



Forest tenure

Emerging trends and lessons

Jeffrey Hatcher
Global Issues in Governing
Natural Resources

Whistler, Canada
7 June 2012



1. Clarifying what we mean by tenure (reform)
2. Global trends and regional differences
3. Community tenure rights – new analysis
4. Lessons learned

Variety of understandings of “tenure” across the world

More than just ownership – a “bundle of rights”

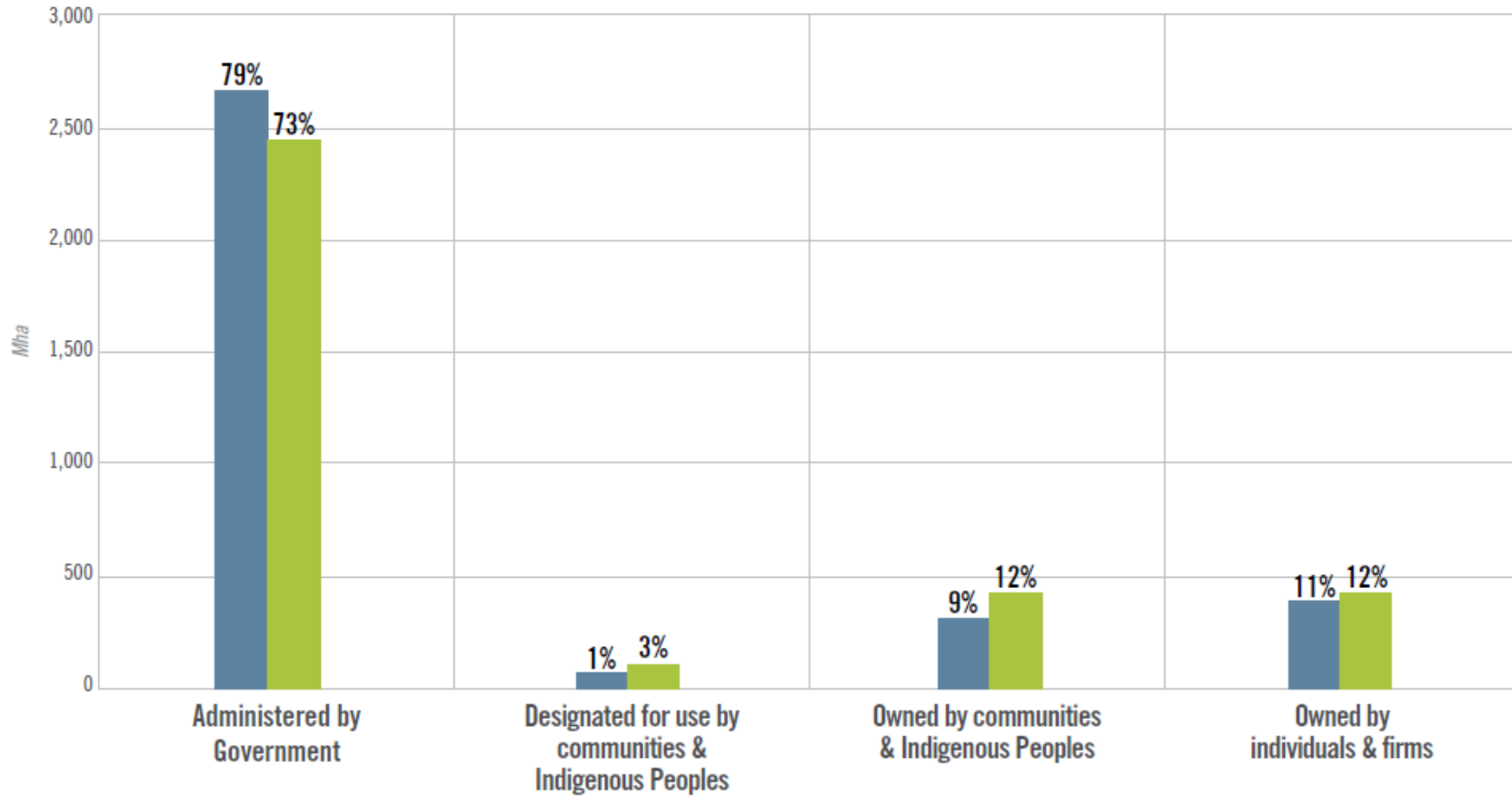
- Access
- Withdrawal
- Exclusion
- Management
- Alienation

Central to questions of management and benefits

A legal process changing the rights in the bundle of rights to natural resources (land, trees, other)

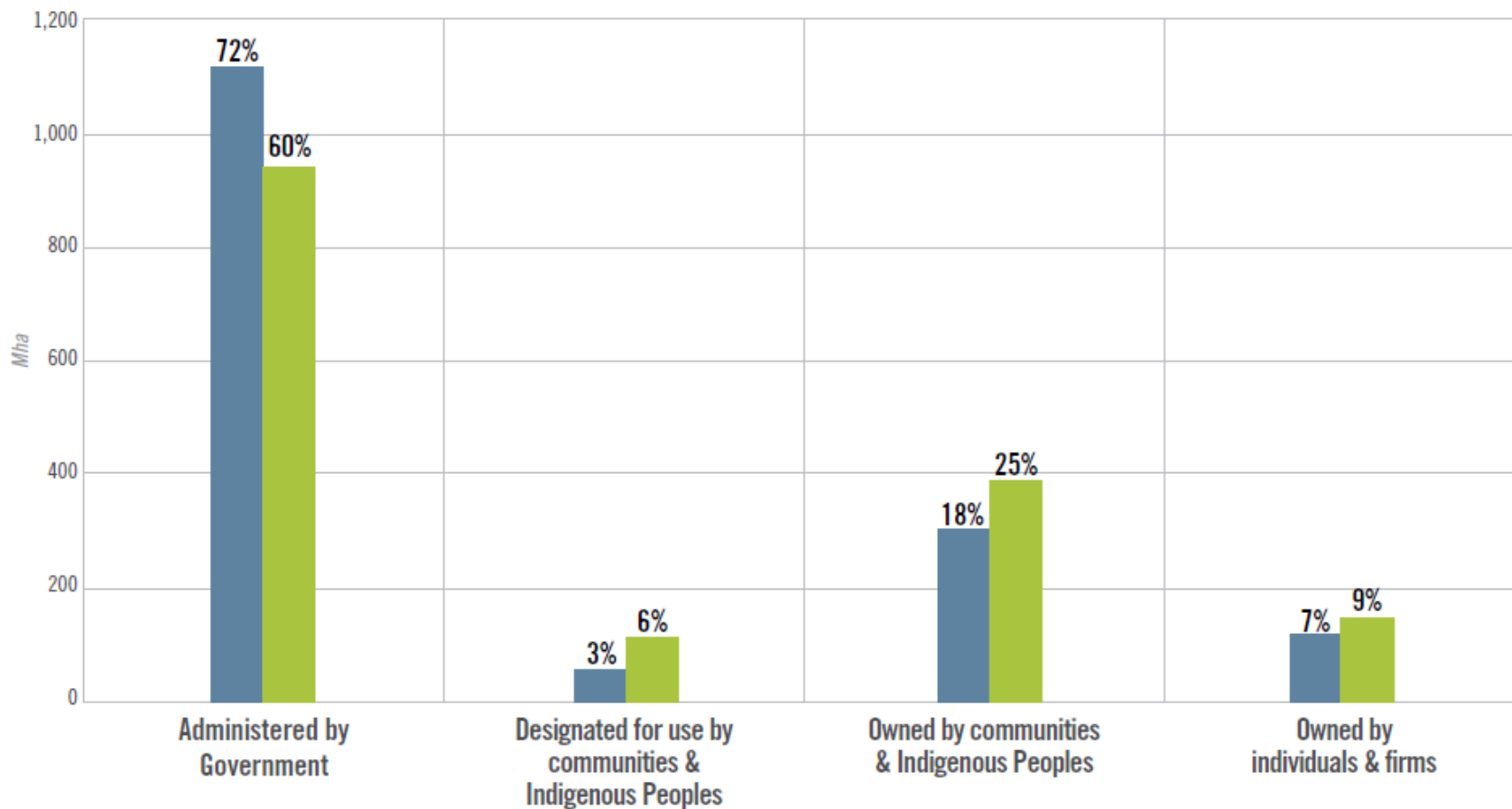
Often the process begins as result of a major shift: intense social pressures, natural disaster or political commitment.

Often long and contentious processes



■ 2002 ■ 2012

Note: The countries included here cover 85 percent of the world's forests.
 For full details see: www.rightsandresources/tenuredata.

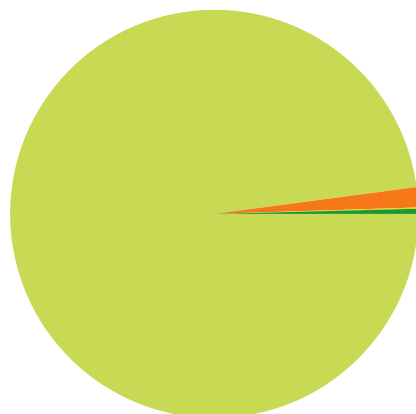


■ 2002 ■ 2012

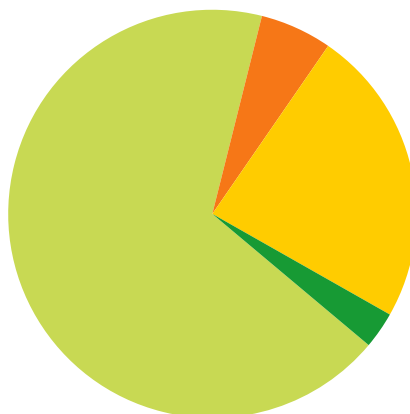
Note: The countries included here contain 80 percent of the total forest estate of developing countries.

For full details see: www.rightsandresources/tenuredata.

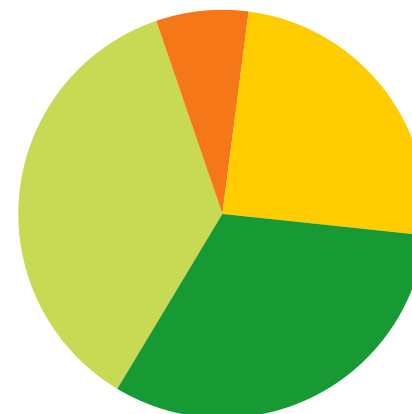
Africa



Asia



Latin America



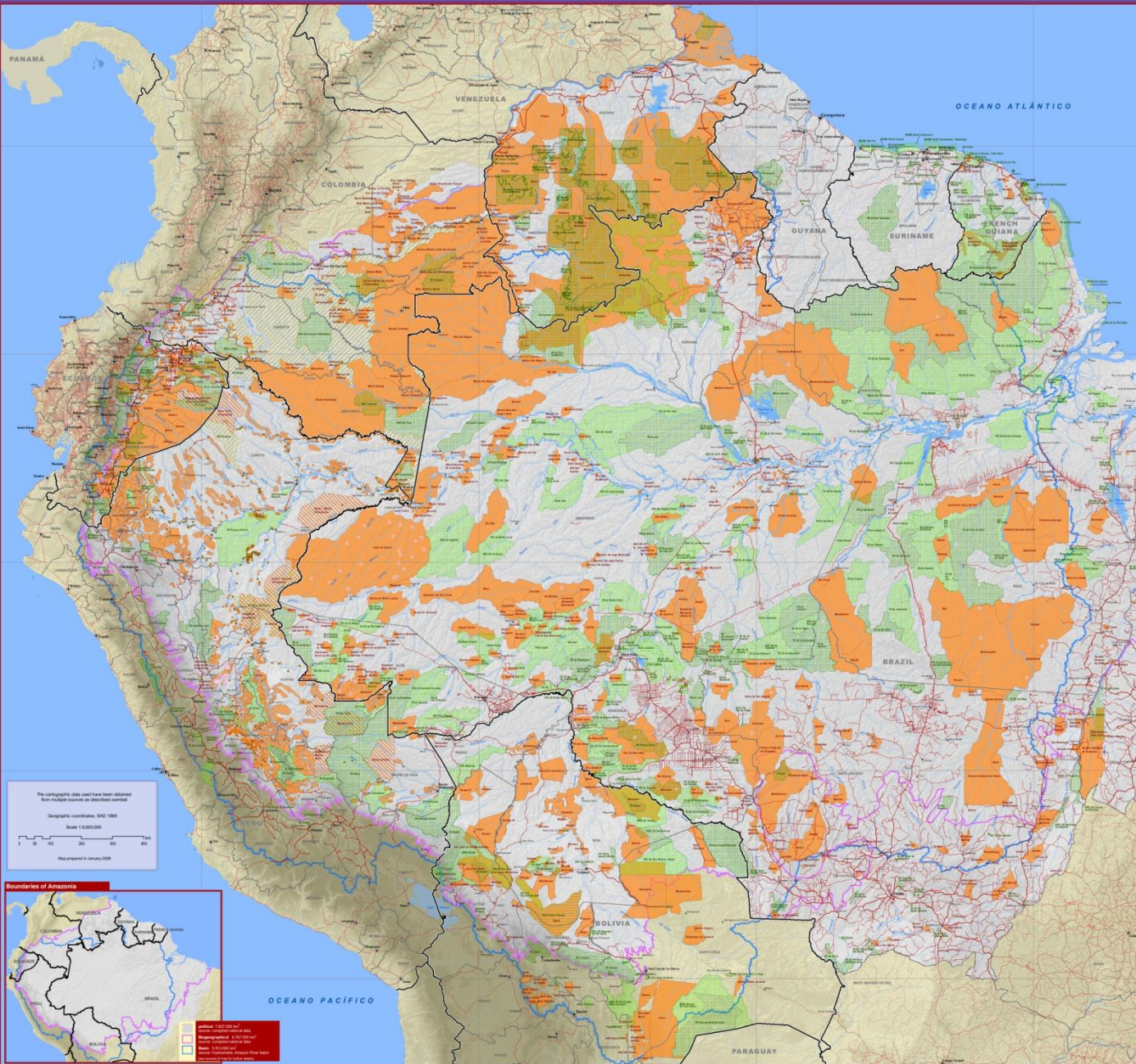
- Administered by Government
- Owned by communities and Indigenous Peoples
- Designed for use by communities & Indigenous Peoples
- Owned by individuals & firms

SOURCES: Sunderlin et al. 2008; ITTO/RRI 2009. Includes best available data as of December 2011 from 36 of the world's most forested countries, representing 85% of world forests⁸.

AMAZONIA 2009

PROTECTED AREAS

INDIGENOUS TERRITORIES



- ### Indigenous Territories
- Officially recognized, in the process of being recognized, official recognition demanded by indigenous communities, areas of traditional occupation and use
- | country | territory | country | territory |
|---------|--|---------|-------------------|
| Bolivia | Community Lands of Orinoco, Fariña Castañales de Orinoco | Brazil | Rio São Francisco |
| Bolivia | Indigenous Lands (Terrenos Indígenas) | Brazil | Serra da Arapuaça |
| Bolivia | Indigenous Reservations (Reserva Indígena) | Brazil | Serra da Arapuaça |
| Bolivia | Indigenous Territories (Territorios Indígenas) | Brazil | Serra da Arapuaça |
| Bolivia | Indigenous Territories (Territorios Indígenas) | Brazil | Serra da Arapuaça |

- ### Natural Protected Areas
- Indirect use
 - Officially recognized or in process of being recognized
 - Officially recognized through decree
- | country | territory | country | territory |
|---------|--|---------|----------------------------------|
| Brazil | Área de Proteção Ambiental (APA) - Serra da Arapuaça | Brazil | Parque Nacional do Monte Roraima |
| Brazil | Parque Nacional do Monte Roraima | Brazil | Parque Nacional do Monte Roraima |
| Brazil | Parque Nacional do Monte Roraima | Brazil | Parque Nacional do Monte Roraima |

Legend

- Indigenous Territories**
 - Officially recognized, in the process of being recognized, official recognition demanded by indigenous communities, areas of traditional occupation and use
- Natural Protected Areas**
 - Indirect use
 - Officially recognized or in process of being recognized
 - Officially recognized through decree
- Other**
 - Officially recognized
 - Officially recognized
 - Officially recognized
 - Officially recognized
 - Officially recognized
 - Officially recognized
 - Officially recognized
 - Officially recognized
- Boundaries of Amazonia**
 - Geographical
 - Topographic



Rights-based, economic or forest management-based rationales

Latin America: Social mobilization, especially Indigenous Peoples

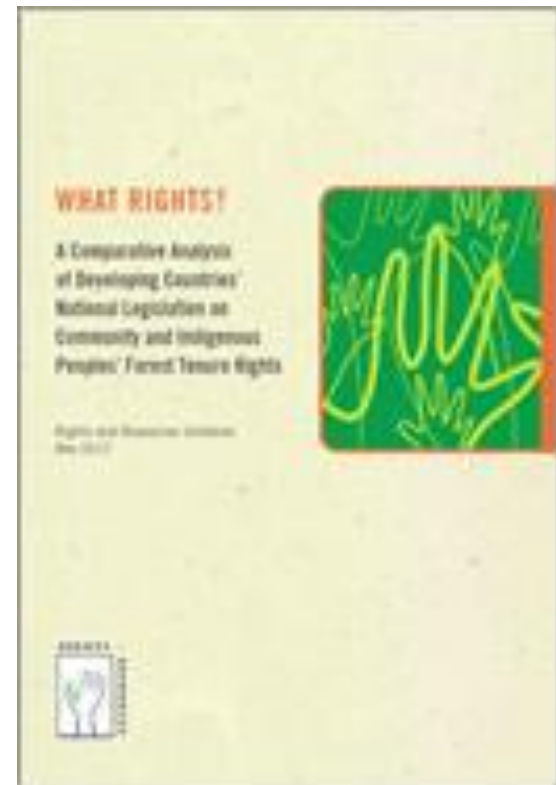
Africa: Colonial relics (concept of *terra nullius*), state-custom conflicts, decentralization

Asia: Diverse, but much reform in China, Vietnam

Big changes in “community” and “Indigenous Peoples” forest tenure over past several decades

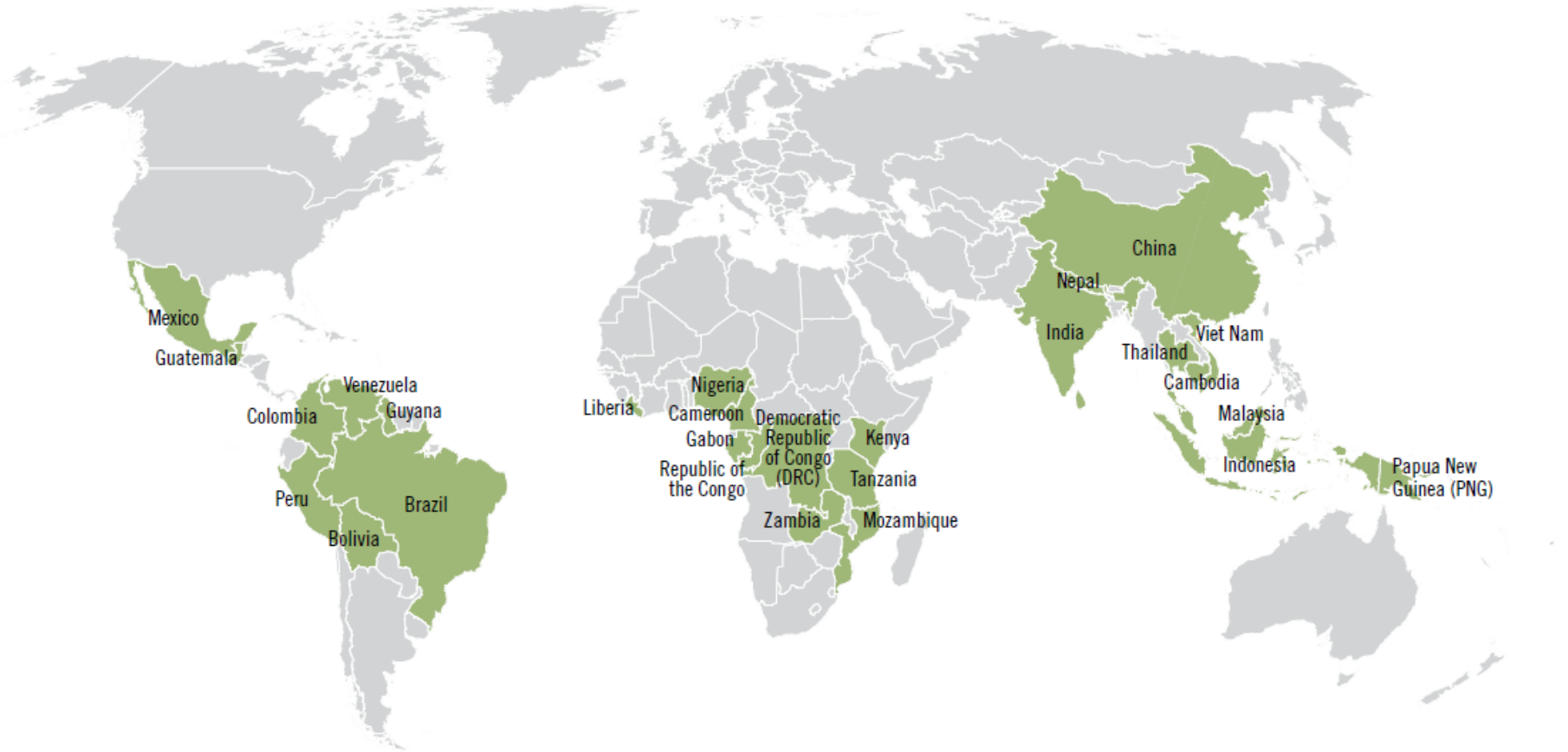
Through titles, management conventions and licenses

What rights in the bundle do these communities enjoy?

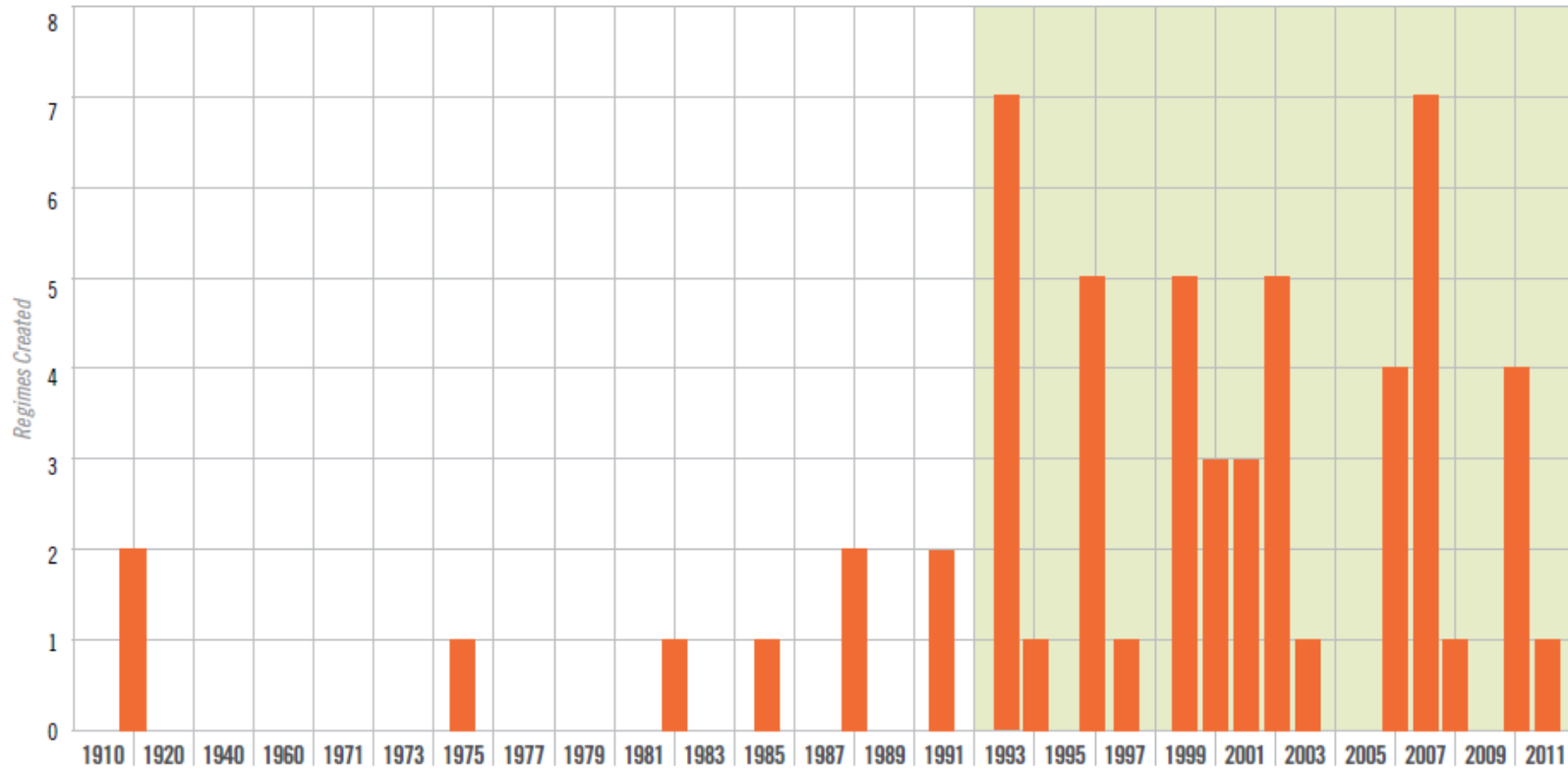


75% of the forests in developing countries

June 7, 2012

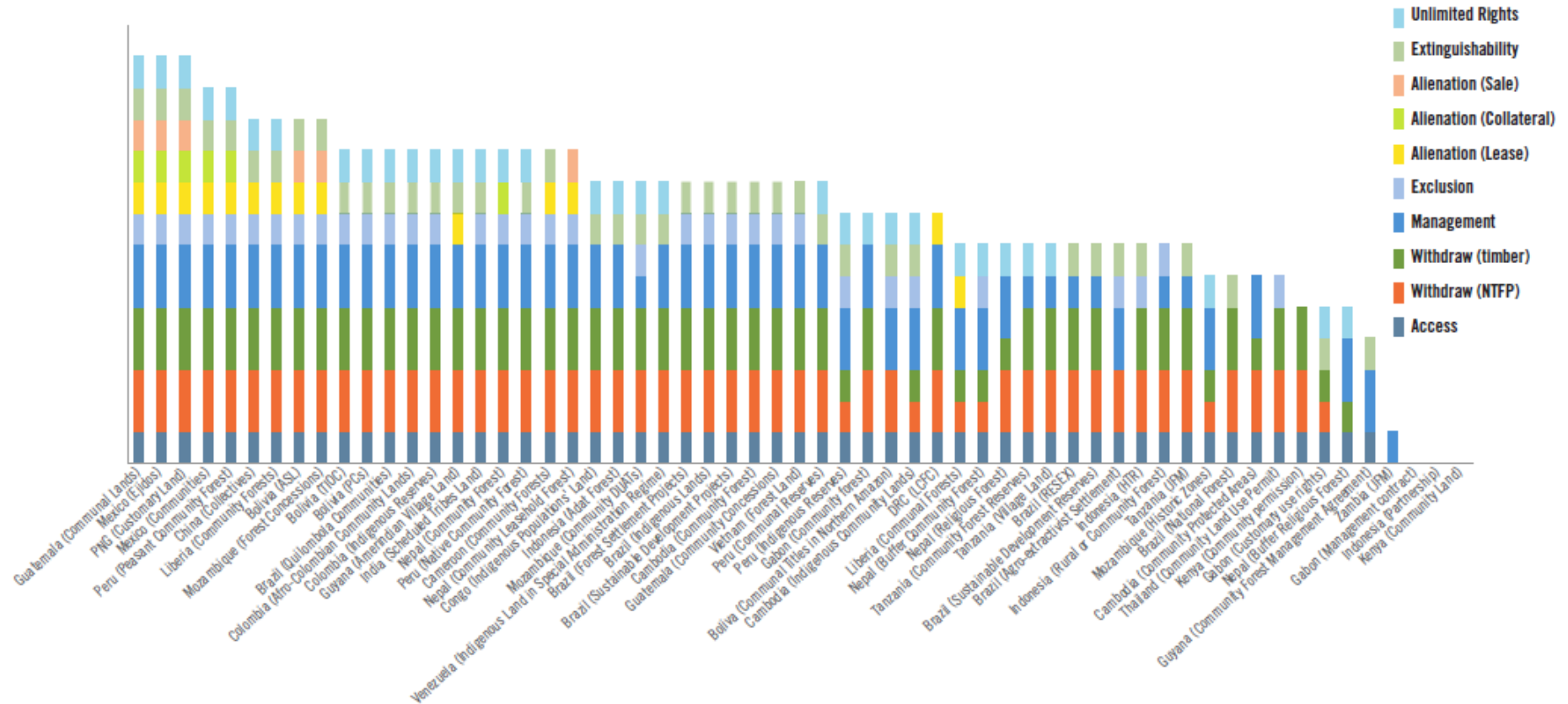


86% of the regimes established after 1992



Source: Forest tenure database. See www.rightsandresources.org/tenuredata.

Rights in each regime

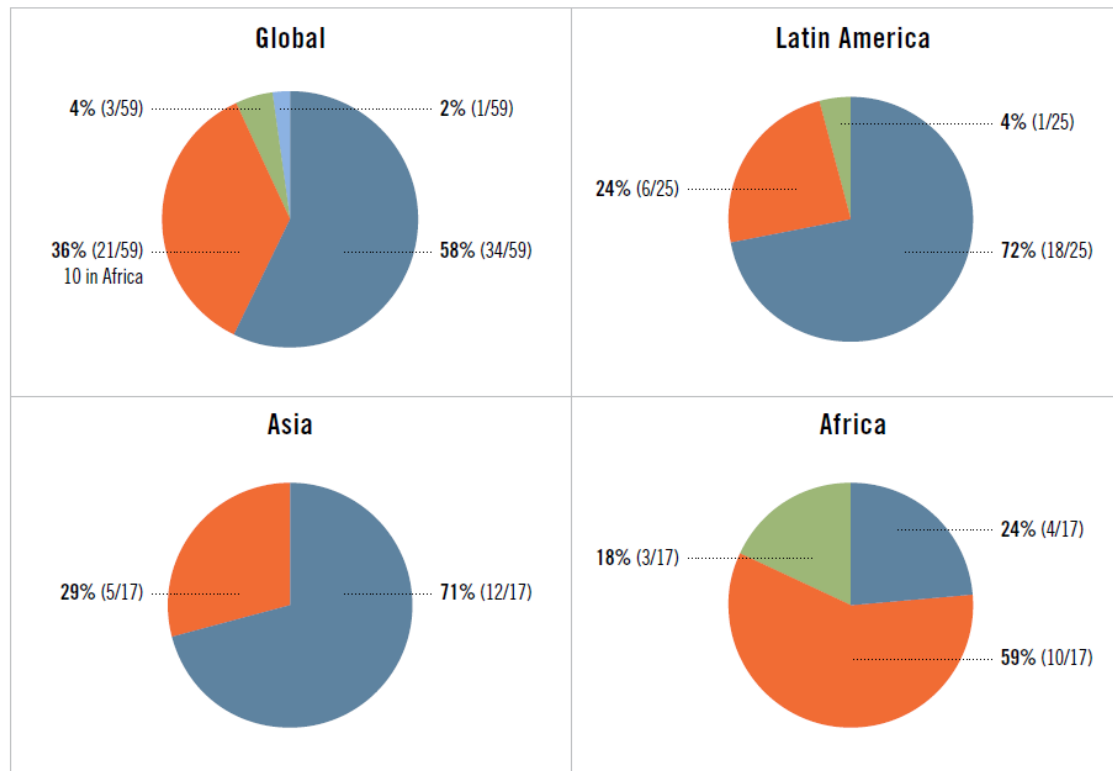


Source: Forest tenure database. See www.rightsandresources.org/tenuredata.

- 95% of regimes **restrict community use** of forest resources
- Just over half of the tenure regimes (32 of 59) recognize the rights of Indigenous Peoples and communities to **access, commercial exploitation, and forest resource management**. But in all cases these rights are contingent on **compliance with state mandated** management plans and/or the stipulations of licenses.
- 36% of the surveyed tenure regimes **do not recognize the right** of Indigenous Peoples and communities **to exclude** others from their forest lands.
- 66% **forbid them from alienating** their lands or their rights to forest resources (through lease, use as collateral, or sale).
- In over half of the regimes (34 of 59), **rights are recognized for an unlimited period**.
- In 40 of the regimes, **the government must comply with due process and provide adequate compensation** should it decide to revoke a community's rights.

- Latin America has the highest percentage of regimes guaranteeing the rights of access, commercial exploitation, and forest resource management.
- In Asia 31% (5 of 16) of those regimes communities only have the right to use timber resources for subsistence needs. Tenure reforms in China and Viet Nam not only recognize communities' rights to forest resources but also increasingly facilitate, if not encourage, the allocation of forest land to households.
- Since early 2000, countries in Africa have established laws recognizing the rights of Indigenous Peoples and communities to forest resources. In 35 % (6 of 17) of the surveyed regimes established by national legislation, rights cannot be implemented due to a lack of supplementing regulations that clearly define the recognized rights and the processes by which such rights maybe allocated in practice.

FIGURE 3: Do national laws that recognize tenure rights permit Indigenous Peoples and communities to exclude outsiders?



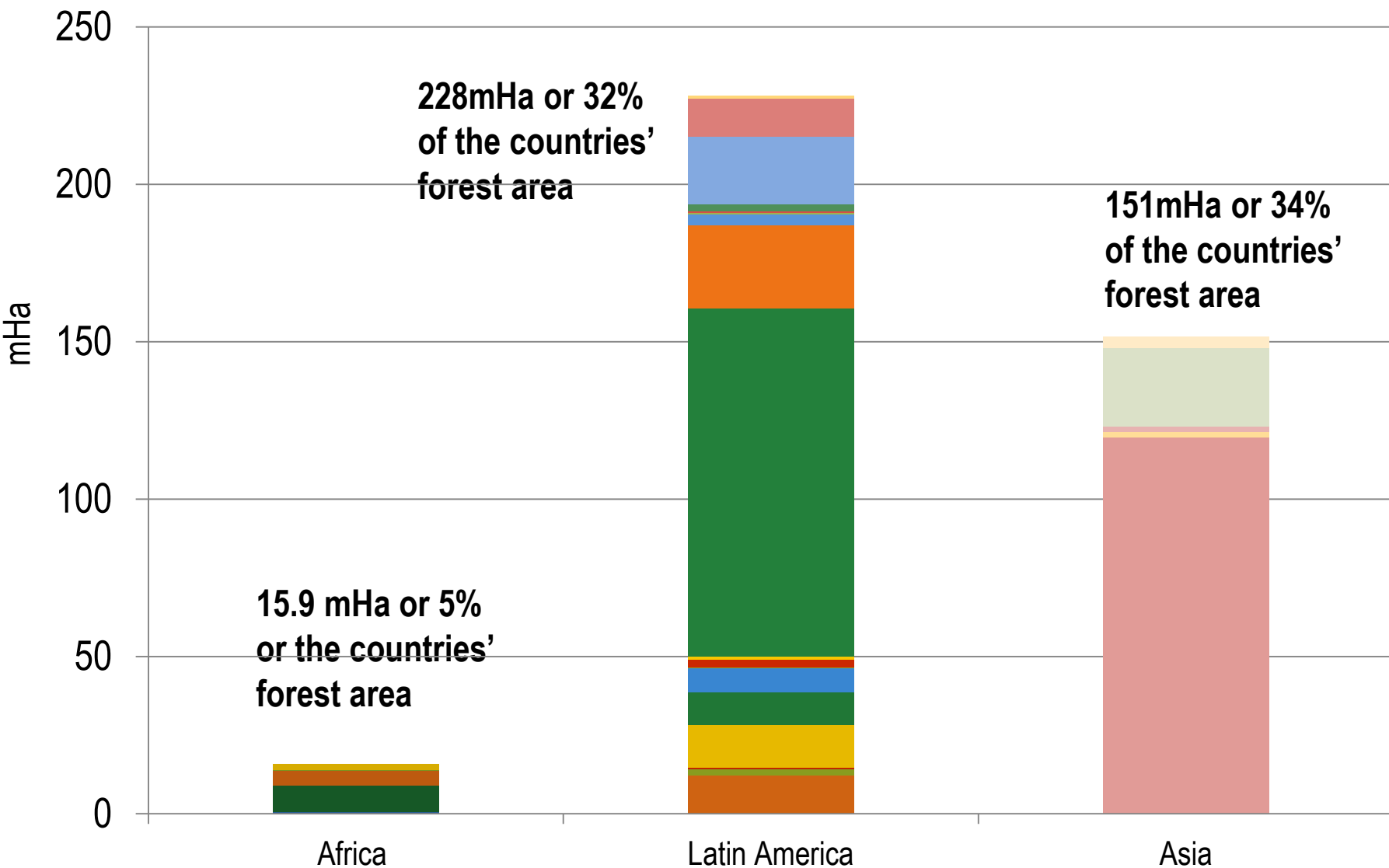
■ Yes ■ No ■ To be determined* ■ Case by case**

* Regimes established by constitution or law but lack subsequent law or regulations defining the extent of rights.

** Extent of rights defined on a case by case basis by individual agreement.

Note: Rounding errors acknowledged.

Area under the regimes by region, 2012



Who has an interest?

Government and customary authorities

Citizens

Special interest groups: women's associations, etc

Private sector

Right-holders

What is the objective of reform?

Recognize rights gained through historic occupation?

Realign production systems?

Reflect reality?

Change reality?

Tenure security for the poor?

Reform requires political will

Implementation requires sustained political will

Multiple sectors and institutions (conflicts in law: mining, ag, forest)

Plan for a long road – iterative, learning process

Awareness raising of new or changed rights

Training of service providers and judiciary

Mobilization of non-governmental actors

Costs vary depending on precision, location, surface area (individual plots versus territories)

Contestation, clarification, negotiation are part of the process

Mozambique: *Community territories under pressure*

Brazil: *Cleaning up a complex situation*

South Africa: *Customary authorities and power*

China: *Choice*

South Sudan: *recognizing community rights “land belongs to the community” what about forests?*

THANK YOU