



Respecting Rights, Delivering Development

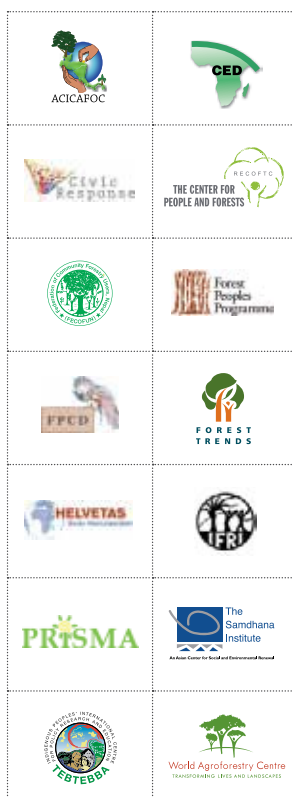
Forest tenure reform since Rio 1992

May 2012

Rights and Resources Initiative

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In the 20 years since sustainable development was set as a key global objective at the 1992 Earth Summit, the management of forests by Indigenous Peoples and local communities has been an area of progress amid many unmet aspirations. This report takes stock of that progress, presents new findings and identifies the work ahead to protect global forest areas and ensure their contributions to social, environmental and economic development.

Globally, the area of forest recognized as owned or controlled by Indigenous Peoples and communities has increased from 10 percent in 2002 to 15 percent today; in the forests of developing countries it has increased from 21 percent to 31 percent. The amount of legislation recognizing or strengthening the forest and land rights of Indigenous Peoples and communities has also increased dramatically—with over 50 laws aimed at doing so enacted since 1992.

A new slate of rigorous research, some of which is reviewed in this report, makes it clear that the recognition of traditional rights and empowerment of local peoples has strong social, economic, and environmental benefits—thereby delivering on the global sustainable development goal. For example, where the rights of Indigenous Peoples and communities are recognized, their territories and community-managed forests outperform public protected areas in preventing deforestation and ensuring conservation. They have also proven more effective than state-controlled forests in sequestering carbon and increasing household incomes. Clear property rights for local people have greatly boosted the capacity of countries to achieve national-level forest restoration.

The recognition of rights has also played a key role in saving and strengthening the unique cultures of many Indigenous Peoples and communities. This is not only worthy of celebration in its own right, but also central to achieving any sound definition of development.

The bad news, however, is that the bulk of this progress has been made in only a few countries, most of them in Latin America. The majority of governments continue to resist the large-scale recognition of community land rights, and many continue to deny that Indigenous Peoples have any claim to their customary lands. Moreover, most of the new laws that recognize traditional rights highly circumscribe those rights, are applied at very limited scales, and are far from meeting minimum standards enshrined in international human rights law. There is also clear evidence

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that there have not been new areas of community rights recognized in the last several years—a disturbing finding that is perhaps related to the rapid rise in the value of land in some countries and the so-called “land-grabbing” phenomenon. It is therefore unsurprising that there remains a strong demand from Indigenous Peoples and communities for the legal recognition of their land and forest rights. Where they lack such recognition, conflicts, poverty, and displacement remain common. And in most countries, Indigenous Peoples and communities remain among the financially poorest of the poor.

Africa and Asia lag behind in the recognition of traditional rights—with the consequent major loss of forests and threats to life and livelihoods.

In Asia, most governments continue to deny local land rights and to promote economic activities that result in deforestation. Forests in the region are being depleted, communities are losing their homelands, and corruption is common. In Africa, deforestation and the destruction of forest communities is at an earlier stage, but new pressures arising from rapid increases in investments in agribusiness and mining signal the need for urgent action and major reforms. Even in Latin America, where about one-third of the forests are under the legal ownership of Indigenous Peoples and communities, rights remain tenuous, with increasing threats posed by the growth of agribusiness, expansion of the exploration of subsoil resources, and massive infrastructure development. The risk of a rollback of hard-won community rights to forests is growing, even in Brazil, which has been a global leader both in the recognition of such rights and, more recently, in reducing deforestation.

Twenty years on from the 1992 Earth Summit, the planet remains exposed to enormous social and environmental risks. Chief among those risks are those posed by human-induced climate change, food insecurity, and the political instability that comes from land and resource “grabbing” by governments and investors. Forests—and more to the point here, secure community land rights to those forests—have a vital role to play in reducing such risks. As evidence presented in this report will demonstrate, recognizing the rights of Indigenous Peoples and communities to their customary forest lands is not only about justice, although that is reason enough. It is also the most effective way of reducing deforestation, improving forest management, and increasing rural incomes. The recognition of such rights enables governments to secure the ecological functions of rural landscapes, achieve social and political stability, and attract sound investment. Rio+20 and other upcoming international fora are important opportunities to prioritize and give due urgency to this global imperative.

RIO 1992 ADVANCED EXCLUSIONARY CONSERVATION AND OVERLOOKED RIGHTS AND CONTRIBUTIONS OF FOREST COMMUNITIES

The 1992 Earth Summit identified sustainable development as a vital global goal for the 21st century. The 175 governments in attendance pledged, therefore, to deliver twin-track progress on environment and development. At a time of huge global concern about the destruction of rainforests, the fate of the world’s forests was a central part of the discussions. In particular, the Convention on Biological Diversity, agreed at the Summit, put forests at the center of a strategy for stemming biodiversity loss. But a crucial element was largely missing in most of the declarations made at the Summit: the legal rights of communities to their land and resources.

This was not surprising. For most of the 20th century, governments regarded forest lands as state-owned assets, the economic potential of which could be tapped through logging, other extraction, and the extension of agriculture and pasture. Despite long-existing customary ownership rights, governments saw forests, at most, as loaned to forest communities until a more “productive” use could be found.

After the 1992 Earth Summit, conservation gained ground as an alternative use for forest landscapes; biodiversity could be protected and (perhaps) tourist revenues could be collected. More recently, climate change negotiations have held out the prospect of a new economic role for forests as carbon stores. But whether forests were viewed by governments as sites for economic expansion or by environmental organizations as targets of conservation, concepts for their control and management typically excluded the rights and voices of forest communities, marginalizing them in their own territories.

The Summit’s two central outputs, the Rio Declaration on Environment and Development, and Agenda 21, shied away from addressing land rights. The Declaration held, in Principle 22, that “indigenous people and their communities, and other local communities, have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.” Agenda 21 called for efforts to combat deforestation but implied that this should be a state-run process, albeit one that would require the “involvement of indigenous people and their communities at the national and local levels in resource

Where the rights of Indigenous Peoples and communities are recognized, their territories and community-managed forests outperform public protected areas in preventing deforestation and ensuring conservation.

ARTICLES OF THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES RELATED TO LAND RIGHTS

Article 8.2: States shall provide effective mechanisms for prevention of, and redress for: (b) any action which has the aim or effect of dispossessing them of their lands, territories or resources.

Article 10: Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 26.1: Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

Article 26.2: Indigenous peoples have the right to own, use, develop and control the lands, territories and resources and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

Article 28.1: Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

management and conservation strategies.” The absence of clauses protecting land rights indicates a lack of appreciation of the critical need for such rights in achieving sustainable development.

The Statement of Forest Principles, a non-legally binding document also agreed upon at the Summit, went somewhat further. It declared that “national forest policies should recognize and duly support the identity, culture and rights of indigenous people, their communities, and other communities and forest dwellers ... through, inter alia, land tenure arrangements ...” Developing nations, however, rejected any agreement that would have established international standards, monitoring, or oversight. Nevertheless, given that the mood at the Summit was dominated by a singular, exclusionary approach to conservation, the wording in the Statement of Forest Principles gave hope to a movement that, since 1992, has begun to substantially reform forest tenure and put the rights of communities at its heart.

INDIGENOUS PEOPLES’ AND COMMUNITY TENURE RIGHTS SINCE 1992: A FLURRY OF LAWS, BUT SLOW STEPS TOWARDS FULL RECOGNITION

Since 1992, more than 25 developing countries have passed laws regarding the forest tenure rights of Indigenous Peoples and communities. However, such laws have more often than not been limited to the recognition of a subset of the full suite of possible rights. A recent study by RRI of 27 of the most-forested developing countries identified 59 regimes that recognize, to a greater or lesser extent, the forest tenure rights of Indigenous Peoples and communities (Figure 1).¹ These countries are home to 2.2 billion rural people and contain approximately 74 percent of all forests in developing countries. Eighty-six percent of the identified regimes have been established since 1992. The peak year was 1993, when seven were created (Figure 2).

Perhaps the strongest international endorsement for the recognition of Indigenous Peoples’ forest tenure rights since 1992 came with the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) by the UN General Assembly in 2007. It set an important global benchmark under

FIGURE 1: The 27 countries surveyed

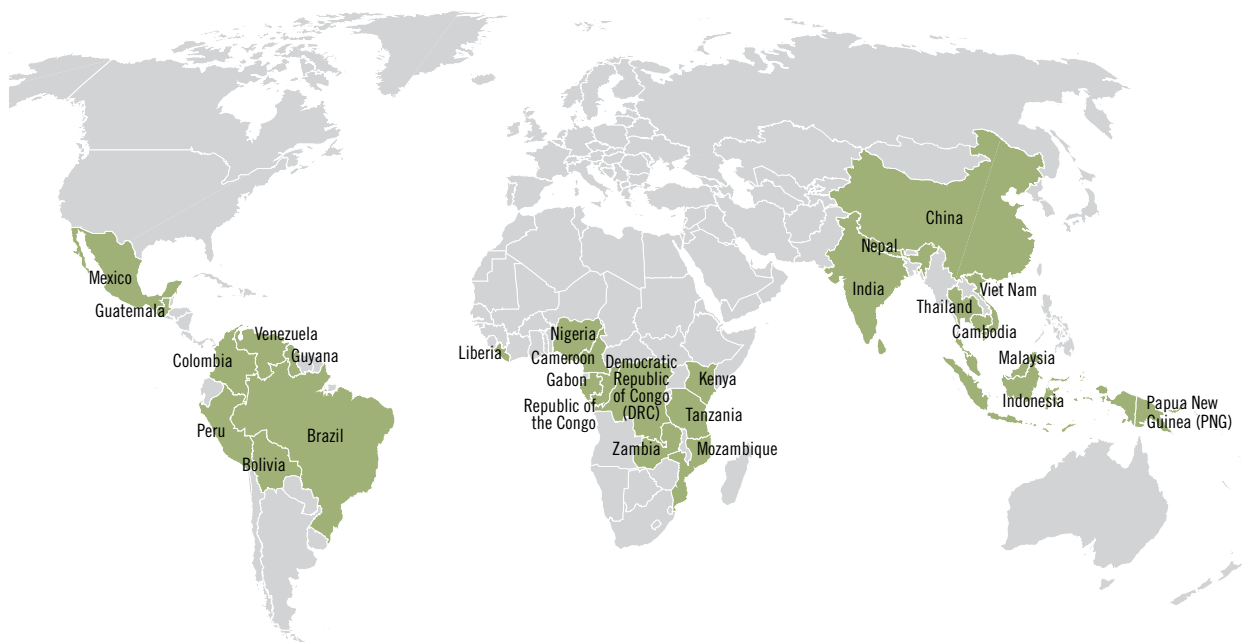
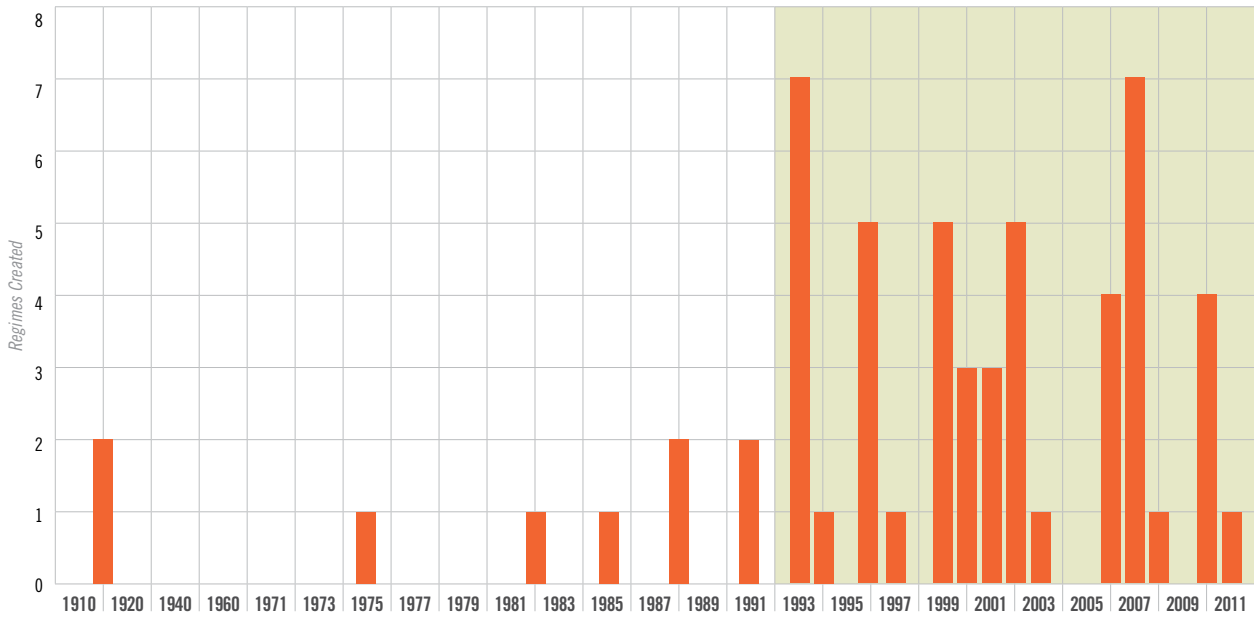


FIGURE 2: Number of regimes created to recognize the forest tenure rights of Indigenous Peoples and communities in 27 developing countries, by year



which Indigenous Peoples “have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or use ... as well as those which they have otherwise acquired.” UNDRIP, which has now been endorsed by almost all UN member countries, and the earlier Convention No. 169 on Indigenous and Tribal Peoples established by the International Labour Organization, form part of a growing body of international jurisprudence recognizing the rights of forest communities. The recent adoption of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, approved in May 2012, signals an increased understanding among governments of the role that securing customary tenure plays in achieving national and global development goals.

It is evident, however, that on-the-ground progress in the recognition of the full set of forest rights has been patchy at best. While the number of national laws that have been passed is impressive, limitations on the rights recognized by these laws reduce the possible benefits that communities may gain. In many cases the laws cannot even be implemented because of missing regulations or limited sustained political will.

The 59 regimes analyzed by the RRI study recognize community rights to widely varying extents—from total autonomy to far fewer rights than were once held under customary ownership. The study examined in detail a “bundle” of rights: access, withdrawal, management, exclusion, alienation, duration, and extinguishability. Just over half the surveyed tenure regimes (32 of 59) guarantee Indigenous Peoples and communities the rights of access, commercial exploitation, and forest resource management. In all cases, however, these rights are contingent on compliance with government-mandated management plans and/or the stipulations of licenses. In 34 of the 59 regimes, rights are recognized for an unlimited period of time.

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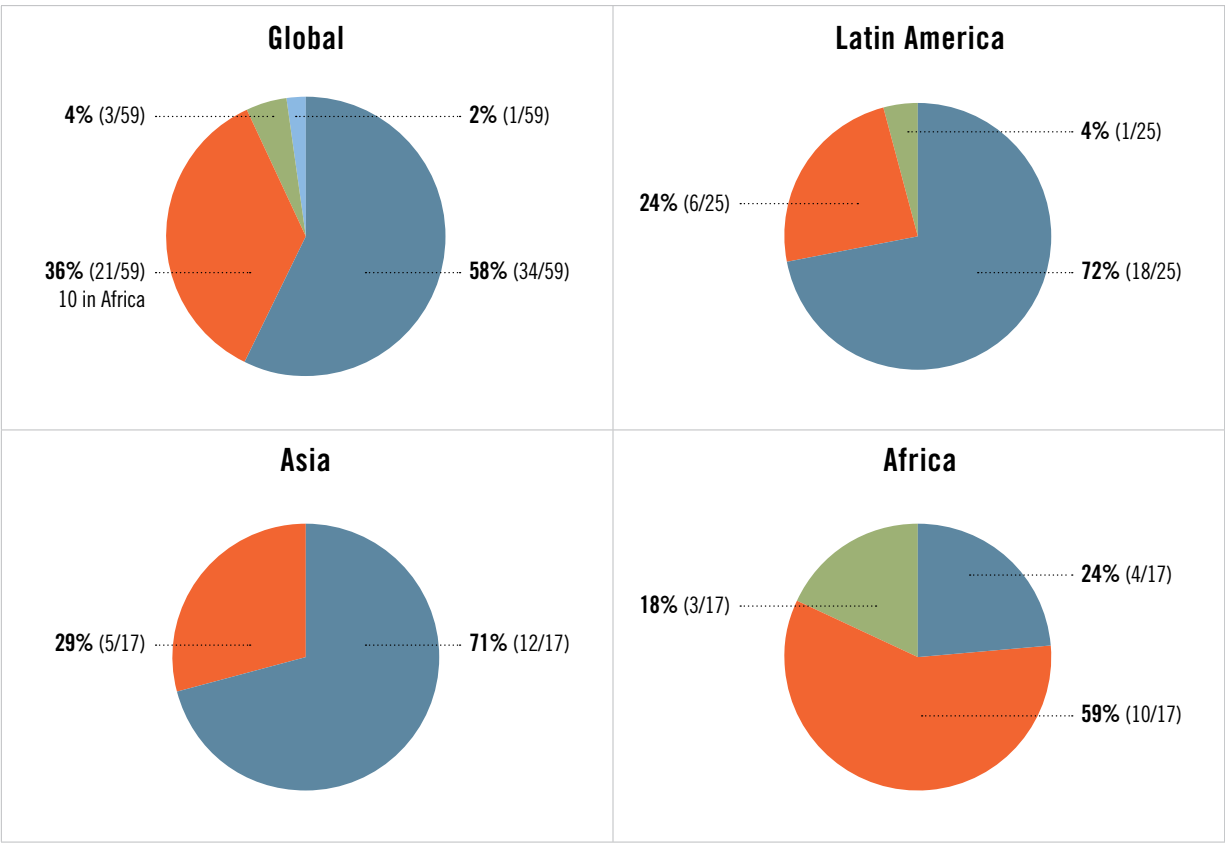
Perhaps most critically, more than one-third of all surveyed regimes (21 of 59) do not recognize the right to exclude outsiders from entering the forest and exploiting its resources (Figure 3). In Africa, the right to exclude is the exception rather than the norm.

Latin America has the highest percentage of regimes that guarantee the rights of access, commercial exploitation, and forest resource management. It is also the region in which more rights are constitutionally guaranteed for an unlimited period and where the greatest number of the regimes cannot be extinguished unless governments follow the due process of law and provide adequate compensation. Asia has a mixed record, and Africa lags behind.

Since 2000, many African countries have approved laws recognizing the rights of Indigenous Peoples and communities to forest resources.

However, six of the 17 surveyed regimes in Africa established by national laws cannot be implemented due to a lack of supplementing regulations that clearly define the rights of communities and the processes by which those rights can be recognized 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.

Even when regulations exist they often constitute bureaucratic barriers to the full enjoyment of the rights accorded by law. For example, the Mozambique Forestry and Wildlife Act, 1999, authorized communities to apply for forest concessions, but as part of their applications they must provide six copies of a topographical map identifying all the geographical features of the land, including paths, lagoons, and rivers, along with details about the wildlife and trees that might be exploited and any rights held by third parties. As a result, in 2009, a decade after the Act was passed, no community concessions had been granted.

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Similarly in Peru, the paperwork required in order for communities to obtain the right to harvest timber on their own lands is so complex that private logging companies have intervened—ostensibly as agents to conduct the process on behalf of the communities but with the effect of arrogating the right to themselves.

The move towards Indigenous Peoples' and community-owned and managed forests has sometimes been complemented by changes in laws to allow communities to benefit more from artisanal activities involving forest products. Previously, many such activities were not permitted because of a belief that artisans would plunder the forests unsustainably. Thus, in Liberia, it was a major breakthrough when, in May 2012, the Liberian Forestry Development Authority legalized and issued regulations for local pit-sawing (chainsaw logging), noting that “[these] activities have significant social contributions and also constitute a critical source of livelihoods for many persons.”

A preliminary analysis undertaken as part of the RRI study shows that less than one-third of the surveyed regimes (18 of 59) are minimally consistent with the rights required by the relevant land rights articles of UNDRIP (i.e. unlimited duration of rights to access, withdrawal, and exclusion).²

PROGRESS ON THE GROUND: A GROWING, BUT TENUOUS, INCREASE IN INDIGENOUS AND COMMUNITY FOREST LAND OWNERSHIP

RRI periodically updates and reviews its global tenure database, which now shows that the area of forest owned by or designated for use by local communities and Indigenous Peoples has increased from 10 percent in 2002 to 15 percent in 2012 (Figure 4).³ This remarkable increase shows that the trend first identified in the 2002 report *Who Owns the World's Forests*⁴ has continued, whereby governments are recognizing, demarcating, and registering forest areas under the ownership and management of Indigenous Peoples and forest communities.

Perhaps most remarkably, the substantial progress being made globally is due primarily to changes in statutory forest tenure in developing countries. The area of forest owned or controlled by Indigenous Peoples and communities in developing countries roughly doubled between 1985 and 2002, due mostly to progress in Brazil and other Latin American countries since the 1992 Earth Summit.⁵ RRI's latest periodic assessment shows that approximately 31 percent of the forest estate in developing countries is legally owned or designated for use by Indigenous Peoples and communities—up from 21 percent in 2002.

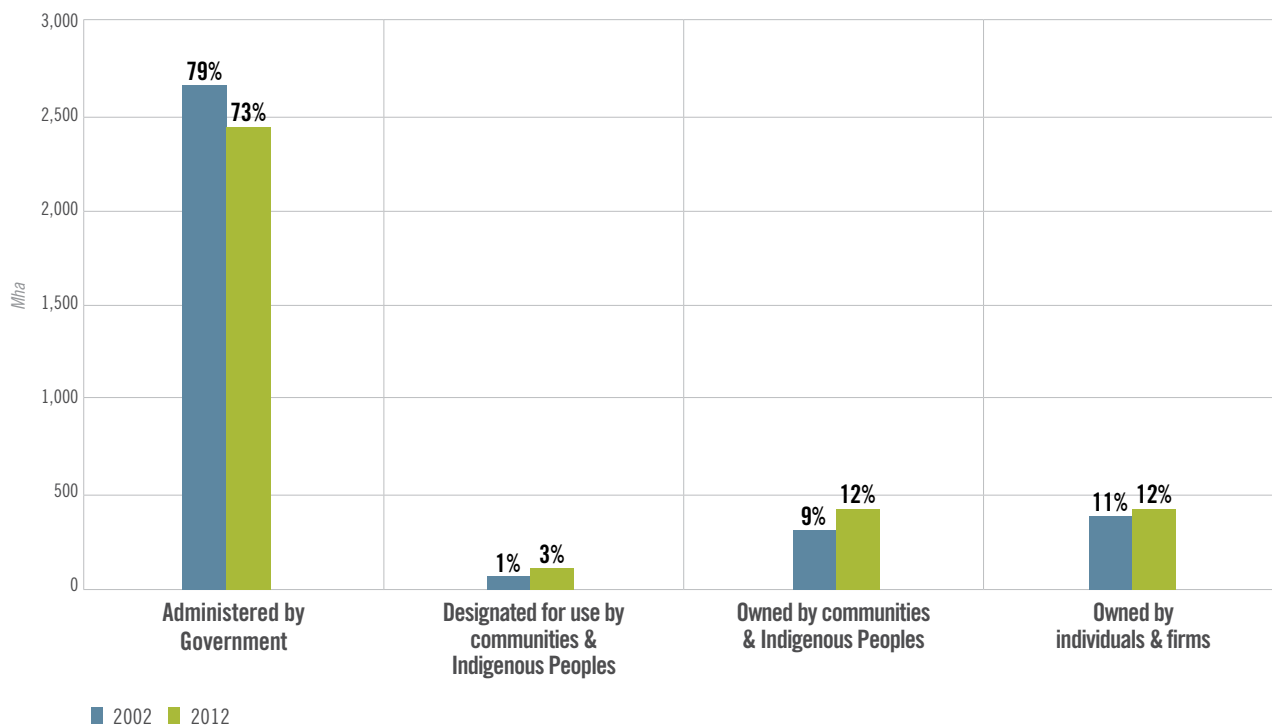
Most of this progress has been achieved in only a handful of countries in Latin America and Asia, however. Brazil has shown leadership in this transition: today, about 145 million hectares of the country's forest estate are legally owned or designated for use by Indigenous Peoples and communities, most of it since 1992. The effect the new forest code will have on community tenure rights in Brazil cannot yet be determined.⁶

In Africa, governments still claim ownership of 97 percent of the continent's forests.⁷ In the Democratic Republic of the Congo, which has the largest forest area of any country in Africa, the government claims ownership of all forests, despite the millions of people who live in and around them. Moreover, the government has favored large-scale industrial concessions rather than implement the 2002 Forest Code, which provides for the legal recognition of the rights of local communities to forests.

In Asia, while several countries (e.g. China and Viet Nam) have taken significant steps forward in strengthening household and collective forest tenure rights, less than one percent of forests in the region's most forested country, Indonesia, are legally in the hands of local communities. The government claims the rest, rendering some 50 million Indigenous Peoples little more than squatters on their ancestral lands. The commitment made in July 2011 by the Indonesian government to pursue a tenure reform process in consultation with civil society is an important opportunity for Indonesians and the world.⁸

Unfortunately, RRI monitoring shows that the bulk of this global progress was made in the 1990s and the first decade of the 2000s. There has been no globally significant increase in community forest area over the past two years.⁹ It is too early to tell if this slowdown is temporary, but it is not too early to suspect that it could be due to the rising forest land values and increase in the "land-grabbing" phenomenon, which suggests waning political will to recognize community land rights.

FIGURE 4: Global forest tenure distribution, 2002-2012



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

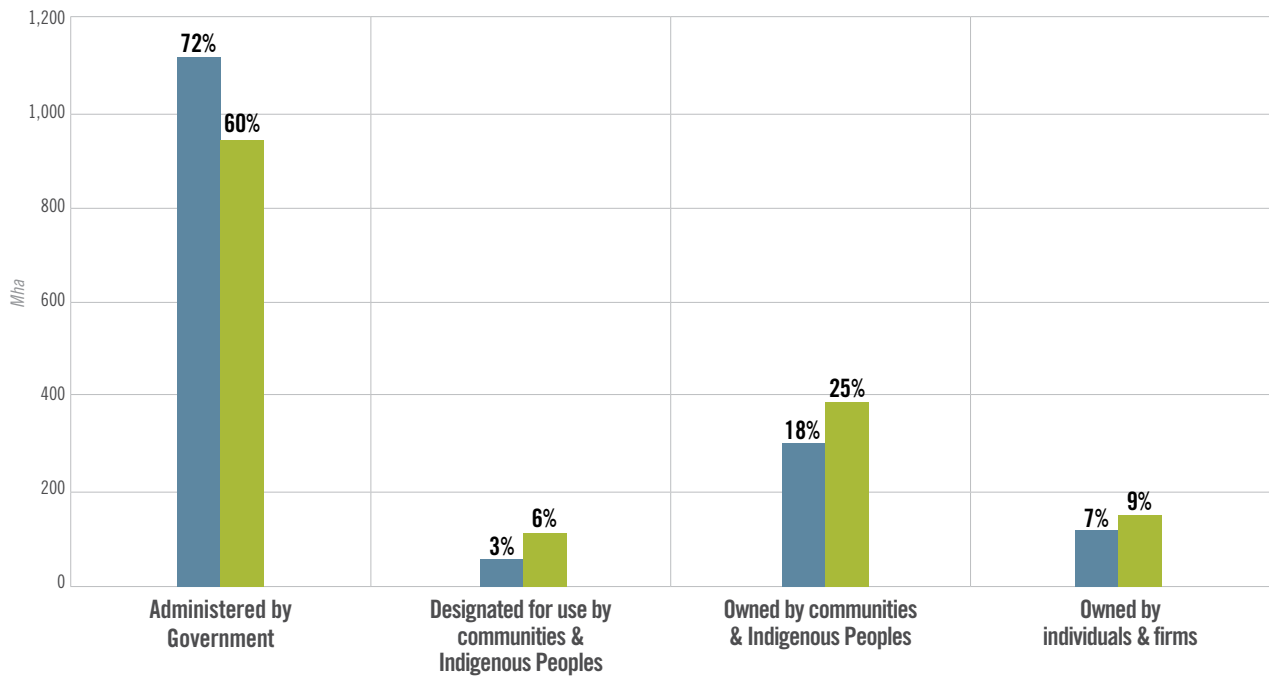
THE LARGE AND GROWING THREATS TO FORESTS, PEOPLE, AND DEVELOPMENT

Since the 1992 Earth Summit, forests have taken center stage in a range of important global debates. Negotiations for a new agreement on climate change to replace the Kyoto Protocol concluded that maintaining the role of forests as carbon sinks was essential and that this required a system for rewarding forest protection. While there will not be a new agreement on climate change before 2020, talks about the mechanism known as REDD (designed to encourage a reduction in greenhouse gas emissions from deforestation and forest degradation in developing countries) could give forests a new, and potentially tradable, economic value as a carbon store. It is possible that forest communities will be able to benefit financially from REDD in their efforts to protect their forests. But it remains to be seen whether the effect of any REDD agreement will be to empower or further marginalize them.¹⁰

The land on which forests sit is also an increasingly valuable economic resource, which acts as a driver of forest conversion to other uses. In the past, governments have sought to keep forest lands in state hands, but there is a growing push to sell or lease state lands to the private sector in the interests of rapid economic development. As the world's demand for timber, metals, meat, grains, oils, and biofuels has soared, the push has extended to many commonly owned resources, including pastures, wetlands, and forests.

Large scale land acquisitions have escalated, and common lands are prized most highly by national and international investors. Oxfam estimates that more than 220 million hectares of forest, pasture, and farm

FIGURE 5: Forest tenure distribution in developing countries, 2002-2012



■ 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.

A preliminary analysis undertaken as part of the RRI study shows that less than one-third of the surveyed regimes are minimally consistent with the rights required by the relevant land rights articles of UNDRIP.

land were sold or leased to investors in the past decade. Most of this has taken place since 2008, and two-thirds of it in Africa.¹¹ One reason Africa has been targeted is that customary land rights there are weak—and weakly enforced. According to a 2011 study by Alden Wily, inhabitants on three-fifths of the land of sub-Saharan Africa rely on customary land tenure rights, most of which are not legally recognized or enforceable.¹² Even in countries that appear to favor the codification of customary rights in statutory law, the applicable laws are rarely respected in practice and communities are often treated as passive bystanders in major land deals. For example, when the new nation of South Sudan raised its flag in July 2011, almost one-tenth of the country had already been leased to foreigners, with laws on community control rarely invoked. “Weak land rights allow Africa to be consumed,” concludes Alden Wily.

EMPIRICAL EVIDENCE: INDIGENOUS PEOPLES AND COMMUNITIES WITH SECURE LAND RIGHTS DELIVER ON SUSTAINABLE DEVELOPMENT GOALS

A series of recent studies has investigated community management both in social terms and as a conservation tool. Surprisingly to many, the evidence is growing that community-managed forests outperform state-run protected areas by most measures of ecological value.

For example, in a review of studies in 80 forest areas in 10 countries in South Asia, East Africa, and Latin America, Chhatre and Agrawal¹³ concluded that community-owned and managed forests delivered both superior community benefits and greater carbon storage. Studies in Tanzania, India, Nepal, Guatemala, and elsewhere found that the conventional idea of a tradeoff between community benefits and the integrity of the forest did not apply in the case of community forest management, at least not for carbon storage. When forests were categorized as either “sustainable” or “unsustainably managed,” there were positive associations between local autonomy and sustainability, and between government ownership and unsustainability.

Forests not under community control—even those under supposedly strict state protection—suffered more from illegal logging. The authors concluded that this was because “when local users perceive insecurity in their rights (because the central government owns the land), they extract high levels of livelihood benefits from them, and when their tenure rights are safe, they conserve the biomass and carbon in such forests.” On the other hand, “local communities restrict their consumption of forest products when they own forest commons, thereby increasing carbon storage.”¹⁴ As Chhatre put it, “we can simply increase carbon sequestration by transferring ownership of forests from governments to communities.”¹⁵

Another study, headed by Porter-Bolland, carried out a meta-analysis of published case studies comparing 40 state-protected and 33 community-managed forests.¹⁶ It found that, while deforestation was the norm in both types, “as a whole, community-managed forests presented lower and less variable annual deforestation rates than [state-]protected forests.” Porter-Bolland et al. concluded that, “at a minimum,” managers of tropical forests should aim for the “application of environmentally friendly norms ... that are adaptive, inclusive, efficient and flexible under fair and equitable tenure and resource access regimes.”

They further concluded that to secure win-win outcomes on carbon and livelihoods it would be necessary to increase the autonomy of communities to manage their forests.

Nelson and Chomitz of the World Bank examined the incidence of fire in different kinds of forested protected areas in Asia, Africa, and Latin America. They compared strictly protected forests with those under indigenous control and with “multiple-use” protected areas, where some harvesting is allowed, often under community control. After controlling for confounding variables such as remoteness, which influences the vulnerability of the forests to assault, they found that strictly protected forests reduced the incidence of fires but that multiple-use protected areas and Indigenous-owned forests were “even more effective.” Strictly protected areas cut the incidence of fires by 1–3.5 percent, multiple-use protected areas by 1.5–5.6 percent, and indigenous areas, all of which were in Latin America, by 16 percent. The protection effects were least in remote areas and greatest in “unremote” areas with the highest threat of fire. The authors, who used forest fires as a proxy for wider deforestation, concluded that their findings showed “compatibility between global environmental goals and support for local livelihoods.”¹⁷

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— Ashwini Chhatre

Numerous national and local level studies have reached similar conclusions.¹⁸ In Tanzania, local management is being introduced to almost 2,000 villages covering 4 million hectares of forest land, one-tenth of the country’s forest area. Blomley and colleagues studied 13 forests in three areas of eastern Tanzania that are either communally managed or jointly controlled by a state agency and a community. They found that community-managed areas were gaining in forest coverage and had a greater volume of trees, while government forests (and open-access forests) showed a decline. Blomley et al. concluded that community forests were a successful model for conservation, one that embodied the concept of sustainable development established at the 1992 Earth Summit by combining economic development with the effective management of forest resources for future generations.¹⁹

With approximately 1.2 billion hectares of degraded landscapes across the world,²⁰ there is an urgent need for public policy and action to restore the ecological functions of those landscapes. A recent historical review of large-scale restoration projects showed that clear property rights have played a fundamental role in restoring degraded forests, most notably in post-war South Korea.²¹

GREEN GROWTH REQUIRES RIGHTS

In Africa, governments still claim ownership of 97 percent of the continent’s forests.

Massive investments in infrastructure, extractives, and agricultural production are in the pipeline in the developing world. A recent study by CIBC World Markets notes that there will be hundreds of billions of dollars of infrastructure investment over the next decade or so in Africa, in ports, rail, roads, mining, hydroelectric, to exploit the resources and bring them to market.²² The developing world certainly needs investment, but it needs sustainable, socially responsible investment if it is to thrive. Investors are increasingly recognizing the risks of investing in areas with contested and insecure land rights. For a cautionary tale they could look to the recent

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experiences of Stora Enso, one of the world's largest and arguably "greenest" paper companies, and Sime Darby, the Malaysian palm-oil giant. Stora Enso is guided by its commitment to social responsibility, yet a 2010 study of the company's activities in China showed that middlemen acting on behalf of the company had violated the law—sometimes with physical violence—in efforts to secure land for the company's eucalypt plantations.²³ Even more recently, advocates in Liberia drew attention to agreements between the Government of Liberia and Sime Darby that effectively transferred the rights to community lands and resources to the company. Pressure exerted on the company, including by the board of the Roundtable on Sustainable Palm Oil, forced the company to put its activities on hold; its investments and reputation are now at risk.²⁴

But the flipside to such cautionary tales is that when land rights are clear, investor risk is reduced and communities either on their own or in partnership with corporations can generate substantial gains for local development. Secure land rights, and ensuring community ability to organize enterprises and profit from their lands, yield benefits in social, environmental and economic terms. The background papers prepared for this report show examples of this. In Nepal, community forest user groups have rights to extract resources, to exclude outsiders, and to choose how their forests are managed.

On the other hand, they are not allowed to harvest the forest at a rate above the sustainable yield or to convert it to a non-forest use. They can commercially exploit the forest, but must spend at least one-quarter of the income they earn from doing so on forest protection and management and another 35 percent on helping the poorest households in the community. Local communities generate at least four times more revenue per hectare from their forests than do government-managed forests. A recent study found that most of those benefits accrued at the community level, such as investments in basic infrastructure, rather than at the household level.²⁵ The biggest danger may be that the forests become so valuable that they become vulnerable to elite capture within communities. Studies in Mexico's Yucatan Peninsula and elsewhere have shown that community management is protective of forests and has a measurable social benefit in improved living standards, thanks in large part to revenues generated by community sawmills. In China, forest tenure reform has increased the power of households to make decisions on forest management, and there have been steady increases in reforestation and household incomes.

AN AGENDA FOR RIO+20 AND THE WORLD: RECOMMENDATIONS

The recognition of the forest tenure rights of Indigenous Peoples and communities has made a substantial contribution to advancing the global sustainable development agenda. Despite the enactment of laws (of variable quality) to recognize such rights, their implementation has commonly been weak. The lack of on-the-ground rights realization, therefore, continues to constrain progress on many global development goals.

Rio+20 provides the world with an opportunity to celebrate the contributions of Indigenous Peoples and communities to the beauty and viability of the planet and to the quest for sustainable development. It should recognize the significant advances that have been made in securing their

forest rights, but it should also acknowledge that these advances are far from sufficient. Ninety-seven percent of forest lands in Africa and 60 percent in Asia remain contested, and many of the gains that have been made in Latin America are tenuous. This uncertainty and instability puts all investments and plans for development at risk.

Participants at Rio+20 should recognize the urgent need for action. Without it, there is a substantial risk that civil conflicts will grow, resources will be squandered, forests will be lost or degraded, and Indigenous Peoples and other communities will continue to suffer unjust and unnecessary poverty.

In order to build on the progress so far, avoid conflicts, and complete the work necessary to attain truly fair and sustainable development, global leaders should:

1. Place tenure rights at the center of the Rio+20 and other global development agendas.

Advances in the rights of Indigenous Peoples and communities since 1992 have been accomplished because of the strong push by citizens and despite weak recognition of their important roles in Agenda 21. Now with a solid empirical foundation, the leaders at Rio+20 and its follow-on summits to address poverty and advance food and climate security need to prioritize a commitment to recognize the rights of Indigenous Peoples and communities to forest land and resources. Another step forward would be to include recognition of community rights in the successor to the Millennium Development Goals.

2. Include the issues of secure tenure and rights as underlying conditions for green growth.

Clear, secure, and just property rights are essential for sound investment in sustainable development. New standards and mechanisms to vet investments need to be established, and are in the interests of governments, communities and investors. The world should build on the commitment exhibited by the recent adoption of the Voluntary Guidelines on Land Tenure to establish mechanisms to increase transparency of all transactions and ensure free, prior and informed consent by communities over land-based investments.

3. Widely implement a new model of rights-based and community-led conservation.

The 1992 Earth Summit supported conventional conservation models, many of which displaced people and didn't produce the desired results. Rio+20 can encourage a new conservation paradigm—one that is based on human rights, respects cultures, and furthers conservation. All conservation organizations can recommit to rights-based conservation and standards, as well as be supportive of independent monitoring of conservation initiatives.

4. Provide support for African countries to advance significantly the recognition of community tenure rights.

The recognition and clarification of community land rights requires tremendous new political will and investment in Africa. During Rio+20 and in subsequent global fora, some African countries can highlight the legislative progress they have made to recognize community tenure rights. Emerging and donor economies should dedicate more energy and financial support to help Africa address its challenge—with much greater urgency.

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- 5. Recognize that laws on the books are not enough.** The massive legislative progress since 1992 is an essential first step towards securing forest tenure rights. Governments must now make firm commitments to implement the laws that recognize and protect the tenure rights of Indigenous Peoples and communities, and enact new legislation where necessary to complete the task of reforming forest tenure and regulatory frameworks.
- 6. Seize new opportunities to secure rights.** Innovative private–public partnerships to finance forest tenure reform need to be established. Many in the private sector now recognize that insecure forest tenure rights poses substantial risks, both financial and in

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terms of company reputation. It is time to look beyond the conventional forms of ODA to leverage greater commitment and financial support from the new major investors in forest areas—the agribusiness, extractive and infrastructure sectors. The development of mechanisms to channel private-sector support for implementing widespread forest tenure reform would have a real effect, allowing us to turn the tide and finally achieve the goals of sustainable development set out in the first Earth Summit 20 years ago.

For background papers on forest tenure reform and its impact in Brazil, China, India, Mexico and Nepal see www.rightsandresources.org.

ACKNOWLEDGEMENTS

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RRI is a global coalition of international, regional, and community organizations advancing forest tenure, policy and market reforms. RRI leverages the strategic collaboration and investment of its Partners and Collaborators around the world by working together on research, advocacy and convening strategic actors to catalyze change on the ground.

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1238 Wisconsin Avenue NW
Suite 300
Washington, DC 20007
+1 202 470 3900
www.rightsandresources.org