover, REDD commitments have apparently had no effect on forest management or logging practices: more than 2 million hectares of forests have been recently granted as 99-year agricultural leases, allowing clearfell logging. Concessions continue to be allocated to the logging industry.

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REDD was held up as one of the rare points of consensus in Copenhagen: promoted by the “global north” because of the potential for easy and cheap emissions reductions and low-cost offsets, and by the “global south” for the lure of finance and investment. International programs like the Forest Carbon Partnership Facility (FCPF), UN-REDD, and the World Bank Forest Investment Program were set up to have pilot results ready in time for COP15. But as these pilots got underway, all the inherent complications of slowing deforestation came into focus: effective REDD will not be easy. The FCPF and UN-REDD have received donations and pledges of more than US\$186 million from a handful of governments, but as an indication of the difficulty to come in transforming pledges into emissions reductions, only a small fraction of the money has been allocated to actions on the ground to date.<sup>17</sup>

*Will REDD reinforce the longstanding and misplaced conception that the poor are to blame for deforestation?*

Moreover, much of the international discourse surrounding REDD has focused on the need for financing when it is recognized that deforestation is by and large driven by government decisions to log or clear. Political will is the major constraint—not financing. Despite this, it is generally assumed that offsetting the costs of avoiding deforestation will be the answer to the deforestation problem. Many questions remain for 2010. Will governments cease supporting deforestation and unsustainable industrial logging? Will REDD reinforce the longstanding and misplaced conception that the poor are to blame for deforestation?

Despite the doubts still haunting REDD, existing REDD-readiness funds have been rightly praised for the innovative governance structures that include representatives of Indigenous Peoples and civil society, such as the UN-REDD Policy Board, FCPF Partners’ Meetings, and the Forest Investment Program. This progress cannot be discounted, for it hints at the real issues that REDD will encounter in implementation. Yet even where this is recognized, the operational capacity to include local participation and ensure rights recognition in REDD is quite limited—suggesting that the world is still a long way from becoming “REDD ready.”

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## 5 | INDIA: RIGHTS, GUNS AND DEMOCRACY<sup>18</sup>

In 2009, Indian civil society has been closely watching the implementation of a recent forest rights law. The 2006 enactment of the Scheduled Tribes and Other Traditional Forest Dwellers Act (Recognition of Forest Rights Act) was hailed as a landmark in the prolonged struggle of Indian tribal peoples and forest dwellers. The Indian State admitted that it had committed an historical injustice by denying the rights of forest dwelling people and committed to making amends through specific actions.

Reports from the field show little real change. Little effort has been put into making villagers aware of the law's provisions, and there are large numbers who have not yet had the opportunity to file even individual claims. In the case of those who have filed claims and received titles, forest department interference has ensured that the approved land area is a fraction of the area under occupation and cultivation. The claimants have not been given any opportunity to appeal against such decisions, though the right of appeal is protected in the legislation. The greatest flaw in implementation is the total neglect of community rights: to date, community forest rights have been recognized for only two villages in the entire state of Maharashtra.

This is taking place in the context of increased confrontation between Maoist rebels and the Government, with the latter amassing thousands of paramilitary forces in mid-2009 to ostensibly weed out the Maoists. Stories about the killing, rape and torture of ordinary *adivasis* by the security forces are beginning to come out from Bastar district where the Government's "operation Green hunt" has started getting off the ground. Civil society leaders and organizations are trying their best to stop the Government from proceeding with a potential bloodbath but the situation is ominous. Many believe that the real objective is to clear *adivasi* populations from mineral-rich lands in order to hand them over to corporations.

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## WHO OWNS THE CARBON? CONFUSION, CORRUPTION AND COMMUNITIES

*“Alarm bells are ringing. It is simply too big to monitor. The potential for criminality is vast and has not been taken into account by the people who set it up... Organized crime syndicates are eyeing the nascent forest carbon market. I will report to the Bank that REDD schemes are open to wide abuse.”*

—Peter Younger, Interpol Environment Crimes Specialist<sup>19</sup>

Forest carbon was not worth much to forest owners until 2009 when the more developed countries started announcing emissions targets, and a deal on REDD became probable. That said, there is a longer history to government interest in carbon. In 2002, private forest owners in New Zealand woke one day to learn that the Government had decided that all of the carbon in their trees was suddenly Government property, as necessary to meet national commitments to the Kyoto Protocol.<sup>20</sup> Following a huge uproar, threats of legal action, publicity campaigns, the restriction of Government officials’ access to forests for measurements by members of the Forest Owners Association and several years later, the Government has returned the choice of taking carbon credits (and associated liabilities) to the people.

The New Zealand story looks like a harbinger of bigger things to come, both because of the rising value and because very few countries in the world have legal frameworks covering carbon. The general legal assumption is that “carbon goes with the trees, and trees go with the land,” and thus “carbon goes with the trees and land”—but the confused and conflictive nature of forest tenure in most countries in the world renders this simple logic naive.

Where there is value and confusion there is also high risk of corruption, and 2009 may become known as the first year of major carbon crookedness. Just before the climate talks in Copenhagen, the Government of Papua New Guinea quietly disbanded its Office of Climate Change and Environmental Sustainability after longstanding and well-publicized accusations that it had illegally sold carbon ownership certificates valued at AU\$100 million to an Australian company, and egregiously neglected to consult with forest communities—the clear legal owners of the forests of the country (*see Box 4*).<sup>21</sup> The widespread lack of legal clarity and enforcement, and rising global value has gotten the attention of Interpol in 2009 and international environmental crime experts globally.



## GLOBAL LAND GRABBING AND HUNGER: HERE TO STAY, MORE TO COME

The dominance of public protected areas, industrial concessions, and historically weak governance in forest areas suggest that land grabbing in forest areas is not new (*see Figure 3*). Indeed forest areas held in parks and concessions is still more than four times greater than the area owned or administered by communities.<sup>22</sup> In spite of the full-blown world financial crisis, 2009 has been a year of unprecedented land grabbing.<sup>23</sup> Competition over the world's productive land—including that under forests—has become fierce.

Total corporate investment in land acquisitions over the past 5 years has been estimated at US\$100 billion worldwide,<sup>24</sup> with at least 24.8 Mha acquired since 2005 (*see Figure 3*) and taking place in parallel to a dramatic increase in world hunger—FAO estimates there are 100 million more hungry people since 2008, and more than half of Africa's population is malnourished.<sup>25</sup> Since June 2008, over 180 agricultural land purchase or lease deals involving 37 million ha have been reported for Africa, 40% of them South-South.<sup>26</sup>

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### 6 | AFGHANISTAN: RESOURCE TENURE BECOMES A BATTLEGROUND<sup>27</sup>

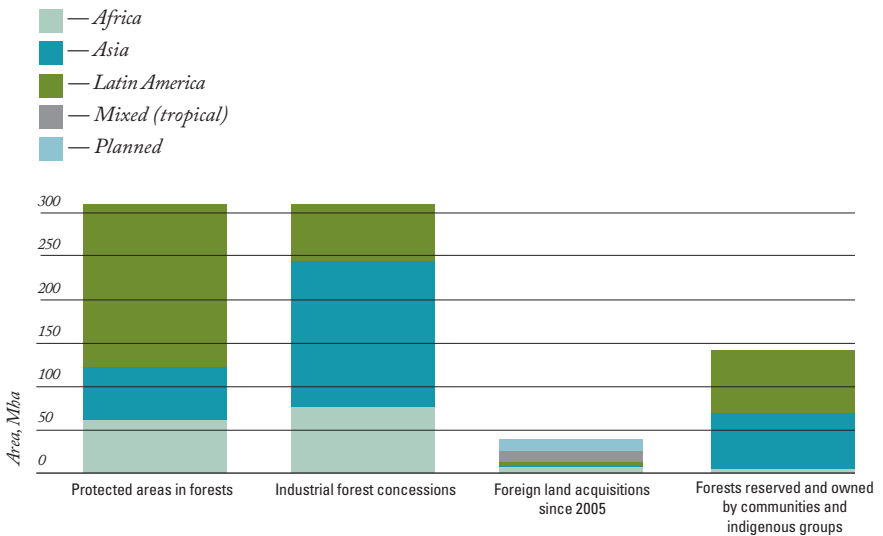
With only 7% fertile land, pastoral land use is critical to rural livelihood in Afghanistan (over half the land area). While feudal ownership of farmland was partially addressed in the 1960s and 1970s, a more troubling land rights issue was left to fester: who owns the pasturelands? (in many ways the most important natural resource other than water in Afghanistan). These have long been claimed by the Pashtun-dominated government as state property, then consistently reallocated to Pashtun nomads. Settled Hazara reclaimed these during the civil war (1978-2001) as their customary property. Although the government is committed to recognizing that at least some pastures are not government property, slowness to act has allowed a new front to be added to the war against insurgency; since 2007 Pashtun nomads have garnered open backing from the Taliban. Settled Shia Hazara threaten to look to Iran for counter-support. Hundreds have been killed since 2007 as the high pastures open for spring and summer grazing. Both a legal and localized mediation strategy is being put in place to limit this but now requires both local and coalition forces support. Meanwhile, a significant part of the already small forest resource (under 2% of the land area) has been lost during the last eight years through bombing or clearing, especially in the border area with Pakistan. Legislation for community-based forest management is in the process of enactment but without the transfer of legal tenure, even where the community is clearly the customary owner.

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*Many countries are now prioritizing tenure reform for its value for all sectors of society, including the private sector.*

Anticipated revenues from forest carbon ownership is driving renewed government and large-scale landowners' demand for public protected areas and private conservation easements. At the same time that international conservation is adopting stronger rights-based approaches, governments and other enthused conservation advocates are bringing out old models in response to this new funding opportunity. Perhaps the first major land grab justified in the name of climate change is in Nepal. In a country proud of its successful people-centered conservation and community forestry, the Government has just announced the creation of three new parks formed without any consultation with local forest users.<sup>28</sup>

**FIGURE 3: LAND DEDICATED TO CONSERVATION, INDUSTRY AND FOREST COMMUNITIES**



NOTE: "Protected areas in forests" refers to the total protected areas in forests worldwide in 2009. Data for "Industrial forest concessions" and "Forests reserved and owned by communities and indigenous groups" is from 2008 and covers 14 tropical countries. "Foreign land acquisitions" represents documented foreign land acquisitions in tropical countries since 2005, compiled and cross-referenced from several sources by RRI. See endnote 29 for full citations.

REDD emerges in the middle of a fierce debate on the appropriate strategies for addressing hunger: one side argues for increased yields through better technology and intensified agriculture, saving more marginal land for reforestation; and the other side argues for increasing local control over food systems and reducing exposure to the volatility of the global market on agriculture.<sup>30</sup> Both options will require new use of forest lands. How will REDD policies affect this debate? What will attempts to slow deforestation do to local food security?

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## 7 | BRITISH COLUMBIA AND NEW ZEALAND: TOWARDS INDIGENOUS FOREST OWNERSHIP AND GOVERNANCE

Like other jurisdictions of the British Commonwealth, British Columbia and New Zealand have taken steps to recognize Indigenous Peoples' rights. On 4 July 2009, nearly NZ\$500 million in forestry assets, including 176,000 ha of land, were handed over to *iwi* representatives from traditional communities.<sup>31</sup> Legal recognition of Māori land ownership in New Zealand has been central to debates surrounding the implementation of the Treaty of Waitangi (1840). As a step to addressing historical breaches of the Treaty, the *Central North Island Forests Land Collective Settlement Act* of 2008 (informally, the Treelords Settlement) was signed into law, ending nearly 20 years of legal dispute over *iwi* land and resource rights.

In 2005, an agreement between British Columbia and its aboriginal First Nations established “a new government-to-government relationship based on respect, recognition and accommodation of aboriginal title and rights.”<sup>32</sup> According to a discussion paper on implementation of the “new relationship,” a proposed Recognition and Reconciliation Act<sup>33</sup> would recognize Aboriginal rights and title, enable shared decision-making over lands and resources, enable revenue and benefit sharing agreements, rebuild the capacity of indigenous nations, and establish a dispute resolution process. These two cases exemplify the re-balancing of power relations, through the official transference of ownership and with it, greater decision-making powers over the land and its resources to local, indigenous authorities.

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## FORESTS AND FOREST PEOPLES UNDER THE SATELLITE'S EYE: PEERING INTO MINA'S "KITCHEN"

At an international conference in late 2008, Mina Setra, Head of International Policy for AMAN asked what right does the Indonesian Government and global REDD financiers have over “her kitchen”—the natural forests and lands that have been home to her people for generations.<sup>34</sup> By the end of 2009 there were a host of new and extremely powerful GIS tools for mapping, measuring and tracking forests, all freely available on the Internet and accessible around the world. These tools include systems for monitoring forest conservation and reforestation as part of REDD, UNFCCC Kyoto Protocol mechanisms, and voluntary carbon programs and markets.

*Maps can be used by outsiders and by governments as a means of gaining access to remote resources that were previously invisible.*

A Carbon Index map for investors now weights forested landscapes around the world by their feasibility and profitability as carbon sinks. A global partnership of 80 governments and 56 organizations is gathering comprehensive standards and data on a Forest Carbon Tracking Portal to support the monitoring, reporting, and verification information required by future climate regulatory frameworks.<sup>35</sup> Maps based on sophisticated use of GPS technology are also being prepared by and for remote forest peoples in the Amazon, Congo Basin and Indonesian archipelago, enabling them to document their traditional claims and use of the forest.

These new technologies and tools present great opportunities for forest-dependent communities eager to document their stewardship of forest lands. Yet there is also risk in having communities' lands and resources visible to anyone, anywhere. As Mina Setra explained, forest peoples have very good reason to fear losing their autonomy and rights. Complex agroforestry and silvo-pastoral systems are easily misclassified as forest degradation when they are legitimate and environmentally sound cyclical patterns of land and resource use. Maps can be used by outsiders and by governments as a means of gaining access to remote resources that were previously invisible. The Saramaka and Surui examples set a precedent because the local people had their own information base and used it to actively negotiate their rights (*see Box 8*).<sup>36</sup>

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## 8 | THE SARAKA: A LEGAL VICTORY, IMPLEMENTATION DELAYED OR IGNORED

*"The children came to tell us that there were some Chinese in the woods. I do not know why, but the Chinese went straight to my farm, where I had planted peanuts, and they put their equipment, machines and containers there. They did not talk to anyone, not with me... We were very afraid..."*<sup>37</sup>

Sylvia Adjako, a member of the Saramaka Matjau *lō* clan, offered this testimony of the day illegal concessionaires first arrived to log her traditional lands. In disagreement with this land use and occupation, the Inter-American Court of Human Rights ruled in favor of the Saramakas' right to their traditional territory. The court noted the "...special relationship with their ancestral territories, that require special measures under international human rights law in order to guarantee their physical and cultural survival."<sup>38</sup> Adding a path-breaking step in the legal tenure reforms in Latin America, the case was precedent-setting in recognition of these collective rights to non-indigenous peoples. However, the Government of Suriname has yet to comply with the Court's order to delimit, demarcate and grant collective title of traditional lands to the Saramaka or to cease concession activity in Saramaka territory, although it still has one year to comply before it is in violation of the Court.<sup>39</sup> Until this takes place, extractive concessions and the development of nature reserves<sup>40</sup> will continue to rob the Saramaka of their rightful resources and threaten their integrity.

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# LOOKING FORWARD TO 2010: UNPRECEDENTED POTENTIAL, UNPRECEDENTED RISK

2010 will be the beginning of a new era for the people and forests in developing countries. With or without an international climate agreement the forest areas of the world will be subjected to tremendous pulls and pressures from different interest groups highlighted in this report. Although these interest groups are globally dispersed their actions will coalesce at the local level where communities live and whose lives and livelihoods are at stake. Northern governments, investors of all ilk and traders of all hues will inspect and vie for forest lands, negotiating, luring and potentially bribing developing country governments—who still lay claim to most forests—to make deals. The era of forest as hinterland is over. Forests will remain remote, but they will be carved up, controlled and used as global political bargaining chips like never before. This makes the prospects for conflict and violence much greater.

But this unprecedented pressure on forests will be met with unprecedented levels of community organization, capacity, and indeed resistance. And the new funding and attention also brings opportunity: to raise incomes, raise real political power of the forest communities and raise the recognition of rights. But, as we have seen in Copenhagen, seizing these opportunities will not happen without a struggle. The vested interests of industrial loggers, recalcitrant government agencies, conventional conservation organizations and the agroindustrial sector, and now the newly engaged northern carbon emitters, will not give this money and this political moment a pass.

Shifting from an externally-controlled hinterland to an era of locally-led and democratic forest governance and development will require substantial change in dominant business, development and conservation models. And whether these conventional forces continue to dominate or whether forest governance shifts to respect and reflect local rights and aspirations depends on how the world responds to four sets of major questions in 2010.

## Will there be a legal agreement on climate change, and real enforcement?

The indecisiveness of Copenhagen unleashes more uncertainty and promise of new funds will spur new market speculation. Without an overall architecture, the market—as well as the climate—will be chaotic, and the risk of corruption rife. Can governments agree on a treaty, or will we continue with national initiatives, bilateral agreements and disconnected private markets? Will Interpol and the global crime-fighting community be able to control corruption?

Whose rules will trump? Unfortunately, without a global overarching agreement justice and potential for legal redress for contract violations and abuses to local people will be remote.

### **Will REDD really reform forest governance?**

Funds dedicated to help governments get “ready for REDD” by Copenhagen were well underspent, mostly due to limited political will and capacity to implement the necessary governance reforms and establish the systems to adequately monitor forests and enforce rules and agreements. Money has not been the constraint to engage in the real work of reducing emissions from deforestation and degradation, yet there is now massive new commitment from the North, eager to not only to reduce the emissions from forests, but also to search for low-cost offsets for continued northern emissions. The Climate Group on Forests will meet in Norway by mid-2010 to take the next steps in setting up the international rules and standards for REDD.

Will governments adopt the necessary tenure and governance reforms to really reduce emissions—or is there so much counter-political pressure and perverse interest around the REDD programs that money will be squandered? Will national REDD plans prevent indigenous peoples and local communities from practicing traditional land use techniques? Will citizens and the general public have access to all the new data governments generate? Will northern governments really insist on and enforce their standards before disbursing given the political pressure from home for easy offsets, and the other, more critical and immediately threatening geopolitical issues and urgencies? The answers to these questions will determine not only if REDD interventions will promote the necessary governance reforms, but if REDD actually leads to real reductions in greenhouse gas emissions.

### **Whither the World Bank and development donors?**

The Bank was created after the Second World War to finance the reconstruction of European countries. It has since shifted focus to developing countries, and in the process developed the world’s leading project safeguards and independent review mechanisms to help ensure that it does the right thing. Now that the Bank is becoming the global instrument to combat climate change, donors are demanding that it become much greater and grander than a financial institution. Indeed, the Bank now trumpets its own “essential” position in the world.

The contradictions are glaring: on one hand it pledges to respect the new human rights charter and the UN Declaration on the Rights of Indigenous Peoples, and conducts some progressive community forest projects. But on the other it supports projects that threaten or undermine local rights and governance, and it is seemingly unable to integrate these global standards into its own safeguards and policies. This confused and conflicted behavior is both because

it is a government-owned institution with limited power and authority to move its member countries to adopt global standards, and because its bureaucratic nature often makes it easier to support the status quo and the conventional government-dominated development agenda, rather than progressive change.

Essentially, donors and rights advocates are asking it to perform not as a government-owned bank but as a financial transfer mechanism conditioning funds based on international standards— i.e., asking and expecting it to morph into an institution it is not. Experience shows that the World Bank will not be an easy or uncontroversial channel for REDD or other climate funds. Which World Bank will dominate in 2010, and will there be an honest rethinking about the development architecture needed to support local initiative and save the world from climate change?

### **Most Important, Who Drives and Who Decides?**

There are now many powerful actors pressing on the scales to influence climate agreements, global markets and the future of forests: northern carbon emitters, developing country governments, and investors speculating in carbon, commodities, and land. Who will make the decisions at the global, national, and local levels over what is done, and not done? The UN decision-making system on climate change has long been toothless while groups of governments are forming around establishing the new climate rules. There could be emerging backlash against the UN decision-making role and the very influential role of Indigenous Peoples. Will developing country governments freely and willingly, and in an informed and representative manner, agree to new global arrangements? Will representatives of local communities participate in these decisions, will they be consulted over what is done on or in their lands and have real power to give or withhold consent? Will Mina have the power to tell people to get out of her kitchen?

Will the new era be locally-led and rights based or will the same external control continue? Answers to these questions will determine the future character of forest areas globally. The world is poised in a moment of great opportunity. The actions of communities, advocates and governments in 2010 could result in devastating back-sliding, or provoke great, positive change. The future of forests and forest communities hangs in the balance. In the lead-up to Copenhagen these groups demonstrated that they have the capacity, willingness and wherewithal to engage in policy at the international level. Now the contest is shifting back to the local and national levels—where the rules and benefits will be sorted. The work to strengthen local rights, local organizations, and governance is more relevant, and urgent, than ever.

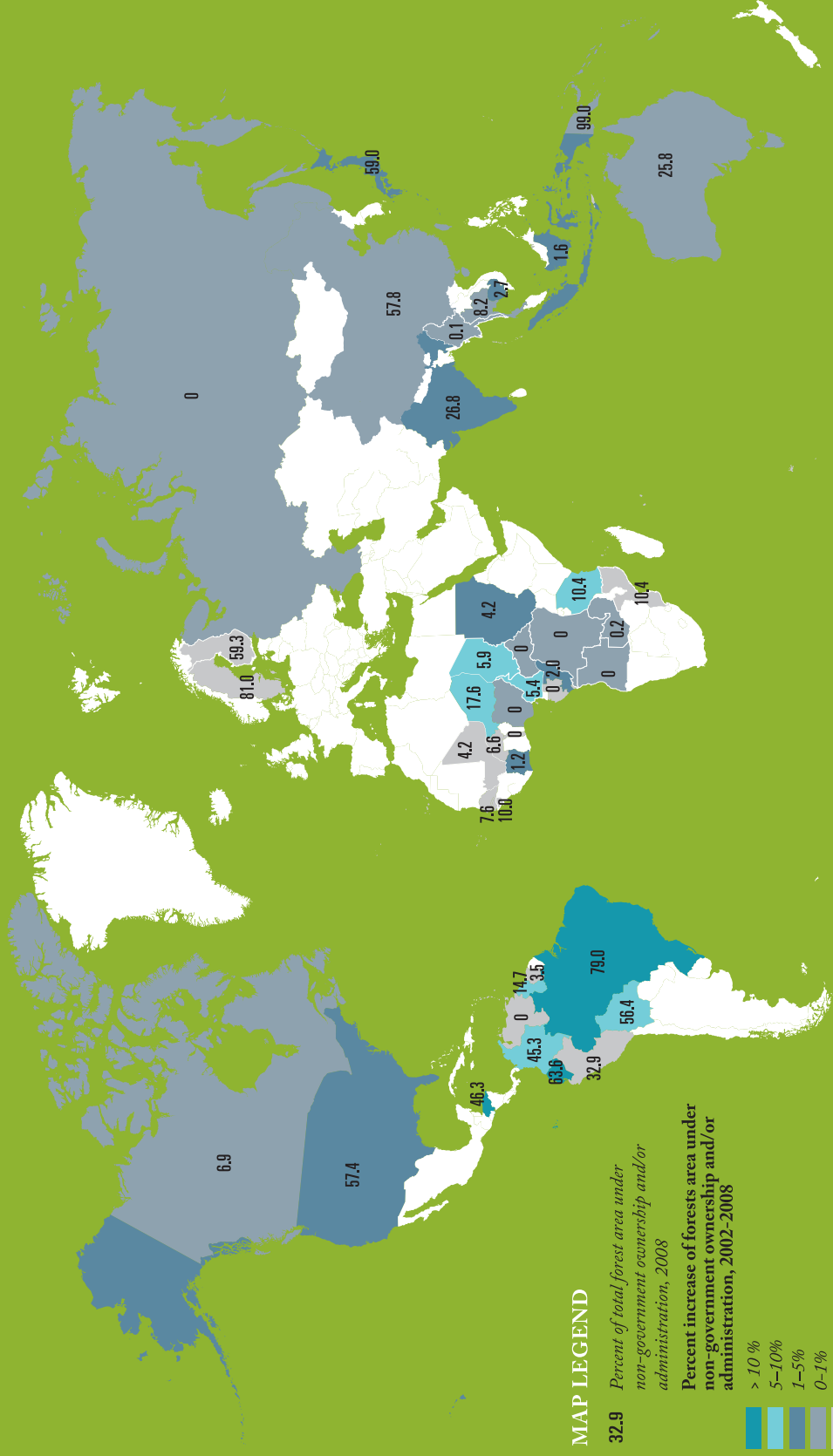


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**FIGURE 4: STATE OF GLOBAL FOREST TENURE, 2008**



**MAP LEGEND**

- 32.9** Percent of total forest area under non-government ownership and/or administration, 2008
- Percent increase of forests area under non-government ownership and/or administration, 2002-2008**
- > 10 %
- 5-10%
- 1-5%
- 0-1%
- 2002 forest data unavailable

SOURCES: Sanderlin et al. 2008; ITTO and RRI, 2009.



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