



Governments' over-reliance on carbon removals could push ecosystems, land rights and food security to the brink with new land area equivalent to 50 percent of the world's croplands currently being required to meet targets. Climate pledges should focus on protecting and restoring existing ecosystems with carbon benefits.

## Chapter 4: Land rights of indigenous peoples and local communities



### KEY MESSAGES

- With few exceptions, the various national climate mitigation pledges have paid little attention to who, in practice, is living on, using and managing the lands involved, much less to existing land rights of indigenous peoples and local communities.
- Without an understanding of history and power relations shaping the rights of indigenous peoples and local communities to land and territories, and thus without a social justice lens, any attempt to fulfil the many land-based climate pledges is likely to perpetuate injustices.
- The most effective and just way forward is to ensure that indigenous peoples and local communities have legitimate and effective ownership and control of their land. They must also have a strong voice to self-represent and engage on equal terms – ultimately exercising self-determination in the search for sustainable pathways for use of their lands and territories.

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The vast majority of lands and forests targeted by national and international pledges on climate change mitigation and forest restoration are neither unclaimed nor unused. They constitute the customary lands and territories of indigenous peoples and local communities (see **Box 6**), who for generations have managed, used and effectively stewarded the landscapes and ecosystems that are now being prioritized as greenhouse gas sinks and reservoirs, or important biodiversity areas. While IPs and LCs exercise customary rights to at least half of the world's lands, less than 20 percent of this area is formally recognized as owned by or designated for communities, rendering them and their territories vulnerable to the surging global demand for land.

Evidence to date shows that IPs and LCs with secure land rights vastly outperform both governments and private landholders

on issues relating to deforestation, biodiversity conservation, sustainable food production and other land-use priorities. An impressive overlap exists between intact ecosystems and other areas requiring conservation attention and the collective land-holdings of IPs and LCs (Allan *et al.*, 2022; WWF *et al.*, 2021), reflecting essential contributions that have so far been inadequately recognized by states, and poorly supported by the broader international community. Indigenous peoples steward more than 40 million km<sup>2</sup> of land across 132 countries and territories (Garnett *et al.*, 2018; WWF *et al.*, 2021), including 40 percent of terrestrial protected areas. Together with traditional communities, they manage 22 percent of the carbon (217 991 Mt C) found in tropical and subtropical forest countries (Frechette *et al.*, 2018), 80 percent of global terrestrial biodiversity (IPBES, 2019), and over one-third of the world's remaining intact forests (Fa *et al.*,

### Box 6 Defining indigenous peoples and local communities

The separation of the terms IP and LC in this chapter is meant to emphasize their important distinctions.

**Indigenous peoples (IPs)** constitute diverse, socially and culturally distinct groups whose members, individually and collectively, self-identify as indigenous and as right-holders and custodians of resources, environment and territory. In addition to sharing strong ancestral ties to collectively-held lands, territories and surrounding natural resources, IPs have distinctive traits as peoples and communities with regards to their ancestral environments, spoken languages, knowledge systems, beliefs and livelihood practices, with historical continuity to precolonial or pre-settler periods. Hence, indigenous governance institutions often run parallel and even counter to those of nation states, further contributing to the historical, political and economic marginalization and discrimination of indigenous peoples across much of the world.

As per the [United Nations Permanent Forum on Indigenous Issues](#) (UNPFII), a variety of terms may be used to refer to IPs, including tribes, first peoples/nations, aboriginals, ethnic groups, *adivasi*, *janajati*, as well as occupational and geographical terms such as hunter-gatherers, nomads, peasants and hill people. Together, some 370 to 470 million people self-identify as indigenous,

speaking more than 4,000 of the world's languages. Although they make up just 6 percent of the global population, they account for about 19 percent of the extreme poor.

The distinct and differentiated rights of indigenous peoples are affirmed by the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), and are embedded in a wide range of policies and mechanisms. These include: (a) Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), UNPFII, Outcome Document on the World Conference on IPs (Indian Law Resource Centre, 2014), and stand-alone IP-targeted policies of the various UN agencies; (b) multilateral, intergovernmental and regional bodies' IPs-specific policies, such as the World Bank, European Union, Green Climate Fund, African Union/African Commission on Human and Peoples' Rights (ACHPR); (c) decision-making and coordination arrangement for self-selection and representation, such as the International Indigenous Peoples' Forum on Climate Change (IIPFCC), International Indigenous Forum on Biodiversity; and (d) IP-targeted funding arrangements. Following precedents set by the CBD, the UNFCCC, and widespread appli-

cations in the context of international development (for example, see RRI 2015, endnote 10), the term **local communities (LCs)** is commonly used in reference to groups that traditionally hold and use lands and resources collectively under customary and/or statutory tenure, but do not self-identify as indigenous. Barrow and Murphree (2001) further state that a local community may be defined as a human grouping living in a specified physical area, which is socially bound by a common identity and a shared interest in local resources for cultural, livelihood and economic advancement. LCs draw their legitimacy and rights over resources on the basis of traditional use, territorial affiliation, and shared common-property arrangements, or a negotiated set of rules (Agrawal and Gibson, 2001). Their customary rights largely stem from their *de facto* role as resource managers, and the absence of legitimate state institutions (Ostrom, 1990).

While social movements underpinning local community representation are often regionally-specific and diverse, LC rights are nevertheless affirmed under the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP). In international law, it is clear that a 'definition' is not a prerequisite for protection.

### Box 7 Customary tenure

Customary land tenure refers to 'informal' governance institutions used by communities to express and order ownership, possession and access, and to regulate use and transfer of land (Alden Wily, 2011). Such institutions are regarded as living, adaptive and flexible systems, often allowing the inclusion of secondary or seasonal rights to resources, as in the case of pastoral land uses (Knight, 2010; Zartaloudis, 2017).

Access to land within customary tenure systems is derived primarily from membership of the rural social order, be that a village, tribe, clan or other social structure. Customary rights may be held by individuals, households, groups or individuals, or whole communities. Authority is exercised through norms and rules, and enforced through social sanctions. Boundaries are socially and spatially negotiated, with disputes settled through mostly informal adjudication. Although under customary tenure neither men nor women 'own' land, community women tend to face greater discrimination in terms of their inheritance rights and participation in decision-making, among others (RRI, 2017).

2020). For indigenous peoples, local communities, and women within these groups, secure tenure rights can mean the difference between persistent poverty, conflict and overexploitation, and the realization of socially just and sustainable livelihoods.

Despite growing attempts to develop more robust social and environmental safeguards,<sup>1</sup> climate pledges have so far paid little attention to who, in practice, lives on, uses and manages the areas targeted for investment, and even less to their territorial affiliation, cultures, livelihoods and self-determination rights.

Historical precedents are not reassuring. Since at least colonial times, customarily-held lands and territories have been usurped for natural resource exploitation, extraction and strict conservation approaches, leading to the exclusion and forced relocation of IPs and LCs from their ancestral domains (Brockington and Igoe, 2006). The world's reliance on nature-based offsets to meet urgent climate action goals thus comes with high risks. In addition to incentivizing continued fossil fuel emissions, vast tracts of land may be locked up for global climate services, with or without recognition of the rights of IPs and LCs, including their rights to due process and compensation.

This chapter draws on current and emerging research and experience to assess the social-ecological implications of growing demand for nature-based climate action from the perspective of IPs and LCs. It argues that recognition of indigenous and community rights, along with support for their self-determination and just territorial governance, constitute a more effective, equitable and socially just strategy for protecting and restoring ecosystems, while advancing the well-being of the women and men who live in and depend on these areas.

**Section 4.1** of this chapter examines the legal and customary ownership of land areas targeted for the realization of pledges discussed in Chapter 2, and their implications for the people who stand to be affected by these investments. Section 4.2 discusses the historical and contemporary evidence of the struggle for collective tenure recognition, and the injustices that continue to be perpetuated as a result. Section 4.3 explores solutions for sustainability and justice, calling for an approach that ensures IP and LC ownership and control over their lands, with an effective voice and self-determination.

## 4.1 What land?

The land and forest areas required to meet current national climate pledges add up to some 1.2 billion ha. Yet the vast majority of these areas – including lands targeted for biodiversity conservation and forest landscape restoration – are located on the customary lands (see **Box 7**) and territories of indigenous peoples and local communities (Schleicher *et al.*, 2019; RRI, 2020b; RRI *et al.*, 2021; Allan *et al.*, 2022). These IPs and LCs rely on collectively-held lands to meet livelihood needs, and many have developed governance institutions and cultural traditions that are adapted to their biophysical realities and social dynamics. While the customary rights of IPs and LCs are recognized by international law and in many national legal systems, formal recognition and protection of such rights remain weak or inadequate across much of the world, placing them and their lands at the mercy of more powerful interests and priorities.

### 4.1.1 Customary land rights

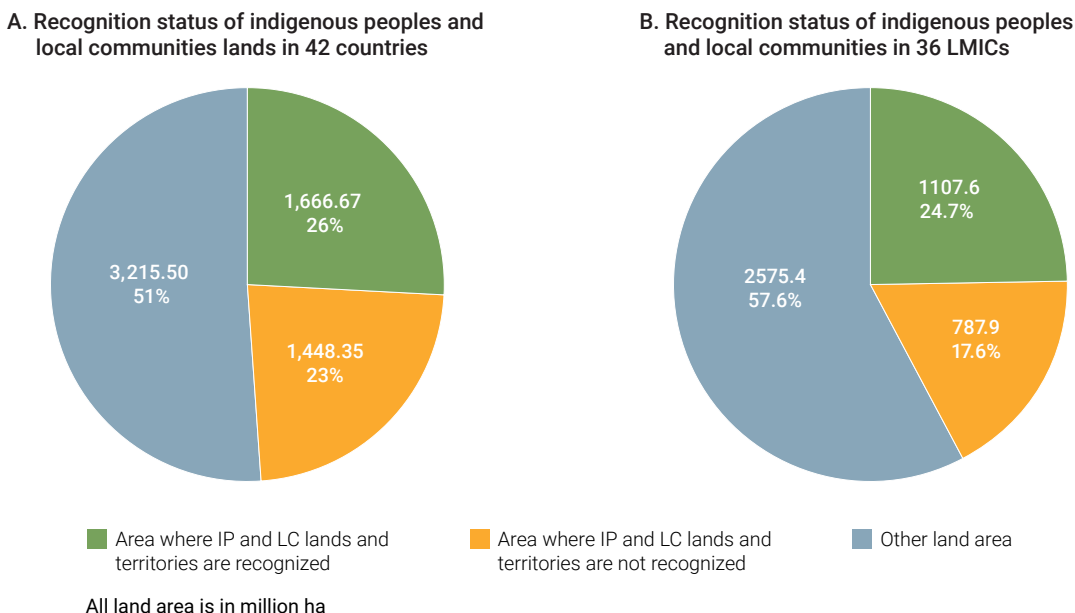
Available data suggests that IPs and LCs hold customary tenure rights to roughly 50 percent of the global land mass (Alden Wily, 2011),<sup>2</sup> but exercise legal ownership over just 10 percent of this area, and designated rights to another 8 percent. As confirmed

<sup>1</sup> For example, see ART-TREES ([www.artredd.org](http://www.artredd.org)) and The Core Carbon Principles ([www.icvcm.org](http://www.icvcm.org)).

<sup>2</sup> The available data demonstrate some variation, in part due to the difficulty of measurement and in part due to what is being measured and where. This includes whether the topic is, for example, lands or forests, and also how IPs and LCs are defined, and which specific countries are included. As a whole, there is similarity, and the estimates are widely considered reliable. Rights and Resources Initiative (RRI) data refer to indigenous peoples, local communities, and Afro-descendant peoples, and the term 'IPs and LCs' should be interpreted as such. Even so, RRI aggregates country-level data on these groups and exact definitions vary between countries. In all cases, however, the defining feature is that lands are collectively held or owned. For simplicity, we use the IPs and LCs abbreviation throughout the chapter. See also Box 5.

Figure 4.1 **Global and regional distribution of land tenure rights**

Status of legally recognized indigenous and community land rights in lower and middle income countries and across a sample of 42 countries, representing 49% of the global land mass (outside Antarctica).



Source: RRI 2020a

by documented evidence<sup>3</sup> and expert input<sup>4</sup> on the customary land rights of communities in 42 countries (comprising half the global land area), IPs and LCs exercise customary rights to at least 49 percent (3,115 million ha of the total area (RRI, 2020a)).<sup>5</sup> Of this, 46 percent (1,488 million ha) remains unrecognized by states, half of which (789 million ha) are located in low- and middle-income countries (LMICs).<sup>6</sup>

These results echo a recent analysis of community-held lands and territories in 24 tropical forest countries (RRI *et al.*, 2021), which shows that IPs and LCs exercise customary rights over at least 958 million ha of land, but hold statutory rights to less than half (447 million ha). Given that community-held lands and territories are among the least developed and most intact land-

scapes on Earth, the likelihood that nature-based climate actions will unfold on customarily-held but legally unrecognized lands or forests is considerable. (see [Figure 4.1](#))

#### 4.1.2 Legal recognition of collective lands

The total area formally owned by IPs and LCs, or designated for their use, represents 1.1 billion ha and 855 million ha, respectively (RRI, 2015).<sup>7</sup> By region, Latin America has the greatest extent of land owned by, or designated for IPs and LCs (23.2 percent, or 435 million ha), followed by sub-Saharan Africa (15.4 percent, or 230.9 million ha), and Asia, (3.4 percent, or 69.4 million ha outside of China, which recognizes community rights to 465.7 million ha). Globally however, 5 of the 64 countries assessed

3 Reviews of national land registries, geographical and anthropological surveys, and available community mapping data.

4 Survey of national/regional land and forest tenure experts.

5 Percent of regional land covered by the study: Africa, 47.7 percent; Asia, 38 percent; Latin America, 93.1 percent; and North America, Europe and Oceania 47.9 percent.

6 Of the three regions with a high concentration of LMICs, Africa holds the greatest proportion of legally unrecognized IP and LC lands, where at least 71 percent of customarily-held lands (504 million ha) in the 14 countries analysed (representing 34 percent of the regional land cover) have no legal protection. In Asia, more than 23 percent of customary land claims (146.1 million ha) remain unrecognized by the 11 countries reviewed (accounting for 54 percent of regional land cover). In Latin America, which has the largest share of legally recognized community lands in the world, nearly one-quarter (24.1 percent or 137.5 million ha) of the lands found in the 12 assessed countries lack legal recognition.

7 Following Schlagger and Ostrom (1992) and RRI (2015, 2017), areas 'formally owned' by IPs and LCs means that their rights of access, withdrawal, management, exclusion and due process and compensation are legally recognized by the state for an unlimited duration. Areas 'designated' for IPs and LCs include access and withdrawal rights, as well as the right to participate in management activities and/or exclude outsiders. The right to alienate a claimed area (in part or in whole, through sale, lease or collateral) is not a conditional requirement to either form of tenure arrangement.

(Australia, Brazil, Canada, China and Mexico) contain more than two-thirds (67 percent) of the lands owned by or designed for IPs and LCs, and two of these (Canada and China) account for nearly 44 percent of the total land area attributed to communities. (See [Figure 4.2](#)) In their absence, the total area owned by, or designated for communities would drop to just 12 percent of the global sum (RRI, 2015).

### 4.1.3 Legal recognition of collective forests

By contrast, the majority of legally recognized IP and LC forest lands are located in low- and middle-income countries. (See [Figure 4.3](#)) According to the most recent survey of 58 countries, which accounts for 92 percent of the world's forests (RRI, 2018), communities legally own at least 12.2 percent (447 million ha) of the global forest area, and have designated rights to another 2.2 percent (80 million ha). Although apparently limited – at 14.4 percent – the total forest area under community control has increased by 40 percent since 2002, and the vast majority of this progress (over 98 percent) has occurred in developing countries. Communities now have legal rights to 28 percent of the developing world's forests in Africa, Asia and Latin America (RRI, 2018).

In terms of overall distribution, Latin America has the greatest forest area owned by, or designated for IPs and LCs (respectively, 240.2 million ha and 51.3 million ha). Communities own 43 million ha of Asia's forests and hold designated rights to 10 million ha outside of China (which recognizes community ownership rights over 124.3 million ha of forestlands). In sub-Saharan Africa, IPs and LCs legally own 22.6 million ha and have designated rights to 9.6 million ha. The 8 developed countries in the analysis (including Canada, the Russian Federation and the United States of America) contain 37.1 million ha of recognized community forestlands – a paltry sum, given that these countries host some of the world's largest contiguous forest areas, and that the whole of North America was previously controlled by First Nations.

### 4.1.4 Legal recognition of indigenous peoples, customary systems and self-determination

The UN Declaration on the Rights of Indigenous Peoples protects the right to self-determination over the governance of internal affairs, as well as "legal recognition and protection" of the "right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership

or other traditional occupation or use". Although the declaration is signed by more than 140 states, implementation of indigenous peoples' right to self-governance and human rights varies significantly across regions and countries.

**Asia** Legal recognition of the customary and self-determination rights of IPs and other traditional communities in Asia is limited, and where statutory provisions exist, legislative gaps and inconsistencies tend to undermine their application (Gilmour, 2016; Basnyat *et al.*, 2018; Lee and Wolf, 2018). To date, a number of countries, including Bangladesh, Cambodia, India, Indonesia, Malaysia, Nepal, the Philippines and Timor-Leste, have adopted legal provisions that provide some autonomy through the recognition of customary justice practices or communal land rights (United Nations, 2020). Some provide constitutional protections to specific peoples or geographic regions, such as in India (Nagaland and Mizoram, in the northeast), Malaysia (Sabah and Sarawak), and the Philippines (the Cordilleras and Mindanao). In Bangladesh, the Chittagong Hill Tracts Accord of 1997 creates a special tripartite administrative system that combines elective, civil servant and traditional indigenous authorities. As in the case of the Lao People's Democratic Republic, however, states will often recognize the presence of ethnically diverse groups, but their rights are neither distinct, differentiated nor acknowledged (Baird, 2015).

**Africa** Indigenous peoples and their unique challenges are seldom reflected in state policies or legislation in Africa. Indigeneity is typically associated with transhumant pastoralism (see [Box 8](#)), hunter-gatherer communities, and dryland horticulturalists or oasis cultures. They include the forest peoples of central and southern Africa, pastoralists of West Africa, including Fulani and Tuareg peoples, forest peoples in East Africa such as the Ogiek, as well as pastoralist groups in East Africa, including Somali, Afars and Maasai, among others.<sup>8</sup> The human rights of IPs in Africa were only recently conceptualized by the Working Group on the Rights of Indigenous Populations/Communities, and adopted by the African Commission on Human and Peoples' Rights (ACHPR) in 2003.<sup>9</sup> To date however, only two countries – the Republic of Congo and South Africa – recognize the distinct collective tenure rights of indigenous peoples and other traditional communities, and only the Central African Republic has ratified ILO Convention 169 on the rights of indigenous and tribal peoples.

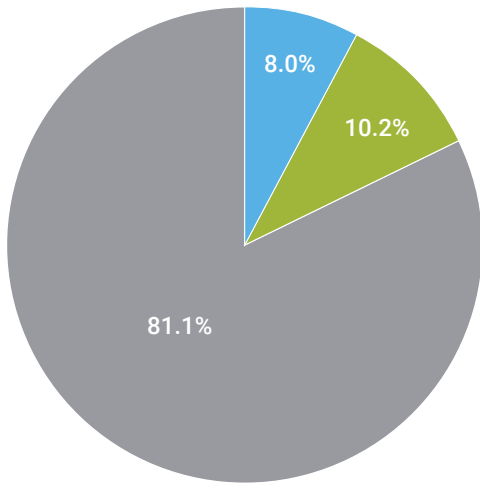
Recent estimates suggest that IPs and LCs customarily manage and use 70 to 80 percent of Africa's total land area (RRI, 2020a), and despite colonial antecedents that promoted state control over all lands except for private landholdings, at least 54 percent of the 54 African states now have legislation recognizing

<sup>8</sup> Indigenous peoples, poverty, and development (Patrinis and Hall, 2012).

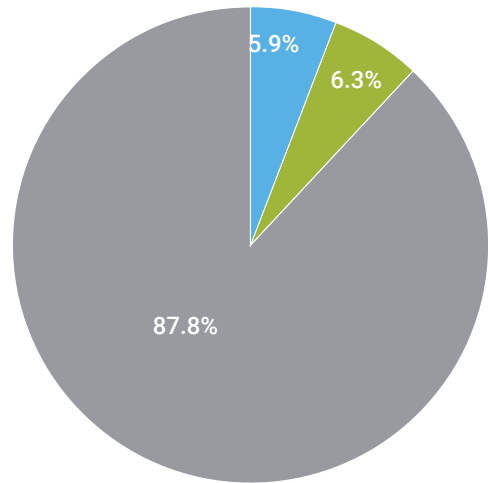
<sup>9</sup> ACHPR & International Work Group for Indigenous Affairs, 2005.

Figure 4.2 **Global and regional distribution of land tenure rights**

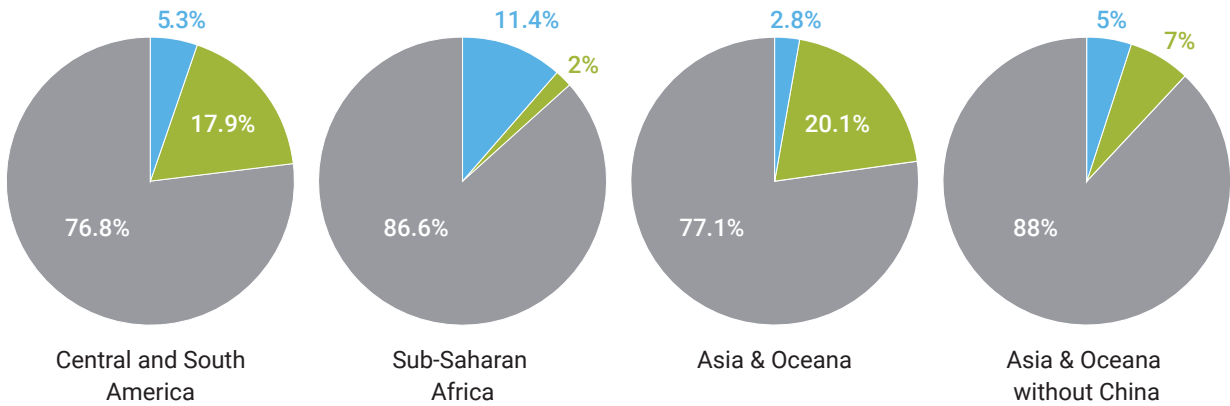
A. Global Land Tenure distribution in 64 countries



B. Global results, excl. Canada and China



C. Breakdowns by Region

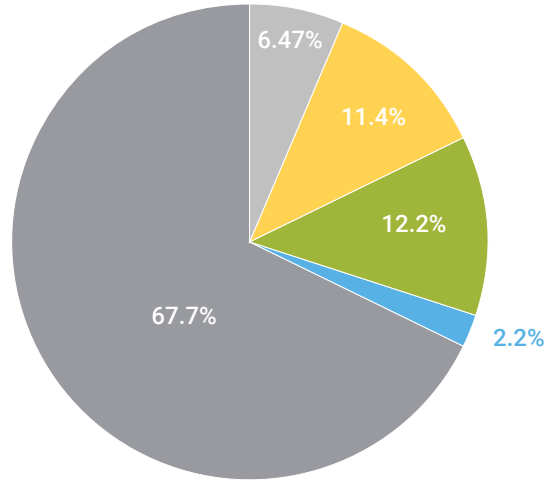


- Area designated for indigenous peoples and local communities
- Area owned by indigenous peoples and local communities
- Area owned by governments or private firms and individuals

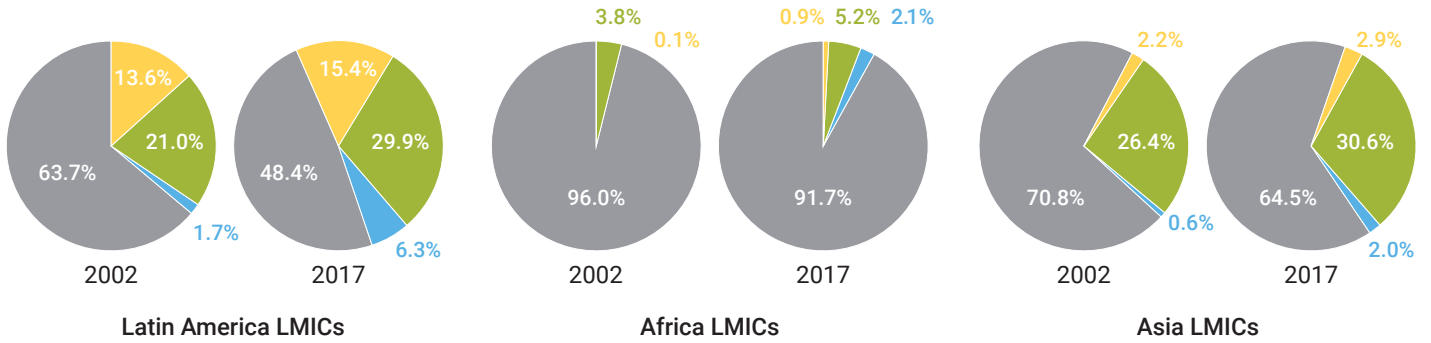
Source: RRI, 2018

Figure 4.3 **Global and regional distribution of forest tenure rights**

Global status of statutory forest tenure across 58 countries, 2017



Regional Graphs



- Owned by indigenous peoples and local communities
- Designated for indigenous peoples and local communities
- Privately owned by individuals and firms
- Government administered
- Unknown Tenure

Source: RRI, 2018

collective tenure (Alden Wily, 2018, 2020). Of these, 21 countries have laws that support collective tenure.<sup>10</sup> However, application is variable: some treat community rights as private property;<sup>11</sup> others provide inadequate protection,<sup>12</sup> or fail to respect such rights altogether.<sup>13</sup>

**Latin America** The Latin American region has gone furthest in recognizing indigenous peoples, often in response to indigenous social movements that have promoted the concept of ‘territory’ as part of a strategy for self-determination. This led to a “significant change in the idiom of land claims” in the 1970s and 80s (Hvalkof, 2002, p.93). “Territory represents a jurisdiction, protected to some extent by law, in which customary norms, cultural reproduction and self-government can be legally exercised” (Larson *et al.*, 2016, p.324). Indigenous organizations used this idea of territory to emphasize control over land and resources as a direct response to racism and exclusion (Bryan, 2012, p.16; Wainwright and Bryan, 2009, p.154), and the model has been widely adopted (although not everywhere, for example in Peru). In addition, all the region’s Spanish-speaking countries, with only three exceptions (El Salvador, Panama and Uruguay), have signed ILO Convention 169. Finally, collective models of recognition have also been applied to Afro-descendant communities, such as in Brazil, Colombia and Honduras, and other traditional communities such as rubber-tappers in Brazil or *riberenos* (communities along river shores) in Peru.

## 4.2 Land and rights: dispossession, recognition and ongoing insecurity

The lands and forests occupied by indigenous peoples and local communities have always been subject to varied and multiple demands, which today are primarily driven by economic pressures and political interests. While growing numbers of countries are adopting laws that recognize IP lands and territories, and/or are signatories to international conventions that support such rights, implementation is often weak, laws are not enforced, and rights are far from secure.

This section explores the experience of, and common obstacles to, recognition and exercising of collective rights to land, territory and resources, including the specific challenges in the case of indigenous and traditional women. We argue that without an

### Box 8 Pastoral communities at risk

Although far less data are available on pastoral lands specifically, pastoralism is a significant customary IP and LC livelihood activity. Pastoralism occupies vast land areas in many countries – areas that are particularly vulnerable to global climate and restoration pledges.

Pastoralism is both an economic activity and a form of cultural identity. It is the predominant livelihood support system practised in Africa’s arid and semi-arid lands, occupying about 43 percent of the continent’s total land mass (African Union, 2010), with at least 50 million people directly dependent on livestock for subsistence (Home-wood, 2008).

Pastoralism is key to the maintenance of dryland ecosystem functions and services, including soil fertility, watershed protection, aquifer replenishment, air quality control, protection against storms, erosion and landslides, and carbon sequestration. Grassy biomes store up to a third of the global stock of CO2 in their soils (Parr *et al.*, 2014). Pastoral livelihood systems allow traditional communities to cope with this difficult dryland environment (Hesse and Cotula, 2006). Land and associated natural resources are managed through common property regimes where access to pastures, water and mineral resources is negotiated and dependent on flexible and reciprocal arrangements. Pastoralism contributes about 57 percent of agricultural GDP in the Intergovernmental Authority on Development Region\* and 30–50 percent in the East African Community.

Despite their demonstrated value, pastoral lands continue to be annexed for uses that are perceived to be more productive, and they are increasingly targeted for land re-orientation, clean energy production (geothermal, wind and solar) and carbon-trade speculation, among others, leading to an ever-shrinking resource base. These interventions are often promoted and implemented with minimal consideration for social and environmental safeguards. Global pledges reliant on land-based CDR increase this risk. Although pastoralism is increasingly acknowledged as a legitimate and appropriate livelihood and production system, actions to secure the collective tenure rights of pastoral communities are urgently needed.

10 Algeria, Angola, Burkina Faso, Côte d’Ivoire, Ethiopia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mali, Morocco, Mozambique, Namibia, Sierra Leone, South Sudan, Tunisia, United Republic of Tanzania, Uganda, Zambia, Zimbabwe.

11 Kenya, South Sudan, United Republic of Tanzania, Mali, Mozambique, Burkina Faso, Uganda, South Africa, Ethiopia, Ghana, Liberia, Angola.

12 Lesotho, Namibia, Zambia, Zimbabwe, Swaziland, Malawi, Sierra Leone, Republic of Congo, Cote d’Ivoire .

13 Angola, Cote d’Ivoire, Ethiopia, Ghana, Lesotho, Liberia, Namibia, Republic of Congo, Sierra Leone, Swaziland, Zambia, Zimbabwe.



understanding of history and power relations, and thus without a social justice lens, attempts to fulfill land-based climate pledges are more likely to perpetuate past and ongoing injustices.

#### 4.2.1 A brief history of dispossession

Throughout history and across the world, indigenous peoples and local communities have consistently faced threats of forced evictions, whether for their land and its resources or to control the people themselves, in order to meet the labour demands of feudal and later, capitalist economies (Sunderlin and Holland, 2022).

According to records dating back to 700 Before Common Era (Dixon and Sherman, 1991), forest estates were usurped by kings and nobles for hunting grounds (Fay and Michon, 2003), and later to secure economic opportunities (Peluso, 1992). Under colonialism, ideas of moral and racial superiority combined with economic interests to drive the occupation and usurpation of rural lands throughout the global South, as well as in North America (Sunderlin and Holland, 2022). More recently, similar ideologies have formed the basis for evicting and displacing local peoples for the establishment of protected areas (Adams and Mulligan, 2003). Throughout, IPs and LCs were a common target, seen as ‘backwards’ or in need of ‘modernization’, but most often ignored, marginalized and forcibly displaced from their ancestral homes.

In Latin America, the end of colonialism in the early 1800s brought little relief to indigenous peoples (Larson, 2007). Indigenous policies under independence evolved from enslavement and annihilation to forced removal to reservations, and, finally, to *indigenismo*, or assimilation, which was broadly adopted by 1940 and was still predominant in laws enacted as recently as the 1980s, aiming “to transform Indians into undifferentiated citizens” (Van Cott, 1994, p.260; Stavenhagen, 2002). Those who chose to maintain their indigenous identity thus remained excluded (Eckstein and Wickham-Crowley, 2003). In Peru, until the 1960s, indigenous peoples’ constitutional right to vote was restricted to those who had land titles and were literate (Eckstein and Wickham-Crowley, 2003). With regard to land, very few governments recognized rights, except in cases where land access favoured cheap labour and tax collection (Corazao, 2003). Slave labour conditions still continue in some places (Castellanos-Navarrete, *et al* 2021).

For decades, and through much of the twentieth century, Latin American states fostered the colonization of indigenous territories located in the vast tropical forests of the Amazon and Central America. This entailed registering these lands as state property, ignoring historical rights; assigning land and other resource rights (such as mining, logging and fossil fuel extraction) to third parties; promoting infrastructure and other national proj-

ects in these regions without consultation or consent of these groups; and criminalizing IPs when they fought back (Smith, 1969; Nelson, 2013). These policies were broadly supported not only by national governments, but also by international financial institutions in the name of development. Colonists were celebrated as ushering in progress by taming the wilderness and “bringing civilization” to the jungle (IDB, 1977; Larson, 2010).

In Asia, the historical trajectory of colonialism and dispossession is highly varied, and includes diverse forms of colonization and the usurpation of customary rights of indigenous and local people from 2,000 different civilizations (Errico, 2017). For example, colonialism in Southeast Asia dates back to the early sixteenth century, involving European colonial powers, followed by the Japanese, and into the twentieth century with the involvement of the United States of America (Yousaf, 2021). In Taiwan, many Chinese settlers drove out indigenous inhabitants from the fertile lowlands after the establishment of the Dutch trading settlements. In India, British administrators imposed the 1865 Indian Forest Act, in response to deforestation caused by colonial timber extraction, which effectively gave state rights to all forest areas previously under customary management systems (Mitra and Gupta, 2009). This centralized British colonial system is so entrenched that even radical attempts to revert community rights (such as the 2006 Forest Rights Act) has had limited success (Lee and Wolf, 2018).

Each colonizer imposed its specific political, economic, social and cultural regime (Tauli-Corpuz, 2008), and land – largely owned by indigenous peoples – was seen as a crucial resource due to its associated wealth and strategic advantages (Murphy, 2009). In Sarawak, Malaysia, the British colonial government saw the *Iban* land tenure system – a longhouse with territories for cultivation, fishing and hunting – as a major obstacle to development. In an effort to ‘modernize’ society, the 1957 Land Code was introduced; this provided individual land titles, followed by seizure of whatever was left (Perera, 2009). In the Philippines, separate Spanish and American colonizers produced two different cultures and identities among indigenous groups (Tauli-Corpuz, 2008). As in Latin America, some national governments adopted assimilation policies, such as Japan’s Former Aborigines Protection Act 1899, aimed at transforming the identity and rights of the Aunu people, and resulting in widespread dispossession (Erni, 2008).

The African continent has a centuries-long history of trade with, and exploitation by, European powers, but a relatively recent period of colonial rule – which has nevertheless left a mark on land and forest tenure. Ivory, slaves, gold and gems were some of the main commodities sought after by European powers prior to colonization. Rapid colonization – also called the scramble for Africa (Jaffe, 1985) – began towards the end of

the nineteenth century. Colonization implied different forms of racialized despotism that resulted in the dispossession of native people (Mamdani, 1996), as well as taxation, forced labour and cropping arrangements, and other ways of appropriating value. Customary authority was instrumentalized by colonial rulers to ensure control by entrenching divisions. In terms of land tenure, across the continent colonial forest and conservation estates excluded native peoples. In Kenya, native peoples were forced into inferior ‘native reserves’, where ‘closed district’ policies restricted interaction with neighbouring indigenous communities. Although these efforts were thwarted by resistance and lack of resources, lines drawn on maps continue to have consequences today (Hansen and Lund, 2017; Bluwstein, 2019).

The colonial legacy lives on in many African nations as ongoing, yet incomplete, attempts at establishing state control over land, and as a set of ideas, reproduced in educational institutions and bureaucracies, about the proper use of landscapes. These ideas disfavour the interests of IPs and LCs (Lund, 2015, Sungusia, *et al* 2020a), despite conservation and development programmes that increasingly emphasize participation (Dressler *et al.*, 2010), and a proliferation of instruments such as free prior and informed consent and Voluntary Guidelines on Business and Human Rights. In recent decades, conservation has continuously regressed towards recentralization and militarization (Asiyanbi 2019; Mabele 2016).

#### 4.2.2 Two steps forward, one step back

A variety of reform processes, especially in the second half of the twentieth century, marked the beginning of statutory changes in the recognition of IP and LC collective land and forest rights. In Latin America, the Mexican Revolution led to the first significant land law recognizing agrarian and *ejido* communities in 1915 (Agrarian Law, 1915). In Panama, the first indigenous *comarca* (then called San Blas and now known as Guna Yala) was recognized in 1953, leading to formal recognition of indigenous territorial rights in the 1972 Constitution (Roldan, 2004); Peru followed closely with the recognition of collective tenure and titling of indigenous communities in 1974; many other Latin American countries followed in subsequent decades. The most important reforms in the region, however, have been the demarcation and titling of IP and LC lands, with significant progress made especially in Brazil, Colombia, Honduras, Panama, Peru and Nicaragua in the last 30 years. According to RRI (2018), during the 2002–2017 period, Latin America alone accounted for 75 percent of the total increase (86 million ha) in forest area owned by IPs and LCs globally (based on 41 complete case countries). Nevertheless, important challenges remain. In Peru, forest reforms undermined the scope of land rights by reversing indigenous rights for forest

**Without an understanding of history and power relations, and thus without a social justice lens, attempts to fulfil land-based climate pledges are more likely to perpetuate past and ongoing injustices.**

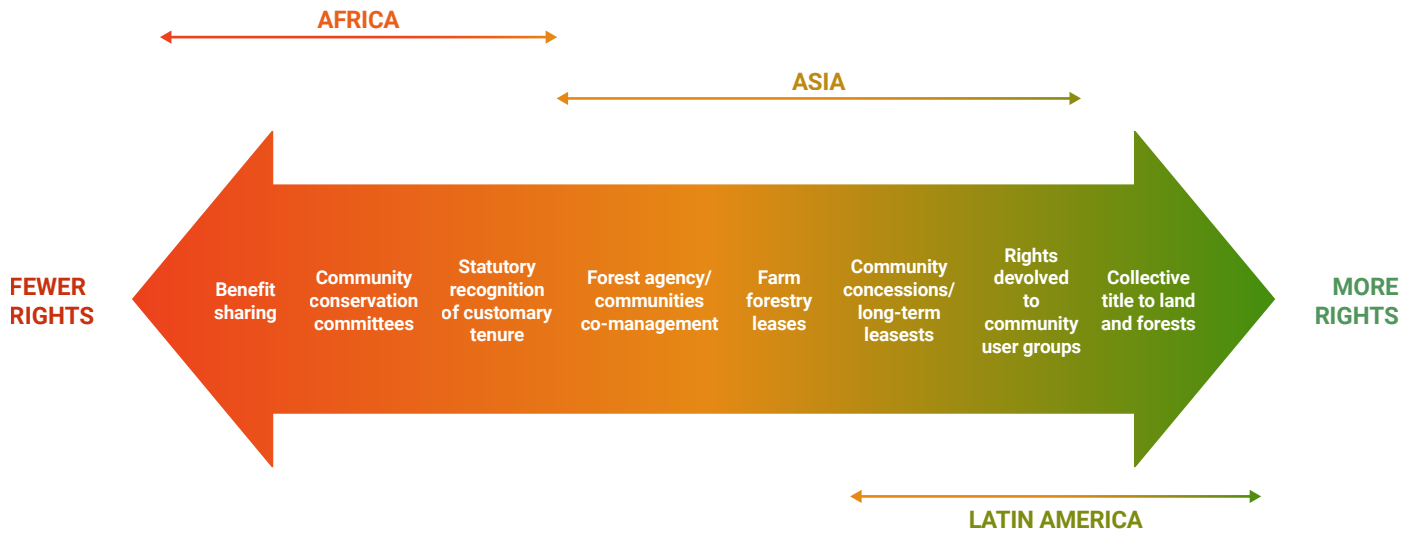
land (Notess *et al.*, 2020); in Nicaragua, the Government has made little effort to stop the ongoing invasion of indigenous lands by non-indigenous settlers; the case of Brazil under former President Bolsonaro has demonstrated that even apparently secure rights can be undermined (Mantovanelli *et al.*, 2021).

In Asia, beginning in the late 1970s and early 1980s, a few countries began to grant limited collective tenure rights to communities. Concerns over deforestation led to social movements in South Asia that prompted governments to devolve some aspects of forest rights to communities (Poffenberger, 2000). These included community forestry initiatives (called social forestry) in Nepal (Fisher, 1989; Gilmour, 2003; Gilmour and Fisher, 1991; Malla, 2001) and India, which mainly provided degraded areas for tree planting to take pressure off forests (Saxena, 1997). Although the initial motivation of this devolution was restoring, conserving and sustainably managing forests rather than recognizing rights (Larson and Dahal, 2012), countries like Nepal have now significantly devolved rights through legislative reforms (Kanel, 2008; Ojha *et al.*, 2009). In Indonesia, 97 adat communities (almost 50,000 households) have now received titles to 84,000 ha of customary forests since the 2012 Constitutional Court decision (number 35/PUU-X/2012),<sup>14</sup> although the Government prefers to promote its social forestry model (Safitri, 2022).

The majority of African nations have seen new constitutions and land laws since 1990, many of which have supported decentralized and collective land rights (Alden Wily, 2022). These efforts have also shaped the recognition of local communities’ rights to use and manage forests and trees. In the United Republic of Tanzania, for instance, villages can declare forest reserves on village land and thereby, in principle, obtain full rights to use and sell products from them, as well as to exclude others. However, in

<sup>14</sup> Source: [https://forestpeoples.org/sites/default/files/news/2013/05/Constitutional\\_Court\\_Ruling\\_Indonesia\\_16\\_May\\_2013\\_English.pdf](https://forestpeoples.org/sites/default/files/news/2013/05/Constitutional_Court_Ruling_Indonesia_16_May_2013_English.pdf)

Figure 4.4 Common models of forest tenure reform



Source: Based on Lawry and McLain, 2012.

practice these rights are often curtailed by specific forest regulations and implementation practices (Sungusia *et al.*, 2020a; Ece *et al.*, 2017). Kenya’s new constitution and land act have paved the way for communal land tenure (Alden Wily, 2022), although forests are still based on a co-management model, largely controlled by the forest bureaucracy (Mutune and Lund, 2016).

These changes have emerged for a variety of reasons. They include the acknowledgement that state-led forest management had failed; greater acceptance of the commons (Ostrom, 1990), collective and customary systems; a decline in the value of forests that were already stripped of their timber wealth; decentralization policies around the world that were shifting responsibilities to subnational governments; and the increasing effectiveness of international and national social movements in support of indigenous peoples’ rights (Larson and Dahal, 2012; Barry *et al.*; 2010, Sunderlin and Holland, 2022). Social mobilization of IP groups and other traditional communities was key in further advancing the recognition of collective rights to land and resources (see, for example, Larson *et al.*, 2015b).

International progress has also influenced national policies. Importantly, in 1989 ILO Convention 169 recognized the social, economic and cultural rights of indigenous and tribal peoples,

as well as the right to their traditional lands and territories. The convention was ratified by almost all Latin American countries, but not those in Asia or Africa. The UNDRIP, recognizing the right to self-determination (Article 3), was passed with much broader support in 2007, with 144 countries signing it;<sup>15</sup> however, unlike ILO Convention 169, UNDRIP is non-binding. Nevertheless, in decisions made at Conferences of the Parties, UNDRIP has been recognized. Examples include the Cancun agreements and decisions taken with regard to the Local Communities and Indigenous Peoples platform. In Latin America, a landmark Inter-American Court ruling in Nicaragua recognized indigenous peoples’ land rights and established an important precedent for the region, supporting demarcation and titling in accordance with indigenous peoples’ “customary laws, values, customs and mores” (Anaya and Grossman, 2002).

Reforms have continued to the present time, with substantial variation in terms of the extent, type, duration and security of rights granted. **Figure 4.4** provides a simplified continuum of forest rights recognition, from fewer and shorter-term to more substantial, long-term rights. The graphic provides a typology of some of the main models for granting collective rights specifically to forests and placing them in a regional context. On the weaker end of the spectrum, the models include revenue sharing,

15 The four countries voting against it in 2007 have since all reversed their positions. See: [www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html](http://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html)

community conservation committees and formal recognition of customary tenure regimes, which are common in Africa, as recognized at the constitutional level in the Gambia, Mozambique, Namibia, South Africa and Uganda, but less so elsewhere (Monterroso *et al.*, 2021; Alden Wily, 2018). Asian countries are the most diverse, with a strong emphasis on co-management arrangements, and Latin American models provide the most extensive and secure rights – including collective titles in perpetuity. All along the spectrum however, IPs and LCs face numerous challenges (Notess *et al.*, 2020; Monterroso *et al.*, 2019; Larson and Springer, 2016).

### 4.2.3 Threats to security for lives and livelihoods

Despite improvements in the extent and depth of rights recognized across regions, communities face increasing risks of violence, criminalization and rollbacks due to rising demand for land and resources, corruption, and a marked political shift towards populist and authoritarian regimes, as well as the closing of civic spaces or opportunities for collective action. As Ostrom (1990) points out, rules in form should not be confused with rules in use. Legally recognized tenure rights do not necessarily ensure tenure security, nor the ability to exercise those rights (Monterroso *et al.*, 2019). There are a number of reasons why legal recognition does not guarantee rights. These are set out below, grouped into four main challenges. Failure to address these issues will make the persistence of injustices more likely, even with well-meaning policies.

#### 1. Resource competition and opposition to IP and LC rights

The global thirst for resources is such that even where community rights are clear and robust, efforts to enforce collective land and resource rights are often met with pushback, competing claims, and threats by more powerful actors. Whether in Africa, Asia or Latin America, communities face increasing threats, competing land interests, contrasting worldviews (Larson and Springer, 2016; Monterroso *et al.*, 2017), and the subtle tendency to recentralize power in favour of extractive industries, infrastructure and agro-industrial projects. Among other things, this has led to increasing attacks on land and environmental defenders, as reported from the Philippines (Dressler and Smith, 2022), Cambodia (Lambrik, 2019) and numerous other countries (Verweijen *et al.*, 2021). Increasingly, these pressures are being driven by green technology proponents and the growing demand for renewable energy.

Competition for resources may sometimes be forged by local elites or private investors, but it is more often led by states, whether for public or private interests. Examples include biodiversity-rich natural forests converted to plantations in India's Western Ghat, leading to the loss of livelihoods of indigenous peoples,

their knowledge and their territorial rights (Vijayan *et al.*, 2021); oil palm expansion in West Papua, Indonesia, where at least 15 percent of forests have been gazetted for conversion (Runtuboi *et al.*, 2021); neoliberal market reforms curtailing IP and LC rights (Hughes, 2008; Leemann, 2021); land and forest concessions excluding people from their land in Bunong villages in Cambodia (Hak *et al.*, 2022); and land invasions in Brazil under the Bolsonaro presidency (Mantovanelli *et al.*, 2021). Politicians may also see an opportunity to claim land (see, for example, Larson *et al.*, 2015a), obtaining advantage during formalization processes.

#### 2. 'Expert'-led conservation and sustainable resource management

Biodiversity conservation, sustainable forest management and climate change interventions are broadly considered 'expert' domains, where traditional knowledge and lived experiences play a peripheral role, and the presence of IPs and LCs are most often regarded as part of the problem rather than the solution. These ideologies are based on professional training and bureaucratic cultures that foster suspicion of local people and undermine the spirit of participatory reforms (Sungusia *et al.*, 2020b; Agarwal, 2001).

Throughout the world, IPs and LCs continue to bear the brunt of fortress conservation measures, leading to forced evictions, human rights violations, criminalization and continued threats of violence – often with the complicit support of international conservation (Tauli-Corpuz *et al.*, 2020). The Ogiek community in Kenya failed to obtain their land rights in spite of a ruling by the African Court on Human and Peoples Rights that their property rights had been violated (Kibugi, 2021). Attempts to reconcile community interests with protected areas have sometimes met with militarization of biodiversity conservation, as in Nepal (Basnyat *et al.*, 2018; Dongol and Neumann, 2021).

Climate mitigation strategies, such as REDD+, have sometimes failed to respect indigenous peoples' rights, as defined by international law and conventions (Milne *et al.*, 2019), in part due to a worldview that fails to see local people as allies and equal partners (Sarmiento Barletti and Larson, 2017). There is a rich literature on how existing 'technical' and 'scientific' narratives on climate change demonstrate the inability to engage with other forms of knowledge (such as indigenous, women's) (Nightingale, *et al.*, 2020). These value systems have excluded IPs and LCs from recognition as right-holders, knowledge-bearers (Prowse and Snilstveit, 2010; Nikitas *et al.*, 2019) and decision-makers, reflecting the power relations that determine whose knowledge and values count.

#### 3. Bureaucratic and logistical obstacles

Communities often face procedural or administrative hurdles in their efforts to secure or exercise their rights. Challenges may be

bureaucratic in origin, or logistical, such as funding and capacity gaps to implement reforms, or the complexity of handling competing and overlapping claims. Concerted efforts by civil society organizations and governments to advance favourable policy reforms may easily be distorted or undermined by such problems.

The formalization of IP and LC rights to land is rarely a simple process. Forest tenure reforms, for instance, generally involve obligations to maintain or restore devolved areas; important state co-ownership, co-management and regulatory authority; the attribution of distinct forest rights to different user groups; and the need to formalize governance structures, user groups or community associations to act on behalf of the community. Demarcation almost always requires strict boundaries, even where these did not formerly exist. Informal common-property arrangements between neighbouring communities may need to be divided, shutting out less powerful groups, such as pastoralist communities, from their traditional territories, grazing areas, or previously held freshwater rights (Flintan, 2011). The anticipation of demarcation and titling can lead to competing claims or land grabs by third parties, including settlers and migrants, or to clearing of land for agriculture as a strategy to pre-empt the restrictions and costs associated with formalization (Sungusia and Lund, 2016). In addition, responsible public agencies seldom have the capacity or experience needed to understand the underlying social complexities and histories of devolved lands and territories. Fragmentation of land and resource rights are common, forcing distinctions between land and forests, trees and tree products, and now carbon, multiplying the number of government institutions involved, and hence their claims of authority over specific arenas. Such fragmentation often leads to even greater challenges for the recognition of collective rights over territories, including the multiplication of procedural steps with distinct agency sign-off authority, which can involve up to 20 formal and 2 to 3 times as many informal permitting requirements for the formalization of a single community title (Notess *et al.*, 2020). Difficulties are often compounded by critical inter-agency coordination challenges and transaction costs that can impede support for rights recognition (Myers *et al.*, 2022).

#### 4. Elite capture and inequality at local level

Rights to resources, especially in traditional and collective systems, tend to be varied, complex and often overlapping, shaped by histories and underlying power dynamics. In processes of formalization or rights recognition, the failure to understand these dynamics can contribute to elite capture and/or to the reinforcement of inequalities.

Elite capture has emerged as a prominent problem in two overlapping dimensions: (i) between IPs/LCs and others; and (ii) within IP and LC groups. These are overlapping because it refers,

**Climate mitigation strategies have sometimes failed to respect indigenous peoples’ rights, as defined by international law and conventions, in part due to a worldview that fails to see local people as allies and equal partners.**

#### Box 9 Women’s rights in indigenous and local communities

A legal analysis of the extent to which community-based tenure regimes\* recognized women’s rights to community forests in 30 countries found substantial progress across three overarching indicators at country level, but significant gaps at regime level:\*\* only 3 percent recognized women’s voting rights at community level, only 5 percent acknowledged women’s leadership, 10 percent recognized inheritance rights, 18 percent defined mechanisms of dispute resolution in conflicts that affected women, and 29 percent recognized women’s rights to membership (RRI, 2017). In another five-country socio-legal analysis, barriers in the recognition of women’s rights in legal and social norms were linked to: i) legal constraints emerging from implementation gaps, a lack of awareness, and the enforcement of policies and laws at local level; ii) overlaps and contradictions between customary regimes and formal arrangements; and iii) discriminatory social norms and practices at institutional and community levels that limit the recognition and realization of women’s legal rights (Monterroso *et al.*, 2021).

At the local level, dual layers of exclusion may exist, as women, youth and other marginalized groups may not be considered members of the collective, and existing norms and social practices can limit the ability of women to benefit from and/or exercise their rights, even when protected in statutory law (Meinzen-Dick *et al.*, 2021). Further, women’s customary rights often depend on those of their male counterparts (father, husband, brother, son), and the security of those rights – such as their ability to inherit land – may be vulnerable, depending on their marital status or their age. It is important to understand the power relations that determine when and how certain women may become vulnerable (Djouidi *et al.*, 2013, 2016).

\* Community-based tenure regimes were understood as a distinguishable set of national, state issued laws and regulations governing the right to manage resources held at community level.

\*\* Eight indicators assessed by this study included three overarching indicators: 1) constitutional equal protection; 2) affirmation of women’s property rights; and 3) inheritance in overarching laws. Five community-based tenure regimes indicators include: 4) membership; 5) inheritance in community-based tenure regime -specific laws; 6) voting (governance); 7) leadership (governance); and 8) dispute resolution.

### Box 10 Only a few countries prioritize land rights in their NDCs

The Paris Agreement explicitly mentions indigenous peoples in the Preamble and in reference to traditional knowledge,<sup>\*</sup> and COP decisions, both before and after Paris, have recognized IPs and IP rights. While Articles 4-6 call for the integration of land- and forest-based climate mitigation and adaptation strategies within Parties' Nationally Determined Contributions (NDCs), states are neither invited nor encouraged to consider the recognition and inclusion of IP and LC rights and contributions in the realization of those objectives.

RRI's review of NDCs in 2016 and 2019 (see NYDF 2019) revealed that fewer than 25 of 165 submissions referenced non-binding commitments to advance or uphold the rights of indigenous peoples, local communities and women within these groups, and only one (Cambodia) had quantifiable targets for the advancement of IP and LC land rights (RRI 2016, NYDF 2019). Preliminary evidence from the most recent review of commitments made by 31 of the most important tropical forest countries, which contain 70 percent of the world's tropical forests, shows that at least 10 presented non-binding actions to support indigenous and community rights and participation, and one (Nepal) had quantifiable targets. Interestingly, Cambodia appears to have backtracked on its previous commitments, and other countries have either diminished initial commitments (such as Indonesia) or make claims that cannot be achieved in their current context (such as Honduras and Nicaragua).

In contrast to the lack of attention paid to IPs and LCs, however, 78 percent of NDCs revised by 2021 mention gender or women, and they are increasingly referenced as stakeholders and agents of change, rather than just as 'vulnerable' (IUCN, 2021). In Sierra Leone for example, the NDC considers gender and social inclusion issues with a focus on women, youth and elderly persons with disabilities in their national priorities.

\* The Center for International Environmental Law and IIPFCC have done 3 compilations on IPs and traditional knowledge in the context of the UNFCCC: [www.ciel.org/reports/indigenous-peoples-traditional-knowledge-un-climate-change/](http://www.ciel.org/reports/indigenous-peoples-traditional-knowledge-un-climate-change/); [www.ciel.org/reports/indigenous-peoples-traditional-knowledge-unfccc-2019/](http://www.ciel.org/reports/indigenous-peoples-traditional-knowledge-unfccc-2019/); and [www.ciel.org/reports/indigenous-peoples-and-traditional-knowledge-in-the-context-of-the-un-framework-convention-on-climate-change-2020-update/](http://www.ciel.org/reports/indigenous-peoples-and-traditional-knowledge-in-the-context-of-the-un-framework-convention-on-climate-change-2020-update/).

in the first case, not only to other local people claiming lands (as in point (i)), but also to different community governance arrangements that determine who can be considered a member of the collective (Meinzen-Dick *et al.*, 2021), and the complex rules for outsiders, newcomers and migrants. Hence rights recognition requires a transparent process for identifying legitimate claims, preventing land grabs and assuring effective representation and the participation of everyone affected.

Within collectives, land is not always owned or accessed equally by all members, so formalization risks increasing the authority of those who are already more powerful (Larson *et al.*, 2015) and/or failing to include important land and resources used by collective members. For instance, participatory mapping processes have demonstrated that men and women may use different areas and resources (Larson *et al.*, 2019; see also Fortmann, 1985; Gallagher *et al.*, 2020); engaging only with 'household heads' marginalizes youth and women (Elmhirst *et al.*, 2017), who may not be recognized as full, voting members of the community, putting at risk their ability to access and benefit from land and resources (see Box 9).

## 4.3 Ways forward for sustainability and justice

As made clear in this chapter, climate, conservation and restoration pledges cannot be met without engaging indigenous peoples and local communities (but see Box 10). This raises a number of critical questions, namely: *how will IPs and LCs be engaged? With what and whose priorities? And based on what principles or values?* Throughout the world, recognition of IP and LC rights to land, resources and territory has been partial, limited and fraught, marked by competition, opposition, violence, elite capture, and consistent capacity and funding gaps. Despite this, indigenous peoples and local communities have proved to be effective stewards of the world's natural resources (FAO and FILAC, 2021). In short, evidence shows that forest lands that are legally held by communities exhibit lower rates of deforestation, store more carbon, harbour more biodiversity, and benefit more people than lands managed by either public or private entities. Yet the potential is so much greater, should these peoples and communities ever receive support for their stewardship, grounded in genuine participation, secure rights and access, and locally embedded solutions, co-designed to be context-specific, flexible and adaptive.

We argue that the most effective and just way forward is to ensure that IPs and LCs have legitimate and effective ownership and control of their land, and a strong voice to self-represent and engage on equal terms – ultimately exercising self-deter-

mination – in the pursuit of actions that directly or indirectly affect their lands, territories and collective rights. As recognized by the IPCC (2021): “Supporting Indigenous self-determination, recognizing Indigenous Peoples’ rights, and supporting Indigenous knowledge-based adaptation is critical to reducing climate change risks and effective adaptation (very high confidence).”

However, as global policy for climate mitigation and landscape restoration gains further impetus, the risk of dispossession and marginalization of IP and LC rights actually increases. These new imperatives are now supported by programmatic interventions that prioritize technical efficiency and short-term gains (easily quantifiable results) over system-level changes (transformations) that prioritize indigenous and local people’s perspectives, voices and knowledge (Fleischman *et al.*, 2022). Surrendering to the urgency of the climate crisis without due consideration of social-ecological implications “can override, both accidentally and deliberately, the slow and messy processes of participation and democracy, and of assuring the rights and livelihoods of Indigenous, local community and smallholder women and men” (Larson *et al.*, 2021).

### 4.3.1 A call to rethink the approach

The roots of these challenges run deep. To steer away from the risks of the current moment and towards new potential requires fundamental rethinking. The currently dominant approaches to forestry, conservation and land-based mitigation are embedded in institutions and worldviews, in “political economies of expertise”, and in “educational practices and institutional socialization” that are exclusive (Lund *et al.*, 2019, p.5). Further, these perspectives portray conceptions of “national development and ‘progress’ as driven by large-scale private investments”, and assumptions about communities as drivers of resource degradation (Larson and Springer, 2016, p.13), not to mention racism, sexism, classism and colonial logics (Gutiérrez-Zamora, 2021; Collins *et al.*, 2021).

The first step towards moving beyond such logics is to acknowledge their role in shaping thought and practice, particularly among resource and development professionals. This may require questioning and, ultimately, unlearning taken-for-granted ideas and beliefs about ecologies, histories and peoples (Trisos *et al.*, 2021). Such a rethink will not be easy, as it is likely to challenge aspects of personal identity, fundamental beliefs, and broad notions of universal forms of expertise that characterize international conservation and development (Li, 2007; Mosse, 2005). It means stepping outside the frameworks we take for granted and questioning our understanding – it means being anti-colonialist. This would require greater engagement with key principles of decolonial thinking (Trisos *et al.*, 2021), including:

1. Acknowledging place-based histories. Conservation and development interventions should start by examining and openly acknowledging the specific histories of place, including who resided on these lands previously, for example in pre-colonial periods.
2. Putting place-based knowledge on an equal footing with outside perspectives. The knowledge of people living in a particular place, as well as national actors, must be put on equal footing with that held by international conservation and development ‘experts’. This must be done in ways that avoid the trap of nativism, and in recognition that all knowledge is partial and provides different perspectives on a particular reality.
3. Respecting different values associated with land. The values associated with land go beyond the economic and social values that tend to dominate thinking within conservation and development arenas. They may include culture and self-determination, as well as worldviews about place and belonging – a broader concept (especially for IPs and LCs in Latin America) that is better encompassed by the idea of territory.
4. Co-producing solutions. The ideas presented here call for locally adapted and flexible models, co-designed with local people, and based on long-term engagement with IPs and LCs, which permits understanding and trust-building over time. This requires reflexive approaches that embrace humility and openness to learn, and a deep sense of mutual respect and commitment to exchange between different forms of knowledge (Sarmiento Barletti *et al.*, 2021).
5. Unpacking the community. The idea of community itself needs to be problematized, and understood from an intersectional perspective that recognizes gender, ethnic, class and other forms of differentiation. Such internal politics within communities may not be immediately visible to well-intentioned outsiders – hence the importance of longer-term engaged co-learning processes.

Embedded biases require positive actions – in support of social justice – to overcome them. This need for change is not only just, but also pragmatic.

### 4.3.4 From ‘rethinking’ to action: Engaging the politics of change

Turning words into actions, indigenous peoples and local communities should not simply be ‘safeguarded’ from the potential harms of climate and restoration pledges, nor should they be viewed as mere ‘beneficiaries’ of potential ‘co-benefits’. Rather,

they should be regarded as rightful allies, partners and decision-makers in the definition of both the problems we face and the solutions we develop. Achieving such ends will require nothing short of a paradigm shift in the way that IPs and LCs have thus far been considered, engaged and involved in decisions and processes that directly or indirectly affect their rights.

Moving from safeguards, to inclusion, rights-based approaches, and eventually self-determination, requires globally-relevant and locally-specific actions that can address political and economic obstacles across scales, sectors and geographies. Global initiatives that count on country and local rollout, even if clearly intended to support indigenous groups, may not have any chance of success without a concurrent effort to proactively 'translate' intentions and win over implementers to new ways of doing business on the ground (Sarmiento Barletti *et al.*, 2021). Such initiatives also need to recognize that they are taking place in the context of particular national policies, national and local histories, economies and cultures that have almost always discriminated against IPs and LCs. Without care being taken to actively challenge and rethink cultures and beliefs, and specific attention paid to anti-discrimination, such initiatives are likely to reinforce the status quo.

Securing IP and LC rights is not a straightforward process. Too often the wave of positive change initiatives in public debate and political discussions lose traction or become distorted when they enter the core domains of public choice, thus suggesting the need for a strategy to engage with government machineries for translating policy ideas into action. Sustainable and just solutions require commitment over time, long enough to build trust and mutual understanding. And because rights are never won for good, but must be constantly fought for, they depend on human agency to define, apply, monitor and enforce the norms and institutions that underpin rights-based relationships. Like democracy itself, they require recurrent, progressive and deliberative forms of engagement to be sustained and rendered relevant across time and space (Ostrom, 1997).

## 4.4 Conclusions

Drawing on the evidence presented in this chapter, it is clear that land-based climate ambitions cannot be realized in the absence of dedicated efforts to advance the legal recognition and protection of the land, resource and territorial rights of indigenous peoples and local communities, including those of mobile peoples and other rural minorities. It is also clear that the global climate agenda cannot be pursued at the expense of community voices, including their rights to free, prior and informed consent, their rights to self-determination, and their right to active, effective, meaningful and informed participation in the planning, implementation and monitoring of all projects, programmes or initiatives that directly or indirectly affect their land, territorial or resource rights.

Safeguards alone will not achieve such ends. Realizing the rights outlined here requires the active and effective involvement of governments, international organizations, companies and investors, and the integration of such rights in the laws, standards and procedures used to guide all landscape-level investments, regardless of their nature, purpose and end use. Moving forward, it is clear that more financing, political support, capacity building and coordination will be required to meet the global challenge of achieving a more just, equitable and sustainable climate-resilient future. The historic pledge of USD 1.7 billion, announced at COP 26 (Ford Foundation, 2021) to secure, strengthen and defend indigenous peoples' and local communities rights to their lands and forests, is an important step in the right direction, but more is needed. RRI estimates that at least USD 10 billion is required to increase the recognition of tenure rights of IPs and LCs to 50 percent of forests owned by or designated for local peoples in low and middle-income countries (up from the current 30 percent – an additional 400 million additional ha of tropical forest). However, the need for investment is far greater, when costs of building and maintaining capacities and supporting the development of robust and sustainable institutions are considered.

To fundamentally change our fossil-dependent global economy, climate solutions need to move away from overly simplified models of nature-based GHG removals and emissions avoidance schemes in the global South. In addition to furthering the injustice and inequality of colonial norms and approaches, reliance on nature-based solutions to achieve carbon neutrality risks accelerating demand for land, while locking in the world on a path of unprecedented global warming – regardless of their purported integrity. The legal recognition and protection of the rights of the world's most vulnerable peoples is nothing less than the litmus test of our global resolve to undertake urgently required societal transformations.