



WORLD
RESOURCES
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THE SCRAMBLE FOR LAND RIGHTS

*Reducing Inequity between
Communities and Companies*

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An aerial photograph of a lush tropical forest. In the foreground, a wide, muddy-brown river flows through the landscape. On the left bank, a small cluster of buildings, including a prominent blue-roofed structure, is visible. The forest extends to the horizon under a sky filled with heavy, grey clouds.

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FOREWORD

A new scramble for land is heating up across the developing world. Global demand for natural resources—minerals, timber, oil, and fertile farmland—is skyrocketing as markets rebound from the 2008 Great Recession and economic growth raises the living standards of millions. To keep pace with demand, companies are rapidly expanding their operations into resource-rich Africa, Asia, and Latin America, often encroaching on land that Indigenous Peoples and rural communities have held for generations. Forced to make way for these investors, communities are losing their land at an alarming rate.

Indigenous Peoples and rural communities are now racing to secure their land rights before companies come knocking. While they collectively hold more than half of the world's land, these communities legally own just 10 percent of land globally, and even less of this land is registered and titled. The customary tenure arrangements that once protected collectively held land are weakening, and those who lose their land lose everything: their livelihoods, homes, cultural heritage, and more.

But, as this report finds, Indigenous Peoples and rural communities face an uphill battle in registering and documenting their land rights. This report is one of the first comprehensive global reviews of how communities and companies obtain formal land rights, and it reveals the vastly different barriers that each face—disparities that give investors a clear advantage.

To safeguard their land rights, communities sacrifice years, sometimes decades, navigating unwieldy, expensive government processes. As these procedures drag on, companies acquire long-term rights to large swaths of undocumented community land. Investors with savvy lawyers and deep political connections find shortcuts around complex requirements, work with governments to obtain land rights in as little as 30 days and, in some instances, begin to clear the land before securing rights to it.

This unfair playing field not only threatens the livelihoods of the 2.5 billion people who depend on collectively held land, but it also poses grave environmental risks. Too often, investors who obtain rights to community lands exhaust natural resources in one community and then move on to the next. They displace Indigenous Peoples and rural communities, many of which have sustainably managed their land, surrounding forests, and nearby rivers. Little wonder that, as previous WRI research in the Amazon Basin shows, deforestation rates on tenure-secure indigenous lands are less than half what they are outside of them.

As the race for land intensifies, governments, companies, and civil society organizations must step up their efforts to safeguard Indigenous Peoples' and local communities' land rights. This report shows how creating fairer, more accessible procedures to register and document collectively held land, as well as following through on implementation, can begin to level the playing field. The report also calls for providing communities with a more comprehensive bundle of rights, including their right to give free, prior, and informed consent to any developments on their land. Establishing dedicated resources to transparently mediate border conflicts and resolve competing third-party claims that arise during land formalization processes is equally crucial. These recommendations will be useful to government land agencies, communities seeking recognition of their rights, companies that want to operate ethically, and nongovernmental organizations pressing for legal and regulatory reform.

The stakes are high. Reducing the inequity in community and company procedures for acquiring formal land rights can help protect the rights of our greatest environmental stewards, the Indigenous Peoples and communities who care for half the world's land.



Andrew Steer
President
World Resources Institute



EXECUTIVE SUMMARY

Indigenous and community lands, crucial for rural livelihoods, are typically held under informal customary arrangements. This can leave the land vulnerable to outside commercial interests, so communities may seek to formalize their land rights in a government registry and obtain an official land document. But this process is time-consuming and complex, and in contrast, companies can acquire land relatively quickly and find shortcuts around regulatory burdens. This report maps these inequities between communities and companies, and offers recommendations on how to level the playing field.

HIGHLIGHTS

- Community land, crucial to rural livelihood around the world, is increasingly targeted by commercial interests. Its loss can lead to environmental degradation, increased rural poverty, and land disputes that last for years. Without formal legal recognition of their land rights, communities struggle to protect their land from being allocated to outside investors.
- This report reveals endemic challenges facing communities across 15 countries. Procedures to register and document their customary land rights are complex, difficult, and costly, requiring communities to sacrifice time, finances, and customary land and resources.
- As a result, it can take decades for communities to formalize their land rights. In the Philippines, the process requires 56 legally mandated steps; in Indonesia, 21 different government entities were involved.
- In comparison, companies acquire formal land rights relatively quickly. Some companies take shortcuts to acquire land, or begin commercial operations before obtaining final approvals. Few laws require foreign investors to engage in meaningful community consultation. This disadvantages more responsible companies and risks displacing communities.
- To level the playing field between communities and companies, this report calls on countries to establish accessible and transparent community procedures that recognize all customary land, mitigate associated land conflicts, coordinate implementation and budgetary support for community land formalization, and better monitor company compliance.

Land Rights in Context

As global demand for foods, fuels, minerals, fibers, wood products, and other natural resources grows, both large and small-scale land acquisitions are on the rise around the world. Companies and investors are scrambling to acquire land and secure it for long periods of time. As this competition intensifies, land that communities (including Indigenous Peoples) hold under customary tenure is vulnerable to acquisition by powerful political and economic elites, particularly if it is not entered in a government registry (cadastre) or officially documented (land certificate or title). Against this backdrop, communities across Africa, Latin America, and Asia are mobilizing to formalize their customary rights and better protect their land. The stakes are high, given that as many as 2.5 billion people depend heavily on community land for subsistence. And while the drivers of socioeconomic inequality (and the resulting unequal opportunities and treatments) vary by country and over time, land inequality largely drives income inequality in Latin America and is a growing factor in some Asian and African countries.

Governments often consider community land, especially the land managed as common property (e.g., forests, pastures, and wetlands), to be vacant, idle, and underused. For many, the promise of economic growth and needed foreign exchange trumps community land rights and justifies allocating this land to companies for investment purposes. In addition to this bias, there are often inequities between legal procedures that govern acquisition of formal land rights by communities and by companies, as well as in how these procedures are implemented.

Understanding the challenges and opportunities for improving community land formalizations procedures is central to securing customary lands and protecting rural livelihoods worldwide. To this end, the authors designed research to better understand procedural pathways for communities and companies and assess whether community or company processes are advantaged and favored by government. This report provides a systematic review of the law and practice of 33 community and company procedures for acquiring formal land rights in 15 countries (see Methods below).

This report also provides practical recommendations for improving and ensuring equity in community and company procedures. The recommendations target government agencies responsible for developing and implementing community and company procedures, as well as their development partners; domestic and international companies and their investors; and communities, local civil society organizations, and international nongovernmental organizations concerned with land rights, human rights, and poverty reduction.

Why Formal Community Land Rights Matter

More than 50 percent of the world's land, across all continents except Antarctica, is community land. Globally, national laws recognize 10 percent of land as belonging to communities, and another 8 percent is designated by governments for community use. But not all community land that is legally recognized is registered and titled. In most countries, a significant amount of community land is not formalized. In Peru, for example, some 6,500 groups hold 36.3 million hectares of land that is registered and documented to them, but another 4,000 groups have pending claims to a further 34.9 million hectares.

Despite its importance to rural populations, community land formalization is rarely a government priority. In many countries, national laws do not recognize collectively held land or establish a formalization procedure. Elsewhere, the law permits formalization but limits the types of customary land and customary rights that can be formalized. Where formalization procedures are in place, the law is often poorly implemented, or implementation efforts have stalled. In Bolivia, for example, formalization efforts for land titles granted to Indigenous Peoples since 2005 have slowed in recent years with the government instead allocating customary land to investors to generate needed revenues for social programs.



While customary tenure systems historically provided communities with land security, the growing threats to exploit community land are leading to new insecurity. Communities around the world are therefore applying for formal land rights in order to integrate their customary rights into official legal systems and to protect their lands. Even in countries where formalization is not needed for legal recognition, communities are seeking to register their land to “double-lock” their rights. While registration and documentation of land is not a guarantee of tenure security (and can bring challenges such as property taxes, gender inequality, and exposure to unwanted investors), many communities consider the benefits to outweigh the costs.

Formal land documents can help communities convince others of their legal rights, ensuring that they will be recognized and respected by others. These documents can be used as evidence of legal possession in a court of law when challenges arise, where they commonly carry more weight than oral testimony on customary rights. Land certificates or titles can also provide communities with critical leverage in negotiations with outside investors, improving the chances that they get a fair deal in sharing the benefits and reducing the likelihood of conflicts that can arise from bad deals. Documented community land rights may also open opportunities for accessing project finance. In seeking viable community-based investment projects, many governments and banks consider documented community land to be more secure than customarily held land, thereby reducing their risks.

Methods

To conduct this research, the authors collected data on 19 community land formalization procedures in 15 countries—five each in Africa, Asia, and Latin America. National laws were reviewed for all 19 community procedures, and on-the-ground implementation for 7 land rights procedures. In addition, 14 company land acquisition procedures were examined in 12 of the research countries. Researchers reviewed the relevant laws for all 14 company procedures and investigated practice for 6 procedures.

Across the 15 countries, data comparisons between community and company procedures focused on eight key issues:

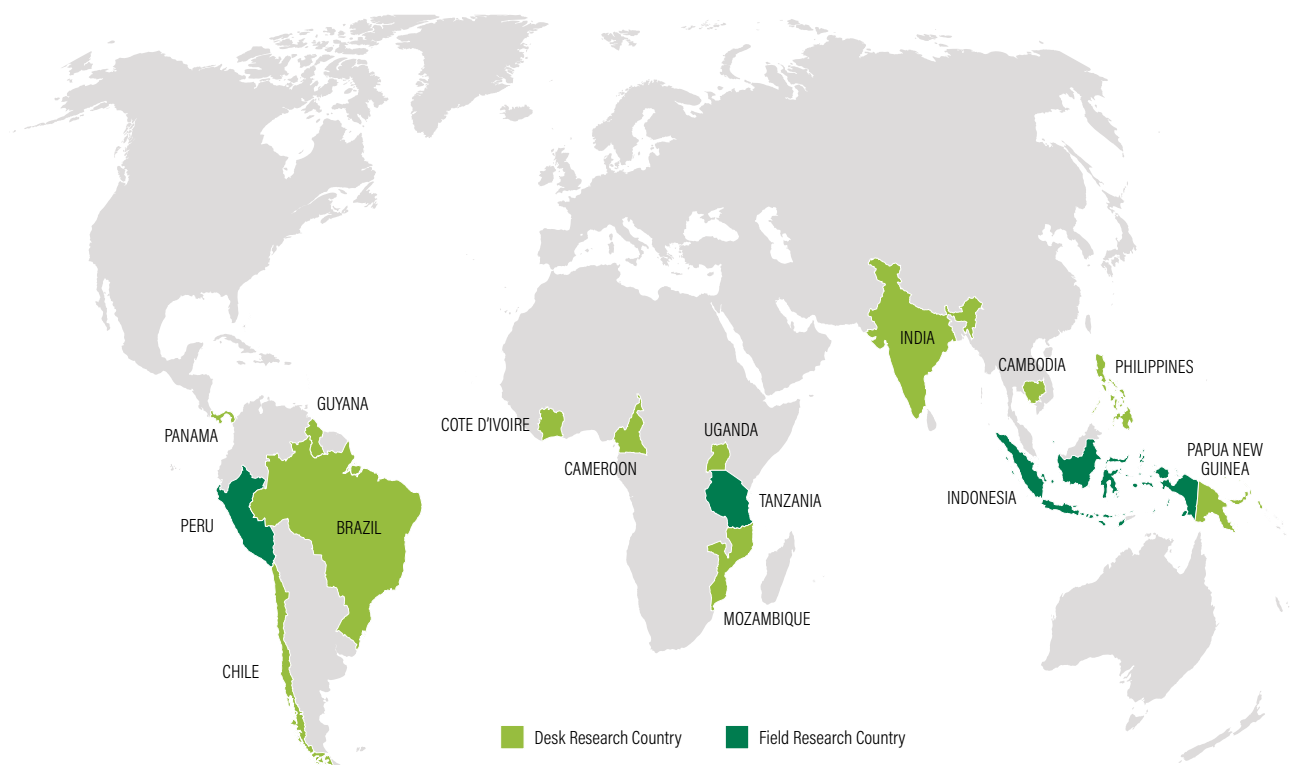
- preconditions and steps
- cost in time
- cost in money
- land size
- rights duration
- rights granted

- rights maintenance
- rights revocability

To help ensure consistency in data collection across informants, procedures, and countries, the researchers developed common indicators for each of these issues and a corresponding methods guide. For more information, see the Data Collection Methods section.

In Peru, Tanzania, and Indonesia, field teams were mobilized to conduct the research. The teams were led by the Ujamaa Community Resource Team (UCRT) in Tanzania with support from the World Resources Institute (WRI); the Center for International Forestry Research (CIFOR) in Peru; and the AsM Law Office in Indonesia with support from the Rights and Resources Initiative (RRI). Data collection methods included literature reviews of community and company procedures, legal reviews of national laws and technical directives, interviews with a range of stakeholders, and site visits to meet with community members with experience in land formalization.

Figure ES-1 | Map of Research Countries



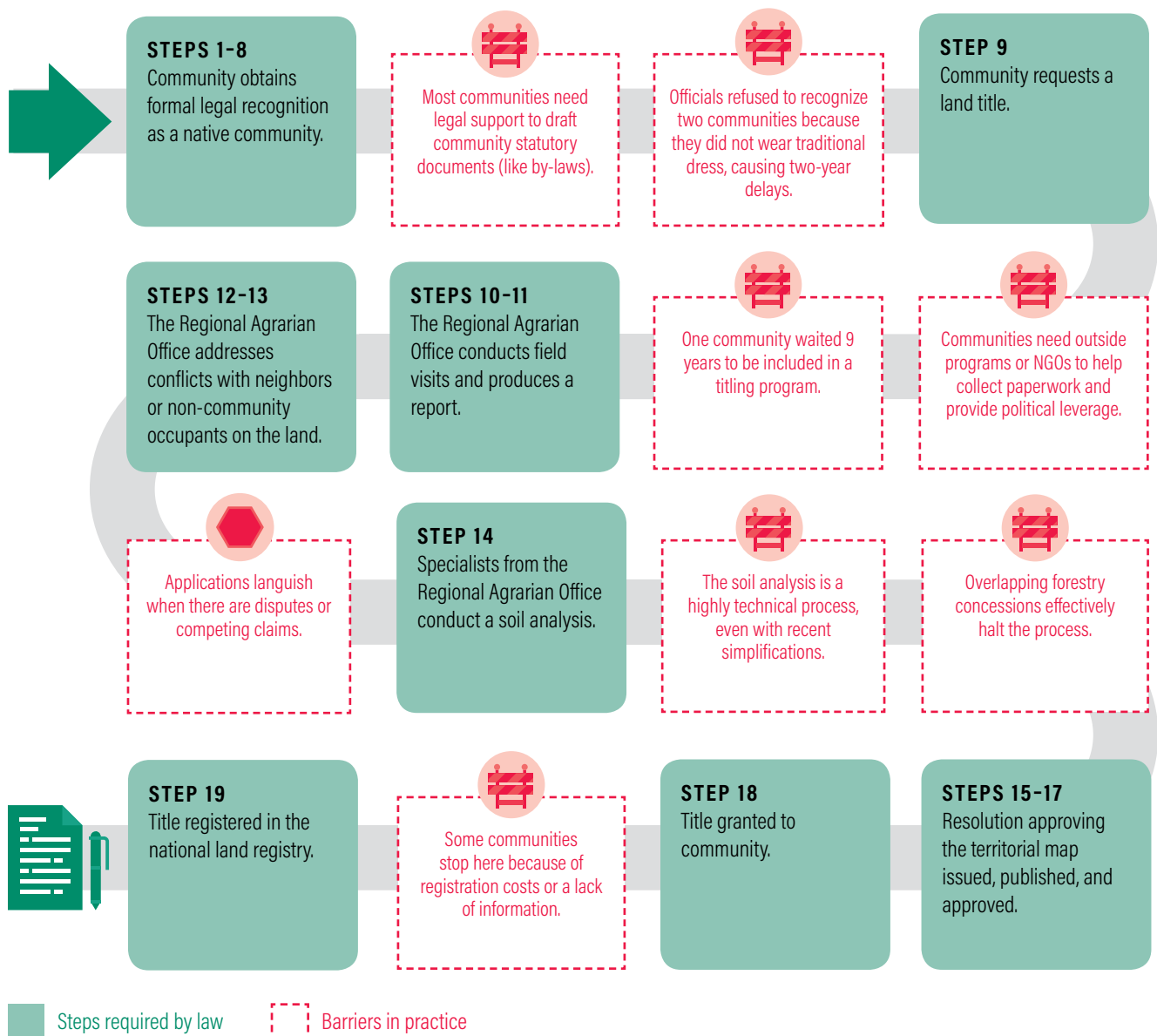
The WRI authors conducted desk research on the law of community and company procedures in the other 12 countries. Data were collected principally by reviewing the literature on community and company procedures and all relevant national laws, to the extent they were available. For Guyana and Mozambique, the WRI authors also assessed the practice of community and company procedures principally by reviewing the academic and gray literature. The Rainforest Foundation-United States (RFUS), Amerindian Peoples Association (APA),

and Forest Peoples Programme (FPP) provided important information on Guyana.

Findings

Analyzing the data collected on community and company procedures across three continents yielded five significant findings, which highlight the complexity of community land formalization procedures and the inequality between community and company procedures.

Figure Es-2 | Obtaining a Native Title in Peru: 19 Legally Mandated Steps and Additional Barriers in Practice



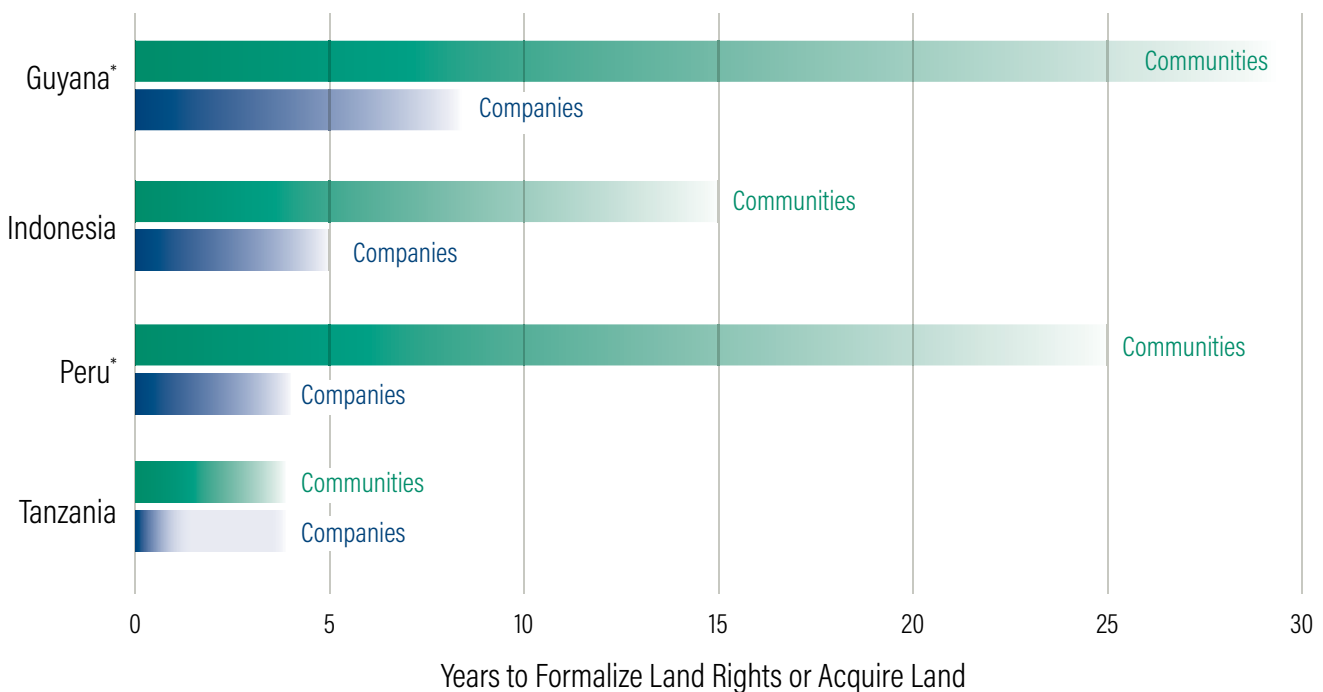
Source: CIFOR, modified and simplified by WRI.

1. Community procedures are burdensome and inaccessible. In seeking to formalize their land rights, communities face complex and sometimes insurmountable legal, technical, and evidentiary requirements (see Figure ES-2). For example, in Indonesia, Indigenous Peoples must first lobby their regional legislature for formal recognition of their indigenous status. In Chile, indigenous communities are not eligible for the procedure unless they possess a specified historic document. And in Uganda, communities must incorporate themselves into an association, elect officers, and write a constitution. In addition, formalization procedures are rarely transparent. Communities are not always able to correct or contest government errors, to obtain information, or to find out why applications are delayed or rejected. They also may be excluded from crucial steps in the process such as boundary mapping. Finally, procedures are often complicated by third parties who claim competing rights to the land in question, or due to border

conflicts. These disputes are not well addressed in law or in practice and may effectively halt the process.

2. To formalize their land, most communities must accept restricted rights, new risks, and/or less land. In most countries surveyed, significant areas of customary land may be excluded in certificates or titles granted to communities. For example, some communities cannot formalize any forested land, while others must exclude areas of land claimed by third parties. In addition, for all but one of the procedures that were assessed in practice, government officials impose arbitrary caps on the size of land granted to communities. Communities also do not receive full rights over the natural resources on their land. Governments retain the right to allocate overlapping concessions to high-value natural resources such as timber, and communities only had rights to exercise full free, prior, and informed consent to these transactions in 2 out of the 19 surveyed procedures.

Figure ES-3 | Land Formalization and Acquisition Timelines: Comparing Companies and Communities



Note: Limited data was available for companies in Guyana and Peru. In Guyana companies can take one year to "much longer." In Peru there is not comprehensive data, but in one case study a company took four years. Across all procedures, tracking company timeframes is challenging due to limited transparency in concession allocation.

3. Procedures are, on average, more challenging for communities than investors.

Community procedures generally take years to decades, while land acquisition procedures for companies typically range from one month to five years (see Figure ES-3). Many communities are unable to formalize their land, sometimes after decades of efforts. Different standards are imposed on communities and companies to screen for and resolve competing claims to the land. All community procedures require a screening for third-party rights, and such third-party claims in practice often prevent a community from successfully formalizing its land. By contrast, only 6 of the 14 corporate land acquisition procedures surveyed for this report require any form of community consultation, and only 3 of those contain provisions protecting communities' rights to free, prior, and informed consent (FPIC). Instead, the law presumes that the government owns the land or has the right to give it away.

4. Community rights are restricted in practice, but investors have expanded opportunities, especially if they do not have strong social and environmental commitments.

Communities have narrow windows of opportunity for land formalization. Legal procedures are narrow and offer little flexibility; and in practice, a lack of resources and capacity means most communities have only one opportunity (if any) to formalize their land. Similarly, in exercising rights over natural resources, communities are seldom able to realize those rights to the full extent allowed by the law. In contrast, for companies,

land acquisition is facilitated by a range of legal alternatives, as well as quasilegal, extralegal, and illegal measures. Company engagement with key steps in the process, like community consultations, varies widely (see Figure ES-4). Across countries, some companies exploit natural resources to which they have not been granted rights, and revocations of land rights when companies fail to meet conditions or comply with the law are inconsistent. These companies therefore have a competitive advantage in obtaining formal land rights against both communities and those companies that comply with legal and social or environmental standards.

5. Regulatory and policy frameworks favor investors over community formalization procedures.

Communities receive inadequate and sporadic support, compared to dedicated and sustained support for investors. Companies often benefit from dedicated investment centers and government recruitment efforts, whereas community land formalization programs are under-resourced and implemented inconsistently. Some countries lack the requisite institutions to formalize customary land rights. In Uganda, entities responsible for approving key steps were never established, making implementation of the procedure impossible in some regions. Finally, in some countries political and economic elites have successfully undermined community land formalization efforts that threaten their interests.

Figure ES-4 | Variations in Company Consultations with Communities in Mozambique



Source: Di Matteo and Schoneveld 2016; Ghebru et al. 2015; Hanemann 2016.

Recommendations

In comparing the complexity of community and company procedures, the research uncovered several key distinctions, to the benefit of foreign corporations. This is the opposite of what might be expected, given that communities are seeking to formalize long-standing customary rights, which in some countries already have the force of law, while companies are applying to obtain new rights. The research highlights significant procedural challenges, encoded in the law and realized in practice, to communities obtaining formal land rights. It also highlights inequalities in how regulatory frameworks and implementing actors treat community procedures as compared to company land acquisition procedures. To address this inequality, this research makes the following recommendations to reform community procedures:

1. Establish and implement a clear community land formalization procedure. Legislation and implementing regulations should provide a clear, accessible procedure for Indigenous Peoples and other communities to register and document their land rights. Governments should simplify overly complex procedures and amend steps that impose difficult burdens. Participatory

community mapping is a best practice, and is crucial to ensuring accuracy and preventing later conflicts. Implementing institutions and civil society partners should collaborate in systematic implementation programs, adopt participatory community mapping as a best practice, and develop a coordinated budgetary strategy.

2. Establish conflict resolution mechanisms and address competing third-party claims. Boundary conflicts between communities and overlapping claims by third parties are primary sources of delays and increased costs during community land formalization. Governments should establish clear, fair, and accessible conflict resolution mechanisms; promote communication between the ministries involved in community land formalization and those involved in allocating concessions to high-value resources; and explore options for establishing a unified cadastre. Implementing institutions and partners should incorporate dispute resolution planning into titling programs. Companies should conduct their own due diligence and not rely on assurances from a single ministry or office that land is freely available.



3. **Prevent the loss of customary land and provide more inclusive bundles of rights.** Communities must not be forced to give up land or natural resources that they have customarily enjoyed. Governments should insure that certain classes of land, such as forests or unoccupied areas, are included in formalization and should grant communities full rights to the range of natural resources on their land. As a safety net, legal procedures should clearly allow communities to obtain additional land in the future. Implementing partners and civil society should ensure that communities are included in land surveying and mapping, and can sensitize government officials on the importance of seemingly vacant collective land to community well-being.

4. **Ensure oversight, accountability, and transparency.** Monitoring and oversight mechanisms should be simultaneously bottom-up (from communities) and top-down (from higher-level institutions). Governments should establish avenues for communities to make complaints or appeal decisions and to request information about the status of their applications. Country-level monitoring of community formalization efforts, in law and in practice, is also key to the effective implementation of formalization procedures.

5. **Level the playing field between communities and companies.** Governments should strengthen monitoring and oversight of company behavior, require companies to engage in full FPIC, and ensure that natural resource concessions are not allocated on community lands while applications for community land certificates or titles are pending. In addition, all actors must pay renewed attention to customary understandings of land, and the challenge of integrating customary land-tenure systems into a statutory framework. Governments and civil society should support community empowerment initiatives both during and after the land formalization process. Companies should seek FPIC from communities, even when not required to do so by law, and promote industry-wide standards acknowledging customary land rights and the importance of communities giving their free, prior, and informed consent.

Abbreviations

APA	Amerindian Peoples Association
CCO	Certificate of Customary Ownership (Uganda)
CIFOR	Center for International Forestry Research
CPI	Centro de Promoção de Investimentos (Mozambique)
CSO	Civil Society Organization
CVL	Certificate of Village Land (Tanzania)
DUAT	Right to Use and Improve the Land (Portuguese: Direito do Uso e Aproveitamento de Terra) (Mozambique)
EIA	Environmental Impact Assessment
FPIC	Free, Prior, and Informed Consent
FPP	Forest Peoples Programme
FUNAI	National Indian Foundation (Portuguese: Fundação Nacional do Índio) (Brazil)
GPS	Global Positioning System
HGU	Land Exploitation Right (Indonesian: hak guna usaha) (Indonesia)
Hkm	Community Forest Rights (Indonesian: hutan kemasyarakatan) (Indonesia)
HTI	Industrial Forest Plantation (Indonesian: hutan tanaman industri) (Indonesia)
ILO	International Labour Organization
Mha	Million Hectares
NGO	Nongovernmental Organization
PNG	Papua New Guinea
RFUK	Rainforest Foundation-United Kingdom
RFUS	Rainforest Foundation-United States
RRI	Rights and Resources Initiative
SABL	Special Agriculture Business Lease (Papua New Guinea)
UCRT	Ujamaa Community Resource Team
ULC	Uganda Land Commission
WRI	World Resources Institute



SECTION I

INTRODUCTION

Competition for land is intensifying as global demand for foods, fuels, minerals, fibers, wood products, and other products grows. Companies and investors are scrambling to acquire land and secure it for long periods of time, with both large and small-scale acquisitions on the rise around the world.

Competition for land is intensifying as global demand for foods, fuels, minerals, fibers, wood products, and other products grows. Companies and investors are scrambling to acquire land and secure it for long periods of time, with both large and small-scale acquisitions on the rise around the world (Abinwi Ngwa and Bionyi 2017; Alden Wily 2016; Gilbert 2017; Land Matrix 2018; World Bank 2017). A considerable amount of land acquired by companies is community land held under customary tenure arrangements (Alcorn 2013; Land Matrix 2018). Community land rights that are not entered in a government registry or cadastre and officially documented (land certificate or title) are particularly vulnerable to acquisition by powerful political and economic elites (Alden Wily 2011a; Pearce 2016; UN 2014).

As the threats increase, communities around the world are therefore racing to formalize their customary rights in an effort to protect their land from alienation. But titling community land is not a simple process. In Cambodia, a Malaysian corporation (Mega First) and 128 ethnic Bunong families are involved in a long-running land disagreement over 9,000 hectares of land. The community claims the land is its customary forestland while the company notes that the land was granted to it in 2012 as an economic land concession. The dispute highlights Cambodia's complex indigenous land titling system, which involves several ministries and requires approval from multiple local and national authorities, and has proved difficult for many communities to navigate (Pheap 2017). Elsewhere in the country, it took 18 years for a community to obtain a title and cost more than \$100,000. In that period, most of the forest, which had spiritual, housing, and fuel purposes for the villagers, was cut down by those with "power and money" (Down 2016).

Governments often consider community land, especially the land managed as common property (for example, forests, pastures, and wetlands), to be vacant, idle, and underused (Chao 2013; Hall 2011; Martin and Palat 2014). For many, the promise of economic growth and needed foreign exchange trumps community land rights and justifies allocating this land to companies for investment purposes. Inequities in the law and implementation in community and company procedures to acquire formal land rights can exacerbate land inequity.

Unequal distribution of land is often a component of social and economic disparity because land and resources are high-value assets, and a large portion of the world's population depends heavily on them for their subsistence (Albertus et al. 2016; Guereña 2016).¹ While the drivers of socioeconomic inequality (and the resulting unequal opportunities and treatments) vary by country and over time, land inequality largely drives income inequality in Latin America (Guereña 2016; Klasen and Nowak-Lehmann 2008) and is a growing factor in some African and Asian countries (Seok-gon 2016).

Whether investments are in natural gas in Mozambique, gold in Peru, oil in Uganda, cattle ranching in Paraguay, or palm oil in Indonesia, when communities are dispossessed of their lands and involuntarily resettled, social and economic hardships often follow, with many rural people falling deep into poverty (Cernea 1999; 2015). Community land is a primary source of livelihood and income; establishes social identity and security; has cultural and spiritual significance (FAO 2014); and generates significant social, economic, and environmental benefits for society (Ding et al. 2016). National laws rarely provide communities with fair or adequate compensation for their losses (Keith et al. 2009; Tagliarino 2017). In Tanzania, only improvements on the land are eligible for compensation (Veit et al. 2008). Even where new commercial investments bring jobs or other benefits, these do not always compensate for the loss of the lands and natural resources that communities formerly occupied and used (Tagliarino 2017).

Land disputes between communities (or certain members) and companies as well as governments are common, and becoming more violent. In 2016, conflicts linked to mining, oil extraction, and logging accounted for more than half of the killings of land and environmental defenders (Global Witness 2017). In 2017, agribusiness overtook extractives as the business sector associated with most attacks. Last year, 197 defenders (principally private citizens, but also some public servants) were killed, the bloodiest year since Global Witness began keeping records (Global Witness 2017; Watts 2018).²

Understanding the challenges and opportunities for improving community and company procedures is central to securing customary lands and protecting rural livelihoods. There is a growing body of principally gray literature on community land formalization procedures (Feiring 2013; Knight 2010; Knight 2012; Nkuintchua 2016; Ortiga 2004). There is also a large literature on the procedures to acquire community rights to forests (Arnold 2001; Gilmour 2016; Larson and Pulhin 2012; Oyono et al. 2007; Paudel et al. 2009), wildlife (Boudreaux and Nelson 2011; Nelson 2007; Sulle et al. 2011), and other natural resources. These studies identify a host of challenges that communities face in acquiring formal land and resource rights, including burdensome procedures and limited government support.

Few studies, however, provide a comprehensive review of community procedures across countries (Hatcher 2009; Indufor/RRI 2014) or a comparative analysis of community and company procedures (Andiko 2017; German et al. 2013; RFUS et al. 2015). The few community-company comparisons note differences in the number of steps and costs, companies not always complying with procedural requirements, and governments not systematically monitoring and overseeing investor behavior.

About This Report

This report provides a systematic review of the law and practice of 33 community and company procedures for acquiring formal land rights in 15 countries—5 countries in each of Africa, Asia, and Latin America. A total of 19 community procedures in the research countries and 14 company procedures in 12 of these 15 countries were examined. Information was collected and analyzed on a set of indicators of eight critical procedural issues, such as steps, costs, duration of rights, and rights granted. The research was designed to better understand procedural pathways for communities and companies and assess whether community or company processes are advantaged and favored by government.



Based on the research findings, this report provides practical recommendations for improving community and company procedures and for ensuring equity in law and practice. The recommendations target government agencies responsible for developing and implementing community and company procedures as well as their development partners, domestic and international companies and their investors, and communities, local civil society organizations (CSOs), and international nongovernmental organizations (NGOs) concerned with land rights, human rights, and poverty reduction.

This report is organized in six sections. Following this introduction (Section I), Section II provides background on the legal recognition and formalization of community land rights. Section III presents the methods used to collect the data on community and company procedures to acquire formal land rights. Section IV presents the data collected on community and company procedures, and Section V provides the analysis of this data. Section VI provides several policy and program recommendations designed to improve community procedures and protect community land rights. There are also several appendices that provide a glossary of commonly used and legal terms, the data collected on community and company procedures, and the national laws and regulations reviewed in the 15 research countries.



SECTION II

COMMUNITY LAND RIGHTS IN CONTEXT

Community land supports as many as 2.5 billion people globally. But only a small portion of this land is recognized under formal property regimes. In some countries, communities can formalize their land rights by entering them in a government registry and obtaining an official land document. While this is not a guarantee of tenure security, it can provide legal and political leverage for communities to safeguard their lands against outside threats, or in negotiations with investors.

BOX 1 | DEFINITION OF COMMUNITY AND INDIGENOUS PEOPLES (SEE APPENDIX A)

Community: Communities are groupings of individuals and families that share common interests in a definable local land area within which they normally reside. Communities vary in size, identity, internal equity, and land-use systems. They may exist informally or be formally recognized as a community and structured via state institutions. Community identity is based on self-definition, with some qualifications where this risks exclusion of vulnerable or minority members (Knight 2010). This research uses a flexible definition of community to capture this principle of self-definition as well as the variety of communities defined under domestic law as landholding entities.

Indigenous Peoples: Indigenous Peoples are a type of community. According to the International Labour Organization (ILO) Convention 169, Indigenous Peoples hold distinct social, cultural, or economic characteristics and practice, in part or in full, their own customs or traditions (ILO 1989). They are descended from peoples inhabiting a country or region at the time of conquest, colonization, or the establishment of modern boundaries. Whether a group of persons constitutes an indigenous people is based on self-identification (ILO 1989). Many communities consider themselves indigenous to the locality but do not define themselves as Indigenous Peoples. This is especially so in Africa and Asia. The rights of Indigenous Peoples receive heightened protection under international law (e.g., ILO Convention 169, United Nations Declaration on the Rights of Indigenous Peoples). Governments have a responsibility to recognize the unique relation that Indigenous Peoples have with their traditional or ancestral lands (Case of the Saramaka People v. Suriname 2007; Case of the Sawhoyamaya Indigenous Community v. Paraguay 2006).

A Global Overview

More than 50 percent of the world's land is community land³ that supports as many as 2.5 billion people (Land Rights Now 2018; Pearce 2016; RRI 2015). Community land is found on all continents except Antarctica, with Africa having more community land than any other region (Alden Wily 2011b; IWGIA 2017). Community land is held in a collective manner by Indigenous Peoples or other local communities (hereafter communities; Box 1), regardless of recognition under national statutory law. Most community land is governed under customary tenure arrangements. Community land may include both common property and land that the community has allocated to individuals, households, or subgroups for homesteads, family farms, and other purposes.⁴

Historically, community land covered much or even the entire land area of many countries. Today, all customarily held community land has been lost in some countries, such as Rwanda, often by individualizing the land (Gillingham and Buckle 2014; RRI 2015). Efforts are under way in Scotland and elsewhere to reconstitute community land and strengthen community landownership (Community Land Scotland 2017). And around the world, communities are taking steps to regain control of customary land that was lost. In Paraguay, for example, Indigenous Peoples lost most of their land in the late 1800s, but in recent years the government has been purchasing some land and returning it to them (Veit and Sarsfield 2017).

Today, 10 percent of the world's land is recognized under national laws as belonging to communities, and another 8 percent is designated by governments for communities (RRI 2015). Land is owned by or designated for communities depending on the bundle of granted or recognized rights (Box 2). About 67 percent of the global land area that is owned by or designed for communities is found in China, Canada, Brazil, Australia, and Mexico (RRI 2015). An estimated 78.7 percent of Africa's land is community land, yet only 26.7 percent of this community land is legally recognized as such (Alden Wily 2017; LandMark 2018).

Not all community land that is legally recognized, however, is registered and titled to communities. In Uganda, Mozambique, Burkina Faso, and other countries, national laws do not require community land to be registered for the rights to be recognized by the government. In some of these countries, little community land is formalized. In Uganda, an estimated 68.7 percent of the nation's land is community land, but few, if any, communities have acquired a Certificate of Customary Ownership (CCO) (Knight et al, 2013; Zevenbergen et al. 2012), although some individuals and households have obtained a CCO over their family plots (Okello 2016).

In Brazil and other Amazonian countries, certain lands have been formally set aside by the government for communities and do not need to be registered and documented by them, such as government-created reserves for Indigenous Peoples living in voluntary isolation (Wallace 2016). Elsewhere, national laws recognize community land but do not provide a formalization procedure. In Kenya, the

Community land formalization is rarely a government priority. In many countries, national laws do not recognize collectively held land or establish a formalization procedure.



BOX 2 | COMMUNITY-BASED TENURE REGIMES

Community-based tenure regimes vary in the rights of communities over land and natural resources. Ostrom (1992) identified five property rights that are most relevant for the use of common-pool resources, including access, withdrawal, management, exclusion, and alienation.

- **Access:** The right to enter a defined physical area and enjoy nonsubtractive benefits.
- **Withdrawal or Use:** The right to obtain resource units or products of a resource system.
- **Management:** The right to regulate internal use patterns and transform the resource by making improvements.
- **Exclusion:** The right to determine who has access rights and withdrawal rights and how those rights are transferred.
- **Alienation:** The right to sell or lease management and exclusion rights.

The Rights and Resources Initiative (RRI 2015) recognizes an additional two rights: the right to due process and compensation in the event of government expropriation and the right to hold tenure rights for an unlimited span of time.

RRI recognizes two categories of community-based tenure regimes:

- **Land Owned by Communities.** Community-owned land is defined as an area where community tenure is unlimited in duration; communities have the legal right to exclude outsiders from using their resources; and communities are entitled to due process and compensation in the face of potential extinguishment by the government of some or all of their rights. Alienation rights are not considered to be essential for community ownership.
- **Land Designated for Communities.** Designated land is governed under tenure regimes that recognize some rights on a conditional basis for communities. While communities have some level of control exercised through use, management, and/or exclusion rights over land, they lack the full legal means to secure their claims to those lands (i.e., they do not have all rights required under the “ownership” designation: the right to exclude, to due process and compensation, and to retain rights for an unlimited duration).

Source: RRI 2015

Community Land Act of 2016 recognizes community land (60 percent of the country) and calls for the development of a land formalization procedure. The government, however, has not prepared enabling regulations or guidelines to implement the law (Alden Wily 2016; 2018; Economist 2016a). In Greenland, all land is recognized as indigenous land, but there is no statutory or regulatory framework for Indigenous Peoples (90 percent of the population is Inuit) to register and document their land rights (IWGIA 2017; LandMark 2018).

An estimated 30 percent of the world’s land is registered and documented (World Bank 2018a), although the amount varies considerably by region, with only 2 to 10 percent of the land in Africa held under formal tenure in 2003 (Deininger 2003). Much of the land in Europe and North America, principally private property, is documented. In Africa and Asia, most of the documented land is private property in urban areas (Gallup 2017; Toulmin 2006).

In a few countries, all or most community land is formalized. In Tanzania, the government declared in 2017 that 11,000 of the country’s 12,500 villages had a Certificate of Village Land (CVL) (Schreiber 2017a).⁵ In Mexico, an estimated 52.02 percent of the land area (101.13 million hectares (Mha)) is registered and documented to communities (*ejidos* and *comunidades agrarias*) (Boege 2008; RRI 2015). Only a small amount of community land is not formalized.

In most countries, however, a significant amount of community land is not formalized. In Peru, some 6,500 groups hold 36.3 Mha of land that is registered and documented to them, but another 4,000 groups have pending claims to 34.9 Mha of land (AIDSESEP 2016; Defensoría del Pueblo 2014; GOP/MINAM 2016; IBC 2016). In Indonesia, an estimated 30 percent of Indonesia’s forest estate or 40 Mha of *hutan adat* or customary forests is indigenous land (Butler 2013). In December

2016, President Joko Widodo gave nine customary forests to indigenous groups, and in October 2017, he devolved another nine forests, covering just 16,400 hectares (Gokkon 2017; Varagur 2017a). In Australia, 67.5 percent of the country's land area is indigenous land, but only 43.7 percent of this land is registered and titled to Indigenous Peoples (Altman 2014).

Community land formalization is rarely a government priority. In many countries, national laws do not recognize collectively held land or establish a formalization procedure (LandMark 2018; RRI 2015). Elsewhere, the law permits formalization but limits the customary land and customary rights that can be formalized, such as only the land that is "used and occupied," principally the homesteads and family farms and not the common property. In many countries with community land formalization procedures in place, the law is poorly implemented (Larson and Springer 2016). And where communities have formal land rights, the government often fails to adequately protect them (Maya Leaders Alliance 2016; RRI 2017; Zimmerman 2013), leaving communities on their own to defend their lands from intruders (Giardino 2018; Smith 2017)

In some countries, government efforts to formalize community land have stalled. In Bolivia, more than 90 percent of land titles held by Indigenous Peoples were issued after President Evo Morales took office in 2005. In recent years, however, formalization efforts have slowed as the government has allocated customary land to investors to generate public revenues needed to fund social programs (Achtenberg 2013; Sturtevant 2015). In Liberia, after many years of discussion, the House of Representatives passed the Land Right Act in August 2017, but it is now held up in the Senate (Karmo 2017). In Indonesia, the government long ago drafted a bill on indigenous rights. The bill has been discussed in the House of Representatives but stalled due to upcoming presidential and legislative elections (AMAN and AIPP 2017; Varagur 2017b).



Why Formal Community Land Rights Matter

Customary tenure systems historically provided communities with land security (Alden Wily 2011c; Freudenberger 2013),⁶ but growing threats from outside and from within the community, are leading to insecurity.⁷ In many places, customary laws and traditional institutions are under threat, weakening, and no longer able to safeguard community land for their members (Larson and Springer 2016). Additional measures are needed to secure community land (Land Rights Now 2018; Tenure Facility 2018).

The registration of community land rights into a government registry or cadastre and the issuance of an official document by the government to the community (land certificate or title) are central to the integration of customary rights into official legal systems and the establishment of formal land rights. Formalization may document and confirm customary rights that the law generally acknowledges or it may create new legal rights, such as when companies apply for and acquire formal land rights.

The registration and documentation of land is not a guarantee of tenure security (Aikaeli and Markussen 2017; Bruce 2012; Bruce et al. 2006; Finley-Brook 2016; Larson et al. 2016), although communities around the world apply for formal land rights in order to enhance their rights and protect their lands. Even where formalization is not needed for legal recognition, communities register their lands to “double-lock” their rights (Alden Wily 2017). While formalization can bring challenges (for example, property taxes, gender inequity, and exposure to unwanted investors;⁸ (Cousins and Sjaastad 2009; Finley-Brook 2016; Stickler and Huntington 2015)), for many communities, the possibility of tenure security outweighs the costs.

Formal land documents can help communities convince others of their legal rights, ensuring that they will be recognized and respected by others. These documents can be used as evidence of legal possession in a court of law when challenges arise, where they commonly carry more weight than oral testimony on customary rights. Land certificates can also provide communities critical leverage in negotiations with outside investors, improving the chances that they receive a fair deal in sharing the benefits and reducing the likelihood of conflicts that can arise from bad deals (Knight 2012).

Tenure security creates incentives for community members to make land-related investments by providing them with high expectations of rights over the returns (Bledsoe 2006; Deininger 2003; Deininger and Feder 2009). Coupled with other measures (e.g., payments for ecosystem services and technical assistance), tenure security can promote long-term investments by communities in land stewardship that generate positive environment and development outcomes.⁹ In Bolivia, Brazil, and Colombia, the average annual deforestation rates on titled indigenous lands in the Amazon are two to three times lower than in similar forestlands not titled to Indigenous Peoples (Ding et al. 2016). In the Peruvian Amazon, formalizing indigenous lands significantly reduces forest clearing and disturbance (Blackman et al. 2017).

Such investments can, in turn, enhance the productivity of the land, boost farmer income, and discourage unsustainable practices that generate negative effects (Byamugisha 2013; Knight 2012; World Bank 2018a). In Mexico, India, Nepal, and other countries, many communities with documented land rights have forest-based enterprises that produce significant benefits for local producers and restore ecological values for society (Hodgdon and Monzón 2017; Hodgdon et al. 2013). Even long-term concessions can generate investment incen-

tives. In Guatemala, communities with 25-year (renewable) concessions over forestlands in the Maya Biosphere Reserve invest in sustainable forest management (Gray et al. 2015).

Documented community land may also open opportunities for accessing project finance using channels other than credit (Box 3). Many governments and banks fund against the viability and profitability of projects, including community-based investments (Ding et al. 2017). These institutions consider documented community land to be more secure than customarily held land, thereby reducing their risks. In Mexico, the government has directly promoted and supported the creation of community forest enterprises, both at the communal and household level (Bray et al. 2006; Guerra 2015). Communities with any outstanding land rights issues are not eligible to participate in government programs that finance forestry projects.

The registration and documentation of land is not a guarantee of tenure security. But formal land documents can help communities convince others of their legal rights, ensuring that they will be recognized and respected by others.

BOX 3 | DOCUMENTED LAND RIGHTS AND ACCESS TO CREDIT

De Soto (1989; 2000) and others argue that titled private property allows landholders to access loans that can be used for capital investments to boost labor productivity and incomes. Titles can also increase private property values and make it easier to sell the land as buyers can be confident that the landowner has the legal right to do so (Galiani and Schargrodsky 2010; 2016). These effects, however, are not obvious for documented community land (Bruce et al. 2006). Few banks and other financial institutions in Latin America, Africa, and elsewhere consider documented community land as creditworthy collateral (Mwakyusa 2016; Stein et al. 2016). In Brazil and other Amazonian countries, for example, the legal frameworks establish indigenous land as non-seizable. Banks, therefore, would not be able to seize this land if the indigenous group failed to repay the loan. Even community land titled to individuals or families is not always creditworthy.

In many countries, the titled family land within community land may not be considered creditworthy collateral by banks. In Tanzania, financial institutions do not consider a Certificate of Village Land (CVL) as collateral for credit facilities, and they are also reluctant to accept a Certificate of Customary Right of Occupancy (a certificate of family land within village land) even though such certificates are legally recognized as titles. This is due partly to the high administrative costs of small loans, but principally because, when a debtor fails to settle the loan, there is often a long process involved in selling the land to recover the funds. In Tanzania, the law provides that when a debtor fails to pay and the land is put up for sale, it must be sold to another person in the community (a restriction designed to maintain community land). The land can only be sold to another person outside the village with approval of the village government. The government is considering amending the law lifting the restriction requiring lenders to sell foreclosed land only to community members (Mwakyusa 2016). Similar circumstances are found in New Zealand (RNZ 2018) and other countries.



SECTION III

DATA COLLECTION METHODS

Unearthing and publicizing the challenges and opportunities for improving community and company procedures is essential to securing customary lands and protecting rural livelihoods. This section describes the methods used to provide a systematic review of the law and practice of 33 community and company procedures for acquiring formal land rights in 15 countries.

Community and Company Procedures to Acquire Formal Land Rights

The report authors collected data on the law and implementation of community land formalization procedures and, for comparative purposes, the procedures for companies (domestic and foreign) to acquire formal land rights for investment purposes. To guide the research, the authors defined a community or company procedure as a process that registers land rights in government records and grants the community or investor a unique legal

document. Procedures were treated separately if recorded in a different registry or conveyed via a different legal instrument.

The authors reviewed a total of 19 community land formalization procedures in 15 countries—five each in Africa, Asia, and Latin America (Table 1). National laws were reviewed for all community procedures, and practice was assessed with regard to seven procedures. In addition, the authors examined 14 company procedures to acquire formal land rights in 12 of the 15 research countries (Table

Table 1 | Community Land Formalization Procedures

COUNTRY	PROCEDURE	LAW	PRACTICE
Brazil	Collective Land Titling of <i>Quilombolas</i>	●	
Brazil	Indigenous Territories	●	
Cambodia	Collective Land Title	●	
Cameroon	Land Title	●	
Chile	Art. 20(b) Land Transfer	●	
Côte d'Ivoire	Land Certificate	●	
Guyana	Amerindian Land	●	●
India	Community Forest Rights	●	
Indonesia	Customary Forest	●	●
Mozambique	Delimitation	●	●
Mozambique	Demarcation	●	●
Panama	Indigenous Community Land Title	●	
Peru	Native Community Land Title	●	●
Peru	Usufruct Contract for Classified Forestland	●	●
Philippines	Certificate of Ancestral Domain	●	
Papau New Guinea	Registered Customary Land	●	
Tanzania	Certificate of Village Land	●	●
Uganda	Certificate of Customary Occupation	●	
Uganda	Group Freehold	●	
TOTAL		19	7

Source: WRI.

2). National laws were reviewed for all company procedures, and practice was examined for six procedures. Many countries provide more than one procedure for communities and companies to acquire formal land rights. In these countries, the various procedures commonly formalize a unique bundle of rights and establish a distinct tenure system.

The community procedures analyzed are the most common or, in some cases, the only legally established procedures for registering and documenting new community or preexisting customary land rights in the research countries. All procedures provide communities with a large, but not complete bundle of land rights. For example, no procedure provides communities with commercial use rights over high-value natural resources on or below their land (unlike company procedures, see below). Further, some formalization procedures do not provide communities with rights in perpetuity, while others do not provide them with the rights to sell or lease their lands. A few procedures (e.g., Indonesia and India) focus on formalizing community tree and forest rights, but were included in this research because they also grant significant land rights (Box 4).

For the purposes of this research, the authors considered the formalization process to be complete when the land rights were registered and documented. Procedures for other purposes were not assessed. For example, many community procedures grant formal rights to use natural resources only for subsistence or domestic purposes. Rights to use certain resources for commercial purposes involve a separate procedure. In Tanzania, many communities prepare a formal village land-use plan after acquiring a Certificate of Village Land (CVL), believing that it provides them with additional tenure security. The researchers did not examine these latter procedures.

To mirror community procedures, the researchers examined 14 company land acquisition procedures administered by the government, including the principal procedures for acquiring government and community land (Table 2). While the granted bundle of rights varies by procedure, all provide companies with some commercial use rights. The researchers did not examine private market transactions to purchase or lease privately held land (for

BOX 4 | PROCEDURES EXCLUDED FROM THIS RESEARCH

Procedures that do not meet the definition of community land formalization were not examined. For example, some procedures do not result in the government providing the community with a title, land certificate, or other formal document. Other procedures are only available to economic cooperatives and producer associations, while still others grant only limited land and natural resource rights to communities (e.g., Wildlife Management Areas in Tanzania and Community Forests in Cameroon). Communities use them because such schemes may be the only means to obtain rights over certain types of land or to engage in commercial use of certain resources. Many procedures to acquire community natural resource rights are complex and burdensome.

In Indonesia, a community forest rights procedure (Hkm) allows communities living in or around protected forests or production forests to obtain a forest use permit (Andiko 2017). To obtain the permit, the community must incorporate as a producer association and undergo an administrative and technical review of its application. In practice, this process can take 6 years. Once the permit is granted, the community must submit a business plan. The right is only granted for 35 years, and community compliance with the business plan is supposed to be assessed for compliance every 5 years (although this is not always enforced). The permit grants communities forest use rights but only limited rights to the land. As such, the forest use permit is not considered a formalization of land rights.

example, willing seller, willing buyer transactions), compulsory land acquisition by the government and the subsequent transfer of this land to companies, and illegal paths or procedures that are not established by law. In addition, the authors did not examine agrarian reform programs. In some cases, domestic elites or companies use agrarian reform programs to access land for economic investment purposes (for example, social land concessions in Cambodia).

The researchers did not examine company procedures in 3 of the 15 research countries. In Brazil and Chile, companies acquire land primarily through the market (or by extralegal procedures; see Section V). In India, companies acquire land at the state

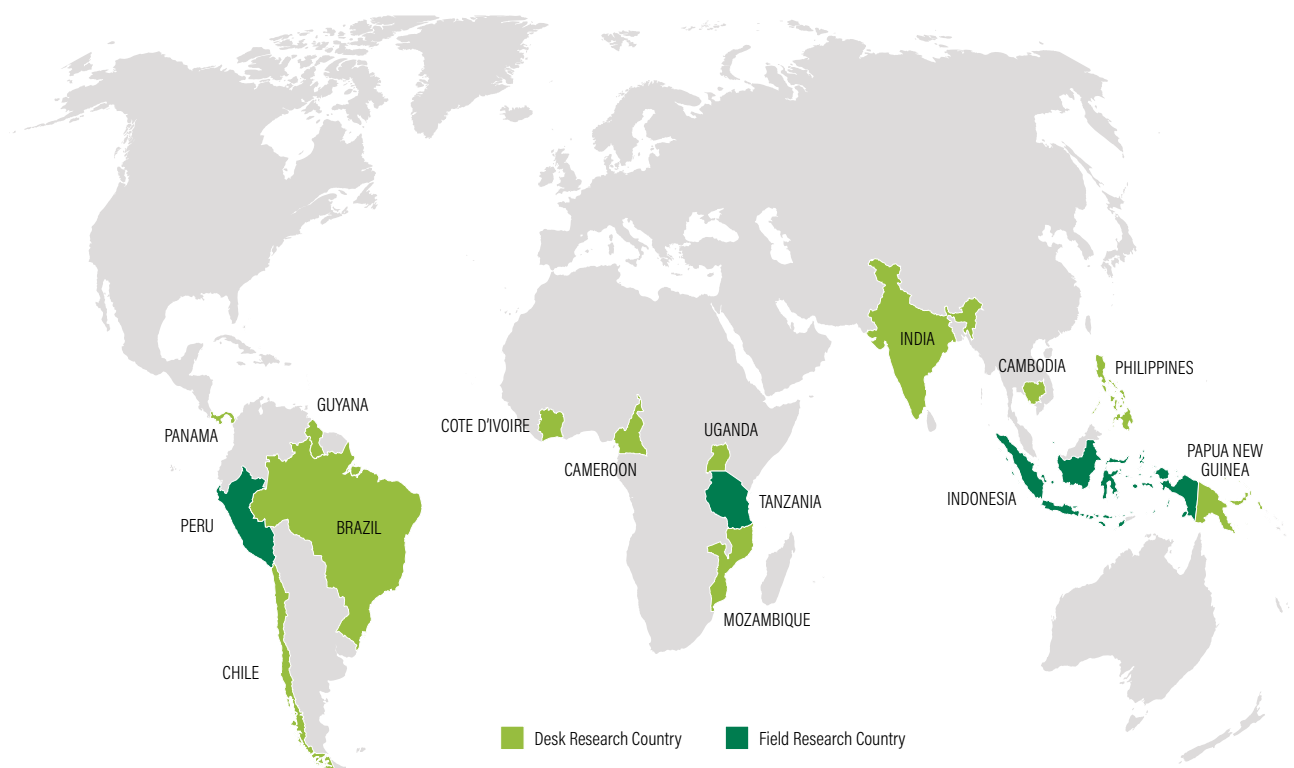
level, where many critical land decisions are made, and not at the national level, which is the focus of this research (see below).

Table 2 | Company Land Acquisition Procedures

COUNTRY	PROCEDURE	LAW	PRACTICE
Cambodia	Economic Land Concessions	●	
Cameroon	Provisional Concessions on National Land	●	
Côte d'Ivoire	Emphyteutic Lease	●	
Guyana	State Land Grant or Lease	●	●
Indonesia	HGU Land Use Right/Palm Oil Plantations	●	●
Indonesia	HTI/Industrial Forests	●	●
Mozambique	DUAT Acquisition for Economic Purposes	●	●
Panama	Concessions for Tourist Investment	●	
Peru	Rights to Forests on Classified Agricultural Land	●	●
Philippines	Lease of (Public) Alienable and Disposable Land	●	
Papau New Guinea	SABL	●	
Tanzania	Granted Right of Occupancy/Derivative Right	●	●
Uganda	Freehold Land from District Land Board	●	
Uganda	Grant/Leasehold from ULC	●	
TOTAL		14	6

Source: WRI.

Figure 1 | Map of Research Countries



Source: WRI.

Data and Data Collection Methods

The World Resources Institute (WRI) authors selected 15 research countries from Africa, Asia, and Latin America (Figure 1).¹⁰ Selection criteria included

- countries with community land (many research countries had a significant amount of documented and undocumented community land);
- countries with national laws that establish at least one community land formalization procedure; and
- the availability of data and information on the community and company procedures.

Research Focus: Eight Land Rights Procedural Indicators

Prior to collecting data on community and company procedures in the 15 research countries, the WRI authors, with the assistance of an intern from Wageningen University (Netherlands), conducted a broad literature review on community and company procedures to better understand the context of formal land rights and to identify key procedural issues and develop indicators and subindicators for analysis. In addition, students from Yale University, through the Environmental Protection Clinic, a joint endeavor by the Law School and the School of Forestry and Environmental Studies, conducted background desk research on community land formalization procedures in Canada and the Philippines. This background research helped frame the research (e.g., set goals and objectives, identify key questions and data needs) and data collection methods, and supported the overall data collection effort.

The WRI researchers identified eight procedural issues through the preliminary literature review as central to better understanding community and company procedures to acquire formal land rights. The researchers developed one indicator and multiple subindicators for each procedural issue. Several of these indicators are also used by the World Bank in its annual assessment of company land acquisition procedures for the *Doing Business* reports (e.g., number of steps, cost in dollars, and cost in time) (World Bank 2018b). The eight indicators are as follows:

1. **PRECONDITIONS AND STEPS.** The eligibility criteria and preconditions to formalize land rights and the various steps and government agencies involved in the procedures.
2. **COST IN TIME.** The cost in time to formalize land rights, including reasons for variations.
3. **COST IN MONEY.** The cost in money to formalize land rights, including reasons for variations.
4. **LAND SIZE.** The minimum and maximum amount of formal land set in the law and any floors or ceilings that exist in practice.
5. **RIGHTS DURATION.** The duration in time of the formal land rights in law and practice (e.g., granted in perpetuity or a set term).
6. **RIGHTS GRANTED.** The bundle of formal land rights (Box 2) granted in law and practice under each reviewed procedure.
7. **RIGHTS MAINTENANCE.** Affirmative obligations to maintain the formal land rights over time (e.g., property taxes and environment and development conditions).
8. **RIGHTS REVOCABILITY.** Actions that may result in the formal land rights being revoked or extinguished and the government entity with the authority to limit or extinguish the formal land rights.

The WRI authors developed a corresponding methods guide to help ensure consistency in data collection across informants, procedures, and countries. Averages and ranges of indicator and subindicator scores were calculated when possible to account for ambiguity in laws and sometimes wide variation in implementation.

Field Research Countries

The WRI authors selected Peru, Tanzania, and Indonesia for in-country research because of specific opportunities to engage and shape the community land formalization procedures. In Indonesia, the government is preparing an Indigenous Peoples Act which is expected to provide a procedure to register and document indigenous land. In Peru, multiple donor agencies are making sizeable investments in community land formalization. And in Tanzania, the government is preparing a new National Land Policy which will likely be followed by reform of the national land laws.

In each of these three countries, a team of two to four researchers collected and analyzed data on the law and practice of community and company procedures and prepared a country report with major findings and recommendations. The field teams were led by the Ujamaa Community Resource Team (UCRT) in Tanzania with support from WRI; the Center for International Forestry Research (CIFOR) in Peru; and the AsM Law Office in Indonesia with support from the Rights and Resources Initiative (RRI).

Data collection methods included literature reviews of community and company procedures for acquiring formal land rights (with a special emphasis on the gray literature); legal reviews, including national (or federal) laws, public policies, and technical directives; individual and group interviews with a range of stakeholders; and site visits to meet with community leaders and villagers with experience in land formalization. A few specific community and company experiences in each country were selected for deeper analysis.

In each country, the researchers conducted extensive interviews of more than 20 stakeholders, including government and company officials, local CSO and NGO leaders, and academicians and researchers (see Appendix C). The interviews covered a wide range of community and company procedural issues. Formal surveys with standardized questionnaires were not administered, but data collection (for example, interviews and legal reviews) focused on the eight procedural indicators shown above.

Desk Research Countries

The WRI authors conducted desk research on community and company procedures in the other 12 research countries. The research focused on collecting information and scoring the same eight sets of indicators as the research teams did in Peru, Tanzania, and Indonesia. The WRI researchers collected data principally by reviewing the literature on community and company procedures, and all relevant national (or federal) laws, including the constitution, statutes, regulations, and court rulings of relevant cases, to the extent they were available. To allow for clear comparisons across countries, the legal analysis did not examine subnational laws and regulations. It also excluded government policies or statements that were not legally binding. Laws were assessed via a legal analysis of domestic laws and regulations enacted prior to December 2017. In most cases, the authors read and reviewed the laws in their original, official language, although for

some countries, good-quality (often official) translations of the law were used. Secondary sources (e.g., development and academic literature) and legal commentaries were consulted if the law or court ruling was ambiguous or not available.

For Guyana and Mozambique, the WRI authors also assessed the implementation or practice of community and company procedures principally by conducting desk research, including reviewing the academic and gray literature (e.g., government-issued documents, NGO literature, international organization documents, and news sources). Specific community and company experiences in acquiring formal land rights were also examined. The Rainforest Foundation-United States (RFUS), Amerindian Peoples Association (APA), and Forest Peoples Programme (FPP) provided important information on Guyana (see Appendix C).





SECTION IV

DATA: KEY FINDINGS

This section summarizes the key data findings for both community and company procedures. For each, it looks first at the legal framework for all procedures, and then at how select procedures are implemented in practice. Our findings reveal significant differences in the scale and extent of barriers faced by communities and by companies.

The assessed indicators are organized under each section according to: 1) preconditions and steps required by the procedure; 2) the time and expense of the process; 3) the duration of the rights, what conditions are attached to them, and the ease of revocability; and 4) what rights are granted, in terms of the size of the land and the resources and bundle of rights granted on that land.

The research tested the relative barriers for communities and companies by looking at the overall number of steps in the process. However, the authors found that challenges associated with specific steps were often more important than the process as a whole. As a result, the research also examined the relative legal burdens imposed on the parties and the rights received in exchange, and identified those steps that proved most challenging for communities in practice.

For data tables on the eight indicators, see Appendices B through F. All legal analysis is based on the laws listed in Appendix F. Data in the practice section are derived from a combination of interviews conducted during field research in Tanzania, Peru, and Indonesia and from secondary literature. For further information on in-country interviews, see Appendices C and E. For secondary literature not otherwise cited in this report, which informed the data on practice in Mozambique and Guyana, see Appendix G.

Community Land Formalization Procedures: Law

Preconditions and Steps in the Legal Procedure (Indicator 1)

To win formal recognition of and rights to their land, Indigenous Peoples and rural communities typically must take multiple, often burdensome steps required under the law to register and document community land rights. The researchers define a step as any interaction between the community and an external actor or between external actors such as government agencies or officers and contractors.¹¹

In addition, before the process can even start, communities must meet legal preconditions. Preconditions typically include requirements regarding the nature of eligible communities, such as indigenous status, or mandate community ties to the land. The authors defined preconditions as immutable characteristics of a community, as well as any affirmative actions that communities must take but that are not specifically tied to the process of formalizing land rights. For example, researchers labeled circumstances where a community must obtain formal legal status a precondition, *unless* this status was linked to land use or ownership, in which case it was considered a step.

Preconditions typically impose requirements governing the nature of eligible communities or mandate community ties to the land. Ten of the 19 community procedures are reserved for Indigenous Peoples (Brazil, Guyana, India, Philippines, Indonesia, Panama, Cambodia, both procedures in Peru, and Chile). One procedure is reserved for *Quilombola* communities (Afro-Brazilian communities who trace their origins to escaped slaves), and the remaining eight procedures applied to communities defined more broadly. Of the 11 procedures restricted to Indigenous Peoples and *Quilombolas*, the laws may impose additional requirements regarding how the community is defined. In Guyana, the community must consist of at least 150 persons and have existed for 25 years. In India, the community must be part of a “scheduled tribe” or a forest-dwelling community.

Government agencies require communities to demonstrate historic ties to the land in 12 of the 19 procedures examined. Several procedures also define temporally what constitutes a historic link. For example, in Cameroon, the community must have occupied or exploited the land before August 5, 1974. Evidentiary requirements can also be stringent. In Chile, only communities that possess a specific, historic government document meet the evidentiary requirement for a historic land claim.

Table 3 | Steps in the Community Land Formalization Procedure

PROCEDURE	NUMBER OF STEPS	NUMBER OF GOVERNMENT AGENCIES	COMMENTS*
Brazil: Indigenous Territories	18-21	8	—
Brazil: <i>Quilombola</i> Collective Titles	15-21	6	Open-ended steps
Cambodia: Collective Land Title	11-25	5-9	—
Cameroon: Land Title	12-17	8-9	Open-ended steps
Chile: Article 20(b) Land Transfer	6	2	Missing implementing regulations
Côte d'Ivoire: Land Certificate	14-15	9	—
Guyana: Amerindian Land Title	10-12	3	Significant ambiguities in the law Open-ended steps
India: Community Forest Rights	13-22	5	—
Indonesia: Customary/Adat Forest	12	12	Some steps governed at the regional level
Mozambique: DUAT Delimitation	7	1-2	—
Mozambique: DUAT Demarcation	10	4	—
Panama: Indigenous Collective Land Title	11-18	5-6	—
Peru: Native Community Land Title	19	7	—
Peru: Usufruct Contract of Forestland	20	8	Implementing regulations are enacted at the regional level
Philippines: Certificate of Ancestral Domain	54-61	19	Open-ended steps
PNG: Certificate of Title to Customary Land	10-13	5-6	—
Tanzania: Certificate of Village Land	3	2	Implementing regulations do not provide more detailed steps Open-ended steps
Uganda: Certificate of Customary Occupation	14-16	5	Open-ended steps
Uganda: Group Freehold	15-17	5	Open-ended steps
Average (low and high)	14.4-17.6	6.3-6.7	
Median (low and high)	12-17	5-6	

Note: *Open-ended steps refer to steps that could continue indefinitely.

Source: WRI, based on the laws in Appendix F.

Communities must form a legal entity or otherwise obtain government certification or approval that they constitute a community in 12 out of 19 procedures. This requirement varies in complexity. Often, a community must complete an application or draft bylaws. In Guyana, the community must elect a village council capable of holding the land title. In Cambodia, communities must register with two different government entities and draft written bylaws. In Uganda, the community must elect to incorporate themselves into an association, write a constitution, and obtain a certificate of incorporation.

The authors calculated the number of steps mandated by law, as shown above, by examining governing laws and regulations. Project guidelines without the force of law were not included, and regional laws were not evaluated, leaving gaps in some procedures. Further complicating the picture, many procedures lacked precise legal guidance for certain steps. In two cases—Chile and Tanzania—implementing regulations outlining a precise procedure were missing entirely (see Table 3). As a result, the land rights formalization procedures shown above with the lowest number of steps—in Tanzania, Indonesia, and Chile—are missing implementing regulations or also included regional processes excluded from the analysis.

Typical steps include submitting the application; notifying other agencies, the general public, or neighbors; a field visit or technical verification; surveying and/or boundary agreement with neighbors; settling opposition to the application or disputes; entry into an official registry; and issuance of a deed or certificate. All the procedures require some kind of mapping or surveying, of varying degrees of technicality, except for Chile (which is missing implementing regulations). Fifteen procedures explicitly incorporate field visits by government officials, and three more have verification requirements that would likely require a field visit. (Tanzania does not require this, although it has few legal steps outlined in the law.)

Countries with formalization procedures involving higher numbers of steps usually require multiple field or verification visits, multiple levels of approval, and/or more detailed requirements for community decision-making. Where a range of steps is possible, opposition or contestation from third parties often triggers the upper ranges. All the procedures surveyed require some level of screening for third-party claims via public notice followed by contestation periods, government verification for such claims, or alternate forums for oppositions to be brought. However, guidance on how to resolve these claims is thin across the board, particularly where governments have allocated overlapping concessions on community land. For example, in Peru, the procedure requires that the implementing agency discuss conflicts with neighbors but gives no guidance on how to resolve such conflicts or what steps to take where overlapping forestry concessions are present (see Figure 2). Both procedures in Brazil require the resettlement of other occupants before formalization can be completed.

Time and Expense of the Formalization Process (Indicators 2 and 3)

No reviewed legal procedures establish overarching time frames within which the process must be completed. However, legally mandated deadlines are imposed for certain steps in most of the procedures, most commonly related to notice requirements, or timelines within which oppositions or contestations must be made. Time frames on entry of rights into a registry or on signatures of approval are uncommon and not systematic. For example, Guyana requires a decision by the indigenous ministry within 60 days but sets no deadline on the subsequent issuance of the certificate by the president.

Similarly, although none of the procedures have detailed provisions on the costs of formalization, 14 of the procedures provide general allocation of costs among parties (Table 4). Land surveying, which is frequently expensive, is required by all procedures except Chile (which is missing regulations and mandates few steps). The costs of surveying, which are typically broken out from overall costs, are slightly more likely to be allocated to the government compared to costs generally, although the government still bears the cost in a minority (7 out of 19) of instances (Table 4).

Figure 2 | A Snapshot of a Legal Procedure: Granting Communal Land Titles in Peru



Source: CIFOR, modified by WRI.

Table 4 | Allocation of Responsibilities for the Costs of Formalization under the Law

RESPONSIBILITY FOR COSTS GENERALLY			
Government (4)	Community (4)	Varies (6)	Not Specified (5)
<ul style="list-style-type: none"> ■ Guyana: Amerindian Land ■ India: Community Forest Rights ■ Indonesia: Customary Forest ■ Panama: Indigenous Community Land Title 	<ul style="list-style-type: none"> ■ Cameroon: Land Title ■ Côte d'Ivoire: Land Certificate ■ Uganda: Certificate of Customary Occupation ■ Uganda: Group Freehold 	<ul style="list-style-type: none"> ■ Mozambique: Delimitation ■ Mozambique: Demarcation ■ Peru: Native Community Land Title ■ Philippines: Certificate of Ancestral Domain ■ PNG: Registered Community Land 	<ul style="list-style-type: none"> ■ Brazil: Indigenous Territories ■ Brazil: <i>Quilombola</i> Collective Title ■ Cambodia: Collective Land Title ■ Chile: Article 20(b) Land Transfer ■ Peru: Usufruct Contract of Forestland ■ Tanzania: Certificate of Village Land

RESPONSIBILITY FOR SURVEYING COSTS			
Government (7)	Community (4)	Varies (5)	Not Specified (2)
<ul style="list-style-type: none"> ■ Brazil: Indigenous Territories ■ Brazil: <i>Quilombola</i> Collective Title ■ Guyana: Amerindian Land ■ India: Community Forest Rights ■ Indonesia: Customary Forest ■ Panama: Indigenous Community Land Title ■ Philippines: Certificate of Ancestral Domain 	<ul style="list-style-type: none"> ■ Cameroon: Land Title ■ Côte d'Ivoire: Land Certificate ■ Uganda: Certificate of Customary Occupation ■ Uganda: Group Freehold 	<ul style="list-style-type: none"> ■ Mozambique: Delimitation ■ Mozambique: Demarcation ■ Peru: Native Community Land Title ■ Peru: Usufruct Contract of Forestland ■ PNG: Registered Community Land 	<ul style="list-style-type: none"> ■ Cambodia: Collective Land Title ■ Tanzania: Certificate of Village Land

Note: No survey is required for Chile: Art. 20(b) Land Transfer.
 Source: WRI, based on the laws in Appendix F.

Where communities bear the costs of formalization, the law does establish some fees. These are generally nominal, although in Uganda, one of the fees incurred in obtaining a group freehold title is a potentially significant 0.5–1 percent of the land value (the range reflects whether buildings or other “improvements” exist on the land).

Duration of the Rights, Requirements to Maintain Them, and Revocability (Indicators 5, 7, and 8)

The rights granted to communities are mandatorily of unlimited duration for almost all procedures. The only exceptions are group freehold titles in Uganda, which may be discretionarily granted for a shorter time, and Côte d’Ivoire, where land certificates are supposed to be converted into (noncollectively held) titles in three years (see Box 6).



Only one of the 19 procedures mandates affirmative obligations on communities as conditions to retaining the recognition of their rights. In Côte d’Ivoire, all certificates must include a “*mise en valeur*” condition (meaning the land must be under an agricultural or other operation). No countries have laws requiring the regular submission of land-use or development plans. However, for three procedures (Guyana and both Uganda procedures), government authorities have the discretion to impose additional conditions as they see fit, creating additional obligations on an ad hoc basis.

It is more common for laws to include requirements related to environmental, conservation, or land use, without clearly establishing that the rights will be revoked if these requirements are not met. For example, in the Philippines, Indigenous Peoples have responsibilities to “maintain ecological balance” and “restore denuded areas” on ancestral domains. Many countries also have legal provisions that, while not constituting explicit conditions, penalize landholders who do not develop or use their land. For example, legal ambiguities in Tanzania and Panama could be interpreted to reserve vacant or unoccupied lands for the government, without a clear exception for community/indigenous land.¹² A positive counter-example is in Brazil, where the quilombos were previously subject to heavy tax burdens on unproductive land. Following activism and a legal challenge, the quilombos were exempted from this tax.

There is significant ambiguity as to what conditions may result in revocation of rights if they are violated. For eight procedures, the law is silent as to whether or how the rights may be revoked (typically implying irrevocability but without necessarily establishing it). The remaining 11 variously have provisions allowing for revocation if a condition of the right has been violated, the land is abandoned or left undeveloped, or there was fraud or mistake in the allocation process. It is generally unclear what impact dissolution or alteration of community bodies has on land rights (i.e., where a community is legally unincorporated). Although most procedures require formation of a legal entity or community registration, only Papua New Guinea addresses this issue, specifying that the rights revert to the customary owners who held the land prior to its formalization.

This research did not look at the loss of rights through expropriation. It also did not examine the consequences of community participation in a Torrens system of land registration, which is common to many countries globally. Under this system, if a person loses his or her land fraudulently but a third party acquires it in good faith, the land may be lost to the good faith purchaser. This is a potential issue in countries like Uganda, where one procedure (group freehold) results in a Torrens title, but another procedure (a customary right of occupancy) does not, and highlights the challenges of integrating customary land tenure systems into existing statutory frameworks.

Scope of the Rights Granted

The rights granted to communities may be limited geographically, or in terms of which rights may be exercised over the land.

Size of the Land (Indicator 4)

The amount of land that is formalized may be restricted directly or indirectly. It is restricted directly when specific numeric caps are placed on how much land can be allocated. No community procedures examined had such a numeric acreage ceiling. However, the size of land may be indirectly restricted. Of the 12 procedures which require a showing of historic status or land use, 7 procedures

BOX 5 | INDIRECT RESTRICTIONS ON THE SIZE OF LAND TITLES FOR AMERINDIAN COMMUNITIES IN GUYANA

The Guyanese Amerindian Act includes a provision which exempts rights held by leaseholders at the time the act was enacted (2006). No clear procedure is established for resolving competing claims, and the president has broad discretion to introduce additional exceptions for competing claims on a case-by-case basis (for example, for leases given after 2006). The legal framework accordingly creates a path of least resistance for simply excising land claimed by third parties from the title given to communities.

Guyanese law also instructs surveyors (under outdated regulations from 1919) to exclude land that is 66 feet from the high-water mark, even though the Amerindian Act itself no longer prevents this land from being recognized. This is a significant restriction because some Amerindian community lands have large portions of low-lying land, which is then left vulnerable to acquisition by third parties (Atkinson et al. 2016). Finally, only individual villages can title land, which may fracture community land and indirectly limit the size of the land allocated.

link this demonstration of historic use specifically to the land that may be formalized. This means the size of the land may be restricted to that for which communities can meet the evidentiary requirements of historic use. Similarly, some procedures exclude certain types of land or land granted or leased to third parties (Box 5). For example, procedures may not account for separate legal classifications for forested and nonforested land: five of the 19 procedures either exclude forested land, or exclude nonforested land.

Rights Granted (Indicator 6)

Withdrawal rights examine a community's ability to take and use resources found on the land. For each resource, rights are ranked separately for subsistence and commercial purposes. For minerals, the right is divided into subsistence mineral rights (rights to mineral resources for building materials), artisanal or small-scale mining rights, and commercial mining rights.

Subsistence rights to water and forests are well protected, with some limited exceptions.¹³ This protection often exists independently of the underlying land right and is based on more universal guarantees of subsistence water or forest rights. Rights to wildlife for subsistence purposes show much greater variation and are only fully guaranteed in 6 of the 19 procedures. Other procedures only grant hunting rights subject to significant restrictions (e.g., hunting can only be done with traditional weapons or in certain areas), or require the acquisition of a permit. In India, where the Forest Rights Act generally allows flexibility in which rights communities may request, wildlife rights are expressly disallowed. Commercial rights to trees, water, and wildlife almost universally require further government approval or licensing. The complexity of licensing requirements varies significantly among countries, but a recurring feature is that permits and requisite forms are not well adapted for collective entities (as opposed to individuals or companies).

Rights to hydrocarbons are not granted to any communities on a subsistence or commercial basis. The Philippines is somewhat of an exception, as priority rights in the development of natural resources in ancestral domains in the Philippines (including hydrocarbons) belong to the community. Seven procedures do allow for subsistence use of mineral resources for building resources. However, commercial uses of mineral resources, even at an artisanal level, almost always requires meeting significant licensing requirements (such as technical plans, fees, or forming a company or cooperative), or is not possible.

Most communities were also granted general management rights, including for commercial purposes, although this would be restricted by the resource-specific limitations described earlier. Alienation rights were highly inconsistent across procedures. The right to sell the land generally fell on one extreme or the other: fully granted (5 procedures), never allowed (10 procedures), and 4 procedures allowing alienability with conditions or additional procedures. The right to lease was more evenly dispersed: fully granted for 4 procedures and disallowed for 6 procedures, with the remainder allowing leases in some circumstances.

Communities typically have strong legal rights to exclude others from their land. However, this does not extend to circumstances in which the state grants rights to third parties, either via expropriation or via the grant of rights not allocated to the community. We measured this by assessing whether the right to free, prior, and informed consent was granted to the community. Strong FPIC guarantees were only present for two of the examined procedures. Eight procedures had no or only limited provisions allowing some form of consultation.

Other Rights or Benefits Lost (Indicator 6)

Formalizing community land rights may result in the loss of other rights or benefits not specified above. For example, in Papua New Guinea, forming the requisite legal entity may open customary land to creditors in the case of unpaid debts. In India, the Forest Rights Act bundles community and

BOX 6 | LOSS OF COLLECTIVE RIGHTS IN CÔTE D'IVOIRE

The procedure in Côte d'Ivoire provides for an initial land certificate, valid only for three years. This certificate must then be converted to a title. Titles cannot be held collectively, meaning communities must either divide the land into individually held parcels or transfer the rights to the government, which will then lease them back to the communities. This is a major disincentive to formalization, as the potential loss of collective status may outweigh any potential benefits.

individual rights recognition procedures together in a manner that would make it difficult for communities to recognize collective rights without also engaging in some level of individual titling. In Uganda (via group freehold) and Papua New Guinea, community land loses its customary status upon formalization, requiring communities to engage with potentially unfamiliar statutory institutions and laws.

This research also assessed whether communities lose the ability to acquire additional land in the future following formalization. There was significant legal ambiguity on this point. In Brazil, this is currently a contested point of law regarding indigenous territories. In most countries, the law is silent or ambiguous, and only four procedures have legal provisions that clearly protect the right to make future claims. Tanzania allows for boundary alterations with ministerial approval, and Peru allows for territorial expansion (*ampliación*) although a specific procedure is not established. While Guyana does have a specific procedure for later extensions, it includes potentially burdensome procedural requirements. Positively, the Philippines has strong protective language specifying that if an indigenous claimant only has uncontested portions of a claim surveyed, this is not considered a waiver of rights over contested areas.

Community Land Formalization Procedures: Practice

Researchers surveyed land formalization procedures in practice in five countries: Tanzania, Mozambique, Guyana, Peru, and Indonesia.

Preconditions and Steps in Practice (Indicator 1)

Meeting preconditions can be burdensome, time-consuming, and sometimes disqualifying for communities. In Peru and Indonesia, government agencies applied eligibility criteria strictly, and regional authorities sometimes mandated burdensome demonstrations that communities had maintained customary practices. By contrast, in Tanzania, Mozambique, and Guyana, most communities could meet the definition of community, although government officials told some Guyanese communities they were too small to meet the 150-person threshold (Atkinson et al. 2016). Preconditions were a much more significant problem for some of the procedures that were not part of the in-depth case studies: strict requirements in Chile, where communities must possess a historic land title document, and in Cameroon, where land must be used or exploited currently and prior to 1974, effectively prevent many communities from accessing the formalization procedure (Alden Wily 2010; Bauer 2015).

Government policies or priorities may effectively create new preconditions. In Mozambique, the law provides two legal pathways for communities to formalize their rights: delimitation (resulting in a certificate) and demarcation (resulting in a title). However, in practice titling projects have directed funding for demarcation primarily to producer associations rather than communities as a whole. For this reason, the researchers only examined one Mozambican procedure for data on practice (EDG et al. 2014; Quan et al. 2013).

In practice, given communities' limited resources, either inclusion in a titling program or NGO support is critical for communities to begin the process of formalizing their rights. In Indonesia, all nine indigenous communities that received customary forest grants in 2016 were assisted by NGOs or CSOs. In Mozambique, provinces without a strong NGO leading delimitation efforts made limited progress (De Wit and Norfolk 2010).

Table 5 summarizes the data findings on the approximate number of steps and government agencies for all five countries. This represents a best estimate by researchers, given significant variations in practice. Steps that presented key barriers for communities to complete the process and obtain formal land rights are also highlighted. For an example of steps in practice, see Figure 3.

Additional steps in practice sometimes fill gaps in the law. For example, implementing authorities may add steps in the form of non-binding guidelines or project-specific plans, such as a set of recently developed guidelines in Guyana (Amerindian Land Titling Project Board 2016). These extra steps are not always barriers. They may be designed to reduce the discretion granted to officials and to mandate communication with the community, and have been welcomed in some cases by civil society.

The total number of steps these communities must navigate highlights the complexity of a typical land formalization process. However, often one step in the process, or one particular institution, is responsible for the procedure breaking down in practice. While the exact problem varied across procedures, the research highlighted some recurring challenges.

First, opposition to formalization from competing land claims or from certain government ministries can effectively block any progress. Researchers found that solving overlapping claims and boundary disputes was a complicating factor for all six procedures shown in Table 5. Interagency politics and inaction by specific administrative departments were also common sources of delays. There is little evidence of established dispute resolution procedures in any of the case study countries. In Tanzania, dispute resolution mechanisms were integrated into some formalization efforts (Schreiber 2017a), but in other cases the government skipped villages where boundary conflicts existed during titling programs (Fairley 2012; Tanzania interviews). In Guyana, there is no established mechanism for alternative dispute resolution (UNDP 2013).

In other instances, problems resulted from a lack of an established framework for implementation. Some countries lacked key institutions, such as the absence of a specific directorate responsible for

Table 5 | Formalization Processes in Practice: Steps and Barriers in Five Countries

PROCEDURE	STEPS		GOVERNMENT AGENCIES		KEY BARRIERS TO COMPLETING THE PROCESS
	LAW	PRACTICE	LAW	PRACTICE	
Guyana: Amerindian Land	10-12	37-44 (Guidelines) 29-32 (actual practice)	3	8-9	<ul style="list-style-type: none"> ■ Resolving conflicting concessions ■ Demarcation errors and disagreements over maps ■ Institutional disputes ■ Process restarts when a request is changed
Indonesia: Customary/Adat Forest	12	17	12	21	<ul style="list-style-type: none"> ■ Obtaining recognition as a community from the local legislative body ■ Lack of technical regulations at the national level
Mozambique: DUAT Delimitation	7	9	1-2	2	<ul style="list-style-type: none"> ■ Boundary harmonization and settling land disputes ■ Translating participatory map to the technical map ■ Issuance of certificate
Peru: Native Community Land Title	19	28	7	12	<ul style="list-style-type: none"> ■ Resolving overlaps with concessions/productive forests ■ Completing registration in various cadastres ■ Soil analysis (potentially simplified by new laws)
Peru: Usufruct Contract of Forestland	20	33	8	15	<ul style="list-style-type: none"> ■ Confusion over institutional responsibility ■ Lack of implementing regulations and guidelines
Tanzania: Certificate of Village Land	3	18	2	5-6	<ul style="list-style-type: none"> ■ Resolving boundary conflicts ■ Delays in issuing documents/misplaced documents ■ Obtaining district level approval ■ Surveying (lack of capacity/expense)

Note: For Guyana Amerindian Land, recent nonbinding guidelines have been developed but not yet implemented.
Source: WRI. See Appendix C.

customary forest recognition in Indonesia (Indonesia interviews). Elsewhere, governments failed to develop crucial implementing regulations or procedures. In Peru, the National Forestry Service has not yet developed a procedure for granting usufruct contracts, as required by law, although some subnational governments developed their own procedures, allowing a few contracts to be issued. Peru also lacks clear guidance on how to implement procedures where forest concessions overlap (Peru interviews).

Capacity and coordination issues were common, with limited transparency as to the reasons for these breakdowns. This included government inability to coordinate across multiple maps or registries and ensure their accuracy, challenges

meeting technical surveying requirements, and lack of community expertise to write reports. At the end of the formalization process, registration and delivery or issuance of the final certificate or deed to the community is also a recurring problem, triggering major delays in Mozambique and Tanzania (Quan et al. 2013).

Time and Expense of the Formalization Process (Indicators 2 and 3)

The time to complete formalization procedures varies significantly among communities within a country, and across countries. Overall, completing the procedures takes from around a year to up to around 30 years. This does not include claims that are still pending (Table 6).

Figure 3 | Procedural Steps in Practice: A 10-Year Journey for the Native Community of Vera Cruz, Loreto, Peru



Source: CIFOR, modified by WRI.

Certain factors recur across the procedures as a major source of delay. These include boundary disputes with neighbors (Peru, Mozambique, Tanzania), which take time to resolve, or may result in government postponements. In Tanzania, surveyors skipped villages with seemingly irreconcilable differences over boundary locations (Fairley 2012). Delays also occur where there are competing claims from third parties or opposition from concession holders for mining, forestry, or other purposes (Peru, Mozambique, Guyana, Indonesia).

Lack of government capacity or prioritization is a further concern. Authorities may have insufficient budget, qualified personnel, or requisite supplies (such as crested paper in Tanzania) (TFCG 2015). Lack of political will, commitment from local and/or national authorities, and accountability for government staff are further concerns (Box 7). Technical requirements, such as soil analysis in Peru, can be time-consuming. Communities sometimes struggle to meet requirements, due to a lack of literacy, translation issues, or intra-community divisions (Mozambique). Conversely, in Peru, nonprofits found that working closely with the relevant government offices facilitated the process.

Communities may also experience significant delays in even beginning the application process (this is generally not captured in Table 7). Many communities, lacking resources to begin formalization procedures themselves, must wait to be included in a government titling program or for a nonprofit to approach them.¹⁴ For example, in Peru, the Vera Cruz community had to wait nine years after completing the initial steps in the procedure (legal recognition as a community) to be included in a titling program. Once a program included the community, completing the process took less than one year (see Figure 3) (Peru interviews).

In terms of the procedure costs, financing typically comes from a combination of governments, nonprofits, international organizations, and communities themselves. Even where under the law governments bear responsibility for paying costs, communities often have expenses in practice; in Guyana, communities often pay for certain field expenses and for meetings with government agencies (APA/FPP comments). Communities are heavily reliant on donor organizations to meet their costs. Government titling programs are also typi-

Table 6 | Time to Complete Formalization Procedures

PROCEDURE	MINIMUM	MAXIMUM	SOURCE
Guyana: Amerindian Land	—	Around 30 years Claims still pending from 1960s	Atkinson et al. 2016
Indonesia: Customary/Adat Forest	4 years	15 years Claims still pending for longer than 15 years	Indonesia interviews
Mozambique: Delimitation	2 years	3 years	De Wit and Norfolk 2010 (giving averages)
Peru: Native Community Land Title	1 year (titling alone)	20+ (titling alone)	Peru interviews
	10 years	25 years	RFUS et al. 2015
Peru: Usufruct Contract of Forestland	(Same as Native Community Title) with additional 30 days	(Same as Native Community Title) with additional 1+ year	Peru interviews
Tanzania: Certificate of Village Land	1 year	3 years Claims still pending for 5+ years	TFCG 2015

Source: WRI. See Appendix C.

BOX 7 | OBTAINING SUPPORT FROM REGIONAL LEGISLATURES IN INDONESIA

In Indonesia, before indigenous communities can obtain recognition at the national level for their customary forest rights (adat forest), they must obtain legal recognition of their indigenous status at the regional level. Legally, this can be obtained via the regional head or via regulations from local legislative bodies. However, in practice, regional head decisions have not been accepted unless the territory is located outside the forest area, necessitating that communities lobby the legislature for a regional regulation.

Obtaining the regional regulation is an expensive and time-consuming step. For example, in one case study, the community had to hold a hearing with the parliamentarians, followed by four public consultations on the draft regulation. The process is highly reliant on NGO support, and parliamentarians will not support the draft regulation unless they perceive a potential political or electoral benefit. In the meantime, communities incur heavy costs engaging in the necessary lobbying, while the process may take years. One community took five years to obtain the regional regulation; where local governments have granted concessions on the land, it takes even longer or never occurs.

Source: Indonesia interviews.

Opposition to formalization from competing land claims or from certain government ministries can effectively block any progress.

cally dependent on international support, such as from the UNDP in Guyana. The broad diversity of funding sources makes obtaining comprehensive data on total costs difficult, but some specific costs have been reported. Tanzania's process for obtaining a Certificate of Village Land is likely the least expensive of the procedures, ranging from US\$500 to \$1,000 per community (Byamugisha 2013). For titling of agricultural land in Peru, the cost ranges from \$1,000 to \$13,000 (Peru interviews). In Mozambique, one study estimates that costs for delimitations conducted in the early 2000s ranged from \$2,000 to \$8,000; another reports average costs of around \$13,000 for projects implemented between 2010 and 2012 (these costs are not adjusted for inflation) (De Wit and Norfolk 2010; Quan et al. 2013).

The cost of boundary demarcation, particularly the cost of technicians, is one of the key cost burdens to communities (Mozambique, Guyana, Peru, Tanzania). Further costs are added by other technical requirements, such as the soil analysis in Peru, although this has been somewhat simplified recently.¹⁵ Costs are also increased if records are not readily available where rights overlap and where there are conflicts (Peru) (Peru interviews; Quan et al. 2013; Schreiber 2017a; TFCG 2015; UNDP 2013). Indigenous Peoples in Indonesia had to lobby and mobilize the legislature to recognize them as an indigenous community, which was a major expense (see Box 7). Traveling costs are a concern (although not included in the previously mentioned cost summaries), particularly where communities are remote (Guyana, and Peru, where some communities are a four-day journey by boat). (Peru interviews; UNDP 2013). In Mozambique, there were reports in one province of government surveyors conducting additional field visits or extended stays to obtain higher allowances, which increased costs (Quan et al. 2013). On the other hand, costs were reduced in Mozambique by delimiting several communities in a region at the same time (De Wit and Norfolk 2010).

Duration of the Right, Requirements to Maintain it, and Revocability (Indicator 5, 7, and 8)

In all the procedures for which practice was examined, rights were granted for the full duration specified in the law (in perpetuity). The research also did not indicate any instances of rights being revoked once they were granted. The exception to this was a report from Guyana, which described titles granted to a few communities being revoked immediately on unclear and apparently arbitrary grounds (Almås et al. 2014). Otherwise, however, this has not occurred, even where revocations have been included in some forest usufruct contracts in Peru or where otherwise allowed by law.

There are examples of rights being lost through other means. For example, when a village is subdivided in Tanzania, this invalidates the prior Certificate of Village Land and requires communities to repeat the process, a major issue in practice (Schreiber 2017a). In Mozambique, land that is perceived as idle or unused may continue to be susceptible to reallocation or alienation away from the village. Poor record-keeping, contradictory registrars, or lost or damaged title documents were also documented problems across multiple procedures. In Guyana, for instance, village leaders have not always passed records of titles to their successors (APA/FPP Comments).

Scope of Rights Granted

Size of the Land (Indicator 4)

Table 7 provides a summary of available data on the size of land over which rights have been recognized, with the caveat that in some instances, there are carve-outs or overlapping natural resource concessions that are not reflected in these data:

A significant issue, reported for five of the six procedures examined in practice, was government officials imposing unofficial caps or arbitrary criteria restricting the size of land granted. Indonesian officials have refused to process applications that they consider too large, arguing the area exceeds community management capacities. In Guyana, there are indications of an established policy to deny areas deemed excessive or “too large,” and a number of requests have been denied on this basis (Almås et al. 2014; Atkinson et al. 2016; GOG/OP 2010). Government officials in Mozambique have sometimes been hesitant to approve delimitations of large areas, due to continued confusion over a now outdated regulation.¹⁶ Conversely, some Mozambican NGOs have also voluntarily focused on smaller areas (a maximum of 10,000 hectares, compared to early allocations of 200,000 or even 500,000 hectares) because they found that the large allocations led to subsequent management issues and overlapping land rights (Quan et al. 2013).

Table 7 | Size of Formalized Community Lands

PROCEDURE	MINIMUM (HA)	MAXIMUM (HA)	MEAN (HA)
Guyana: Amerindian Land	259 ^a	8,288 ^a	Insufficient data
Indonesia: Customary/Adat Forest	24	5,172	1,282.9 (mean); 313.99 (median)
Mozambique: DUAT Delimitation	<10	500,000	10,676
Peru: Native Community Land Title^b	19	452,735	7,706

Notes: a) Based on limited data. b) Based on IBC, 2017 (SICNA database—Sistema de Información sobre Comunidades Nativas de la Amazonia Peruana: <http://www.ibcperu.org/mapas/sicna/>).

Source: WRI. See Appendix C.

Technical teams conducting demarcations or other exercises also have reduced the size of community land claims on questionable grounds. In Peru, the amount of land granted to a community is highly dependent on the technical team. Because there is no clear legal guidance, the number of families may be used as a parameter, although this is borrowed from an inapplicable legal standard (Peru interviews). Similarly, in Guyana, civil society has raised concerns about the “shearing away of land in demarcation exercises” (APA 2013). In Mozambique, there are problems in translating maps that communities prepare as part of the delimitation process to the actual cadastre. At times, the cadastral service takes a few GPS points and draws lines between them, instead of documenting the boundaries agreed upon by communities and their neighbors (Cabral and Norfolk 2016). There were similar problems in Tanzania with straight lines drawn on a map, without regard for actual boundaries, resulting in later conflicts among villages (TFCG 2015).

Communities have also had sections of their land excised on behalf of third-party or overlapping claims. In Guyana, a community land map showed a title area of 24.3 square miles, “save and except for” 20 of the 24.3 square miles, which were marked as private land held by third parties (Donovan et al. 2012). Certain types of land may also be lost. In Peru, few communities have been able to obtain the requisite forest use contracts on land classified as forestland, meaning the forestland effectively remains unrecognized. In Indonesia, formalization is challenging where land overlaps with conservation areas.

Rights Granted (Indicator 6)

Subsistence resource use rights were generally protected the same in law and practice but with some exceptions.¹⁷ The exceptions were typically due to encroachment by third parties or restrictions near conservation areas. In other cases, communities enjoyed some rights for subsistence use even where the law is ambiguous or disallows such use, due to lack of enforcement of laws (some of which are ambiguous or outdated).

Commercial use of natural resources is less likely to be exercised in practice than the protection given in law. In practice, it is often difficult for communities

to obtain requisite licenses. For example, in Peru, a small percentage of communities has the requisite authorizations to engage in extraction and commercialization of forest resources. Most communities that obtained this authorization and can meet ongoing compliance requirements can do so because of support from donor organizations (CIFOR 2016; Peru interviews).

Communities are not always able to exercise management and exclusion rights to the full extent allowed by law. For example, many communities with delimited land in Mozambique did not have strong resource management structures in place (Ghebru et al. 2015; Knight et al. 2014). Elsewhere, communities are unable to exclude third parties from entering their land or are unable to effectively control high value resources targeted by external interests through legal and illegal means. For example, incursion by gold miners is a major issue on Amerindian lands in Guyana (Donovan et al. 2012). In Peru, one community saw 100 percent of its communal territory divided into mining rights, and 10 other communities in the area had similar issues (Trujillo 2012). This is closely linked to a lack of protection for the right to free, prior, and informed consent.

Alienation rights are occasionally more or less protected in practice as compared to the law. Informal leasing, for example, occurs in Peru on a looser basis than the law provides (Peru interviews). In contrast, in Mozambique, leasing is allowed by the law but does not occur because implementing regulations have not been developed (Cabral and Norfolk 2016; Rose 2014).

Investor Land Acquisition Procedures: Law

This section examines 14 company procedures for acquiring land rights for agricultural, oil palm, forestry, tourism, or general economic purposes. These procedures, shown in Table 8, were chosen to reflect key mechanisms by which investors can acquire land from the government. Due to controversy, two of the procedures are currently under a moratorium, namely Economic Land Concessions in Cambodia and Special Agriculture Business Leases in Papua New Guinea (Cambodian Center for Human Rights 2016; Karigawa et al. 2016).



Preconditions and Steps in the Procedure (Indicator 1)

The key precondition for companies seeking to invest in land relates to investor nationality. Foreign investors must meet additional certification requirements in Papua New Guinea, Tanzania, Mozambique, and Indonesia. They are also barred from accessing the procedure in the Philippines and from obtaining leases from the District Land Boards in Uganda, although in both countries other land rights procedures are available to overseas companies. In Tanzania, and for land acquisitions from the Ugandan Land Commission, foreigners can only obtain the equivalent of a lease rather than a permanent grant.¹⁸

In addition, for most of the land acquisition procedures surveyed, companies can only access land in specific legal or geographic categories. In some cases, this relates to the nature of the concession. In Panama, for example, the land acquisition procedure focuses on tourism and is only available on the islands. Elsewhere, the restrictions reflect particularities in a country's land tenure framework. In Cameroon, only national land free of all effective occupation as of 1974 is available for concessions under the assessed procedure. Similarly, in the Philippines, only alienable lands of the public domain may be subject to agricultural concessions. These categories do not always reflect reality, as noted in the section on practice below.

The number of procedural steps that companies face and the number of government agencies involved are generally higher where countries impose environmental licensing requirements or—in the case of Mozambique and the Philippines—where community consultations are required (Table 8). Other technical requirements, not captured in Table 8, can add further complexity, such as land valuation and the acquisition of land clearing permits in Peru.

Of the 13 procedures researchers examined, 10 involve straightforward applications to government bodies, while two procedures also incorporate a bidding process. The Cambodian procedure can involve either bidding between companies or an unsolicited application. Two of the procedures, in Papua New Guinea and Tanzania, involve lease/lease-back arrangements where, if land has customary owners, it is first leased to the government, which then leases it to the investor. The remaining procedures presume government ownership of the land in question, and except for any requisite community consultations, the burden of verifying third-party claims lies with the government. (There are some minor exceptions to this, such as in the Philippines, where investors include information on whether there are indications that the land is occupied in their application.) However, only six procedures incorporate any sort of community consultation around land issues (see Table 9), and

Table 8 | Steps in the Process of Investor Land Acquisition

PROCEDURE	NUMBER OF STEPS	GOVERNMENT AGENCIES	NUMBER OF STEPS THAT INCLUDE ENVIRONMENTAL LICENSING	NUMBER OF STEPS INVOLVING SOME LEVEL OF COMMUNITY CONSULTATIONS ^a	DOES PROCEDURE INCORPORATE STEPS TO ENSURE FPIC?	COMMENTS ^b
Cambodia: Economic Land Concession	14–17	5–7	5–6 steps	0 steps	No	Open-ended steps
Cameroon: Provisional Concessions on National Land	5–7	5	0 steps	0 steps	No	—
Guyana: State Land Grant or Lease	6–7	3	0 steps	0 steps	No	—
Indonesia: HGU Land Use Right/Palm Oil Plantations	19–26	22	8 steps	2 steps	No	—
Indonesia: HTI/Industrial Forests	14	9	8 steps	0 steps	No	—
Mozambique: DUAT Acquisition for Economic Purposes	11–15	8–13	0 steps	2–3 steps	Yes BUT legal ambiguity	Open-ended alternative steps
Panama: Concessions for Tourist Investment	19	10	7 steps	0 steps	No	Open-ended alternative steps
Papua New Guinea: Special Agriculture Business Lease	3	2	0 steps	1 step	No	Missing implementing regulations
Peru: Rights to Forests on Classified Agricultural Land	28	11	5 steps	0 steps	No	Open-ended alternative steps
Philippines: Lease of Agricultural Land of the Public Domain	9–33	4–10	0 steps	0–19 steps	Yes, if land is an ancestral domain	Open-ended steps
Tanzania: Granted Right of Occupancy/Derivative Right	4–14	2–5	0 steps	0–5 steps	Yes BUT legal ambiguity	Open-ended alternative steps
Uganda: Freehold Land from District Land Board	8–13	4	0 steps	0 steps	No	Open-ended steps
Uganda: Grant/Leasehold from ULC	5–7	2	0 steps	0–1 step	No	Open-ended steps
Averages (Low and High)	11.2–15.6	6.7–7.9				
Median (Low and High)	9–14	5–7				

Notes: a) Community consultations are noted here even if they do not rise to the level of free, prior, and informed consent. However, they are not included if only the presence or participation of a leader or local authority is required or if only a general opportunity for oppositions to be expressed is given. This also does not count consultation steps required as part of environmental licensing (i.e., consultations on the environmental impacts of a project). b) Open-ended steps refer to steps that could continue indefinitely. Source: WRI, based on the laws in Appendix F.

only three require investors to engage in FPIC procedures. In the latter case, two of the three procedures, are legally ambiguous on whether communities have the right to refuse consent. None of the procedures requires any resettlement of people living on the land prior to the acquisition of the land right.

Time and Expense of the Formalization Process (Indicators 2 and 3)

The relevant laws contain few provisions governing either time or cost of the procedures. As with communities, none of the assessed procedures establishes overall time frames. Time frames are typically specified where there are notice or publication requirements or where there is environmental licensing (Box 8). Otherwise, step-specific deadlines were uncommon, with some exceptions such as a requirement in Mozambique that technical opinions from ministries be granted in 45 days, or limits on total negotiation time over bids in Cambodia.

In terms of costs, companies are expected to bear the costs of land acquisitions in all the procedures examined (i.e., the cost of surveying and other technical requirements). They will also generally be expected to pay registration fees, although laws incentivizing investment occasionally exempt certain companies from this: Cameroon, for example, provides exemptions from any stamp duty for certain investors. Company procedures that include bidding (Cambodia and the Philippines) require initial deposits as part of the bid. Initial rent payments may also be required.

Duration of the Right, Requirements to Maintain It, and Revocability (Indicators 6, 7, and 8)

Most companies may only acquire land rights for limited terms. The maximum allowable terms range from 25 to 100 years, excluding procedures that allow for unlimited grants of land (Peru or domestic investors in Uganda), or only establish temporary provisional concessions that are later converted to definitive concessions (Cameroon and Mozambique).

BOX 8 | DEADLINES FOR ENVIRONMENTAL LICENSING IN CAMBODIA

Detailed time frames are uncommon in land acquisition procedures generally, both for companies and communities. But environmental licensing, where required, often sets stricter deadlines. In Cambodia, the environmental ministry must review an Environmental Impact Assessment (EIA) within 30 working days of receipt. Each step of the review process also sets deadlines: 10 working days for the field visit, 5 working days for comments by the relevant departments, etc. If the investor must revise and resubmit the EIA, the second review process must also occur within 30 working days.

If it is assumed that all possible renewals are granted and that all provisional concessions converted to definite ones, seven procedures have a potential life of 50 to 100 years. Another four procedures, as well as domestic investors in Uganda, are unlimited. The remaining procedures have ambiguous provisions on renewal (Table 9).

All the procedures impose conditions (i.e., additional obligations) on the land acquisition, except freehold title in Uganda where imposing conditions is discretionary. Violating certain conditions can result in revocation of the right for all procedures. Eleven of the 14 company procedures include mandatory conditions to develop the land. A majority of these define development subjectively (around the company's own development plan or contract obligations), but a minority use objective criteria (development is defined in the law). Other conditions include payment of rent (Philippines and Cambodia), completion of technical requirements (such as demarcation of the land in Mozambique), implementation of community or small-holder projects (both Indonesia procedures), or compliance with environmental or other laws.

Table 8 | Duration of Company Land Rights

PROCEDURE	MAXIMUM TERM	RENEWAL AND TERM OF RENEWAL	TOTAL TERM IF RENEWAL GRANTED	DEVELOPMENT CONDITION?
Cambodia: Economic Land Concession	50 years* *reduced in 2011	Once, 50 years (possible 99 year cap)	99-100 years	Yes (objective)
Cameroon: Provisional Concessions on National Land	5 years (provisional)	Yes (extended or converted)	No limit	Yes (subjective)
Côte d'Ivoire: Emphyteutic Lease	18-99 years	Yes, unclear time	Unclear	Yes (objective)
Guyana: State Land Grant or Lease	99 years	No; exceptionally 1 year	99-100 years	Yes (objective)
Indonesia: HGU Land Use Right/Palm Oil Plantations	35 years	Once, 25 years	60 years	Yes (subjective)
Indonesia: HTI/Industrial Forests	60 years	Once, 35 years	95 years	Yes (subjective)
Mozambique: DUAT Acquisition for Economic Purposes	2 (foreign) or 5 (domestic) years (provisional)	Definitive: 50 years Renew once	100 years	Yes (subjective)
Panama: Concessions for Tourist Investment	40-60 years	Once, 30 years	90 years	Yes (subjective)
Papua New Guinea: Special Agriculture Business Lease	99 years	Not specified	Unclear	No
Peru: Rights to Forests on Classified Agricultural Land	No limit	N/A	No limit	Yes (subjective)
Philippines: Lease of Agricultural Land of the Public Domain	25 years	Once, 25 years	50 years	Yes (objective)
Tanzania: Granted Right of Occupancy/Derivative Right	98-99 years	Yes, no limit	No limit	Yes (subjective)
Uganda: Freehold Land from District Land Board	No limit	N/A	No limit	No
Uganda: Grant/Leasehold from ULC	99 years (foreign); none (domestic)	Not specified (foreign) N/A (domestic)	Unclear (foreign); none (domestic)	No

Source: WRI, based on the laws in Appendix F.

Scope of the Rights Granted

SIZE OF THE LAND (INDICATOR 4)

Eight of the 14 company procedures do not impose a numeric cap on the amount of land that investors may acquire (although in Tanzania the law instructs a cap to be imposed by as yet unwritten regulations). Five procedures do impose specific caps, ranging from 500 hectares for individual citizen investors in the Philippines up to 150,000 hectares (in two 75,000-hectare plantations) for industrial forests in Indonesia. The remaining procedure (Panama) restricts tourist concessions from exceeding a certain percentage of the land on an island.

Laws do not clearly prohibit companies from evading these size limitations by combining multiple concessions or using creative ownership structures. Only three procedures (both Indonesian procedures and Cambodia) restrict companies from combining multiple concessions. Of these, only Cambodia specifies that this extends to companies owned by the same persons (one of the Indonesian procedures also has restriction on this for some companies). For the other procedures, the law does not clearly forbid creating shell companies to acquire larger tracts of land, although the Philippines does have a law targeting shell companies generally. As described below in the section on company practice, companies exploit these legal loopholes.

RIGHTS GRANTED (INDICATOR 6)

The same scale was used to assess rights received by investors as for communities, but only for commercial (not subsistence) purposes. The right to commercial use of both water and wildlife are typically governed by a separate legal framework, but were available subject to a permitting process for most procedures. The granting of forest rights varied more significantly: unsurprisingly, the right was stronger where the underlying procedure was linked specifically to forestry activities (such as in Peru and Indonesia). As with communities, investor commercial rights over minerals and hydrocarbons were limited and generally require the company to have expertise in mining and go through the proper licensing processes. Mining and hydrocarbon rights were not tied to the underlying land rights in any of the investor procedures examined.

Full management rights are granted to investors almost universally, excepting standard environmental and social regulations. Some restrictions exist on clearing forests in Papua New Guinea and Peru, and in Indonesia, oil palm concessions must dedicate 20 percent of the land to small-holders (although it is unclear whether this must be part of the concession itself). Exclusion rights were also fully granted across the board, although in some instances there are strong easement requirements mandating access to water or other subsistence resources for neighboring communities.

Alienation rights are fully granted, both for sale or transfer or for lease or sublease, for six procedures (excluding Cambodia, where the law is contradictory). Transfer rights are only fully denied for one procedure (industrial forests in Indonesia), and lease rights are fully denied for two procedures (Mozambique and industrial forests in Indonesia). Several procedures allow alienation subject to restrictions, specifically government authorization (Mozambique, Guyana, Philippines, Papua New Guinea). Laws that restrict alienation do not generally prevent the company holding the land rights to transfer shares, leaving a loophole by which companies may effectively transfer land even where there are legal limitations on alienability.

Complex regulations, combined with minimal oversight, can result in wide variations in the time investors actually spend on meeting requirements.

Investor Land Acquisition Procedures: Practice

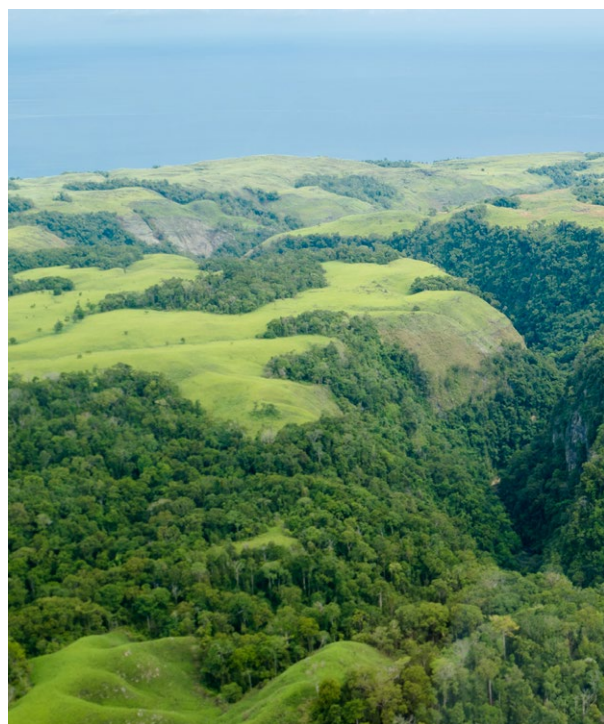
The researchers examined investor land acquisition in practice for six procedures—in Tanzania, Peru, Guyana, Mozambique, and for both palm oil plantations and industrial forests in Indonesia. The findings for Guyana and Mozambique are based solely on desk research, and data were scarce for Guyana, with the findings based on a limited sample size.

Preconditions and Steps in the Procedure (Indicator 1)

Investors do not always have to meet preconditions for land classification because these legal classifications do not reflect reality on the ground. For example, in both Peru and Guyana, this is true of “forest” versus “agricultural” land, such that investors can obtain permits to clear forests on what is technically considered land suitable for agriculture (Morgera 2009; Peru interviews). Companies have also found ways around restrictive preconditions related to nationality. For example, foreign investors in Mozambique register a domestic subsidiary, and those in Indonesia acquire shares in a domestic company. Some preconditions can be burdensome for companies, such as the requirement in Mozambique to register with an investment agency. However, this requirement does not delay the land acquisition process as it is conducted in parallel (Hanemann 2016).

Estimates of the total steps investors must go through in practice to acquire land vary significantly across companies. In Mozambique and Tanzania, some companies complete the process with fewer steps than the law requires by, for example, abridging community consultations or failing to notify relevant government agencies, but other companies undertake significantly more steps. For example, in Tanzania, even where land must be transferred from villages to the government and then on to a corporation, one source reports a streamlined process of only 9 or 10 steps, where investors directly contact district officials who expedite the process at the local level. By contrast, another case study indicates a more complex process involving 20 steps (Cleaver et al. 2010; Makwarimba and Ngowi 2012; Olenasha 2013).

In Indonesia, researchers estimated that the steps required in practice for both company procedures are one shorter than the total required by law due to part of the environmental licensing process being condensed. By contrast, in Peru the examined case study indicated 38 steps required in practice to gain the rights to forests on classified agricultural land—10 more than required by law. However, in both countries, there are reports of some companies evading many required steps, again indicating a wide range in actual procedural complexity experienced by companies. (For an example, see Box 9). In Indonesia, many palm oil companies use



the “location permit” as a basis to start operations, although this is only one of several permits required before the final land right is granted (Indonesia interviews).

Time and Expense of the Formalization Process (Indicators 2 and 3)

The time it takes for investors to acquire land under the relevant procedures generally ranges from a few months up to several years. On the low end, in Tanzania acquiring land already held in the Tanzania Investment Centre’s land bank may be as short as 30 days, and acquiring a use right in Mozambique may occur in three months. On the other end of the spectrum, procedures can take several years, with upper ranges of between two years and five years in Tanzania, Mozambique, and for both Indonesia procedures.¹⁹ (CPI 2016; Hanemann 2016; MITA-DER 2018; Tanzania interviews).

Factors that increase the land acquisition time include more complex licensing requirements: in a case study from Peru, the lengthiest procedures were completing environmental licensing (two years) and the technical soil analysis (two years) (Dammert Bello, 2015; Dammert Bello 2017; Peru interviews). Environmental permitting is the primary source of delay for industrial forest permits in Indonesia. Community consultations may also be time-intensive when required, such

BOX 9 | EVADING BURDENSOME REGULATIONS IN PERU

Companies in Peru that comply with all legal requirements are subject to a relatively complex licensing process, including an environmental certification, soil analysis, land-use clearance permit, and a forest clearance permit. Some companies have accordingly found creative legal and illegal ways to avoid these requirements. In particular, companies have started to strategically acquire smaller plots of land from private owners instead of acquiring land from the government. This can result in less burdensome requirements and shifts some of the permitting to the subnational level where it may be easier to buy political will.

One oil palm company, for example, entered separate permit applications for 18 different plots of 30 to 50 hectares each. The land-use changes were authorized at the subnational level and apparently did not obtain the required environmental certification.

Another example is the Grupo Melka palm oil and cacao company, which created 25 shell companies that approached private small-holders and subnational governments to acquire land. At some point between entering the country in 2010 and 2014, the group acquired 15,000 hectares through direct purchase (14,000 of which have been deforested already), and another 45,160 hectares have been requested from the subnational government. This resulted in several ongoing lawsuits (Dammert Bello 2017; Salazar and Rivadeneyra 2016).



as for a company in Mozambique, which reported that the requisite consultations took two years to complete (Hanemann 2016). Other factors include a lack of clarity around time frames for processing applications (Mozambique and palm oil plantations in Indonesia) and waiting times in securing the necessary government approvals (Tanzania). Conversely, some investors may find shortcuts: there are reports in both Tanzania and Mozambique, for example, of inadequate community consultations, consisting of a single meeting or a token approval from a community leader (often excluding women or vulnerable groups) (German et al. 2013; Salcedo-La Viña and Morarji 2016). In Indonesia and Peru, not all investors have met mandated licensing requirements (Indonesia interviews; Peru interviews). Complex regulations, combined with minimal oversight, can result in wide variations in the time investors actually spend on meeting requirements.

Data on the financial expenses required to acquire land for investment were not readily available. Costs vary significantly depending on how long the procedure takes, what licenses and environmental permits are needed, the size and scope of the project, and other factors. In Peru, official permitting fees (set at the regional level) were relatively low, not exceeding \$587. However, costs of completing requisite studies were much higher: for one palm oil project, costs of requisite studies and permits ranged from \$15,150 to \$121,000²⁰ (Dammert Bello 2015; Dammert Bello 2017; Peru interviews). Obtaining the permit for a release of forest area in Indonesia, which is a necessary component of obtaining a palm oil permit, costs between \$74,000 and \$110,550. In Mozambique, one company noted ongoing costs of \$200,000 (Hanemann 2016).

This suggests high expenses for obtaining land rights for companies, although the costs should be contextualized by the overall capacity of companies, the benefits received in exchange (which may extend to commercial licenses as well as land rights), tax incentives offered to investors, and the possibility of deducting some expenses as business expenses. Note that this analysis does not include the cost of bribes, which may be significant. For palm oil plantations in Indonesia, companies reportedly pay bribes as high as \$580 per hectare of requested land (Andiko 2017).

Duration of the Right, Requirements to Maintain It, and Revocability (Indicators 5, 7, and 8)

Most concessions in the countries examined were granted for the full duration allowed by law, with a few exceptions, such as in Guyana, where the land surveying department reports a standard lease of 50 years rather than the permitted 99-year term. By contrast, companies may effectively continue operating past the expiration of the two- or five-year provisional grants in Mozambique, given lack of government monitoring and capacity to issue definitive grants (Chiziane et al. 2015; CPI 2016).

Even where companies breach conditions of a land grant, revocations of the land rights are inconsistent. Rights have been revoked, particularly where projects have been abandoned (Mozambique, Tanzania, both procedures in Indonesia), or due to improper use of fire to clear land in Indonesia. However, revocations are not systematic. An indigenous group in Guyana reported that abandoned leases overlapping its land had not been canceled, despite repeated requests (Atkinson et al. 2016). In Mozambique and Tanzania, revocations have been made in response to public outcry, or have been politically driven, instead of being based on systematic monitoring (see, e.g., Chiziane et al. 2015; Land Matrix 2018; Mandamule 2017).

This is partly due to limited government monitoring capacity. In Mozambique, the Cadastre Services is supposed to monitor whether investors demarcate the land after they receive a provisional concession, but limited capacity means that revocation of the land rights of noncompliant investors is rare (Filipe and Norfolk 2017). Similarly, for industrial forest projects in Indonesia, the remoteness and size of the concession areas have meant limited oversight: one official told *The Economist* that his province gave 40,000 hectares in forest concessions the prior year, “but we have no way of knowing if they used 40,000 or 400,000.” (Economist 2016b; Indonesia interviews). Governments may also negotiate with companies instead of revoking rights, by reducing concession size (Mozambique) or allowing revisions to the development plan (Indonesia) (Cabral and Norfolk 2016; Indonesia interviews).

Scope of Rights Granted

Size of the Land (Indicator 4)

Legal requirements attempting to limit large landholdings by one owner are not effective in practice. In Peru and Indonesia, caps on concession size are avoided by companies applying for multiple concessions. (AsM/RRI comments; Borasino 2016; Dammert 2017). In Mozambique, where additional procedural requirements are triggered when land parcels of more than 10,000 hectares are sought, companies have requested multiple discrete parcels apparently to avoid the additional requirements (Cabral and Norfolk 2016). Even in Cambodia—not one of the case studies for examining practice, but one that had the strongest legal restrictions on companies with the same ownership holding multiple concessions—it was common practice to create subsidiaries to avoid the 10,000-hectare limit on Economic Land Concessions (U.S. Department of State 2009).

This practice sometimes results in companies obtaining very large concessions: there are palm oil and industrial forest plantations in Indonesia that are twice the legal limit of 100,000 and 150,000 hectares respectively. In Mozambique, one forestry company held 356,000 hectares across 43 different concessions (as of 2009) (IFC 2016). Although very large investments attract significant attention, available data also suggest a high number of small and/or medium-sized concessions, often held by domestic investors, in at least Guyana and Peru.²¹

Rights Granted (Indicator 6)

Rights to withdraw and use natural resources on the land are occasionally exercised more freely in practice than as provided by the law. This is particularly the case for timber extraction. In Mozambique, many foreign forestry investors, after obtaining the land-use right, finance Mozambicans to acquire a simple license, avoiding the more burdensome forest concession process imposed on investors. Extralegal timber extraction is also common: it is estimated that 48 percent of logging in Mozambique is illegal, and other estimates are higher (Baumert et al. 2016; Macqueen and Falcão 2017). In Tanzania, most investors can easily obtain the necessary forest extraction permits, but some assume they have automatic rights to

Some investors find shortcuts: there are reports in Tanzania and Mozambique of inadequate community consultations. In Indonesia and Peru, not all investors have met mandated licensing requirements.

forest products without a permit, until government authorities intervene (see, e.g., Sulle and Nelson 2013). As noted in the section on preconditions, legal classifications of *forest* or *agricultural* land that do not reflect actual geography also allow for deforestation in Peru and Guyana.

However, the data also indicate significant variations, depending on the capacities of individual investors and whether an investor undertakes good-faith efforts to comply with permitting regulations. For example, in Mozambique, large-scale, powerful water users commonly obtain commercial water permits much more easily than do smaller commercial actors, who may find the permitting process burdensome (Alba et al. 2016). Limited transparency makes assessment in this area difficult, however.

In practice, companies enjoy strong management and exclusion rights across the board. The same is true of alienability. Companies in Mozambique and Indonesia avoid legal restrictions on selling or transferring land by transferring shares in the holding company. Informal extralegal leases are also common in Mozambique, although in contrast, in Indonesia, palm oil concessions are permitted to sublet, but rarely do so in practice (AsM Comments; Filipe and Norfolk 2017; Oakland Institute 2011).



SECTION V

ANALYSIS: AN UNEVEN PLAYING FIELD

This section maps the uneven playing field experienced by communities seeking to obtain formal rights to their land. We identify those features of formalization procedures that were especially burdensome for communities across countries and identify limitations and risks that communities accept when they register and document their land. We then compare community and company procedures. Overall, procedures are more challenging for communities than for companies, especially given the rights at stake. In practice, community rights are more restrictive, whereas company rights are more expansive, and regulatory and policy frameworks favor company rights over community land formalizations.

Community Procedures Are Burdensome and Inaccessible

The regulatory framework governing community procedures is frequently complex and contradictory. The process established by law is not always clear. Implementing regulations may never be developed or suffer from legal flaws; in Chile, the procedure lacks implementing regulations since a legal opinion found them to be improperly enacted (Dictamen de la Contraloría General de la República No. 61011). Resultant ambiguities can effectively block implementation of the procedure, or result in problematic variations during implementation. Conversely, in other contexts overly detailed regulations create highly complex procedures, such as in the Philippines, where at least 54 steps are required by the law.

In practice, procedures are generally complex, but there are also key steps at which the process typically breaks down (see Table 5; Section IV(2)(a)). Without external political and financial support, communities seldom have the resources or flexibility to resolve these problems. There is also limited transparency, procedures stop and start inconsistently, and many are left incomplete. These challenges result from various factors, including a lack of government expertise on community land and customary tenure arrangements, challenges in aligning customary and statutory tenure regimes, corruption and rent-seeking behavior, opposition from more powerful commercial interests, and political opposition. Such challenges are not restricted to the 15 research countries and extend beyond the global south (see Box 10).

The cross-country comparative analysis identified the following aspects of community land formalization processes as particular challenges:

Legal, technical, and evidentiary requirements are prohibitive for some communities:

Most procedures (12 out of 19) require communities to obtain either legal personality or other formal government approval of their community structure. While defining a community and its governance structure is important, some of these procedures are highly complex: Cambodia requires registration with two different ministries, and the drafting of community bylaws in Khmer (a language that not all indigenous communities speak). Similarly, communities are required to demonstrate ancestral or historical status and/or ties to the land in question in (a different) 12 out of 19 procedures, often via difficult evidentiary standards. For example, in India, non-scheduled tribes that are “other traditional forest dwellers” must show residence in or dependence on the forest for 75 years; in Chile, specific historical land documents must be produced as evidence (see Section IV(1)(a)).

Government officials may have broad discretion to interpret evidentiary requirements. This can permit them to apply standards in a discriminatory manner, such as refusing to grant recognition as a native community to indigenous Peruvians who did not wear traditional dress (Peru interviews). Applications requiring extensive written documentation, the use of technical forms, or the submission of technical information present additional challenges, particularly for poorer communities with few literate members (see Section IV(2)(a)).

Applications requiring extensive written documentation, the use of technical forms, or the submission of technical information present additional challenges, particularly for poorer communities with few literate members.

A lack of transparency and clarity exists throughout the formalization process:

Community land formalization procedures may be delayed or applications denied without a clearly stated reason or on an arbitrary basis. For example, in Guyana, some communities have never received a written response to their applications, as required by law (Donovan et al. 2012). Communities are not always adequately informed or consulted as the process progresses. This can be seen in three key areas.

- First, government actors may skip or never complete crucial steps in the formalization process. In Mozambique and Tanzania, some communities never received their final land certificates, creating a scenario where communities assumed they had legally recognized boundaries but did not actually have final legal recognition of their rights. In Guyana, the requisite check with other agencies for the existence of overlapping rights does not always occur, resulting in disputes later in the process (see Section IV(2)(a); APA/FPP Comments).
- Second, the lack of transparency allows errors to go unchecked. For example, surveyors sometimes take shortcuts that result in incorrectly marked boundaries. Communities do not always have a clear mechanism to contest or correct these errors (see Section IV(2)(d)).
- Third, self-serving behavior by government actors can further obfuscate the process. Disputes over institutional mandates between disparate government entities have resulted in conflicting regulations and procedures. For example, in Peru and Guyana, institutional disputes and confusion over institutional roles were key challenges to implementing titling procedures (see Table 5). In India, conflicts between national and state governments, as well as between ministries, have undermined implementation of the Forest Rights Act and resulted in conflicting laws and policies (CFR-LA 2016). There are also reports of rent-seeking behavior by government officials, such as extending field visits to receive a higher payment for services (see Sections IV(2)(a); IV(2)(b)).



Disputes with third parties are inadequately addressed in law and in practice:

In all procedures where practice was evaluated, disputes between communities or between third-parties and communities was a key challenge to formalization. Conflicts increase costs and lead to delays. While some countries (e.g., Tanzania) have positively integrated dispute resolution mechanisms into the formalization process, in general, dispute resolution was under-addressed, allowing for unresolved disputes to effectively halt the formalization process. This is a weakness in both the regulatory frameworks, which do not outline clear standards for resolving disputes, and in practice, where both governments and civil society have struggled to adequately mobilize financial and operational resources in response to disputes (see Sections IV(1)(a), IV(2)(a), and IV(2)(b)).

BOX 10 | HIGH COSTS FOR CERTAINTY FOR CANADIAN FIRST NATIONS

The Comprehensive Land Claims process provides for a negotiation process between the Canadian government and First Nation communities over outstanding land claims left unaddressed by historical treaties or other legal mechanisms. Since the announcement of the Comprehensive Land Claims Policy in 1973, the process has resulted in recognition of First Nations land across more than 40 percent of Canada's land area (primarily in the less populated northern regions) (AANDC 2016).

However, this recognition carries significant costs for Indigenous Peoples. As part of the agreement, First Nations may be expected to agree to surrendering aboriginal rights or title, the loss of certain tax exemptions, the loss of rights to certain resources (particularly subsurface minerals), and/or limitations on future claims. Negotiations over the British Columbia Treaty Process (a subregional claims process) in the early 1990s established a framework under which indigenous groups would surrender 95 percent of their territories in exchange for compensation and certain treaty rights (Ryser 2012).

The negotiating process itself is expensive, complex, and lengthy. On average, negotiations take 15 years, but it can take up to 30 years to complete the process (Eyford 2015). The Canadian government provides loans to finance the negotiations. According to a 2013 audit, the average outstanding loan per active claim stood at approximately \$10 million (at January 2013 exchange rates) (AANDC 2013). Loans may be paid out of subsequent settlement agreements, but they are due regardless of whether an agreement is ultimately reached. Given such high costs, many treaty processes have been "mired in difficulties," and "many First Nations have all but given up on them" (Anaya 2014).

The presence of competing concessions to high-value natural resources on community land similarly can result in intractable disputes, due to opposition from competing government ministries or the companies holding the concessions. Poor ministerial coordination may result in conflicting maps or confusion over the presence and location of concessions. Some concessions—particularly mining concessions—are favored explicitly in the law or in practice, and oppositions from powerful third parties can completely block a formalization procedure. While procedures typically require notifying other ministries or neighboring landowners and giving them an opportunity to offer oppositions, this is accompanied by very little guidance on how to resolve the resulting disputes. Such procedures are important for due process reasons and to screen for potential conflicts. In Peru, notifying other ministries is not legally required but is done as a practical necessity. However, without checks, the oppositions can continue *ad infinitum*, as has become a problem in Brazil, and may be abused to block communities from formalizing their land²² (see Sections IV(1)(a); IV(1)(d); IV(2)(a), IV2(b); IV2(d)).

To Formalize Their Land, Most Communities Must Accept Restricted Rights, New Risks, and/or Less Land

When communities formalize their land, the ultimate land and rights granted may imperfectly reflect customary understandings. This introduces a risk that communities will lose rights during the formalization process or sacrifice other benefits or cultural practices. The procedures examined for this research incorporate restrictions into the formalization process that limit the amount of land formalized and the rights that may be exercised over that land, and sometimes create new risks for communities or undermine the collective status of the land.

Significant portions of customary land may be excluded in certificates or titles granted to communities:

Formalization often entails the fragmentation of customary land. This is sometimes due to legal barriers, such as the exclusion of either forest or nonforest land (5 procedures) or other provisions excluding third-party rights, conservation areas, or other specific types of land (e.g., land under the highwater mark in Guyana).²³ In practice, land is further excluded from formalization due to the overly strict imposition of evidentiary criteria in preconditions, demarcation errors, or because it is claimed by third parties. In applying at least five of the six procedures examined in practice, officials have applied arbitrary criteria to restrict the size of land granted to communities (see Section IV(1)(d); IV(2)(d)).

Communities may not be able to regain these rights at a later stage. Only four procedures have clear protective provisions for the right to request additional land at a later point, and even a clear legal procedure may not be meaningful in practice. Guyana provides a strong example of this: an earlier titling program in 1976 and 1991 granted some rights to indigenous communities, which were broadly inadequate. Although the 2006 law allows for land extensions, many requests for an extension have received no reply or have been rejected (see Section IV(1)(d)).

Communities do not receive full rights over the natural resources on their land:

Resources such as timber, wildlife, and minerals are usually governed under separate legal regimes, and the government retains the ability to grant overlapping concessions of various types in every country this research examined. During these transactions, communities seldom have full rights to free, prior, and informed consent (FPIC): only 2 out of 19 procedures had strong protections for FPIC rights

in the law. If consultations are held, they may consist of cursory meetings with community leaders, excluding women or minority groups. Commercial uses of natural resources by communities require licensing, sometimes even at a small-scale level, and these licenses are not readily accessible to communities. Although subsistence rights are normally protected, there are some exceptions, particularly regarding subsistence wildlife use, which was only fully guaranteed in 5 of the 19 procedures. In practice, the lack of these rights leaves communities vulnerable to high fines or other penalties for engaging in traditional activities and has serious livelihood repercussions (see Sections IV(1)(d); IV(2)(d)).

Formalizing land may expose communities to new risks:

Communities risk losing community status for their land, a direct risk in Côte d'Ivoire, where community certificates must eventually be converted into titles that cannot be held collectively. Elsewhere, loss of community status is an indirect risk of participating in titling programs that prioritize individual or household titles. Some communities experience political pressure to undertake individual titling, or agree to individual titling because they are afraid of losing their land while waiting for a community title. As a positive counter-example, in Tanzania, community-wide titling is a prerequisite to issuing titles to individuals or subgroups within the community. Other risks include a loss of land or rights that previously existed under custom or losing the ability to apply customary law (see Section IV(1)(d)). While this research focused on risks inherent to formalization procedures, the potential political, social, and security risks to engaging in formalization are unavoidable. Some communities have been subject to retaliatory (sometimes violent) attacks, accusations of fraud, or lawsuits (see, e.g., Box 12, Cambodian Center for Human Rights 2016; RFUS et al. 2015).

Procedures Are, on Average, More Challenging for Communities Than Investors

In comparing the complexity of community and company procedures, the research uncovered several key differences that benefit investors over communities. This is the opposite of what might be expected, given that communities are seeking to formalize long-standing customary rights, which in some countries already have the force of law, while companies are applying to obtain new rights. Furthermore, while communities rely on land and associated natural resources to pursue diverse livelihoods, companies typically acquire commercial rights for a specific investment purpose, such as oil palm or timber extraction.

Both across and within countries, the complexity of community and company procedures varies widely. However, accounting for the factors just mentioned, there are several key indications that communities experience significant procedural challenges that investors do not:

The formalization of community land rights takes longer than investor land acquisition:

Even where companies must navigate complex regulatory regimes, they obtain land much faster than communities can formalize their rights: at the

longest, in years rather than decades. As Table 10 shows, time frames for company land acquisition in the cases surveyed ranged from around 30 days up to 5 years, compared to a range of 12 months to 30 years for communities (excluding those where claims are still outstanding). Community formalization has progressed more quickly in Tanzania and Mozambique in recent years, following sustained country-wide titling campaigns. However, this trend follows a rush of investor land acquisition in both countries during the mid to late 2000s, prior to these more recent campaigns.²⁴

Companies do not view land acquisition as quick: financial backers may view a multiple-year land acquisition process as too long. But the long wait times for communities, combined with the fact that many communities are never able to formalize their land in the first place, means that while communities wait to receive titles or certificates, they risk their land being allocated to external interests (see Section IV(1)(b); IV(4)(b)). Some countries have established legal provisions that attempt to prevent this, but these have had little efficacy in practice. In the Philippines and Panama, land allocations to third parties are supposed to be frozen while indigenous land claims are pending, and in Cambodia communities can apply for a limited interim protective measure (although this procedure is burdensome) (Jhaveri et al. 2016; Pen and Chea 2015).

Table 10 | Land Formalization and Acquisition Timelines: Comparing Companies and Communities

COUNTRY	COMMUNITIES: RANGE	COMPANIES: RANGE	NOTES
Guyana	Up to around 30 years	1 year to “much longer”	Reflects country-wide estimates
Indonesia	4–15 years	3–5 years (HGU)	Based on limited case studies
Indonesia	4–15 years	1.5–2 years (HTI)	Based on limited case studies
Mozambique	(Only average available: 2–3 years)	3 months to 5+ years	Reflects country-wide estimates
Peru	Up to 25 years	Insufficient data (one case study: 4 years)	Combination of case studies and country-wide estimates
Tanzania	1–3 years	30 days to 3 years	Reflects country-wide estimates

Source: WRI. See Appendices C and E.

Company procedures are less complex than those imposed on communities, given the additional commercial licenses obtained:

The data findings reveal that, on average, communities are legally required to engage in two to three steps more than companies—14.4–17.6 steps compared to 11.2–15.6. However, many company procedures incorporate additional licenses into the land acquisition process—most notably environmental licenses, but also land-use clearance licenses, sector-specific approvals, and others (see Section IV(1)(a); IV(3)(a)). Had such commercial licenses been excluded, the difference between the number of legally mandated steps required of communities and companies would have been even greater.

In other words, both in practice and in law, procedures for companies are complex primarily because of environmental or land-use regulations related to the intended commercial activity (see Section IV(4)(b)). By contrast, companies may be able to take shortcuts around important land issues that affect local communities. For example, while essentially all community procedures surveyed require field visits from government officials, this is not the case for companies. Panama and Cambodia only require field visits as part of environmental licensing, not as part of land acquisition, and the Uganda Land Commission does not mandate a field visit to verify information on a company's application. Companies can also benefit from shortcuts on mapping and surveying the land in question. In Mozambique, the government only requires an initial sketch to obtain a provisional DUAT, and companies are not required to complete boundary demarcation for two or five years, at which time the DUAT can become definite. In practice there is little monitoring to confirm that this demarcation occurs (see Sections IV(1)(a); IV(4)(c)).

Communities have a disproportionate burden to address third-party claims compared to companies:

Governments generally impose few legal requirements on investors to screen for third-party claims to the land they seek to acquire. Eight out of 14 company procedures do not mandate companies to engage in meaningful community consultation, and only 3 of the 14 included procedures that reflect FPIC principles. Of these, 2 were legally ambiguous as to whether communities may refuse consent to land acquisition. In addition, because there is typically a presumption (in 12 of the procedures surveyed) that the land belongs to the government or is public land, outside of any mandated consultations the government has the primary burden of ensuring that no third-party claims exist (see Section IV(3)(a)). Even where community consultations are required, in practice they are not always rigorous. Across countries, the extent of consultation is highly dependent on investor goodwill (see Section IV(4)(a); IV(4)(b)). While some companies spend significant time and resources on consultation, others avoid full consultation and postpone compensation payments.

For communities seeking formalized land rights, on the other hand, all procedures incorporate screening for potential third-party rights. However, there is limited legal guidance on resolving any conflicts or competing claims that emerge. In addition, most countries (notable exceptions being Tanzania, Uganda, Mozambique, and Papua New Guinea) do not legally recognize customary community rights until they are formalized.



Community Rights Are Restricted in Practice, but Investors Have Expanded Opportunities, Especially If They Do Not Have Strong Social and Environmental Commitments

Both in formalizing land rights and in subsequently exercising those rights, communities often find that in practice they are not able to exercise their rights to the full extent provided in law. This is sometimes because governments fail to guarantee the rights (either intentionally or due to capacity constraints) or because communities themselves do not have the resources to take full advantage of their legal rights.

In contrast, companies can engage in a range of strategies, both legal and illegal, to respond to regulatory burdens. This results in significant variation between companies that seek to meet legal or international standards, engage in thorough consultations, and conduct operations in a socially and environmentally responsible manner and those that seek shortcuts to extract valuable resources. The result is an environment where both communities and responsibly minded investors are at a competitive disadvantage, compared to companies that take advantage of flexible legal frameworks and limited government oversight capacity.

Companies can use a range of legal alternatives, as well as quasilegal, extralegal, and illegal measures to facilitate land acquisition:

While this report focuses on investor land acquisitions via government grants or leases, the researchers also discovered that many companies simultaneously pursue multiple options for acquiring land. For example, in Peru, companies have increasingly purchased private small-holder land as an acquisition strategy, avoiding more stringent licensing requirements imposed when land is acquired from the government (see Box 9). Governments also ease companies' paths by building flexibility into land acquisition procedures, allowing foreign investors to amend prior applications or engage in ongoing negotiations with governments over concession terms. Another approach, found for every procedure that was assessed, allows companies to use

Without clear legal guidance, and without any recognized legal status given to customary rights, government officials may find it simpler to excise third-party claims from the land, a recurring problem in Guyana. Under other procedures, third-party claims are given additional procedural protections. For example, under both Brazilian procedures, third-party occupants must be resettled before communities can finalize the land formalization process, a step that none of the company procedures requires. In Chile, the ownership presumption lies entirely with non-indigenous landowners, from whom the government buys or expropriates the land (see Sections IV(1)(a); IV(2)(a); IV(2)(d)). As a result of these barriers, formalization can be blocked by competing claims that have little merit or are primarily efforts to capture high-value natural resources (see Sections IV(2)(a); IV(2)(d); IV(4)(a); IV(4)(b)).

In principle, a higher presumption of ownership should lie with communities, who are merely formalizing existing customary rights, compared to companies, who are acquiring new rights and should obtain consent from prior customary owners (an obligation captured in the full realization of FPIC). In practice, however, it is communities who bear the more difficult burden of proving ownership.

creative corporate ownership structures to avoid local ownership requirements or caps on the size of land acquired (see Sections IV(3)(a); IV(4)(a); IV(4)(d)).

This research suggests that quasilegal, extralegal, and illegal measures to facilitate land acquisition are widespread in developing countries. For example, investor land acquisition in the Brazilian Amazon typically occurs outside any legal procedure. In many countries, the authors found that companies begin economic activities or clear the land before they have finalized acquisition (see Box 11) (see Sections IV(4)(a); IV(4)(d); Box 9)).

Communities have narrow windows of opportunity for land formalization:

In comparison, under-resourced communities must contend with land formalization procedures that have little flexibility. In several countries, procedures imposed multiple tiers of approval on communities and/or steep requirements to address third-party challenges. Other countries did not provide avenues for appeal or negotiation if an application was denied.

In practice, land formalization procedures are even more challenging. Repeat visits from surveying teams or other government officials may be financially or logistically impossible, particularly for remote communities. As a result, there is little leeway for communities to contest errors or resolve problems. In addition, where political appointees or elected officials are responsible for approvals, formalization may only be possible when political winds are favorable (see Section IV(2)(a); IV(2)(b); Box 7). Governments also impose additional requirements in practice, as do supporting NGOs. This can be beneficial (for example, some Tanzanian NGOs incorporate land-use planning, finding it necessary for long-term tenure security). But uncoordinated new requirements can create problems, as when one community in Mozambique had to repeat parts of a project it had already completed to comply with new project sponsor requirements (Knight et al. 2014; Tanzania interviews)(Section IV(2)(a)).

BOX 11 | A PERSISTENT CHALLENGE: COMPANIES START OPERATIONS BEFORE OBTAINING LAND RIGHTS

A recurring problem across the countries for which practice was examined was companies clearing the land or conducting economic activities before they had legally obtained the requisite land rights. For example, palm oil companies in Indonesia do not always register their land-use rights until after they have been operating for four or five years. In Cameroon, some concession holders began laying foundations, clearing the land, or marking boundaries before negotiations were concluded and/or without consulting local communities (Nguiffo and Watio 2015). Before a moratorium was placed on Economic Land Concessions in Cambodia, companies started activities before contracts were signed. One company, for example, prematurely cleared rice fields and orchards of local villagers (OHCHR 2007).

Combined, these barriers give communities the impression that they have one chance to formalize their land rights. For example, communities in Tanzania and Guyana reported accepting land certificates or titles even when they were unhappy with the boundaries or conditions attached, fearing that this was their only opportunity to obtain them (Almås et al. 2014; Schrieber 2017). While well-organized communities have successfully advocated to challenge restrictive procedures, many communities have limited opportunities and resources for such activism.



In practice, rights are restricted for communities, but expanded for companies:

Even when communities obtain formal land rights, they are not always able to fully exercise the rights granted by law. Many lack the capacity to complete the additional permits or licenses necessary to engage in certain economic activity. This limits their ability to exercise their full management and resource withdrawal rights. Government agencies sometimes tolerate community rights to subsistence use of resources, even when these are not protected under the law; but where overlapping concessions are granted, subsistence resource use is often limited, even if protected by law. Similarly, although communities are usually legally guaranteed indefinite rights, the lack of recognition of FPIC undermines this, because governments often retain the right to allocate concessions to high-value resources on community land (see Sections IV(1)(c); IV(2)(d)).

By contrast, after acquiring land, many companies can engage in broader economic activities and use of natural resources than those granted by their licenses or use licenses intended for one economic activity as a means of accessing resources for a different activity. Although the data revealed significant variation among company behavior, this was a recurring concern across all survey countries, particularly for timber extraction. For example, in Papua New Guinea, companies used special agriculture business leases as a vehicle for commercial timber exploitation, rather than agricultural activities. Governments have limited capacity, and perhaps improper disincentives, to fully monitor such extralegal behavior. Although the law typically allows governments to revoke land rights where companies fail to meet conditions or comply with environment and social regulation, in practice revocations are sporadic and exceptional, rather than based on a systemic review of legal compliance (see Sections IV(4)(a); IV(4)(c); IV(4)(d)).

Regulatory and Policy Frameworks Favor Investors over Communities in Land Formalization Procedures

Competing policy trends complicate the regulatory frameworks governing land. On the one hand, the desire to create a business-friendly environment drives government efforts to make land easily available to major investment projects. This is often accompanied by an emphasis on maximizing land productivity and *mise en valeur* principles, which penalize land deemed to be idle. On the other hand, regulators may have concerns about foreign acquisition of land, displacement of customary landholders, and the social and environmental impacts of investment projects.

Government ministers tend to resolve these competing policy concerns reactively rather than systematically. Reactive policy or rule-making can create an increasingly complex regulatory regime without effectively protecting the land rights of communities or the investment interests of companies. Similarly, power struggles within government, particularly over high-value natural resources, can result either in conflicting regulations, as the researchers found in Indonesia, or in multiple ministries seeking to control certain procedural steps, as with Amerindian titling in Guyana.

Recognizing these recurring concerns for both communities and companies, ultimately commercial interests (particularly elite or well-resourced investors) frequently win out over efforts to formalize community land. This is evidenced in several key ways:

Communities receive inadequate and sporadic support, compared to the dedicated and sustained support for investors:

Communities rely on external support to complete formalization procedures, which means that inclusion in a government titling program or NGO support is usually an effective precondition of formalization. Inadequate financial resources, revealing communities' dependence on outside help, were a problem for every community formalization procedure assessed in practice. Even where the law allocates responsibility for costs to one party (see Table 5), in practice funding typically came from a combination of communities, governments, civil

Government ministers tend to resolve competing policy concerns reactively rather than systematically. Reactive rule-making can create an increasingly complex regulatory regime without effectively protecting the land rights of communities or the investment interests of companies.

society, international donors, and private companies. Ministerial capacity and coordination was also a recurring problem, as well as a primary cause of delay in formalizing community rights (see Sections IV(2)(a); IV(2)(b)).

In comparison, companies benefit from specific government support mechanisms and investor-friendly initiatives and have more ready access to information and government actors. Laws relating to land acquisition often provide centralized investment centers, such as the Tanzania Investment Centre or the *ventanilla unica* (“express window”) for tourism concessions in Panama, which facilitate land acquisition by coordinating among diverse agencies (see Section IV(3)(a)). In Indonesia, companies can track the progress of their applications electronically (Indonesia interviews). More complex licensing requirements, such as environmental impact assessments, are typically accompanied by stricter deadlines for government agencies to complete requisite tasks (see Box 8). With the benefit of strong advocacy from local officials and/or key supporting ministries, companies may receive the support necessary to acquire land even where there are social or environmental concerns.

BOX 12 | POLITICAL BACKLASH AND DEATH BY A THOUSAND CUTS IN BRAZIL

Brazil historically was one of the first Latin American countries to recognize indigenous rights at the constitutional level and was a regional leader in establishing a mechanism for the recognition of indigenous territories (“demarcation”). While the procedure is not simple (this research counts 18–21 steps), it has served as a vehicle for the recognition of more than 700 indigenous territories covering 13.8 percent of the country (ISA 2018).

This success has been met with a deeply entrenched backlash from a rural agribusiness bloc known as the ruralista lobby. Historically, these landowners have successfully blocked indigenous land demarcation through the courts, challenging demarcations in expensive and lengthy lawsuits. Since 2016, the ruralistas have garnered a powerful political foothold in the National Congress, launching

a series of political and legislative attacks on the demarcation process. This includes funding cuts to and restructuring of Fundação Nacional do Índio (FUNAI), the indigenous affairs agency, altering the demarcation process, and recommending indictments of FUNAI employees and civil society members for supporting allegedly fraudulent demarcations.

In addition, President Michel Temer signed an advisory legal opinion in July 2017 that adopted a restrictive reading of existing law, known as a “marco temporal” or “deadline” theory. This theory suggests that Indigenous Peoples may only demarcate the land they occupied at the time of the adoption of the 1988 Constitution. This is a major barrier, because displacements of Indigenous Peoples from their land were common under the dictatorship that preceded the 1988

Constitution (and before). While recent court decisions have mostly refused to apply this theory, it continues to be embraced by the current administration, and demarcation procedures are effectively frozen.

This backlash has also targeted the *quilombola* communities, including a freeze on new demarcations pending a judicial decision on the constitutionality of the *quilombola* titling process. In February 2018, the Supreme Court issued a landmark judgment affirming the constitutionality of the process, but it is not clear whether this will translate to renewed movement on titling applications, given steep budget cuts to the implementing agency, which leave it “barely able to operate” (“Acompanhamento Processual: ADI 3239” 2018; Mendes 2018; Phillips 2018).

Institutional support is inadequate to effectively implement community procedures, and officials are unfamiliar with customary approaches to land:

The research revealed that existing government institutions in developing countries are seldom prepared for community land formalization. Technical capacity was a frequent problem, particularly a lack of trained surveyors. Other challenges, such as missing records, inadequate budget planning,

and the logistics of reaching rural areas, further complicate the process, as does weak coordination between national and subnational governments (see Sections IV(2)(a); IV(2)(b)). In some countries, institutions established by law to facilitate community land rights are never formed in practice. In Uganda, for example, the failure to establish district registrars and area land committees, which are responsible for approving key steps, has made implementation in some regions impossible (Knight et al. 2013; Palm and Odhiambo 2015).

In addition to this lack of institutional capacity, the research findings suggest that land administration officials may not understand customary land rights or adapt well to collective forms of tenure. Community procedures are disadvantaged because they require integrating customary land governance systems into statutory frameworks, whereas companies already operate under modern property rights regimes. While formal registries are regularly used for commercial land transactions, some are not equipped to appropriately record customary land. Similarly, surveyors do not always know how to adapt community maps into technical terms. Legal forms and procedures used for individual titling are sometimes applied, without adaptation, to community titling. In the absence of specialized support on integrating customary and statutory regimes, existing procedures are likely to continue to favor commercial interests (see Sections IV(1)(d); IV(2)(a); IV(2)(b)).

Political and economic interests threatened by community land formalization have successfully undermined the realization of the procedures:

Some communities in the countries surveyed have successfully advocated for and won notable policy or regulatory changes following unjust large-scale land acquisitions, such as the imposition of moratoriums on economic land concessions in Cambodia or special agricultural business leases in Papua New Guinea (see Section IV(3)). However, it is unusual for communities to have the resources to engage in consistent political lobbying. On the other hand, economic or political interests that feel threatened by community land formalization have the resources to pursue sustained and damaging opposition. Such campaigns can trigger the defunding of key land rights institutions and undermine legally established procedures, as recently occurred in Brazil (see Box 12). Resistance may also come from local or national government entities that



risk losing tax or royalty fees from the land in question, or from competing ministries that would otherwise have ownership over natural resources. After India's central government failed to repeal provisions of the 2013 Land Acquisition Act that protected community land rights, it encouraged state governments to pass laws that undermined these protections (Ramesh and Khan 2016). These laws then received presidential assent, using a constitutional provision by which this assent can elevate state laws that compete with federal laws. This exemplifies how sustained political opposition can undermine legal provisions that are protective of community rights.



SECTION VI

RECOMMENDATIONS

This research reveals significant procedural challenges to community land formalization, and demonstrates clear inequalities in how governments treat community land formalization as compared to company land acquisition. To address this inequality, WRI provides five key recommendations for governments, implementing institutions, civil society partners, and companies.

Establish and Implement Clear Community Land Formalization Procedures

Legislation (and implementing regulations) should provide a clear, accessible procedure for Indigenous Peoples and other communities to formalize their land rights. Overly complex procedures with multiple back-and-forths between agencies are problematic, but procedures also often break down at seemingly minor points. Governments that engage in responsive rule-making and that seek regular feedback from communities and civil societies will respond better to these breakdowns.

Systematic and coordinated efforts to formalize community land can ensure more communities have access to the procedure, mitigate intra-government power struggles, save costs, and avoid conflicting procedures and regulations. Successful implementation of the legal procedures also requires sufficient and sustained institutional and budgetary support.

To governments:

- Reassess steps that are difficult for communities to complete and engage in responsive rule-making, with feedback from communities and civil society. Limit requirements that communities develop highly technical information. Allow communities flexibility in how they report and document information, delegate more technical tasks to agencies with the necessary expertise, or re-assess whether this information is practically necessary for good land governance. Avoid strict evidentiary requirements that exclude communities from the process on an arbitrary or discriminatory basis. Laws should clearly permit oral testimonies and customary forms of knowledge as supporting evidence.
- Acknowledge existing customary structures and/or acknowledge communities as having the legal capacity to hold land rights. Verifications for representativeness and to ensure that the rights of minorities and women are respected are more appropriate than mandating the development of new formal legal structures.

- Clearly assign institutional roles and responsibilities among various ministries and between national and subnational bodies. Coordinate rule-making and policies among these actors. Grant any new agency created by the law or any agency with expanded responsibilities sufficient resources to carry out the new mandate. Evaluate decentralization programs carefully. Decentralizing government functions and establishing government offices in rural regions can decrease costs by reducing travel expenses and can promote close communication with communities. However, subnational actors have capacity constraints. Any decentralization of community land formalization must involve dedicated support for regional counterparts.

To implementing institutions and civil society partners:

- Collaborate in systematic implementation programs. This can reduce costs by grouping communities geographically, avoid repeating work conducted by prior titling efforts, and build long-lasting relationships among implementing partners.
- Adopt participatory community mapping as a best practice: communities can make internal decisions before surveyors (typically a key expense) are sent into the field, and once surveyors arrive, community participation can ensure that maps are sufficiently detailed and accurate.
- Develop a budgetary strategy which coordinates the many diverse actors that typically fund community land formalization. Advocate for a dedicated budget that does not rely solely on political discretion. Provide dedicated resources to community land titling: community formalization efforts should not be a mere afterthought to titling campaigns focused on land held by individuals or households.

To companies:

- When supporting land-titling initiatives as part of community outreach efforts, ensure that collective as well as individual lands are included. Collaborate with experienced civil society partners and existing programs to complement their work, and ensure fair and accurate implementation of the program.

Establish Conflict Resolution Mechanisms and Address Competing Third-Party Claims

Boundary conflicts between communities and competing third-party claims are primary sources of delays and increased costs during community land formalization. Unfair or inadequate dispute resolution procedures allow commercial interests or local elites to prevent community land from being formalized. Although procedures providing for conflicting claims are present in existing laws, they rarely provide clear guidance on how to resolve these claims. In practice, dispute resolution is often under-addressed.

Procedures must address legitimate competing third-party claims but without providing disproportionately burdensome obligations on communities to screen for and respond to these claims. This requires clear standards and procedures on how to resolve overlapping claims, accompanied by practical support to communities in responding to conflicts. Similarly, coordination and communication among diverse registries, and among ministries responsible for different resources is crucial.

To governments:

- Establish clear, fair, and accessible conflict-resolution mechanisms in existing formalization procedures, accompanied by guidance on how to resolve competing claims. This guidance should ensure that existing registered claims are not automatically preferred over unregistered customary rights.
- Mandate communication between entities responsible for community land formalization and those responsible for allocating mineral, forestry, trophy hunting, and other industrial concessions during the formalization process. However, these sectoral ministries should not be empowered to halt the process indefinitely. Develop clear guidance on proper procedures when overlapping concessions are discovered.

- Explore a unified cadastre such as the One Map initiative in Indonesia (Shahab 2016). Where this is not possible, ministries should establish clear procedures for communicating information among the various registries, including checks to ensure that community land rights have been entered in all appropriate registries.

To implementing institutions and civil society partners:

- Incorporate dispute resolution planning into titling programs. One best practice from Tanzania is the use of on-site mediators to resolve minor conflicts (Schreiber 2017a). Alternative dispute resolution mechanisms are a possible best practice, although accessible recourse to the courts must remain a viable option.
- Consider establishing dedicated funding or empower independent staff to respond to situations where serious third-party opposition exists.

To companies:

- Conduct your own due diligence. Do not rely solely on assurances from one ministry or office that land is freely available. Screen not only for existing registered community land rights, but also for pending applications and unrecognized land rights.
- Engage early and often with communities in regions targeted for investors, including with multiple sectors of the community (not merely local politicians or a few community representatives).



Prevent the Loss of Customary Land and Provide More Inclusive Bundles of Rights

Formalization procedures should not fragment a community's customary land or force communities to give up land and natural resources that they have customarily enjoyed. Laws should ensure that formally recognized land will reflect the reality of community land use, and all actors should take practical measures to prevent arbitrary exclusions of portions of a community's land.

Formalization should also incorporate the rights of communities to use and enjoy the range of natural resources on their land, including forests, wildlife, and water. These rights allow communities to engage in a diversity of economic livelihoods and cultural practices.

To governments:

- Ensure that community formalizations procedures do not exclude certain classes of land (e.g., forest or unoccupied land) from formalization. Registration of different types of land should not be governed by separate procedures or split among diverse ministries. Adopt legal reforms to ensure that officials do not have broad discretionary power to excise tracts of land from final titles or certificates. As necessary, develop regulatory or policy guidance to constrain the ability of decision-makers to impose ad-hoc caps on the size of land granted to a community.
- Provide legal procedures that clearly establish opportunities to obtain later extensions of community land area or, at a minimum, preserve the right to request land in the future. Extension procedures, like the original formalization procedure, should be clear, simple, and accessible.
- Grant communities full rights to the range of natural resources on their land. Subsistence rights to resources can be affirmed via simple changes to law, such as an exemption to hunting bans for personal consumption. If commercial rights to mineral, wildlife, or other resources are reserved for the government at the constitutional level, increased access to these resources can still be provided to communities by simplifying licensing requirements or providing community-specific permits. In such cases, protections for FPIC are crucial (see Recommendation 5).

To implementing institutions and civil society partners:

- To prevent mapping errors, include communities in surveying and ensure that communities have an opportunity to provide feedback before any maps are finalized and the land demarcated.
- Sensitize government officials and society more generally about the importance of community land to rural livelihood and the necessity of recognizing larger tracts of community land that incorporate seemingly vacant areas.

Ensure Oversight, Accountability, and Transparency

Transparency and accountability are necessary to prevent community applications from disappearing into government bureaucracy and to ensure against abuse and mistakes in the process. This requires simultaneous monitoring and oversight mechanisms that are bottom-up (from communities) and top-down (from higher-level institutions). Similarly, at a national level, all actors should promote transparency around how land is allocated and existing information about the land. This includes transparency as to how and when land is allocated to investors.

To governments:

- Ensure that the legal framework provides communities with the right to request information about the status of their application, the right to appeal adverse decisions, and the right to participate in all stages of the process. Obligate government authorities to notify communities of decisions, including reasons for that decision, and to give regular status updates on applications.
- Adopt transparent mechanisms for hiring and paying surveyors and other officials.

- Assess procedures in consultation with communities and adapt policies accordingly. These consultations should include specific outreach with minority communities and to obtain feedback from women, youth, and vulnerable segments of the community. Broadly disseminate information about the procedure and conduct appropriate training for government officials, particularly after new regulations are enacted or amended.

To the international community:

- Develop and strengthen monitoring tools and other supporting initiatives, such as LandMark (www.landmarkmap.org), which provides maps of indigenous and community lands, or the Open Government Partnership (OGP), which is a multilateral initiative that aims to secure government commitments to transparency. Consider developing an annual country-level assessment on the relative ease of formalizing community land rights around the world.

To companies:

- Develop mechanisms for ensuring that company policies are transparent and accessible to local communities, including procedures related to land acquisition and community consultation.

All parties can work to appropriately acknowledge community land rights while creating a fairer regulatory environment for companies. This requires improved monitoring of company behavior and mandating and supporting FPIC procedures.

Level the Playing Field between Communities and Companies and Create a Fairer Investment Environment

Under the status quo, communities face multiple barriers to formalizing their land rights, while many companies find ways to skirt legal requirements and are not required to obtain free, prior, and informed consent (FPIC) from communities. This allows companies to acquire land more quickly than communities and sets the stage for future community-investor conflicts. In addition, this places at a competitive disadvantage those companies that seek to genuinely engage in community consultations and comply with applicable laws.

In response, all parties can work to appropriately acknowledge community land rights while creating a fairer regulatory environment for companies. This requires improved monitoring of company behavior and mandating and supporting FPIC procedures. It also requires acknowledging customary practices and approaches to land governance. One reason community procedures are disadvantaged, compared to commercial interests, is because custom-

ary land governance systems do not always integrate well with the statutory regimes that govern formal land registration and documentation.

To governments:

- Strengthen monitoring and oversight of company behavior. Screen for companies that take shortcuts during licensing and/or begin commercial operations before the land is legally acquired.
- Require companies to engage in full FPIC when acquiring land or where overlapping concessions are allocated on community land.
- Ensure that natural resource concessions are not granted while an application for the formalization of community land rights is pending or unresolved. Legal provisions forbidding this or allowing communities to obtain an interim protective order (as in the Philippines and Cambodia) are positive. However, successful implementation of such provisions requires transparency in timelines for community and company procedures.



To implementing institutions and civil society partners:

- Provide specialized support and training on appropriately recognizing customary understandings of the land. For example, train technical staff on the acceptability of community maps and customary boundary markers and on the appropriate procedures for accurately capturing customary boundaries on technical maps.
- Support and develop community empowerment initiatives. Programs, such as training for community paralegals or information campaigns, can allow communities to engage more effectively with formal procedures. Initiatives to promote long-term tenure security, while beyond the scope of this report, are also important, such as the development of village land-use plans in Tanzania.

To companies:

- Seek FPIC from communities occupying land near any intended investment, even where not required by law.
- Advocate governments for transparent, fair, and consistent land acquisition procedures. Promote industry-wide standards around acknowledging customary land rights and engaging in FPIC procedures.



APPENDIX A. DEFINITIONS OF COMMONLY USED AND LEGAL TERMS

This appendix lists terms commonly used in this report. These terms may reflect country-specific definitions, but they are outlined here from a comparative perspective or based on international law and international norms. Domestic laws may define these terms differently. For example, some countries have highly specific definitions of those who are considered to be Indigenous Peoples, but the definition here reflects the definition in international law.

Alienation Rights: The right to sell or transfer land or to lease or sublease land to a third party. For our purposes, it does not include inheritance rights. The extent to which community land should be freely alienable is the most contentious component of the “bundle of rights” approach (RRI 2012).

Amerindian (Guyana): A term used in Guyana for Indigenous Peoples. The term is still used in the law, although there have been some attempts to replace it with the term “Indigenous Peoples.”

Artisanal Mining Rights: Rights to conduct small-scale mining activities.

Bundle of Rights Theory: Bundle of rights theory is a metaphor developed by 20th century American jurists for categorizing property rights as a “bundle of sticks” representing various rights regulating resource use among persons. In the context of community rights, this theory has been used to classify collective property rights along five axes: withdrawal, management, exclusion, alienation, and access rights (Schlager and Ostrom 1992). A more expansive bundle of rights may correlate with stronger community land rights, although recognizing the full bundle may not be the “optimal outcome for all community tenure regimes” (RRI 2012).

Cadastre: An official government registration of surveys, maps, or other boundary information.

Certificate: A document that formally attests to the existence of the land right documented therein (adapted from Garner 2011). This includes certificates of title, as well as a diversity of other certificates across countries (such as certificates of ancestral domain, certificates of right of occupancy, etc.).

Commercial Rights: Rights to trade, sell, or otherwise profit from natural resources.

Commons: Lands maintained by communities as shared property. Community land may be partly or entirely made up of the commons, depending on community land management practices (Pearce 2016). Community land may include, among others, grazing lands, hunting grounds, sacred lands, forests, fallow land, and land held for future generations.

Community: Communities are groupings of individuals and families that share common interests in a definable local land area. They may be formally recognized as a community and structured via state institutions or exist informally. Community identity is based on self-definition, with some qualifications where this risks exclusion of vulnerable or minority members (Knight 2010). This research uses a flexible

definition of community to capture this principle of self-definition as well as the variety of communities defined under domestic law as landholding entities. For the sake of brevity, references to communities and community lands in this report should be read to incorporate both community and indigenous land rights, unless otherwise noted.

Community Land: Land (and natural resources) collectively held and governed by a community, regardless of recognition under national statutory law. Community land may include both common resource areas or land that the community has allocated to individuals, households, or subgroups.

Company/Investor: All else being equal for a given procedure, this research assumes a company or investor is a limited liability company, or the closest equivalent corporate form (such as a private limited company, S.A.R.L., Lda, or S.R.L.). Where procedures differ between foreign and domestic investors, this is specified.

Conditions: In this report, legal conditions. These are affirmative or negative requirements attached to a right acknowledged or granted by the state. Breaches of these conditions may result in revocation or alteration of the right.

Customary Law: Norms and practices that regulate the behavior of a given community, typically based on traditional or long-standing practices. In some countries, customary law is formally recognized and incorporated into statutory law.

Emphyteutic Lease: In French, *bail emphytéotique*. A type of long-term lease in civil law jurisdictions.

Exclusion Rights: The right to control access and entry to land by third parties.

Expropriation: Compulsory acquisition of land or other property by the government. International standards dictate that expropriation should only occur for a public purpose and must be followed by prompt payment of fair compensation as provided in national law (FAO 2012).

Formalization of Land Rights: As used in this report, the process by which the government acknowledges collective land rights, culminating in the registration and documentation of those rights. Registration includes entering the rights in a government registry or cadastre. Documentation includes the issuance of a title or certificate to the community. Formalization may be the vehicle for legally recognizing rights held informally or under custom, or it may constitute a further confirmation of rights already recognized by the law.

Free, Prior, and Informed Consent (FPIC): Indigenous Peoples shall not be removed from their land without their free, prior, and informed consent (United Nations Declaration on the Rights of Indigenous Peoples, International Labor Organization Convention 169). States have an obligation to respect FPIC under international human rights law, and the principle is also incorporated in standards governing the private sector. There is no universal definition for what constitutes FPIC, but it should represent a collective decision of the community. While traditional decision-making processes should be respected, a mere

sign-off from a sole leader is insufficient, and processes should include women and marginalized groups (see, for example, IFC Performance Standard 7, Guidance Note). Although international law only requires FPIC in the context of Indigenous Peoples, this report considers FPIC a best practice to ensure that any community holding land collectively is not unjustly deprived of that land.

Indigenous Lands or Territories: Collectively held and governed lands (and natural resources) of Indigenous Peoples. As with other community lands, some indigenous lands may, with group consent, be allocated for use by individuals and families. Other indigenous land is managed as common property.

Indigenous Peoples: People with distinct social, cultural, or economic characteristics, practicing in part or in full their own customs or traditions. The term includes those who are descended from people inhabiting a country or region at the time of conquest, colonization, or the establishment of modern boundaries. Whether a group of persons is considered to be indigenous is based on self-identification (ILO Convention 169). The rights of Indigenous Peoples receive heightened protection under international law. Governments have a responsibility to recognize the unique relation that Indigenous Peoples have to their traditional or ancestral lands (Case of the Saramaka People v. Suriname 2007; Case of the Sawhoyamaya Indigenous Community v. Paraguay 2006).

Land Acquisition: Obtaining rights to land or natural resources that were not previously held under customary or statutory tenure. This research uses the term to apply generally to the various means that investors use to acquire land from the government. Note that land purchases on the private market and land obtained via government expropriation, while also forms of land acquisition, are not included in this research.

Management Rights: The right to make decisions regarding land and the resources on that land.

Mise en valeur: From the French, to put into use or to put into value. A principle derived from the colonial era that links the ownership of land to productive use of that land. Where encoded in law, *mise en valeur* requirements typically require that land be under certain specified uses for a person to acquire or maintain rights to that land. Land held collectively is not always recognized as in use under these requirements. Some Anglophone countries also have parallel use requirements in the law.

Notice and an Opportunity to Respond: Notice requirements are legal requirements that establish procedures for notifying parties whose rights may be lost or affected by an administrative action of the potential loss of their rights. Due process concerns typically require that parties be given adequate notice and an opportunity to respond. While national laws vary, notice requirements may involve direct service (that is, directly contacting an individual), a public posting, or a public announcement through widely used media sources.

Oppositions: As used here, oppositions do not refer to general opposition to the formalization of a community land right, but to specific objections made by third parties as part of the formalization process. Regulations may alternatively use language such as contestations, competing claims, objections, etc.

Precondition: A requirement that must be completed prior to the formalization or land acquisition process and is not part of the procedure itself or linked to the formalization or acquisition of land rights. In the methodology for this report, a precondition is distinct from a step. Thus, obtaining general recognition of indigenous status is a precondition, but if the recognition requires a showing of landholdings or is established for land management purposes, it is a step.

Provisional/Definitive Rights: Provisional rights are granted for a limited term, after which the right will be lost if certain requirements or conditions are not completed to convert the right into a definitive one.

Quilombolas (Brazil): Afro-Brazilians descended from escaped slaves who founded historic communities known as quilombos. *Quilombola* communities are defined by Decree 4.887 of 2003 as ethnic-racial groups, based on self-identification, with their own historical trajectory, having specific territorial relations, and with a presumption of black ancestry related to resistance to historical oppression (translation by authors).

Registry/Registration: An official government written record of legal property rights or the act of recording a right in such a registry. A given country may have multiple registries capturing different rights or maintained by separate government entities. Entry in a land registry constitutes evidence of the existence of rights. For registries established under a Torrens title system (a widely used system of land registration around the world) entry in land registries may be definitive proof of ownership.

Revocation of Rights: This occurs when a previously granted right is rescinded by the government, such as for a failure of the rights holder to meet certain conditions attached to the right. It should be distinguished from other means of extinguishing rights, including expropriation.

Step: Any interaction between two separate entities, including between the entity acquiring the land, the person the land is acquired from, government agencies, consultants, and lawyers. This means that interactions between government agencies or offices are considered separate steps. Intra-community interactions or internal company actions are not considered separate steps.

Subsistence Rights: Rights to use natural resources for basic livelihoods, such as for food and water needs of an individual or a family, for housing or other basic building materials, or for sacred or religious purposes. The term does not incorporate trading or selling the resource outside of a community.

Tenure Security: The certainty that a person's rights to land will be recognized by others and protected against external threats or competing claims. Without security of tenure, households are significantly impaired in their ability to secure sufficient food and to enjoy sustainable rural livelihoods (FAO 2002).

Title: An instrument that constitutes legal evidence of ownership rights in property (adapted from Garner 2011).

Withdrawal Rights: The right to sever and remove the fruits of the land or specific resources on the land. This research categorizes withdrawal rights separately for subsistence and commercial uses.

APPENDIX B. COMMUNITY DATA, LAW

Table B1 | Data for Indicators on the Formalization Process

PROCEDURE	NUMBER OF STEPS	NUMBER OF GOVERNMENT AGENCIES	DEMONSTRATION OF HISTORIC STATUS OR TIES TO THE LAND?	LEGAL PERSONALITY/ OTHER FORMAL GOVERNMENT APPROVAL OF COMMUNITY STRUCTURE?
Brazil: Collective Land Titling of <i>Quilombolas</i>	15–21+	6	Yes	Yes
Brazil: Indigenous Territories	18–21	8	Yes*	No
Cambodia: Collective Land Title	11–25	5–9	No	Yes
Cameroon: Land Title	12–17+	8–9	Yes*	No
Chile: Art. 20(b) Land Transfer	6	2	Yes*	Yes
Côte d'Ivoire: Land Certificate	14–15	9	Yes*	No
Guyana: Amerindian Land	10–12+	3	Yes*	Yes
India: Community Forest Rights	13–22	5	Yes	No
Indonesia: Customary Forest	12	12	Yes	Yes
Mozambique: Delimitation	7	1–2	No	No
Mozambique: Demarcation	10	4	No	No
Panama: Indigenous Community Land Title	11–18	5–6	Yes*	No
Peru: Native Community Land Title	19	7	Yes	Yes
Peru: Usufruct Contract for classified forestland	20	8	Yes	Yes
Philippines: Certificate of Ancestral Domain	54–61+	19	Yes*	Yes
PNG: Registered Customary Land	10–13	5–6	No	Yes
Tanzania: Certificate of Village Land	3+	2	No	Yes
Uganda: Certificate of Customary Occupation	14–16+	5	No	Yes
Uganda: Group Freehold	15–17+	5	No	Yes
Average	14.4–17.6	6.3–6.7		
Median	12–17	5–6		

Note: *Historic ties to specific land.

Source: WRI, based on the laws in Appendix F.

Table B2 | Data for Indicators on the Cost in Time, the Cost in Money, and the Size of the Land

PROCEDURE	COST IN TIME (OVERALL)	COST IN MONEY			SIZE OF LAND: NUMERIC CAP?
		GENERALLY	PARTY RESPONSIBLE	SURVEYING COST	
Brazil: Collective Land Titling of <i>Quilombolas</i>	None	No overall cost	Not specified	Not specified	No
Brazil: Indigenous Territories	None	None	Not specified	Not specified	No
Cambodia: Collective Land Title	None	None	Not specified	Not specified	No
Cameroon: Land Title	None	No overall cost	Community	Community	No
Chile: Art. 20(b) Land Transfer	None	No overall cost	Not specified	Not specified	No
Côte d'Ivoire: Land Certificate	None	No overall cost	Community	Community	No
Guyana: Amerindian Land	None	No overall cost	Government	Government	No
India: Community Forest Rights	None	None	Community	Community	No
Indonesia: Customary Forest	None	No overall cost	Government	Government	No
Mozambique: Delimitation	None	No overall cost	Varies	Varies	No
Mozambique: Demarcation	None	No overall cost	Varies	Varies	No
Panama: Indigenous Community Land Title	None	None	Government	Government	No
Peru: Native Community Land Title	None	No overall cost	Varies	Varies	No
Peru: Usufruct Contract for classified forestland	None	No overall cost	Varies	Varies	No
Philippines: Certificate of Ancestral Domain	None	No overall cost	Varies	Varies	No
PNG: Registered Customary Land	None	No overall cost	Varies	Varies	No
Tanzania: Certificate of Village Land	None	No overall cost	Not specified	Not specified	No
Uganda: Certificate of Customary Occupation	None	No overall cost	Community	Community	No
Uganda: Group Freehold	None	No overall cost	Community	Community	No

Source: WRI, based on the laws in Appendix F.

Table B3 | Data for the Indicators on Duration of the Rights and Revocability, and on the Ability of a Community to Request Land in the Future

PROCEDURE	DURATION OF RIGHTS	CONDITIONS	REVOCABILITY	ABILITY TO REQUEST LAND IN THE FUTURE
Brazil: Collective Land Titling of <i>Quilombolas</i>	Unlimited	None	None specified	No clear prohibition
Brazil: Indigenous Territories	Unlimited	None	Abandonment of the land	Contested point of law
Cambodia: Collective Land Title	Unlimited	None	None specified	Ambiguous
Cameroon: Land Title	Unlimited	None	Administrative fault	No clear prohibition
Chile: Art. 20(b) Land Transfer	Unlimited	None	None specified	No clear prohibition
Côte d'Ivoire: Land Certificate	3 years	Development of the land; registration within 3 years	Failure to develop land; failure to register	Not forbidden; legal procedure likely forecloses
Guyana: Amerindian Land	Unlimited	Government discretion to create	Violating conditions; failure to develop land; abandonment	Yes
India: Community Forest Rights	Unlimited	None	None specified	Not forbidden; legal procedure likely forecloses
Indonesia: Customary Forest	Unlimited	None	Abandonment	No clear prohibition
Mozambique: Delimitation	Unlimited	None	None specified	No clear prohibition
Mozambique: Demarcation	Unlimited	None	None specified	No clear prohibition
Panama: Indigenous Community Land Title	Unlimited	None	None specified	No clear prohibition
Peru: Native Community Land Title	Unlimited	None	Abandonment	Yes (no implementing regulations)
Peru: Usufruct Contract for classified forestland	Unlimited	None	Abandonment	Yes (no implementing regulations)
Philippines: Certificate of Ancestral Domain	Unlimited	None	Fraud	Yes
PNG: Registered Customary Land	Unlimited	None	Dissolution of the land-holding body	No
Tanzania: Certificate of Village Land	Unlimited	None	None specified	No clear prohibition
Uganda: Certificate of Customary Occupation	Unlimited	Government discretion to create	Violating conditions	No clear prohibition
Uganda: Group Freehold	Discretionary time—unlimited	Government discretion to create	Violating conditions	No clear prohibition

Source: WRI, based on the laws in Appendix F.

Tables B4 and B5 represent the data for the indicator on the bundle of formalized rights.

Table B4 | Data on Withdrawal Rights

PROCEDURE	TREES AND FOREST RESOURCES		WATER		WILDLIFE		MINERALS			HYDRO-CARBONS	
	Subsistence	Commercial	Subsistence	Commercial	Subsistence	Commercial	Subsistence	Artisanal	Commercial	Subsistence	Commercial
Brazil: Collective Land Titling of <i>Quilombolas</i>	1	2	1	3	3	4	1	4	4	4	4
Brazil: Indigenous Territories	1	2	1	3	1	4	1	1	4	4	4
Cambodia: Collective Land Title	1	3	1	3	1	3	1	4	4	4	4
Cameroon: Land Title	n/a	n/a	1	3	2	3	2	3	4	4	4
Chile: Art. 20(b) Land Transfer	1	3	3	3	3	3	1	3	3	4	4
Côte d'Ivoire: Land Certificate	1	3	1	3	2	3	3	3	4	4	4
Guyana: Amerindian Land	2	3	2	3	2	3	1	1	3	4	4
India: Community Forest Rights (RV = regional variation)	1 (some RV)	RV	1	RV	4	4	RV	4	4	4	4
Indonesia: Customary Forest	2	4	1	2	2	2	2	4	4	4	4
Mozambique: Delimitation	1	3	1	3	1	3	1	3	3	4	4
Mozambique: Demarcation	1	3	1	3	1	3	1	3	3	4	4
Panama: Indigenous Community Land Title	2	3	1	3	2	3	4	4	4	4	4
Peru: Native Community Land Title	1	2	1	3	3	2	3	3	4	4	4
Peru: Usufruct Contract for classified forestlands	1	2	1	3	3	2	4	4	4	4	4
Philippines: Certificate of Ancestral Domain	2	3	1	3	1	3	2	3	3	3	3
PNG: Registered Customary Land	1	3	1	3	1	1	3	3	4	4	4
Tanzania: Certificate of Village Land	2	2	2	2	2	2	4	4	4	4	4
Uganda: Certificate of Customary Occupation	1	2	1	3	3	3	1	3	4	4	4
Uganda: Group Freehold	1	2	1	3	3	3	1	3	4	4	4

Note: Legal protection of the rights is assessed on a scale of 1 (most protection) to 4 (least protection):

- 1: The law provides full enjoyment of the right.
- 2: The law protects the right subject to significant restrictions.
- 3: The law protects the right in limited circumstances.
- 4: The law does not protect the right.

Source: WRI, based on the laws in Appendix F.

Table B5 | Data on Management, Exclusion, and Alienation Rights, and Rights to FPIC

PROCEDURE	MANAGEMENT		FPIC	EXCLUSION	ALIENATION	
	general	commercial			sale	lease
Brazil: Collective Land Titling of <i>Quilombolas</i>	1	2	2	1	4	4
Brazil: Indigenous Territories	1	2	2	1	4	4
Cambodia: Collective Land Title	1	1	3	1	4	4
Cameroon: Land Title	1	1	3	1	1	1
Chile: Art. 20(b) Land Transfer	1	1	2	1	4	4
Côte d'Ivoire: Land Certificate	1	1	4	1	1	1
Guyana: Amerindian Land	2	2	3	1	1	2
India: Community Forest Rights	2	2	3	1	4	4
Indonesia: Customary Forest	2	2	2	1	4	2
Mozambique: Delimitation	1	1	2	2	2	2
Mozambique: Demarcation	1	1	2	2	2	2
Panama: Indigenous Community Land Title	1	1	1	1	4	4
Peru: Native Community Land Title	2	2	2	2	3	3
Peru: Usufruct Contract for classified forestlands	2	2	2	3	4	4
Philippines: Certificate of Ancestral Domain	1	1	1	1	4	3
PNG: Registered Customary Land	1	1	3	1	4	2
Tanzania: Certificate of Village Land	2	2	2	2	4	2
Uganda: Certificate of Customary Occupation	1	1	3	1	1	1
Uganda: Group Freehold	1	1	3	1	1	1

Note: Legal protection of the rights is assessed on a scale of 1 (most protection) to 4 (least protection):

- 1: The law provides full enjoyment of the right.
- 2: The law protects the right subject to significant restrictions.
- 3: The law protects the right in limited circumstances.
- 4: The law does not protect the right.

Source: WRI, based on the laws in Appendix F.

APPENDIX C. COMMUNITY DATA, PRACTICE

Data on community practice were derived from a literature review in Mozambique and Guyana, with comments from the Amerindian Peoples Association and the Forest Peoples Programme as to the accuracy of the Guyana data. Data from Peru and Indonesia were derived from a combination of a literature review and interviews conducted by country researchers. For Indonesia, this included interviews with civil society representatives and, for Peru, interviews with government and NGO representatives at both the national and subnational level. In Peru, researchers interviewed 14 key stakeholders, including subnational and national government representatives (10), a legal adviser, an NGO, and indigenous organizations/leadership (2). Interviews were semi-structured, and in some cases associated documentation was

requested. Further information was collected through official requests under the regulations on public access to environmental information. In Indonesia, researchers conducted interviews with four persons who had practical experience in implementing the relevant regulations, including community members and NGOs. Data from Tanzania were derived from a combination of a literature review and feedback from the Tanzanian research team, based on interviews with 18 government officials, land tenure experts, and NGO representatives. (Thirteen were specifically targeted for information about the community process; the others were targeted for the company process but were also asked information about community procedures.)

Table C1 | Data for Indicators on the Formalization Process, the Cost in Time, the Cost in Money, the Size of the Land, the Duration of the Rights, and their Revocability

PROCEDURE	NUMBER OF STEPS	# OF GOV. AGENCIES	COST IN TIME	COST IN \$ (USD)	SIZE OF LAND	DURATION OF RIGHTS	REVOCABILITY
Guyana: Amerindian Land	37-44 (Guidelines) 29-32 (practice)	8-9	Up to ~30 years Outstanding claims: since 1960s	—	259-8,288 ha (limited data)	Unlimited	1 report: extinguished arbitrarily
Indonesia: Customary Forest	17	21	4-15 years	—	—	Unlimited	None reported
Mozambique: Delimitation	9	2	2-3 years	2000-13329	<10-500,000	Unlimited	None reported
Peru: Native Community Land	28	12	Up to 20+ years 10-25 years	1000-13000	19-452,735 ha	Unlimited	None reported
Peru: Usufruct Contract	33	15	(same as above) plus 30 days-1 year	—	—	Unlimited	None reported
Tanzania: Certificate of Village Land	18	5-6	1-3 years Outstanding claims: 5+ years	500-1000	39-5,172 ha	Unlimited	None reported

Source: Field research led by CIFOR, AsM Law Office, UCRT, and RRI. Comments by APA/FPP. Sources listed in Appendix G, as well as Amerindian Land Titling Project Board 2016, Atkinson et al. 2016, Almás et al. 2014, Byamugisha 2013, De Wit and Norfolk 2010, Donovan et al. 2012, Fairley 2012, Ghebru et al. 2015, GOG/OP 2010, Knight et al. 2014, TFCG 2015, Quan et al. 2013, and Schreiber 2017a.

Table C2 | Withdrawal Rights

PROCEDURE	TREES AND FOREST RESOURCES		WATER		WILDLIFE		MINERALS			HYDRO-CARBONS	
	Subsistence	Commercial	Subsistence	Commercial	Subsistence	Commercial	Subsistence	Artisanal	Commercial	Subsistence	Commercial
Guyana: Amerindian Land	2	4	1	4	2	4	--	--	4	4	4
Indonesia: Customary Forest	2	4	1	4	2	4	2	--	--	--	--
Mozambique: Delimitation	2	4	1	3	1	3	--	--	--	4	4
Peru: Native Community Land Title	2	3	2	3	2	3	4	4	4	4	4
Tanzania: Certificate of Village Land	1	1	2	3	3	3	3	3	3	3	3

Note: Represents the data indicator on the bundle of formalized land rights. Protection of the right in practice is assessed on a scale of 1 (most protection) to 4 (least protection):

- 1: The right is enjoyed regularly and consistently, and receives protection from the state.
- 2: The right is protected inconsistently.
- 3: The right is protected rarely.
- 4: The right is effectively denied.

Source: Field research led by CIFOR, AsM Law Office, UCRT, and RRI. Comments by APA/FPP. Sources listed in Appendix G, as well as Almás et al. 2014, Atkinson et al. 2016, Ghebru et al. 2015, Macqueen and Falcão 2017, De Wit and Norfolk 2010, Knight et al. 2014, and Oakland Institute 2011.

Table C3 | Data on Management, Exclusion, and Alienation Rights, and Rights to FPIC

PROCEDURE	MANAGEMENT		FPIC	EXCLUSION	ALIENATION	
	general	commercial			sale	lease
Guyana: Amerindian Land	2	3	3	3	—	—
Indonesia: Customary Forest	2	2	2	2	4	2
Mozambique: Delimitation	2	3	2	2	1	4
Peru: Native Community Land Title	2	3	2	3	3	4
Tanzania: Certificate of Village Land	2	2	2	2	2	2

Note: Represents the data indicator on the bundle of formalized land rights. Protection of the right in practice is assessed on a scale of 1 (most protection) to 4 (least protection):

- 1: The right is enjoyed regularly and consistently, and receives protection from the state.
- 2: The right is protected inconsistently.
- 3: The right is protected rarely.
- 4: The right is effectively denied.

Source: Field research led by CIFOR, AsM Law Office, UCRT, and RRI. Comments by APA/FPP. Sources listed in Appendix G, as well as Almás et al. 2014, Atkinson et al. 2016, Cabral and Norfolk 2016, De Wit and Norfolk 2010, Donovan et al. 2012, Ghebru et al. 2015, Knight et al. 2014, Oakland Institute 2011, and Rose 2014.

APPENDIX D. COMPANY DATA, LAW

Table D1 includes data on the land acquisition process, including the nature of the process and the extent of community consultations required. Community consultations do not include consultation requirements related to environmental impacts rather than land acquisition. These consultations also do not include requirements that only involve a sole leader or local authority or if only a general notice and/or opportunity for oppositions is given.

Table D1 | Data on Indicators for the Land Acquisition Process

PROCEDURE	NUMBER OF STEPS	GOV. AGENCIES	ACQUISITION MECHANISM?	LEGAL PRESUMPTION ABOUT LAND STATUS	COMMUNITY CONSULTATIONS?	DOES PROCEDURE INCORPORATE STEPS TO ENSURE FPIC?
Cambodia: Economic Land Concessions	14-17+	5-7	Bidding process OR application	Government owns (solicited proposals); Government owns (unsolicited proposals) but requires verification (by government, detailed proposal by applicant)	No (only Commune Council involved)	No
Cameroon: Provisional Concessions on National Land	5-7	5	Application to government	"National land" that is free of all effective occupation	No	No
Côte d'Ivoire: Emphyteutic Lease	N/A	N/A	N/A	Government owns	No	No
Guyana: State Land Grant or Lease	6-7	3	Application to government	Government owns	No	No
Indonesia: HGU Land Use Right/Palm Oil Plantations	19-26	22	Application to government; but direct negotiations with communities to acquire land (compensation)	Forest is state forest (unless evidenced by private title); Company is expected to compensate communities	Yes, company has to negotiate arrangements with communities in acquiring land	No
Indonesia: HTI/ Industrial Forests	14	9	Application to government	Government owns/verifies for other rights	No	No
Mozambique: DUAT Acquisition for Economic Purposes	11-15+	8-13	Application to government	Government owns (Government verifies; Government gives opinion on other existing use rights)	Yes, consultation meetings	Yes BUT legal ambiguity
Panama: Concessions for Tourist Investment	19+	10	Application and bidding process	Government	No	No
Peru: Rights to Forests on Classified Agricultural Land	28+	11	Application to government	Government owns	No	No
Philippines: Lease of (Public) Alienable and Disposable Land	9-33+	4-10	Application and bidding process (bidding favors applicant)	Public lands declared alienable	Yes, if land is an ancestral domain	Yes, if land is an ancestral domain
PNG: SABL	3	2	Lease/lease-back arrangement	Lease/lease-back arrangement	Yes, ministry leases land from customary owners	No

PROCEDURE	NUMBER OF STEPS	GOV. AGENCIES	ACQUISITION MECHANISM?	LEGAL PRESUMPTION ABOUT LAND STATUS	COMMUNITY CONSULTATIONS?	DOES PROCEDURE INCORPORATE STEPS TO ENSURE FPIC?
Tanzania: Granted Right of Occupancy/ Derivative Right	5-13+	4	Application to government OR lease/lease-back from government	Government owns OR community via lease/lease-back	Yes, vote by assembly	Yes BUT legal ambiguity as to whether a community can refuse
Uganda: Freehold Land from District Land Board	8-13+	4	Application to government (District Land Board)	Land in district "not owned by any person or authority" (as determined by DLB)	No	No
Uganda: Grant/ Leasehold from ULC	5-7+	2	Application to government (Uganda Land Commission)	ULC owns	No	No
Averages (Low and High)	11.2-15.5	6.85-7.15				
Median (Low and High)	9-14	5-7				

Source: WRI, based on the laws in Appendix F.

Table D2 | Data for Indicators on Cost in Time, Cost in Money, Size of the Land, Duration of the Rights, and Conditions Imposed on the Right

PROCEDURE	COST IN TIME	COST IN \$	SIZE OF LAND: NUMERIC CAP?	DURATION OF RIGHTS		CONDITIONS
				term	renewability	
Cambodia: Economic Land Concessions	None	None overall	0-10,000 ha	50 years* *reduced in 2011	Once, 50 years (possible 99 year cap)	Yes
Cameroon: Provisional Concessions on National Land	None	None overall	No	5 years (provisional)	Yes (extended or converted)	Yes
Côte d'Ivoire: Emphyteutic Lease	None	None overall	No	18-99 years	Yes, unclear time	Yes
Guyana: State Land Grant or Lease	None	None overall	No	99 years	No exceptionally 1 year	Yes
Indonesia: HGU Land Use Right/Palm Oil Plantations	None	None overall	25-100,000 ha	35 years	Once, 25 years	Yes
Indonesia: HTI/Industrial Forests	None	None overall	0-150,000 ha	60 years	Once, 35 years	Yes
Mozambique: DUAT Acquisition for Economic Purposes	None	None overall	No	2 (foreign) or 5 (domestic) years (provisional)	Definitive: 50 years; Renew once	Yes
Panama: Concessions for Tourist Investment	None	None overall	Varies	40-60 years	Once, 30 year	Yes
Peru: Rights to Forests on Classified Agricultural Land	None	None overall	0-10,000 ha	No limit	N/A	Yes
Philippines: Lease of (Public) Alienable and Disposable Land	None	None overall	0-1,000/500 (domestic/foreign)	25 years	Once, 25 years	Yes

PROCEDURE	COST IN TIME	COST IN \$	SIZE OF LAND: NUMERIC CAP?	DURATION OF RIGHTS		CONDITIONS
				term	renewability	
PNG: SABL	None	None overall	No	99 years		Yes
Tanzania: Granted Right of Occupancy/ Derivative Right	None	None overall	No (missing regulation)	98-99 years		Yes
Uganda: Freehold Land from District Land Board	None	None overall	No	No limit		Discretionary
Uganda: Grant/Leasehold from ULC	None	None overall	No	99 years (foreign); none (domestic)		Yes

Source: WRI, based on the laws in Appendix F.

Table D3 | Data for the Indicator on the Bundle of Rights

PROCEDURE	TREES/ FOREST RESOURCES	WATER	WILDLIFE	MINERALS	HYDRO- CARBONS	MANAGE- MENT (GENERAL/ COMMERCIAL)	EXCLU- SION	ALIENATION (SALE/ LEASE)
Cambodia: Economic Land Concessions	2/3	3	3	4	4	1 1	1	2 2
Cameroon: Provisional Concessions on National Land	3	3	3	4	4	1 1	1	2 2
Côte d'Ivoire: Emphyteutic Lease	3*	3	3	4	4	1 1	1	1 1
Guyana: State Land Grant or Lease	3	3	3	3	3	1 1	1	2 2
Indonesia: HGU Land Use Right/Palm Oil Plantations	1	2	4	4	4	1 1	1	1 1
Indonesia: HTI/Industrial Forests	1	4	4	4	4	1 1	1	4 4
Mozambique: DUAT Acquisition for Economic Purposes	3	3	3	3	3	1 1	1	3 4
Panama: Concessions for Tourist Investment	3	3	3	4	4	1 1	1	1 1
Peru: Rights to Forests on Classified Agricultural Land	1	2	4	4	4	2 2	1	1 1
Philippines: Lease of (Public) Alienable and Disposable Land	3	3	3	3	3	1 1	1	2 2
PNG: SABL	4	3	1/4	3	3	1 1/3	1	2 2
Tanzania: Granted Right of Occupancy/Derivative Right	1	1	2	3	4	2 2	1	2 2
Uganda: Freehold Land from District Land Board	2	3	3	4	4	1 1	1	1 1
Uganda: Grant/Leasehold from ULC	2	3	3	4	4	1 1	1	1 1

Notes: Includes information on the bundle of rights received during company land acquisition. Legal protection of the rights is assessed on a scale of 1 (most protection) to 4 (least protection):

- 1: The law provides full enjoyment of the right.
- 2: The law protects the right subject to significant restrictions.
- 3: The law protects the right in limited circumstances.
- 4: The law does not protect the right.

Withdrawal rights to various resources are assessed only for commercial use of these resources.

* Legally ambiguous

Source: WRI, based on the laws in Appendix F.

APPENDIX E. COMPANY DATA, PRACTICE

Data on company practice were derived from a literature review in Mozambique and Guyana. Data from Peru and Indonesia were derived from a combination of a literature review and interviews conducted by country researchers. In Peru, researchers interviewed 16 key stakeholders, including national and subnational government representatives (13), private company representatives (2), and an NGO representative. These interviews were conducted in the same manner as for community procedures (see Appendix C). In Indonesia, researchers conducted two interviews with persons with practical experience in the relevant

industry. The researchers also evaluated standard operating procedure documents from a confidential company. Data from Tanzania were derived from a combination of a literature review and feedback from the Tanzanian research team, based on interviews with 17 government officials, NGO representatives, and officials from the private sector. (Eleven of these persons were targeted for information about the company procedure; the remainder were targeted for the community procedure but were also asked questions about the company procedure.)

Table E1 | Data on Indicators for the Land Acquisition Process, Cost in Time, Cost in Money, the Size of the Land, Duration of the Rights, and Conditions Imposed on the Right

PROCEDURE	NUMBER OF STEPS	GOV. AGENCIES	COST IN TIME	SIZE OF LAND (HA)	DURATION OF RIGHTS	CONDITIONS
Guyana: State Land Grant or Lease	11–15*	3*	1 year – “much longer”	--	25–50 years	Yes
Indonesia: HGU Land Use Right/Palm Oil Plantations	18–25	24	3–5 years	100,000+	35 years	Yes
Indonesia: HTI/Industrial Forests	13	10	1.5–2 years	150,000+	60 years	Yes
Mozambique: DUAT Acquisition for Economic Purposes	8–13	Insufficient data	3 months – 5+ years	356,000	50 years (definitive DUATs)	Yes
Peru: Rights to Forests on Classified Agricultural Land	38	13	--	--	N/A	Yes
Tanzania: Granted Right of Occupancy/ Derivative Right	9–20	--	30 days – 3 years	60,000+	99 years	Yes

Note: *Limited sources; data accuracy is limited.

Source: Field research led by CIFOR, AsM Law Office, UCRT, and RRI. Sources listed in Appendix G, as well as Cabral and Norfolk 2016, Chiziane et al. 2015, Cleaver et al. 2010, CPI 2016, Di Matteo & Schoneveld 2016, German et al. 2013, Ghebru et al. 2015, Hanemann 2016, IFC 2016, Makwarimba and Ngowi 2012, Mandamule 2017, MITADER 2018, Mozambique Council of Ministers Resolution 83/2014, Mei and Alabrese 2013, Oakland Institute 2011, and Olenasha 2013.

Table E2 | Data for Indicator on the Bundle of Rights

PROCEDURE	TREES/ FOREST RESOURCES	WATER	WILD- LIFE	MINER- ALS	HYDRO- CARBONS	MANAGE- MENT		EXCLU- SION	ALIENATION	
						General	Commercial		Sale	Lease
Guyana: State land grant or lease	2*	3*	3*	—	—	—	—	—	—	—
Indonesia: HGU Land Use Right/Palm Oil Plantations	1	2	3	4	4	1	1	1	1	4
Indonesia: HTI/Industrial Forests	1	4	3	4	4	1	1	1	1	4
Mozambique: DUAT acquisition for economic purposes	2	3	3	4	4	1	1	1	1	2
Peru: Rights to Forests on Classified Agricultural Land	1	2	4	4	4	—	—	1	—	—
Tanzania: Granted Right of Occupancy/Derivative Right	1	1	2	3	4	1	1	1	2	2

Notes:

*Limited sources; data accuracy is limited.

Includes information on the bundle of rights received during company land acquisition. Legal protection of the rights is assessed on a scale of 1 (most protection) to 4 (least protection):

1: The law provides full enjoyment of the right.

2: The law protects the right subject to significant restrictions.

3: The law protects the right in limited circumstances.

4: The law does not protect the right.

Withdrawal rights to various resources are assessed only for commercial use of these resources.

Source: Field research led by CIFOR, AsM Law Office, UCRT, and RRI. Sources listed in Appendix G, as well as Alba et al. 2016, Baumert et al. 2016, Cabral and Norfolk 2016, Filipe and Norfolk 2017, Hanemann 2016, Macqueen and Falcão 2017, Morgera 2009, Oakland Institute 2011, and Sulle and Nelson 2013.

APPENDIX F. LIST OF NATIONAL LAWS AND REGULATIONS REVIEWED

Brazil

Constitution 1988

Ato das Disposições Constitucionais Transitórias [Temporary Constitutional Provisions Act]

Laws and Decree-Laws:

- Lei 13.043 de 2014, Dispõe sobre os fundos de índice de renda fixa ... e dá outras providências [On Fixed Income Index Funds...and Other Provisions]
- Lei 12.651 de 2012, Dispõe sobre a proteção da vegetação nativa; altera as Leis nos 6.938, de 31 de agosto de 1981, 9.393, de 19 de dezembro de 1996, e 11.428, de 22 de dezembro de 2006; revoga as Leis nos 4.771, de 15 de setembro de 1965, e 7.754, de 14 de abril de 1989, e a Medida Provisória no 2.166-67, de 24 de agosto de 2001; e dá outras providências [On the Protection of Native Vegetation and Other Provisions]
- Lei 10.406 de 2002, Institui o Código Civil [Civil Code]
- Lei 9.605 de 12 de fevereiro de 1998, Dispõe sobre as sanções penais e administrativas derivadas de condutas e atividades lesivas ao meio ambiente, e dá outras providências [Sanctions for Environmentally Harmful Activities]
- Lei 9.433 de 1997, Institui a Política Nacional de Recursos Hídricos, cria o Sistema Nacional de Gerenciamento de Recursos Hídricos, regulamenta o inciso XIX do art. 21 da Constituição Federal, e altera o art. 1º da Lei nº 8.001, de 13 de março de 1990, que modificou a Lei nº 7.990, de 28 de dezembro de 1989 [Instituting a National Water Policy and Creating a National System of Water Resource Management]
- Lei 6.001 de 1973, Estatuto do Índio [Indigenous Statute]
- Lei 5.197 de 1967, Dispõe sobre a proteção à fauna e dá outras providências [On the Protection of Wildlife]
- Decreto-Lei 227, de 28 de fevereiro de 1967, Dá nova redação ao Decreto-Lei nº 1.985, de 29 de janeiro de 1940 (Código de Minas) [Revising the Mining Code]

Decreets:

- Decreto 6.040 de 2007, Institui a Política Nacional de Desenvolvimento Sustentável dos Povos e Comunidades Tradicionais [National Policy on Sustainable Development of Traditional Peoples and Communities]
- Decreto 5.051 de 2004, Promulga a Convenção no. 169 da Organização Internacional do Trabalho - OIT sobre Povos Indígenas e Tribais [Promulgates ILO Convention 169]
- Decreto 4.887 de 2003, Regulamenta o procedimento para identificação, reconhecimento, delimitação, demarcação e titulação das terras ocupadas por remanescentes das comunidades dos quilombos de que trata o art. 68 do Ato das Disposições Constitucionais Transitórias [Procedures for Identifying, Recognizing, Delimiting, Demarcating and Titling Land Occupied by Remnants of Quilombos]
- Decreto 1.775/1996, de 8 de Janeiro de 1996, Dispõe sobre o procedimento administrativo de demarcação das terras indígenas e dá outras providências [Administrative Procedure for Demarcating Indigenous Lands]

Ministerial Orders and Instructive Norms:

- Portaria MJ 80, de 19 de janeiro de 2017
- Portaria MJ 2.498, de 31 de outubro de 2011
- Portaria Nº 682/PRES - Funai, de 24 de junho de 2008
- Portaria FCP 98, de 26 de novembro de 2007
- Portaria INCRA 1.101, de 19 de novembro de 2003
- Portaria FUNAI 14, de 09 de janeiro de 1996
- INCRA Instrução Normativa 57, de 20 de Outubro de 2009

Court Cases:

- STF, Pet. 3.388/RR. Julgamento, 23 de Outubro de 2013 [Raposa Serra do Sol Case].

Cambodia

Constitution, 1993

Laws:

- Law on Associations and Non-Governmental Organizations, No. NS/RKM/0815/010 (2015)
- Civil Code, No. NS/RKM/1207/030 (2007)
- Law on Water Resources Management, No. NS/RKM/0607/016 (2007)
- Forestry Law, No. NS/RKM/0802/016 (2002)
- Land Law, No. NS/RKM/0801/14 (2001)
- Law on Mineral Resource Management and Exploitation, No. NS/RKM/0701/09 (2001)

Sub-Decees:

- Sub-Decree on Procedures of Registration of Lands of Indigenous Communities, No. 83 ANK.BK (2009)
- Sub-Decree on the Mortgage and Transfer of the Rights over a Long-Term Lease or an Economic Land Concession, No. 114 ANK.BK (2007)
- Sub-Decree on Economic Land Concessions, No. 146 ANK/BK (2005)
- Sub-Decree on State Land Management, No. 118 HNK/BK (2005)
- Sub-Decree on Community Forest Management, No. 79 ONKr.BK (2003)
- Sub-Decree On Environmental Impact Assessments Process, No. 72.ANRK.BK (1999)

Ministerial Orders:

- Prakas No. 496 (MEF), Ministry of Economy and Finance (2016)
- Prakas No. 376 (MoE), Ministry of Environment (2009)
- Petroleum Regulations, dated Sept. 28, 1991.

Cameroon

Laws:

- Loi 2016/017 du 14 décembre 2016 portant code minier [Mining Code]
- Loi 2013/004 du 18 avril 2013 fixant les incitations à l'investissement privé en République du Cameroun
- Loi 99/013 du 22 décembre 1999, Code Pétrolier [Petroleum Code]
- Loi 98/005 du 14 avril 1998 portant régime de l'eau [Water Regime]
- Loi 94/01 du 20 janvier 1994 portant régime des forêts, de la faune et de la pêche [Forest, Wildlife, and Fishing Regime]
- Loi 91/003 du 30 juin 1991, portant loi de finances de la République du Cameroun pour l'exercice 1991/1992 [Finances Law for 1991/1992]

Ordinances:

- Ordonnance 77-1 du 10 janvier 1977 portant modification de l'ordonnance n°1 du 6 juillet 1974 fixant le régime foncier [amending Ordonnance 74-1]
- Ordonnance 74-2 du 6 juillet 1974, fixant le régime domanial [State Land Regime]
- Ordonnance 74-1 du 6 juillet 1974, fixant le régime foncier [Land Regime]

Decreets:

- Décret n° 2006/0368/PM du 03 mai 2006 fixant l'organisation et les modalités de fonctionnement du Bulletin des Avis Domaniaux et Fonciers [Operating Procedures for the Land Notice Bulletin]
- Décret n° 2005-481 du 16 décembre 2005, modifiant et complétant certaines dispositions du décret n° 76/165 du 27 avril 1976 fixant les conditions d'obtention du titre foncier [amending Décret n° 76-165]
- Décret n° 2001/164/PM du 08 mai 2001 précisant les modalités et conditions de prélèvement des eaux de surface ou des eaux souterraines à des fins industrielles ou commerciales [Means and Conditions for Collecting Surface or Subterranean Waters for Commercial or Industrial Purposes]
- Décret n° 2000/465 du 30 juin 2000 fixant les modalités d'application de la loi n° 99/013 portant code pétrolier [Implementing Rules of the Petroleum Code]
- Décret n° 76-166 du 27 avril 1976, fixant les modalités de gestion du Domaine National [Management Rules of National Land]
- Décret n° 76-165 du 27 avril 1976, fixant les conditions d'obtention du titre foncier [Conditions for Obtaining a Land Title]
- Décret n° 95/466/PM du 20 juillet 1995, fixant les modalités d'application du régime de la faune [Implementing Rules of the Wildlife Regime]

Ministerial Orders and Instructions:

- Arrêté N° 0565/A/MINEF/DFAP/SDF/SRC du 1998 (as amended), du 14 août 1998 fixant la liste des animaux des classes A, B et C et répartition d'abattage par type de permis sportif de chasse [List of Class A, B, and C Animals and Distribution of Hunting Permits]
- Instruction n° 000009/Y.18/MINDAF/D300 du 29 décembre 2005 relative à l'instruction des dossiers de demande d'attribution en concession ou en bail sur le domaine national

Chile

Constitution, 1980

Laws:

- Ley 20.283 de 2008 (Ley de Bosque Nativo) [Native Forest Law]
- Ley 19.719 de 2001, Patente Minera Especial para Pequeños Mineros y Mineros Artesanales [Special Mining License for Small and Artisanal Miners]
- Ley 19.473 de 1996, Ley de Caza [Hunting Law]
- Ley 19.253 de 1993 (Ley Indígena) [Indigenous Law]
- Código Civil [Civil Code]
- Ley 18.248 de 1983 (Codigo de Minería) [Mineral Code]

Decreets:

- Decreto 66 de 2013 del Ministerio de Desarrollo Social, 15 de noviembre de 2013, aprueba reglamento que regula el procedimiento de consulta indígena en virtud del artículo 6 N° 1 letra a) y n° 2 del convenio n° 169 de la organización internacional del trabajo y deroga normativa que indica [Regulations on Indigenous Consultation Proceedings according to ILO Convention 169]
- Decreto 40 de 2012 del Ministerio del Medio Ambiente, 30 de octubre de 2012, aprueba Reglamento del Sistema de Evaluación de Impacto Ambiental [Environmental Impact Assessment System Regulations]
- MIDEPLAN Decreto 395/1994, 24 de noviembre de 1993, Aprueba Reglamento Sobre el Fondo de Tierras y Aguas Indígenas [Regulations on the Indigenous Land and Waters Fund]

Resolutions and Decisions:

- Res. Ex. 878 de 2003, Manual para la Aplicación del Procedimiento para la Compra de Tierras a través del Programa Subsidio Artículo 20 letra b) del Fondo de Tierras y Aguas Indígenas de la CONADI [Manual for the Application of Procedures for the Purchase of Lands through the Article 20(b) program]
- Res. Ex. 1.847 de 2011, dejó sin efecto la Resolución Exenta 878 [rendering Res. Ex. 878 de 2003 without effect]
- Dictamen de la Contraloría General de la República No. 61011 de 27 de septiembre de 2011 [Ruling No. 61,011 of the Office of the National Comptroller-General]

Côte d'Ivoire

Laws:

- Loi n° 2014-427, Code Forestier [Forestry Code]
- Loi n° 2014-138, Code Minier [Mineral Code]
- Loi n° 98-755, Code de l'Eau [Water Code]
- Loi n° 98-750, Domaine foncier rural [Rural Land Law]
- Loi n° 98-705, Loi de Finances [Finances Law]
- Loi n° 96-669, Code Pétrolier [Petroleum Code]
- Loi n° 65-225, relative à la protection de la faune et à l'exercice de la chasse [Wildlife Protection and Hunting Law]
- Loi du 25 Juin 1902

Decrees:

- Décret n° 2014-397 du 25 juin 2014 déterminant les modalités d'application de la loi 2014-138 du 24 mars 2014 portant Code Minier [Operating Rules of the Mining Code]
- Décret n° 99-595 du 13 octobre 1999 fixant la procédure de consolidation des droits des concessionnaires provisoires de terres du domaine foncier rural [Consolidation Procedures of Provisional Concession Rights on Rural Land]
- Décret n° 99-594 du 13 octobre 1999 fixant les modalités d'application au domaine foncier rural coutumier de la loi n° 98-750 [Operating Rules of the Rural Customary Land Domain]
- Décret n° 96-894 du 08 novembre 1996 déterminant les règles et procédures applicables aux études relatives à l'impact environnemental des projets de développement [Rules and procedures for Environmental Impact Studies]

Ministerial Orders:

- Arrêté n° 30-MINAGRA du 15 mai 2001 définissant les formulaires d'approbation et de validation des enquêtes foncières rurales officielles [Forms for Approving and Validating Official Rural Land Investigations]
- Arrêté n° 112 MINAGRA du 6 septembre 2000, définissant le formulaire de constat d'existence continue et paisible de droits coutumiers sur un bien foncier du Domaine Rural [Form for Ascertaining Continuous and Peaceful Existence of Rights on Rural Land Property]
- Arrêté n° 111-MINAGRA du 06 septembre 2000 définissant le procès-verbal de recensement des droits coutumiers et les documents annexes [Reporting of the Record of Customary Rights]
- Arrêté n° 085-MINAGRA du 15 juin 2000 fixant les modalités de réalisation et de présentation des plans des biens fonciers du domaine foncier rural coutumier [Terms for Realizing and Presenting Maps of Customary Rural Land]
- Arrêté n° 02 MINAGRA du 8 février 2000 portant modèles officiels du certificat foncier individuel et du certificat foncier collectif [Official Model of Individual and Collective Land Certificates]
- Arrêté n° 147 MINAGRA du 9 décembre 1999 portant modèle officiel du formulaire de demande d'enquête en vue de l'établissement d'un certificat foncier et précisant la compétence des sous-préfets [Official Model Form for an Investigation Request to Obtain a Land Certificate]

Guyana

Laws:

- Wildlife Conservation and Management Act, No. 14 of 2016
- Protected Areas Act, No. 14 of 2011
- Forests Act, 2009 (Cap. 67:01)
- Guyana Forestry Commission Act, 2007 (Cap. 67:02)
- Amerindian Act, 2006 (Cap. 29:01)
- Investment Act, 2004 (Cap. 73:03)
- Water and Sewerage Act, 2002 (Cap. 30:01)
- Petroleum (Exploration and Production) Act, 1986 (Cap. 65:10)
- Acquisition of Lands (Not Beneficially Occupied) Act, 1984 (Cap. 62:09)
- Amerindian Act, 1976 (historic law)
- Surveys (Special Provisions) Act, 1970 (Cap. 59:04)
- Property Tax Act, 1962 (Cap. 81:21)
- Land Registry Act, 1959 (Cap. 5:02)
- Hydro-Electric Power Act, 1956 (Cap. 56:03)
- Status of Aliens Act, 1951 (Cap. 14:04)
- State Lands Resumption Act, 1905 (Cap. 62:02)
- State Lands Act, 1903 (Cap. 62:01)
- Land Surveyors Act, 1891 (Cap. 97:01)

Regulations:

- Wildlife Management and Conservation Regulations 2013
- State Lands Regulations 1919
- Terms and Conditions of Lease of State Lands for Agricultural Purposes 1919

India

Constitution, 1949

Laws:

- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, No. 30 of 2013
- Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, No. 2 of 2007
- Panchayats (Extension to the Scheduled Areas) Act, No. 40 of 1996
- Forest (Conservation) Act, No. 6 of 1980
- Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, No. 33 of 1989 (as amended)
- Wildlife Protection Act, No. 53 of 1972 (as amended)
- Mines and Minerals Act, No. 67 of 1957
- Oilfields (Regulation and Development) Act, No. 53 of 1948 (as amended)

Regulations:

- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007
- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2012 (amending the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007)
- Mineral Concession Rules, 1960 (as amended)
- Petroleum and Natural Gas Rules 1959 (as amended)

Ministerial Letters and Guidance:

- Ministry of Tribal Affairs, Guidelines to the Forest Rights Act, 2006
- Ministry of Tribal Affairs, Letter dated 9 June 2008, No. 17014/02/2007-PC&V (Vol. VII), to All State Secretaries in charge of Tribal Welfare, Sub.: Implications of the phrase "primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs" appearing in sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
- Ministry of Tribal Affairs, Letter, No/23011/33/2010 FHA, dated 8.11.2013, to The Chief Secretaries of all State Governments, the Administrators of all Union Territory Administrations, Sub: Conversion of all forest villages, old habitations, unsurveyed villages etc. into revenue villages under Section 3(1)(h) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Indonesia

Laws:

- Law No. 39 of 2014 on Plantations. Undang-Undang Nomor 39 Tahun 2014 tentang Perkebunan.
- Law No. 4 of 2009 on Mineral and Coal Mining. Undang-Undang No. 4 tahun 2009 tentang Pertambangan Mineral dan Batubara
- Law No. 22 of 2001 concerning Oil and Gas. Undang-Undang No. 22 tahun 2001 tentang Minyak dan Gas Bumi
- Law No. 5 of 1960, Basic Agrarian Law. Undang-Undang No. 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.

Government Regulations:

- Government Regulation No. 104 of 2015 about procedures to change the designation of forest areas. Peraturan Pemerintah Nomor 104 tahun 2015 tentang Tata Cara Perubahan Peruntukan dan Fungsi Kawasan Hutan.
- Government Regulation No. 27 of 2012 on Environmental Permits. Peraturan Pemerintah nomor 27 Tahun 2012 tentang Izin Lingkungan.
- Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities. Peraturan Pemerintah No. 23 tahun 2010 tentang Pelaksanaan Kegiatan Usaha Pertambangan Mineral dan Batubara
- Government Regulation No. 22 of 2010 on Mining Areas. Peraturan Pemerintah No. 22 tahun 2010 tentang Wilayah Pertambangan
- Government Regulation No. 40 of 1996 on Cultivation Rights, Right to Build and Land Use Rights. Peraturan Pemerintah No. 40 Tahun 1996 tentang Hak Guna Usaha, Hak Guna Bangunan, dan Hak Pakai Atas Tanah.
- Government Regulation No. 13 of 1994 on Wildlife Hunting. Peraturan Pemerintah Nomor 13 tahun 1994 tentang Perburuan Satwa Buru

Ministerial Regulations:

- Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 5 of 2015 on Location Permits. Peraturan menteri agraria dan tata ruang/kepala badan pertanahan nasional, nomor 5 tahun 2015 tentang izin lokasi
- Minister of Agrarian Affairs and Spatial Planning Ministry Regulation No. 9 of 1999 on the Procedures for granting and revoking rights and management rights on State land. Menteri Negara Agraria/Kepala Badan Pertanahan Nasional, Nomor 9 Tahun 1999 tentang Tata Cara Pemberian dan Pembatalan Hak Atas Tanah Negara dan Hak Pengelolaan

- Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency Decree No. 21 of 1994 on the procedure for company to obtain land for capital investments. Keputusan Menteri negara agraria/ kepala badan pertanahan nasional nomor 21 tahun 1994 tentang tata cara perolehan tanah bagi perusahaan dalam rangka penanaman modal
- Ministry of Agriculture Regulation No. 29/Permentan/KB.410/5/2016 amending the Minister of Agriculture's Regulation No 98/Permentan/OT.140/9/2013. Peraturan Menteri pertanian No. 29/Permentan/KB.410/5/2106 tentang Perubahan atas peraturan Menteri pertanian No 98/Permentan/OT.140/9/2013 tentang pedoman perizinan usaha perkebunan
- Ministry of Agriculture Regulation No. 26/Permentan/HK.140/4/2015 about Terms, Process and Standard operating procedures on Technical Recommendation for Agriculture Business License based on Capital Investment. Peraturan Menteri Pertanian No. 26/Permentan/HK.140/4/2015. Syarat, Tata Cara Dan Standar Operasional Prosedur Pemberian Rekomendasi Teknis Izin Usaha Di Bidang Pertanian Dalam Rangka Penanaman Modal
- Ministry of Agriculture Regulation No. 98/Permentan/OT.140/9/2013 On Plantation Licensing Guidelines. Peraturan Menteri pertanian Nomor 98/Permentan/OT.140/9/2013 tentang pedoman perizinan usaha perkebunan
- Ministry of Environment and Forestry Regulation No. P.83/Menlhk/Setjen/Kum.1/10/2016 on Social Forestry. Peraturan Menteri Lingkungan Hidup dan Kehutanan No. P.93/Menlhk/Setjen/Kum.1/10/2016 tentang Perhutanan Sosial
- Ministry of Environment and Forestry Regulation No p.51/Menlhk/Setjen/KUM.1/6/2016 about Procedure for the Release of Production Forest area that can be Converted. Peraturan Menteri Lingkungan Hidup dan Kehutanan No. P.51/Menlhk/Setjen/KUM.1/6/2016 tentang Tata Cara Pelepasan Kawasan Hutan Produksi yang dapat Dikonversi
- Minister of Environment and Forestry Regulation No. P.62/Menlhk-Setjen/2015 on Timber Utilization Permit. Peraturan Menteri Lingkungan Hidup dan Kehutanan Nomor P.62/Menlhk-Setjen/2015 tentang Izin Pemanfaatan Kayu.
- Ministry of Environment and Forestry Regulation No. P.32/Menlhk-Setjen/2015 on Forest Rights. Peraturan Menteri Lingkungan Hidup dan Kehutanan No. P.32/Menlhk-Setjen/2015 tentang Hutan Hak.
- Minister of Forestry Regulation P.31/Menhut-II/2014, Procedures for granting and expanding working areas of timber use permit in natural forest, timber use permit in ecosystem restoration area, or industrial forest timber use permit in production forests. Peraturan Menteri Kehutanan Nomor P.31/Menhut-II/2014 tentang Tata Cara Pemberian Dan Perluasan Areal Kerja Izin Usaha Pemanfaatan Hasil Hutan Kayu Dalam Hutan Alam, Izin Usaha Pemanfaatan Hasil Hutan Kayu Restorasi Ekosistem Atau Izin Usaha Pemanfaatan Hasil Hutan Kayu Hutan Tanaman Industri Pada Hutan Produksi
- Ministry of Forestry Regulation No. P.32/menhut-ii/2010 about the exchange of forest area. Peraturan Menteri Kehutanan Nomor P.32/Menhut-II/2010 tentang Tukar Menukar Kawasan Hutan
- Director General of Social Forestry and Environmental Partnership Regulation (Ministry of Environment and Forest) P.1/PSKL/Set/Kum.1/2/2016, on Verification and Validation of Forest Rights. Peraturan Direktur Jenderal (Perdirjen) PSKL P.1/PSKL/Set/Kum.1/2/2016 tentang Tata Cara Verifikasi dan Validasi Hutan Hak

Mozambique

Constitution, 2004

Laws:

- Lei 21/2014 de 18 de Agosto, Lei dos Petróleos [Petroleum Law]
- Lei 20/2014 de 18 de Agosto, Lei de Minas [Mining Law]
- Lei 16/2014 de 20 de Junho, Concernente ao estabelecimento dos princípios e normas básicos sobre a protecção, conservação, restauração e utilização sustentável da diversidade biológica nas áreas de conservação, bem como o enquadramento de uma administração integrada, para o desenvolvimento sustentável do país [Establishing Principles and Basic Norms on the Protection, Conservation, Restoration, and Sustainable Use of Biological Diversity in Conservation Areas and an Integrated Framework for Sustainable Development]
- Lei 10/1999, de 7 de Julho, Estabelece os princípios e normas básicos sobre a protecção, conservação e utilização sustentável dos recursos florestais e faunísticos [Principles and Basic Norms on the Protection, Conservation, and Sustainable Use of Forestry and Wildlife Resources]
- Lei 19/1997 de 1 de Outubro, Lei de Terras [Land Law]
- Lei 16/1991 de 3 de Agosto, Lei de Águas [Water Law]

Decrees:

- Decreto 30/2012, de 1 de Agosto, Requisitos para a exploração florestal em regime de licença simples e os termos, condições e incentivos para o estabelecimento de plantações florestais [Requirements for forestry exploitation under simple licenses and terms, conditions and incentives for establishing forestry plantations].
- Decreto 43/2010 de 20 de Outubro, Introduz alterações no n.º 2 do artigo 27 do Regulamento da Lei
- de Terras, aprovado pelo Decreto n.º 66/98, de 8 de Dezembro [Amending the Land Law Regulations]
- Decree 43/2009 de 21 de Agosto, Regulamento da Lei de Investimentos [Investment Law Regulations]
- Decreto 43/2007, de 30 de Outubro, Regulamento de Licenças e Concessões de Águas [Water Concessions and Licenses Regulations]
- Decreto 12/2002, de 6 de Junho, Regulamento da Lei de Florestas e Fauna Bravia [Forest and Wildlife Regulations].
- Decreto 66/1998, de 8 de Dezembro, Regulamento da Lei de Terras [Land Law Regulations]
- Decreto 15/1993 de 25 de Agosto, Regulamento do exercício da actividade de Agrimensor Ajuramentado [Regulations on Activities of Sworn Surveyors]

Ministerial Orders:

- Diploma Ministerial 158/2011, de 15 de Junho, Ministério da Agricultura, Adopta procedimentos específicos para a consulta às comunidades locais no âmbito da titulação do direito de uso e aproveitamento da terra [Specific Procedures for Local Community Consultations during DUAT titling]
- Diploma Ministerial 29-A/2000, de 17 de Março, Ministério da Agricultura e Pescas, Anexo Técnico ao Regulamento da Lei de Terras [Technical Annex to the Land Law Regulations]

Panama

Constitution, 1972

Laws and Decree-Laws:

- Ley 37 de 2 de agosto de 2016, Que establece la consulta y consentimiento previo, libre e informado a los pueblos indígenas [Free, Prior, and Informed Consent and Consultation of Indigenous Peoples]
- Ley 80 de 8 de noviembre de 2012, Que dicta normas de incentivos para el fomento de la actividad turística en Panamá [Incentive Rules for the Promotion of Tourist Activities].
- Ley 55 de 23 de mayo de 2011, que adopta el Código Agrario de la República de Panamá [Agrarian Code]
- Ley 59 de 8 de octubre de 2010, Crea la Autoridad Nacional de Administración de Tierras, unifica las competencias de la Dirección General de Catastro, la Dirección Nacional de Reforma Agraria, el Programa Nacional de Administración de Tierras y el Instituto Geográfico Nacional Tommy Guardia y dicta otras disposiciones [Creating the National Authority of Land Administration]
- Ley 72 de 23 de diciembre de 2008, Procedimiento especial para la adjudicación de la propiedad colectiva de tierras de los pueblos indígenas que no están dentro de las comarcas [Establishing Special Procedures for the Adjudication of the Collective Property of the Lands of Indigenous Peoples that are not in the Comarcas]
- Ley 2 de 7 de enero de 2006, Que regula las concesiones para la inversión turística y la enajenación de territorio insular para fines de su Aprovechamiento turístico y dicta otras disposiciones [Regulating Tourist Investment Concessions and the Leasing of Island Land for Purposes of Tourist Development]
- Ley 24 de 7 de junio de 1995, Por la cual se establece la legislación de vida silvestre en la República de Panamá y se dictan otras disposiciones [Wildlife Law]
- Ley 8 de 16 de junio de 1987, Por la cual se regulan actividades relacionadas con los hidrocarburos [Regulating Hydrocarbons Activities]
- Decreto Ley 35 de 1966, mediante el cual se reglamenta el uso de las aguas [Regulating Water Use]
- Decreto Ley 23 de 1963, por el cual se aprueba el Código de Recursos Minerales [Mineral Resources Code]

Regulations:

- MEF, Decreto Ejecutivo 123 de 14 de agosto de 2009, por el cual se reglamenta el Capítulo II del Título IV de la Ley 41 del 1 de Julio de 1998, General de Ambiente de la República de Panamá y se deroga el Decreto Ejecutivo 209 de 5 de septiembre 2006 [Environmental Regulations]
- MEF, Decreto Ejecutivo 85 de 14 de junio de 2006, que reglamenta la Ley No. 2 de 7 de enero de 2006, que regula las Concesiones para la Inversión Turística y la Enajenación del Territorio Insular para Fines de su Aprovechamiento Turístico y dicta otras disposiciones [Regulations of the Tourist Investment Concession Law]
- MEF, Decreto Ejecutivo 43 de 7 de julio de 2004, Que reglamenta la Ley No. 24 de 7 de junio de 1995 y dicta otras disposiciones [Regulating Law No. 24 of 1995]
- MIDA, Decreto Ejecutivo 223 de 29 de junio de 2010, que reglamenta la Ley 72 de 2008, que establece el procedimiento especial para la adjudicación de la propiedad colectiva de tierras de los pueblos indígenas que no están dentro de las comarcas [Special Procedures for the Adjudication of Collective Property of Indigenous Peoples not on the Comarcas]

Papua New Guinea

Laws:

- Forestry (Amendment) Act, No. 4 of 2010
- Land Groups Incorporation (Amendment) Act, No. 29 of 2009
- Land Registration (Amendment) Act, No. 21 of 2009
- Forestry (Amendment) Act, No. 19 of 2007
- Environment Act, No. 64 of 2000
- Oil and Gas Act, No. 49 of 1998
- Land Act, No. 45 of 1996
- Mining Act, No. 20 of 1992
- Investment Promotion Act, No. 8 of 1992 (as amended)
- Forestry Act, No. 30 of 1991 (as amended)
- Land Registration Act 1981 (Cap. 191)
- Land Groups Incorporation Act 1974 (Cap. 147)
- Fauna (Protection and Control) Act 1966 (Cap. 154)

Regulations:

- Environmental (Prescribed Activities) Regulation, No. 30 of 2002
- Environmental (Permits) Regulation, No. 27 of 2002
- Land Regulations, No. 5 of 1999
- Forestry Regulation, No. 3 of 1998
- Investment Promotion Regulations 1992

Peru

Constitution, 1993

Laws and Legislative Decrees:

- Ley N° 29785, Aug. 31, 2011, Ley del Derecho a la Consulta Previa a los Pueblos Indígenas u Originarios, Reconocido en el Convenio 169 de la Organización Internacional del Trabajo (OIT) [Law on the Right to Prior Consultation of Indigenous Peoples].
- Ley N° 29763, July 21, 2011, Ley Forestal y de Fauna Silvestre [Forest and Wildlife Law].
- Ley N° 29151, Dec. 14, 2007, Ley General del Sistema Nacional de Bienes Estatales [National Public Property System Law].
- Ley N° 27446, Apr. 20, 2001, Ley del Sistema Nacional de Evaluación de Impacto Ambiental [Environmental Impact Assessment Law].
- Ley N° 27037, Dec. 30, 1998, Ley de Promoción de la Inversión en la Amazonía [Amazon Investment Promotion Law].
- Decreto Legislativo N° 653, July 30, 1991, Ley de Promoción de las Inversiones en el Sector Agrario [Agricultural Investment Promotion Law].

Supreme Decrees/Regulations:

- Decreto Supremo N° 021-2015, Sept. 30, 2015, Reglamento para la Gestión Forestal y de Fauna Silvestre en Comunidades Nativas y Campesinas. [Regulations Guiding Community Forest Management in Native and Peasant Community Lands].
- Decreto Supremo N° 018-2015-MINAGRI, Sept. 29, 2015, Reglamento para la Gestión Forestal [Forest Management Regulations].
- Decreto Supremo N° 016-2015-MINAGRI, Sept. 18, 2015, Texto Único de Procedimientos Administrativos (TUPA) del Ministerio de Agricultura y Riego [Unified Text of Administrative Procedures of the Ministry of Agriculture].

- Decreto Supremo N° 018-2012-AG, Nov. 13, 2012, Reglamento de Participación Ciudadana para la Evaluación, Aprobación y Seguimiento de Instrumentos de Gestión Ambiental del Sector Agrario [Regulations on Citizen Participation in the Evaluation, Approval and Monitoring of Environmental Management Instruments in the Agrarian Sector].
- Decreto Supremo N° 013-2010-AG, Nov. 19, 2010, Reglamento para la Ejecución de Levantamiento de Suelos [Soil Survey Regulations].
- Decreto Supremo N° 019-2009-MINAM, Sept. 24, 2009, Aprueban el Reglamento de la Ley N° 27446, Ley del Sistema Nacional de Evaluación de Impacto Ambiental [Environmental Impact Assessment Regulations].
- Decreto Supremo N° 017-2009-AG, Sept. 1, 2009, Reglamento de Clasificación de Tierras por su Capacidad de Uso Mayor [Land Use Classification Regulations].
- Decreto Supremo N° 002-2009-MINAM, Jan. 16, 2009, Reglamento sobre Transparencia, Acceso a la Información Pública Ambiental y Participación y Consulta Ciudadana en Asuntos Ambientales [Regulations on Transparency, Access to Public Environmental Information and Participation and Citizen Consultation on Environmental Affairs].
- Decreto Supremo N° 003-79-AA, Jan. 25, 1979, Reglamento de la Ley de Comunidades Nativas y de Desarrollo Agrario de la Selva y Ceja de Selva [Regulations of the Native Communities Law].

Ministerial Resolutions:

- Resolución Ministerial N° 0370-2017-MINAGRI, Sept. 15, 2017, Lineamientos para Georeferenciar el Plano de Demarcación Territorial de Comunidades Nativas Tituladas [Guidelines for Demarcating/Georeferencing Boundaries of Community Lands].
- Resolución Ministerial N° 0194-2017-MINAGRI, May 24, 2017, Lineamientos que sustituyen el uso de análisis de suelo por una evaluación agrológica de las tierras de comunidades nativas para la clasificación de su capacidad de uso. [Guidelines to Substitute a Soil Use Analysis with an Agrological Evaluation].
- Resolución Ministerial N° 0589-2016-MINAGRI, Oct. 21, 2016, Modificación de los Lineamientos para la ejecución del Procedimiento de Reconocimiento e Inscripción Administrativa de la Personería Jurídica de Comunidades Nativas y Anexos [Amendment of the Guidelines for Recognizing and Registering Native Communities as Legal Persons].
- Resolución Ministerial N° 0435-2016-MINAGRI, Aug. 12, 2016, Aprueban los "Lineamientos para la ejecución del Procedimiento de Reconocimiento e Inscripción Administrativa de la Personería Jurídica de Comunidades Nativas." [Guidelines for Recognizing and Registering Native Communities as Legal Persons].
- Resolución Ministerial N° 172-2016-VIVIENDA, July 23, 2016, que aprueba el Reglamento Nacional de Tasaciones [National Valuation Regulations].
- Resolución Ministerial N° 0547-2014-MINAGRI, Sept. 30, 2014, Precisan que la demarcación y titulación de comunidades nativas a cargo de los Gobiernos Regionales, previsto en el D. Ley No. 22175 y su Reglamento, aprobado por D.S. NO. 003-79-AA, no podrá quedar suspendido por superposición con área de Bosques de Producción Permanente - BPP [Resolution indicating that formalization of native community lands cannot be suspended in cases of overlaps with areas demarcated as concessions for timber and non-timber purposes].

- Resolución N° 064-2014/SBN, Sept. 5, 2014. Aprueban Directiva N° 006-2014/SBN, denominada "Procedimiento para la aprobación de la venta directa de predios de dominio privado estatal de libre disponibilidad" [Procedures for the Approval of Direct Sales of Private State Property].
- Resolución SUNARP N° 122-2013-SUNARP/SN. May 29, 2013. Aprobar la Directiva N° 005-2013- "Directiva que regula la Inscripción de los actos y derechos de las Comunidades Nativas" [Directive on the Registration of Native Community Rights].
- Resolución N° 097-2013-SUNARP/SN, May 3, 2013. Reglamento de Inscripciones del Registro de Predios [Property Registration Regulations].
- Resolución Ministerial N° 0811-2009-AG. Nov. 18, 2009. Aprueban relación de procedimientos administrativos a cargo de las Direcciones Regionales de Agricultura derivados de la función específica del literal "n" del artículo 51° de la Ley Orgánica de Gobiernos Regionales [Relating the Procedures of the Regional Directorate of Agriculture to the specific functions in Article 52(n) of the Regional Government Law].

Philippines

Constitution, 1987

Laws:

- Indigenous Peoples' Rights Act, Republic Act No. 8371 (1997)
- Property Registration Decree, Presidential Decree No. 1529 (1978)
- Water Code, Presidential Decree No. 1067 (1976)
- Forestry Code, Presidential Decree No. 705 (1975)
- Public Land Act, Commonwealth Act No. 141 (1936) (as amended)
- Wildlife Resources Conservation and Protection Act, Republic Act No. 9147 (2001)
- Mining Act, Republic Act No. 7942 (1995)
- People's Small-Scale Mining Act, Republic Act No. 7076 (1991)
- Civil Code, Republic Act No. 386 (1949)

Regulations:

- DENR A.O. No. 96/1996, Revised Implementing Rules and Regulations of Republic Act 7942.
- Joint DENR-DA-PCSD A.O. No. 01/2004. Implementing Rules and Regulations (IRR) of Republic Act 9147.
- NCIP Administrative Circular No. 1/2014. The 2014 Revised Rules of Procedure Before the National Commission on Indigenous Peoples.
- NCIP A.O. No. 4/2012. Revised Omnibus Rules on Delineation and Recognition of Ancestral Domains and Lands of 2012.
- NCIP A.O. No. 3/2012. The Revised Guidelines on Free and Prior Informed Consent (FPIC) and Related Processes of 2012.
- NCIP A.O. No. 1/2004. Guidelines on the Formulation of the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP).
- Water Code of the Philippines, Implementing Rules and Regulations, 1979.

Tanzania

Laws:

- Petroleum Act, No. 21 of 2015
- Mining Act, No. 14 of 2010
- Water Resources Management Act, No. 11 of 2009
- Wildlife Conservation Act, No. 5 of 2009
- Land Use Planning Act, No. 6 of 2007
- Environmental Management Act, No. 20 of 2004
- Forest Act, 2002 (Cap. 323)
- The Courts (Land Disputes Settlements) Act, 2002 (Cap. 216)
- Land Act, 1999 (Cap. 113)
- The Village Land Act, 1999 (Cap. 114)
- The Land Registration Act, 1953 (Cap. 334)
- Tanzania Investment Act, 1997 (Cap. 38)
- Local Government (District Authorities) Act, 1982 (Cap. 287)
- Land Acquisition Act, 1967 (Cap. 188)

Regulations:

- Wildlife Conservation (Wildlife Management Areas) Regulations, Government Notice No. 206 of 2012.
- Village Land Regulations, Government Notice No. 86 of 2001.

Uganda

Constitution, 1995

Laws:

- Petroleum (Exploration, Development and Production), No. 3 of 2013
- Companies Act, No. 1 of 2012
- Local Government (Rating) Amendment Act, No. 12 of 2006
- Local Governments (Rating) Act, No. 8 of 2005
- Land (Amendment) Act, No. 2 of 2004
- Mining Act, No. 9 of 2003
- National Forestry and Tree Planting Act, No. 8 of 2003
- Land Act, 1998 (Cap. 227)
- Water Act, 1997 (Cap. 152)
- Uganda Wildlife Statute, 1996 (Cap. 200)
- Interpretation Act, 1976 (Cap. 3)
- Surveyors Registration Act, 1974 (Cap. 275)
- Land Acquisition Act, 1965 (Cap. 226)
- Survey Act, 1939 (Cap. 232)
- Registration of Titles Act, 1924 (Cap. 230)

Regulations:

- Land Regulations 2004 (S.I. No. 100 of 2004)
- Mining Regulations 2004 (S.I. No. 71 of 2004)
- Water Resources Regulations (S.I. No. 33 of 1998)
- Environmental Impact Assessment Regulations (S.I. No. 13 of 1998)

APPENDIX G. ADDITIONAL SECONDARY SOURCES RELIED UPON FOR DATA ON PRACTICE IN MOZAMBIQUE AND GUYANA

The following sources represent those secondary sources, not cited elsewhere in this paper, that were relied upon to derive data on practice for Mozambique and Guyana, as included in Appendix C and Appendix E.

Guyana

Camacho-Nassar, Carlos. 2016. *Mid-Term Evaluation of the Amerindian Land Titling Project in Guyana*. New York: United National Development Programme.

Gretzinger, Steve, and Zak Resources. 2016. "Latin American Experiences in Natural Forest Management Concessions." Forestry Policy and Institutions Working Paper 35. Rome, Italy: Food and Agriculture Organization of the United Nations. <http://www.fao.org/forestry/45023-0707f17f1cce86c7e4f4e870bf4edd2f0.pdf>.

Guyana Combined Second to Fourth Periodic Reports of States Parties Due in 2000. 2014. United Nations, Committee on Economic, Social and Cultural Rights, UN Doc. E/C.12/Guy/2–4, July 15.

Guyana Lands and Survey Commission. 2006. *Guyana's Third National Report on the Implementation of the United Nations Convention to Combat Desertification*. Government of Guyana: Georgetown. <http://www.unccd-prais.com/Uploads/GetReportPdf/4a2b9a9c-32fc-4a0d-8050-a0fa014a4b19>.

Guyana Lands and Surveys Commission. 2013. *Guyana National Land Use Plan, June 2013*. Georgetown: Government of Guyana Ministry of Natural Resources and Environment. <http://goinvest.gov.gy/wp-content/uploads/GuyanaNLUP.pdf>.

Guyana Office for Investment. 2018. "Requirements for Application for Government/State Land." <http://goinvest.gov.gy/requirements-for-application-for-governmentstate-land>. Accessed April 25.

Janki, Melinda. 2013. "The Grant of Land to Amerindian Communities Is Made under the State Lands Act Not the Amerindian Act." Letter to the Editor, *Stabroek News*, March 10. <http://www.stabroeknews.com/2013/opinion/letters/03/10/the-grant-of-land-to-amerindian-communities-is-made-under-the-state-lands-act-not-the-amerindian-act>.

Janki, Melinda. 2014. "Customary Water Laws and Practices: Guyana." Rome, Italy: Food and Agriculture Organization of the United Nations. http://www.fao.org/fileadmin/templates/legal/docs/CaseStudy_Guyana.pdf.

Pasha, Sukrishnalall, Mark D. Wenner, and Dillon Clarke. 2017. "Toward the Greening of the Gold Mining Sector of Guyana." Inter-American Development Bank (IDB), Technical Note No. IDB-TN-1290. <https://publications.iadb.org/bitstream/handle/11319/8432/Toward-the-Greening-of-the-Gold-Mining-Sector-of-Guyana-Transition-Issues-and-Challenges.PDF>.

Stabroek News. 2016. "President Delegates Land Powers to Commissioner of GLSC." *Stabroek News*, July 15. <https://www.stabroeknews.com/2016/news/stories/07/15/president-delegates-land-powers-commissioner-glsc>.

U.S. Department of State, Bureau of Economic and Business Affairs. 2018. "Investment Climate Statements for 2017: Guyana." <https://www.state.gov/e/eb/rls/othr/ics/investmentclimatestatements/index.htm#wrapper>. Accessed April 25.

Mozambique

Associação de Comércio, Indústria e Serviços. 2012. *Legal Framework for Recognising and Acquiring Rights to Rural Land in Mozambique: A Guide to Legalizing Land-Holding, Edition III*. Maputo, Mozambique: ACIS. <https://www.acismoz.com/wp-content/uploads/2017/06/Rural-Land-Edition-III-English.pdf>.

Boche, Mathieu, Christopher Tanner, Ercilio C.L. Zimba, and Anseeuw Ward. 2013. "Community-Investor Partnerships: Lessons from Pro Parcerias in Mozambique." Paper presented at the World Bank Land and Poverty Conference, World Bank, Washington, DC, April 8–11. http://agritrop.cirad.fr/569314/2/document_569314.pdf.

Chilundo, Arlindo, Boaventura Cau, Marlino Mubai, Denise Malauene, and Vitor Muchanga. 2005. *Land Registration in Nampula and Zambezia Provinces, Mozambique*. Research Report 6. Securing Land Rights in Africa. London: International Institute for Environment and Development. <http://pubs.iied.org/pdfs/12523IIED.pdf>.

De Albuquerque, Amanda, and Andrew Hobbs. 2016. *Challenges and Opportunities for Efficient Land Use in Mozambique: Taxes, Financing and Infrastructure*. London: Climate Policy Initiative. <http://newclimateeconomy.report/workingpapers/wp-content/uploads/sites/5/2016/11/Challenges-and-Opportunities-for-Efficient-Land-Use-in-Mozambique.pdf>.

Frey, Adrian. 2017. "Mozambique: MITADER Puts the Brakes on Large Land Concessions to Make Space for Better Management." *Club of Mozambique*, August 25. <http://clubofmozambique.com/news/mozambique-mitader-puts-the-brakes-on-large-land-concessions-to-make-space-for-better-management>.

Iniciativa para Terras Comunitárias (iTC). 2016. *Guião de Delimitação de Terras Comunitárias*. Manica, Moçambique: iTC. <http://www.itc.co.mz/wp-content/uploads/2017/12/180716-Guiao-de-Delimitacao-iTC-VF.pdf>.

Kaarhus, Randi, and Stefaan Dondeyne. 2015. "Formalising Land Rights Based on Customary Tenure: Community Delimitation and Women's Access to Land in Central Mozambique." *Journal of Modern African Studies* 53(2): 193–216.

Knight, Rachael, Alda Salomão, and Issufo Tankar. 2015. *Protecting Community Lands and Resources: Evidence from Mozambique*. 2014. Rome, Italy: International Development Law Organization, Centro Terra Viva, and Namati. <https://namati.org/wp-content/uploads/2015/01/Namati-Mozambique-report-Full-web.pdf>.

Knox, Anna, and Christopher Tanner. 2009. "Community-Investor Partnerships in Mozambique." Focus on Land in Africa Brief. <https://agriknowledge.org/downloads/qb98mf51q>.

Marenjo, Dilaria, Issufo Tankar, and Nelson Alfredo. 2013. *Manual de Delimitação de Terras Comunitárias com Uso de Mobilizadores Comunitários*. Maputo, Mozambique: Centro Terra Viva. <https://landportal.org/pt/library/resources/manual-de-delimita%C3%A7%C3%A3o-de-terras-comunit%C3%A1rias-com-uso-de-mobilizadores-comunit%C3%A1rios>.

Matavel, Nilza, Sílvia Dolores, and Vanessa Cabanelas. 2011. *Lords of the Land: Preliminary Analysis of the Phenomenon of Land Grabbing in Mozambique, Case Studies*. Maputo, Mozambique: Justiça Ambiental and União Nacional de Camponeses. https://www.farmlandgrab.org/uploads/attachment/landgrabbing_english_web_.pdf.

Mei, Giorgia, and Mariagrazia Alabrese. 2013. "Communities' Ability in Consultations and Land Transactions: Improving the "Empowering Effect" of Tenure Security Initiatives in Rural Mozambique." Paper presented at the World Bank Land and Poverty Conference, World Bank, Washington, DC, April 8–11. https://namati.org/wp-content/uploads/2017/04/Mei-2013_Mozamb-Comm-land-CaseSts.pdf.

Monteiro, José, Alda Salamão, and Julian Quan. 2014. "Improving Land Administration in Mozambique: A Participatory Approach to Improve Monitoring and Supervision of Land Use Rights through Community Land Delimitation." Paper presented at the World Bank Land and Poverty Conference, World Bank, Washington, DC, March 24–27. <http://www.itc.co.mz/wp-content/uploads/2017/12/Rural-Communities-and-land-administration.pdf>.

Nhantumbo, Isilda, and Alda Salamão. 2010. *Biofuels, Land Access and Rural Livelihoods in Mozambique*. London: International Institute for Environment and Development. <http://pubs.iied.org/pdfs/12563IIED.pdf>.

Sitoe, Almeida, Carla Braga, Eunice Cavane, and Laura German. 2014. *Sistematização das Experiências Da Iniciativa para Terras Comunitárias na Delimitação e Demarcação de Terras Comunitárias e Parcerias no Âmbito da Implementação da Lei de Terras: Relatório Temático da Delimitação de Terras Comunitárias*. Maputo, Mozambique: CEAGRE UEM-FAEF and iniciativa para Terras Comunitárias. <http://www.itc.co.mz/wp-content/uploads/2017/12/150414-UEM-Relatorio-Delimitacao.pdf>.

Tanner, Christopher, Paul De Wit, and Simon Norfolk. 2009. "Participatory Land Delimitation: An Innovative Development Model Based upon Securing Rights Acquired through Customary and Other Forms of Occupation." Food and Agriculture Organization of the United Nations (FAO) Land Tenure Working Paper 13. Rome, Italy: FAO. <http://www.fao.org/3/a-ak546e.pdf>.

Tanner, Christopher. 2011. "Mozambique." In *Decentralised Land Governance: Case Studies and Local Voices from Botswana, Madagascar and Mozambique*, edited by Rick de Satgé and Karin Kleinbooi, with Christopher Tanner, 83–98. Cape Town, South Africa: Institute for Poverty, Land, and Agrarian Studies (PLAAS), School of Government. <http://www.plaas.org.za/sites/default/files/publications-landpdf/decentralised.pdf>.

Tanner, Christopher, Taciana Peão Lopes, and André Cristiano. 2015. *The Legal Framework and Investment: How to Improve Mozambican Land Legislation*. Washington, DC: U.S. Agency for International Development (USAID)/Support Program for Economic and Enterprise Development (SPEED). <http://www.speed-program.com/wp-content/uploads/2015/11/2015-SPEED-Report-020-The-legal-framework-for-investment-in-land-EN.pdf>.

TerraFirma, 2013. Land Delimitation and Demarcation: Preparing Communities for Investment. Maputo, Mozambique: Cooperative for Assistance and Relief Everywhere (CARE)-Mozambique. http://www.care.org.mz/contentimages/civil_landdelimitation.pdf.

Tostão, Emilio, Giles Henley, Joel Tembe, and Aristides Baloi. 2016. "A Review of Social Issues for Biofuels Investment in Mozambique." Working Paper 2016/178. Helsinki, Finland: United Nations University World Institute for Development Economics Research. http://ceppag.uem.mz/images/pdf/wp2016_178.pdf.

Veldwisch, Gert Jan, Wouter Beekman, and Alex Bolding. 2013. "Smallholder Irrigators, Water Rights and Investments in Agriculture: Three Cases from Rural Mozambique." *Water Alternatives* 6(1): 125–41. <http://www.water-alternatives.org/index.php/volume6/v6issue1/202-a6-1-7/file>.

World Bank. 2016. Mozambique Forest Investment Project, Project Information Document/Integrated Safeguards Data Sheet (PID/ISDS). Concept Stage, September 7, Report No: PIDISDSC18068. Washington, DC: World Bank. <http://documents.worldbank.org/curated/en/377061473342916417/pdf/ITM00184-P160033-09-08-2016-1473342912933.pdf>.

ENDNOTES

1. High inequity can slow economic growth, divide society and foment unrest, harm the environment, and undermine political systems (Cingano 2014; Klasen and Nowak-Lehmann 2008; Ostry et al. 2014; Piketty 2013; Saez et al. 2017).
2. In 2017, Latin America remained the most dangerous region for land and environment defenders.
3. Although estimates are as high as 65 percent or more of the global land area (Alden Wily 2011b).
4. While communities hold large bundles of land rights under customary tenure arrangements, community members are commonly granted more limited land rights over plots of community's land that have been allocated to them. For example, under most customary tenure arrangements, members cannot sell community land that they use for their homesteads and family farms.
5. In Tanzania, while some villagers have elected to split their village into two or more, often the government has pressed for such divisions. Commonly, there are surges in village divisions just prior to national elections, leading to new parliamentary constituencies in ruling party strongholds. When a village divides into two, both villages must again apply for a Certificate of Village Land.
6. Although many customary tenure systems do not provide women or other vulnerable community members with significant land rights or tenure security (Giovarelli et al. 2013; Salcedo-La Viña and Morarji 2016).
7. In addition to land acquisitions by companies for economic development purposes, community land is also threatened by other developments, such as the creation of new protected areas (Pyhälä et al. 2016; RFUK 2018).
8. In the Philippines, the government makes public the names of indigenous groups with a Certificate of Ancestral Domain Title. Investors often reach out to indigenous groups when they acquire a title requesting access to their land and natural resources.
9. Alternatively, where the broader enabling environment does not support sustainable land management (for example, limited public investments in land and agriculture), formalization or even tenure security may not be sufficient conditions for increased productivity or improved farmer income (Lawry et al. 2014).
10. The literature notes similar procedural issues in many countries in North America, Europe, and Australia.
11. This definition of a step is derived from the definition used in the World Bank's Doing Business assessments.
12. In Panama, there is also no clear exemption for land belonging to Indigenous Peoples from the constitutional provision that vacant lands ("tierras baldías") are the property of the state. In Tanzania, there are inconsistencies between the Land Act and the Village Land Act that, under one interpretation, could be read to reserve unoccupied or unused land for the state.
13. Exceptions are linked to ambiguity in the law or where a separate legal framework governs, such as for community water rights in Chile. It should also be stressed that several procedures exclude forestland or certain water bodies from the land that may be granted up front.
14. In Mozambique, one survey of communities that had not engaged in the delimitation process found that 94 percent did not attempt to contact NGOs to begin the process. The primary reason (75 percent) for this was a lack of awareness (Ghebru et al. 2015).
15. In May 2016, new provisions were introduced modifying soil analysis into an agrological evaluation. This still requires field work to classify forest and agricultural lands.
16. A prior regulation imposed additional layers of approval on delimitations between 1,000 hectares and 10,000 hectares and those above 10,000 hectares. However, DNTF Circular N. 1/2010 clarified that this restriction does not apply to delimitations of community land.
17. Forest rights for subsistence purposes were protected slightly less in practice than in law in Peru and Mozambique, and water rights for subsistence practice were slightly less protected in Peru. Subsistence wildlife rights were less protected in practice in Tanzania and Indonesia. Subsistence rights were enjoyed to a greater extent than allowed by law for wildlife rights in Peru and Guyana, water rights in Indonesia, and forest rights in Tanzania.
18. In Tanzania, the state technically holds all land. Tanzanian citizens can acquire "granted rights of occupancy," but foreigners acquire a "derivative right," under which the state holds the granted right of occupancy and gives the investor what is essentially a lease.
19. As a qualification to these numbers, ambiguity in some stages of the process and lack of transparency as to company land acquisitions procedures, made establishing precise time frames difficult.
20. The cost break down for the 10,000 hectare palm oil project included \$91,000 (initial costs such as satellite images and trips), \$121,000 (soil study and land classification), \$200,000 (environmental impact study), and between \$15,150 and \$21,212 (land-use change).

21. In Peru, about half of the acreage cultivated for palm oil is held by small and medium-size producers. One data source in Guyana indicates an average agricultural lease of only 9.8 hectares, although another source indicates a higher average of 1,065 hectares. In Mozambique, domestic investors hold significant amounts of land, with one study finding an average of 86 hectares, but still far less than foreign investors. Another study emphasizing foreign concessions found an average of 17,656 hectares. Compare Ghebru et al. (2015) with Di Matteo (2016).
22. For an example of competing land claims encountered during the demarcation of a Brazilian indigenous territory, see Inter-American Commission on Human Rights, Report No. 44/15, Case 12.728, Merits, Xucuru Indigenous Peoples, Brazil, July 28, 2015.
23. This research did not examine the intersections between the legal regimes governing conservation areas and land titling programs. However, this did emerge as an issue during research into challenges in practice, particularly in Indonesia.
24. For example, in Mozambique, 2.7 million hectares were leased to investors between 2004 and 2009. The iTC program—the key program responsible for helping communities delimit land in more recent years—was only organized in 2005. It carried out no community delimitations in 2007–08 and only 11 in 2008–09. Similarly, Tanzania launched a larger-scale formalization project in 2008 (Schreiber 2017a; Schreiber 2017b).

REFERENCES

- AANDC (Aboriginal Affairs and Northern Development Canada). 2013. "Audit of Management of Negotiation Loans, February 2013." Gatineau, Quebec: AANDC. <https://www.aadnc-aandc.gc.ca/eng/1380805888491/1380805979204>.
- AANDC. 2016. "General Briefing Note on Canada's Self-Government and Comprehensive Land Claims Policies and the Status of Negotiations." Gatineau, Quebec: AANDC. <https://www.aadnc-aandc.gc.ca/eng/1373385502190/1373385561540>.
- Abinwi Ngwa, Ngumfor, and Israel Bionyi. 2017. "Small-Scale Land Grabs: Another Face of Land Grabbing Discussed" (blog) September 27. International Land Coalition: Africa. <http://www.landcoalition.org/en/regions/africa/blog/small-scale-land-grabs-another-face-land-grabbing-discussed>.
- Achtenberg, Emily. 2013. "Bolivia: The Unfinished Business of Land Reform" (blog) March 31. North American Congress on Latin America. <https://nacla.org/blog/2013/3/31/bolivia-unfinished-business-land-reform>.
- Acompanhamento Processual: ADI 3239. 2018. "Acompanhamento Processual: ADI 3239 – Ação Direta de Inconstitucionalidade (Processo físico)." Supremo Tribunal Federal. February 23. <http://www.stf.jus.br/portal/processo/verProcessoAndamento.asp?numero=3239&classe=ADI>.
- AIDSESP (Asociación Interétnica de Desarrollo de la Selva Peruana). 2016. *Las Demandas Territoriales de los Pueblos Indígenas Amazónicos del Perú*. Lima: AIDSESP.
- Aikaeli, Jehovaness, and Thomas Markussen. 2017. "The Effects of Land Titling in Tanzania." United Nations University World Institute for Development Economics Research (UNU-WIDER) Working Paper 2017/168. Helsinki, Finland: WIDER. https://www.wider.unu.edu/sites/default/files/Publications/Working-paper/PDF/wp2017-168_0.pdf.
- Alba, Rossella, Alex Bolding, and Raphaëlle Ducrot. 2016. "The Politics of Water Payments and Stakeholder Participation in the Limpopo River Basin, Mozambique." *Water Alternatives* 9(3): 569–87. <http://www.wateralternatives.org/index.php/alldoc/articles/vol9/v9issue3/334-a9-3-5/file>.
- Albertus, Michael, Thomas Brambor, and Ricardo Ceneviva. 2016. "Land Inequality and Rural Unrest: Theory and Evidence from Brazil." *Journal of Conflict Resolution* 62(3): 557–96. <http://journals.sagepub.com/doi/pdf/10.1177/00220027166654970>.
- Alcorn, Janis. 2013. "Tenure and Indigenous Peoples: The Importance of Self-Determination, Territory, and Rights to Land and Other Natural Resources." Issue Brief. Washington, DC: U.S. Agency for International Development. <https://www.land-links.org/wp-content/uploads/2016/09/Tenure-and-Indigenous-Peoples.pdf>.
- Alden Wily, Liz. 2010. *Whose Land Is It? Commons and Conflict States: Why the Ownership of the Commons Matters in Making and Keeping Peace*. Washington, DC: Rights and Resources Initiative. <http://rightsandresources.org/wp-content/exported-pdf/whoselandisitfullreportfinal1.pdf>.
- Alden Wily, Liz. 2011a. "The Global Land Rush: What This Means for Customary Land Rights. Rights to Resources in Crisis: Reviewing the Fate of Customary Tenure in Africa, Brief #5 of 5." Washington, DC: Rights and Resources Initiative. <https://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/7717/global%20land%20rush.pdf>.
- Alden Wily, Liz. 2011b. *The Tragedy of Public Lands: The Fate of the Commons under Global Commercial Pressure*. Rome, Italy: International Land Coalition. http://www.landcoalition.org/sites/default/files/documents/resources/WILY_Commons_web_11.03.11.pdf.
- Alden Wily, Liz. 2011c. "Customary Land Tenure in the Modern World, Rights to Resources in Crisis: Reviewing the Fate of Customary Tenure in Africa, Brief #1 of 5." Washington, DC: Rights and Resources Initiative. <https://rightsandresources.org/wp-content/exported-pdf/rightstoresourcesincrisiscompiledenglish.pdf>.
- Alden Wily, Liz. 2016. "The Long Road to Land Titling: Kenya Finally Enacts New Laws." *Thomson Reuters Foundation News*, September 2. <http://news.trust.org/item/20160902102932-xsime>.
- Alden Wily, Liz. 2017. "Customary Tenure: Remaking Property for the 21st Century." In *Comparative Property Law: Global Perspectives*, edited by M. Graziadei and L. Smith, 458–78. Cheltenham, UK: Edward Elgar, 2017.
- Alden Wily, Liz. 2018. "The Community Land Act in Kenya: Opportunities and Challenges for Communities." *Land* 7(12). www.mdpi.com/2073-445X/7/1/12/pdf.
- Almås, Oda, Lawrence Anselmo, Laura George, Tom Griffiths, Solveig Firing Lunde, and Jean la Rose. 2014. *Indigenous Peoples' Rights, Forests and Climate Policies in Guyana*. Georgetown, Guyana: Amerindian Peoples Association and Forest Peoples Programme. <http://www.forestpeoples.org/sites/fpp/files/private/publication/2014/06/guyana-special-report-fpp-2014.pdf>.
- Altman, Jon. 2014. "The Political Ecology and Political Economy of the Indigenous Land Titling 'Revolution' in Australia." *Māori Law Review*, March 2014. <http://maorilawreview.co.nz/2014/03/the-political-ecology-and-political-economy-of-the-indigenous-land-revolution-in-australia>.
- AMAN (Aliansi Masyarakat Adat Nusantara) and AIPP (Asia Indigenous Peoples Pact). 2017. "Joint Stakeholders' Submission on the Situation of Human Rights of Indigenous Peoples in Indonesia." Submission Prepared for 3rd Cycle of Universal Periodic Review of Indonesia 27th Session of the Human Rights Council (April–May 2017). <https://www.forestpeoples.org/sites/fpp/files/publication/2016/09/indonesiaamanaippupr3rdcyclefinal.pdf>.
- Amerindian Land Titling Project Board. 2016. "A Guideline for Amerindian Land Titling in Guyana." Adopted by Ministry of Indigenous Peoples' Affairs and United Nations Development Programme.
- Anaya, James. 2014. "United Nations (UN) Human Rights Council, Report of the Special Rapporteur on the Rights of Indigenous Peoples, Addendum: The Situation of Indigenous Peoples in Canada," July 4, 2014. UN Doc. A/HRC/27/52/Add.2. <http://www.refworld.org/docid/53eb3b774.html>.

Andiko. 2017. *Comparative Study on Rights Recognition and Permits Procedures in Forest Areas for Communities and Companies*. Batam, Indonesia: AsM Law Office and Rights and Resources Initiative (RRI). http://rightsandresources.org/wp-content/uploads/2017/10/Comparative-Study_Jan-2017_Andiko_English.pdf.

APA (Amerindian Peoples Association). 2013. "Press Release: Concerns with Amerindian Land Titling Project under the Guyana/Norway Guyana REDD Investment Fund (GRIF)." Moreton-in-Marsh, United Kingdom: Forest Peoples Programme. <http://www.forestpeoples.org/en/topics/redd-and-related-initiatives/news/2013/10/amerindian-peoples-association-apa-press-release-co>.

Arnold, J.E.M. 2001. *Forests and People: 25 Years of Community Forestry*. Rome, Italy: Food and Agriculture Organization of the United Nations. <http://www.treesforlife.info/fao/Docs/P/25y.pdf>.

Atkinson, Sharon, David Wilson, Andrew Da Silva, Paul Benjamin, Charles Peters, Ignatius Williams, Roger Alfred et al. 2016. *Our Land, Our Life: A Participatory Assessment of the Land Tenure Situation of Indigenous Peoples in Guyana, Report for Region 1 and Region 2*. Georgetown, Guyana: Amerindian Peoples Association and Forest Peoples Programme. <http://www.forestpeoples.org/sites/fpp/files/publication/2016/12/fppguyanaltainternet.pdf>.

Bauer, Kelly. 2015. "Land versus Territory: Evaluating Indigenous Land Policy for the Mapuche in Chile." *Journal of Agrarian Change* 16(4): 627–45. <https://www.goredelosrios.cl/cultura2/wp-content/uploads/2016/02/Land-versus-Territory-Kelly-Bauer.pdf>.

Baumert, Sophia, Ana Catarina Luz, Janet Fisher, Frank Vollmerc, Casey M. Ryan, Genevieve Patenaude, Pedro Zorrilla-Miras et al. 2016. "Charcoal Supply Chains from Mabalane to Maputo: Who Benefits?" *Energy for Sustainable Development* 33: 129–38. <https://www.sciencedirect.com/science/article/pii/S0973082615302428>.

Blackman, Allen, Leonardo Corral, Eirivelthon Santos Lima, and Gregory P. Asner. 2017. "Titling Indigenous Communities Protects Forests in the Peruvian Amazon." *PNAS* 114(16): 4123–28. <http://www.pnas.org/content/pnas/114/16/4123.full.pdf>.

Bledsoe, David. 2006. "Can Land Titling and Registration Reduce Poverty?" In *Land Law Reform: Achieving Development Policy Objectives*, edited by John W. Bruce, Renée Giovarelli, Leonard Rolfes, Jr., David Bledsoe, and Robert Mitchell. Washington, DC: World Bank. <http://documents.worldbank.org/curated/en/786221468175470235/pdf/374480Land0law01PUBLIC1.pdf>.

Boege, Eckart. 2008. *El Patrimonio Biocultural de los Pueblos Indígenas de México: Hacia la Conservación in Situ de la Biodiversidad y Agrodiversidad en los Territorios Indígenas*. Mexico City, Mexico: Instituto Nacional de Antropología e Historia. http://idegeo.centrogeo.org.mx/uploaded/documents/El_patrimonio_biocultural-Eckart_Boege.pdf.

Borasino, Elena. 2016. "La Cadena de la Palma Aceitera en Context." In *Agroindustrias en la Amazonía? Posibilidades para el Desarrollo Inclusivo y Sostenible de la Palma Aceitera en el Perú*, edited by Ricardo Fort and Elena Borasino. Lima: GRADE. http://biblioteca.clacso.edu.ar/Peru/grade/20161013025755/LIBROGRADE_palma.pdf.

Boudreaux, Karol, and Fred Nelson. 2011. "Community Conservation in Namibia: Empowering the Poor with Property Rights." *Economic Affairs* 31(2): 17–24.

Bray, David Barton, Camille Antinori, and Juan Manuel Torres-Rojo. 2006. "The Mexican Model of Community Forest Management: The Role of Agrarian Policy, Forest Policy and Entrepreneurial Organization." *Forest Policy and Economics* 8: 470–84. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.572.5105&rep=rep1&type=pdf>.

Bruce, John. 2012. "Simple Solutions to Complex Problems: Land Formalisation as a 'Silver Bullet.'" In *Fair Land Governance: How to Legalise Land Rights for Rural Development*, edited by Jan Michiel Otto and André Hoekema, 31–56. Leiden, Netherlands: Leiden University Press. <http://www.oapen.org/search?identifier=595092>.

Bruce, John W., Renée Giovarelli, Leonard Rolfes, Jr., David Bledsoe, and Robert Mitchell. 2006. *Land Law Reform: Achieving Development Policy Objectives*. Law, Justice, and Development Series. World Bank: Washington, DC. <http://documents.worldbank.org/curated/en/786221468175470235/pdf/374480Land0law01PUBLIC1.pdf>.

Butler, Rhett A. 2013. "In Landmark Ruling, Indonesia's Indigenous People Win Right to Millions of Hectares of Forest." Mongabay, May 17. <https://news.mongabay.com/2013/05/in-landmark-ruling-indonesias-indigenous-people-win-right-to-millions-of-hectares-of-forest>.

Byamugisha, Frank Fulgence K. 2013. *Securing Africa's Land for Shared Prosperity: A Program to Scale Up Reforms and Investments*. Washington, DC: World Bank. <http://documents.worldbank.org/curated/en/732661468191967924/Securing-Africas-land-for-shared-prosperity-a-program-to-scale-up-reforms-and-investments>. Accessed April 25, 2018.

Cabral, Lídia, and Simon Norfolk. 2016. "Inclusive Land Governance in Mozambique: Good Law, Bad Politics?" Working Paper, Volume 2016, No. 478. Brighton, United Kingdom: Institute of Development Studies. <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/12187/Wp478.pdf>.

Cambodian Center for Human Rights. 2016. *Access to Collective Land Titles for Indigenous Communities in Cambodia*. https://cchrcambodia.org/admin/media/report/report/english/2016_02_11_CCHR_Report_Access_to_Collective_Land_Titles_ENG.pdf.

Case of the Saramaka People v. Suriname. 2007. Inter-American Court of Human Rights, Judgment of November 28, 2007 (Preliminary Objections, Merits, Reparations, and Costs). San José, Costa Rica: Inter-American Court of Human Rights.

Case of the Sawhoyamaya Indigenous Community v. Paraguay. 2006. Inter-American Court of Human Rights, Judgment of March 29, 2006 (Merits, Reparations and Costs). San José, Costa Rica: Inter-American Court of Human Rights.

Cernea, Michael M., ed. 1999. *The Economics of Involuntary Resettlement: Questions and Challenges*. Directions in Development. Washington, DC: World Bank. <http://documents.worldbank.org/curated/en/790851468773055283/pdf/multi-page.pdf>.

Cernea, Michael M. 2015. "Impoverishment Risks, Risk Management, and Reconstruction: A Model of Population Displacement and Resettlement." Paper presented at the United Nations Symposium on Hydropower and Sustainable Development, Beijing, China, October 27–29. <https://commdev.org/wp-content/uploads/2015/06/Impoverishment-Risks-Risk-Management-and-Reconstruction.pdf>.

CFR-LA (Community Forest Rights-Learning and Advocacy Process). 2016. *Promise and Performance: Ten Years of the Forest Rights Act in India: Citizens' Report on Promise and Performance of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, after 10 Years of its Enactment*. India: CFR-LA.

Chao, Sophie, ed. 2013. *Agribusiness Large-Scale Land Acquisitions and Human Rights in Southeast Asia: Updates from Indonesia, Thailand, Philippines, Malaysia, Cambodia, Timor-Leste and Burma. Moreton-in-Marsh*. United Kingdom: Forest Peoples Programme. <http://www.forestpeoples.org/sites/fpp/files/publication/2013/08/lsla-studies.pdf>.

Chiziane, Eduardo, Renée Gift, Robert Kibugi, D Andrew Wardell, Marie-Claire Cordonier Segger, and Caroline Haywood. 2015. "Legal Frameworks Enabling Sustainable Land-Use Investment in Mozambique." Working Paper 193. Bogor, Indonesia: CIFOR. http://www.cifor.org/publications/pdf_files/WPapers/WP193Wardell.pdf.

CIFOR (Center for International Forestry Research). 2016. "What's in a Land Title?" *Forest News*. October 6. <https://forestsnews.cifor.org/44493/whats-in-a-land-title?fnl=en>.

Cingano, Federico. 2014. "Trends in Income Inequality and Its Impact on Economic Growth." Social, Employment and Migration Working Paper No. 163. Paris, France: Organisation for Economic Co-operation and Development. <https://www.oecd-ilibrary.org/docserver/5jxjrjncwvx6j-en.pdf?expires=1524495377&id=id&accname=guest&checksum=4EC5954F96981C8A9D8D503E371C09B9>.

Cleaver, Jacqueline, Rommert Schram, and Godwil Wanga. 2010. "Bioenergy in Tanzania: The Country Context." In *Bioenergy and Food Security: The BEFS Analysis for Tanzania*, edited by Irini Maltsoglou and Yasmeen Khwaja, 23–43. Rome, Italy: Food and Agriculture Organization of the United Nations. <http://www.fao.org/docrep/012/i1544e/i1544e.pdf>.

Community Land Scotland. 2017. <http://www.communitylandscotland.org.uk>.

Cousins, Ben, and Espen Sjaastad, eds. 2009. "Formalisation of Land Rights in the South." *Land Use Policy* 26(1): 1–43. <https://www.sciencedirect.com/science/journal/02648377/26/1>.

CPI (Centro de Promoção de Investimentos). 2016. "Laws and Regulations, 2016." <https://www.cpi.co.mz/assets/laws-and-regulations-for-fdi-2016.pdf>.

Dammert Bello, Juan Luis. 2015. *Hacia una Ecología Política de la Palma Aeltera en el Perú*. Lima, Peru: Oxfam. https://peru.oxfam.org/sites/peru.oxfam.org/files/file_attachments/Hacia%20una%20Ecolog%C3%ADa%20Pol%C3%ADtica%20de%20la%20Palma%20Aeitera%20en%20el%20Per%C3%BA.pdf.

Dammert Bello, Juan Luis. 2017. *Acaparamiento de Tierras en La Amazonía Peruana: El Caso de Tamshiyacu*. New York: Wildlife Conservation Society. <https://peru.wcs.org/es-es/WCS-Per%C3%BA/Noticias/articuloType/ArticleView/articuloId/10448/Acaparamiento-de-tierras-en-la-Amazonia-peruana-el-caso-de-Tamshiyacu.aspx>.

De Soto, Hernando. 1989. *The Other Path: The Invisible Revolution in the Third World*. New York: HarperCollins.

De Soto, Hernando. 2000. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York: Basic Books.

De Wit, Paul, and Simon Norfolk. 2010. *Recognizing Rights to Natural Resources in Mozambique*. Washington, DC: Rights and Resources Initiative. <http://www.rightsandresources.org/wp-content/exported-pdf/mozambique-report-aug11.pdf>.

Defensoría del Pueblo. 2014. *Análisis de la Política Pública sobre Reconocimiento y Titulación de las Comunidades Campesinas y Nativas*. Report No. 002-2014-DP/AMASPPI-PPI. Lima: Defensoría del Pueblo.

Deininger, Klaus. 2003. *Land Policies for Growth and Poverty Reduction*. Policy Research Report 26384. Washington, DC: World Bank. <http://documents.worldbank.org/curated/en/485171468309336484/pdf/multi0page.pdf>.

Deininger, Klaus, and Gershon Feder. 2009. *Land Registration, Governance, and Development: Evidence and Implications for Policy*. Washington, DC: World Bank. <http://documents.worldbank.org/curated/en/869031468150595587/pdf/767960JRN0WBRO00Box374387B00PUBLIC0.pdf>.

Di Matteo, Filipe, and George Christoffel Schoneveld. 2016. "Agricultural Investments in Mozambique." Working Paper 201. Bogor, Indonesia: Center for International Forestry Research. http://www.cifor.org/publications/pdf_files/WPapers/WP201Schoneveld.pdf.

Ding, Helen, Peter Veit, Erin Gray, Katie Reytar, Juan-Carlos Altamirano, Allen Blackman, and Benjamin Hodgdon. 2016. *Climate Benefits, Tenure Costs: The Economic Case for Securing Indigenous Land Rights in the Amazon*. Washington, DC: World Resources Institute. http://www.wri.org/sites/default/files/Climate_Benefits_Tenure_Costs.pdf.

Ding, Helen, Sofia Faruqi, Andrew Wu, Juan-Carlos Altamirano, Andrés Anchondo Ortega, René Zamora Cristales, Robin Chazdon et al. 2017. *Roots of Prosperity: The Economics and Finance of Restoring Land*. Washington, DC: World Resources Institute. <https://www.wri.org/sites/default/files/roots-of-prosperity.pdf>.

Donovan, Richard Z., Keith Moore, and Margaret Stern. 2012. "Verification of Progress Related to Indicators for the Guyana-Norway REDD+ Agreement, 2nd Verification Audit Covering the Period October 1, 2010–June 20, 2012, Final Report." Richmond, Vermont: Rainforest Alliance. http://www.forestpeoples.org/sites/fpp/files/news/2013/03/Rainforest_Alliance_NorwayGuyana_RedAgreement_2013.pdf.

Down, Aisha. 2016. "For Rural Minorities, Land Remains in Limbo." *The Cambodia Daily*, November 15. <https://www.cambodiadaily.com/topstory/rural-minorities-land-remains-limbo-120583>.

- Economist. 2016a. "Title to Come: Property Rights Are Still Wretchedly Insecure in Africa." *Economist*, Middle East and Africa, July 16, Nairobi, Kenya. <https://www.economist.com/news/middle-east-and-africa/21702175-property-rights-are-still-wretchedly-insecure-africa-title-come>.
- Economist. 2016b. "For Peat's Sake: Despite Tough Talk, Indonesia's Government Is Struggling with Deforestation." *Economist*, Asia, November 26, Henda, Borneo. <https://www.economist.com/news/asia/21710844-weather-helping-little-despite-tough-talk-indonesias-government-struggling-stem>.
- EDG (Effective Development Group), GRM International, and The QED Group. 2014. "Evaluation of the Mozambique Community Land Use Fund: Final Report June 2014." Sydney, Australia: EDG. http://iati.dfid.gov.uk/iati_documents/4531223.pdf.
- Eyford, Douglas R. 2015. *A New Direction: Advancing Aboriginal and Treaty Rights*. Gatineau, Quebec: Aboriginal Affairs and Northern Development Canada (AANDC). http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-LDC/STAGING/texte-text/eyford_newDirection-report_april2015_1427810490332_eng.pdf.
- Fairley, Elizabeth. 2012. "Upholding Customary Land Rights through Formalization: Evidence from Tanzania's Program of Land Reform." Paper presented at the World Bank Land and Poverty Conference, World Bank, Washington, DC, April 23–26. http://www.landandpoverty.com/agenda/pdfs/paper/fairley_full_paper.pdf.
- FAO (Food and Agriculture Organization of the United Nations). 2002. "Land Tenure and Rural Development." Land Tenure Studies No. 3. Rome, Italy: FAO. <http://www.fao.org/3/a-y4307e.pdf>.
- FAO. 2012. *Voluntary Guidelines on the Responsible Governance of Tenure*. Rome, Italy: FAO. <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>.
- FAO. 2014. *State of the World's Forests 2012*. Rome, Italy: FAO. <http://www.fao.org/3/a-i3010e.pdf>.
- Feiring, Birgitte. 2013. *Indigenous People's Rights to Lands, Territories, and Resources*. Rome, Italy: International Land Coalition. <http://www.landcoalition.org/sites/default/files/documents/resources/IndigenousPeoplesRightsLandTerritoriesResources.pdf>.
- Filipe, Eléusio, and Simon Norfolk. 2017. "Changing Landscapes in Mozambique: Why Pro-Poor Land Policy Matters." Briefing Paper. London, United Kingdom: International Institute for Environment and Development. <http://pubs.iied.org/17356IIED>. Accessed April 25, 2018.
- Finley-Brook, Mary. 2016. "Territorial 'Fix'? Tenure Insecurity in Titled Indigenous Territories." *Bulletin of Latin American Research* 35: 338–54.
- Freudenberger, Mark S. 2013. "The Future of Customary Tenure Options for Policymakers." Issue Brief. Washington, DC: U.S. Agency for International Development. https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_Customary_Tenure_Brief_0-1.pdf.
- Galiani, Sebastian, and Ernesto Scharfrodsky. 2010. "Property Rights for the Poor: Effects of Land Titling." *Journal of Public Economics* 94 (9–10): 700–729. <https://www.sciencedirect.com/science/article/pii/S0047272710000654>.
- Galiani, Sabastian and Ernesto Scharfrodsky. 2016. "The Deregularization of Land Titles." *Man and the Economy* 3: 169–88.
- Gallup. 2017. *Global Property Rights Index (PRIIndex): 2016 Testing of a New Survey Module on Perceptions of Land Tenure Security in Nine Countries*. Washington, DC: Gallup and Land Alliance. http://s3.amazonaws.com/prindex/publications/2/PRIIndex_2016_Analytic_Report_FINAL.pdf.
- Garner, Bryan A., ed. 2011. *Black's Law Dictionary*. 4th ed. St. Paul, MN: Thomson Reuters.
- German, Laura, George Schoneveld, and Esther Mwangi. 2013. "Contemporary Processes of Large-Scale Land Acquisition in Sub-Saharan Africa: Legal Deficiency or Elite Capture of the Rule of Law?" *World Development* 48: 1–18. <https://www.commddev.org/userfiles/Contemporary%20processes%20of%20land%20acquisition.pdf>.
- Ghebru, Hosaena, Raul Pitoro, and Sileshi Woldeyohannes. 2015. "Customary Tenure and Innovative Measures of Safeguarding Land Rights in Africa." Discussion Paper 01484. Washington, DC: International Food Policy Research Institute. <http://ebrary.ifpri.org/cdm/ref/collection/p15738coll2/id/129826>.
- Giardino, Neil. 2018. "Indigenous Peruvian Villagers Protect Their Land against Illegal Coca Farms." *Christian Science Monitor*, February 21. <https://www.csmonitor.com/World/Americas/2018/0221/Indigenous-Peruvian-villagers-protect-their-land-against-illegal-coca-farms>.
- Gilbert, Jérémie. 2017. *Land Grabbing, Investments and Indigenous Peoples' Rights to Land and Natural Resources: Case Studies and Legal Analysis*. Copenhagen, Denmark: International Work Group for Indigenous Affairs. <https://www.iwgia.org/images/publications/new-publications/land-grabbing-indigenous-peoples-rights.compressed.pdf>.
- Gillingham, Polly, and Felicity Buckle. 2014. *Rwanda Land Tenure Regularisation Case Study*. Evidence on Demand. London: Department for International Development. https://assets.publishing.service.gov.uk/media/57a089b6e5274a27b2000211/EoD_HD66_March14_Rwanda_case_study.pdf.
- Gilmour, Don. 2016. "Forty Years of Community-Based Forestry: A Review of Its Extent and Effectiveness." Forestry Paper 176. Rome, Italy: FAO. <http://www.fao.org/3/a-i5415e.pdf>.
- Giovarelli, Renée, Beatrice Wamalwa, and Leslie Hannay. 2013. "Land Tenure, Property Rights, and Gender." Issue Brief. Washington, DC: U.S. Agency for International Development. https://usaidlandtenure.net/wp-content/uploads/2016/09/USAID_Land_Tenure_Gender_Brief_061214-1.pdf.
- Global Witness. 2017. *Defenders of the Earth: Global Killings of Land and Environmental Defenders in 2016*. Washington, DC: Global Witness. <https://www.globalwitness.org/en/campaigns/environmental-activists/defenders-earth>.

- GOG/OP (Government of Guyana, Office of the President). 2010. "Low-Carbon Development Strategy: Transforming Guyana's Economy While Combating Climate Change." 2010. Georgetown, Guyana: Office of the President, Republic of Guyana. <https://www.scribd.com/document/100974464/Low-Carbon-Development-Strategy-May-2010>.
- Gokkon, Basten. 2017. "Indonesian President Recognizes Land Rights of Nine More Indigenous Groups." Mongabay, November 12. <https://news.mongabay.com/2017/11/indonesian-president-recognizes-land-rights-of-nine-more-indigenous-groups>.
- GOP/MINAM (Government of Peru, Ministerio del Ambiente). 2016. *La Conservación de Bosques en Perú (2011-2016): Conservando los Bosques en un Contexto de Cambio Climático como Aporte al Crecimiento Verde*. Lima, Peru: MINAM. <http://www.minam.gob.pe/informessectoriales/wp-content/uploads/sites/112/2016/02/11-La-conservaci%C3%B3n-de-bosques-en-el-Per%C3%BA.pdf>.
- Gray, Erin, Peter Veit, Juan-Carlos Altamirano, Helen Ding, Piotr Rozwalka, Iván Zúñiga, Matthew Witkin et al. 2015. *The Economic Costs and Benefits of Securing Community Forest Tenure: Evidence from Brazil and Guatemala*. Washington, DC: World Resources Institute. http://www.wri.org/sites/default/files/15_WP_CLUA_Forest_Tenure.pdf.
- Guereña, Arantxa. 2016. *Unearthed: Land, Power and Inequality in Latin America*. Oxford, United Kingdom: Oxfam. https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-land-power-inequality-latin-america-301116-en.pdf.
- Guerra, Ernesto Herrera. 2015. *Protecting Forests, Improving Livelihoods: Community Forestry in Mexico*. Brussels, Belgium: FERN. <http://fern.org/node/198>.
- Hall, Ruth. 2011. "The Many Faces of the Investor Rush in Southern Africa: Towards a Typology of Commercial Land Deals." Review Paper Series No. 2. The Hague, Netherlands: Initiatives in Critical Agrarian Studies. <https://www.tni.org/files/Hall%20ICAS%20WP%202.pdf>.
- Hanemann, L. Patrick. 2016. *Costs of Compliance: Principal Constraints to Investment in Mozambique*. U.S. Agency for International Development (USAID)/Support Program for Economic and Enterprise Development (SPEED). Maputo, Mozambique: USAID-Mozambique. <https://www.growafrica.com/file/2016-speed-report-031-cost-compliance-agriculture-enpdf>.
- Hatcher, Jeffrey. 2009. "Securing Tenure Rights and Reducing Emissions from Deforestation and Degradation (REDD)." Social Development Working Paper No. 120. Washington, DC: World Bank. http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resours/244362-1164107274725-3182370-1164201144397/Securing_Tenure_Rights_REDD-web.pdf.
- Hodgdon, Benjamin, and Rudy Monzón. 2017. *Smallholder Forestry Creating Benefits at Scale: The Case of the Quiche Forestry Association, Guatemala*. New York: Rainforest Alliance. <http://www.usaid-cncg.org/wp-content/uploads/2017/02/AFORQ-Ingles-Digital.pdf>.
- Hodgdon, Benjamin D., Francisco Chapela, and David B. Bray. 2013. *Mexican Community Forestry: Enterprises and Associations as a Response to Barriers*. New York: Center for People and Forests, Rights and Resources Initiative, and Rainforest Alliance. <https://www.rainforest-alliance.org/sites/default/files/2016-08/Mexican-community-forestry.pdf>.
- IBC (Instituto del Bien Común). 2016. *Tierras Comunales: Más que Preservar el Pasado es Asegurar el Futuro. El Estado de las Comunidades Indígenas en el Perú Informe 2016*. Lima, Peru: IBC.
- IFC (International Finance Corporation). 2016. "IFC Project Information, Portucel Moz." July 20. <https://disclosures.ifc.org/#/projectDetail/ESRS/32522>.
- ILO (International Labour Organization). 1989. Indigenous and Tribal Peoples Convention, 1989 (No. 169). Geneva, Switzerland: ILO.
- Indufor/RR1 (Rights and Resources Institute). 2014. "Analysis on the Costs of Securing Communal Land Rights: New Technologies and Approaches Offer Potential for Scaling Up." Helsinki, Finland: Indufor. http://rightsandresources.org/wp-content/uploads/RR1-Study-on-Costs-Final-Draft-ID-55782_Aug-20-FINAL.pdf.
- ISA (Instituto Socioambiental). 2018. "Demarcation: Location and Extension." Povos Indígenas no Brasil. <https://pib.socioambiental.org/en/c/terras-indigenas/demarcacoes/localizacao-e-extensao-das-tis>. Accessed February 26.
- Isaksson, Rebecka, and Ida Sigte. 2010. "Allocation of Tanzanian Village Land to Foreign Investors: Conformity to Tanzania's Constitution and the African Charter on Human and Peoples' Rights." Umeå, Sweden: Umeå University. http://www.nmd.umu.se/digitalAssets/52/52924_ida-sigte-rebecka-isaksson-ht09.pdf.
- IWGIA (International Work Group for Indigenous Affairs). 2017. *The Indigenous World, 2017*. Copenhagen, Denmark: IWGIA. <https://www.iwgia.org/images/documents/indigenous-world/indigenous-world-2017.pdf>.
- Jhaveri, Nayna, Vaneska Litz, Jason Girard, Robert Oberndorf, and M. Mercedes Stickler. 2016. *Community Land and Resource Tenure Recognition: Review of Country Experiences*. Washington, DC: U.S. Agency for International Development Tenure and Global Climate Change Program.
- Karigawa, Lepani, Jacob Adejare Babarinde, and Suman Steven Holis. 2016. "Sustainability of Land Groups in Papua New Guinea." *Land* 5(2): 14.
- Karmo, Henry. 2017. "Land Rights Act Suffers Setback at Liberian Legislature." *Front Page Africa*, August 29. <https://www.frontpageafricaonline.com/index.php/news/5261-land-rights-act-suffers-setback-at-liberian-legislature>.
- Keith, Simon, Patrick McAuslan, Rachael Knight, Jonathon Lindsay, Paul Munro-Faure, and David Palmer. 2009. *Compulsory Acquisition of Land and Compensation*. Land Tenure Series No. 10. Rome, Italy: FAO. <http://www.fao.org/3/a-i0506e.pdf>.

Klasen, Stephan, and Felicitas Nowak-Lehmann, eds. 2008. *Poverty, Inequality, and Policy in Latin America*. Cambridge, Massachusetts: Massachusetts Institute of Technology Press.

Knight, Rachael. 2010. *Statutory Recognition of Customary Land Rights in Africa*. Legislative Study 105. Rome, Italy: FAO. <http://www.fao.org/docrep/013/i1945e/i1945e00.pdf>.

Knight, Rachael. 2012. "Empowering Communities to Document and Protect their Land Claims: A Solution to the Global Land Grab?" *TerraNullius* (blog) July 19. <https://terra0nullius.wordpress.com/2012/07/19/empowering-communities-to-document-and-protect-their-land-claims-a-potential-solution-to-the-global-land-grab>.

Knight, Rachael, Judy Adoko, and Theresa Auma Eilu. 2013. *Protecting Community Lands and Resources: Evidence from Uganda*. Rome, Italy: Land and Equity Movement in Uganda, United Nations International Development Law Organization, and Namati. <http://namati.org/wp-content/uploads/2013/05/10-namati-uganda-report-exec-summary-mr.pdf>.

Land Matrix. 2018. Land Matrix: The Online Public Database on Land Deals. <http://www.landmatrix.org/en/get-the-idea/dynamics-overview>. Accessed April 25, 2018.

Land Rights Now. 2018. Land Rights Now: The Global Call to Action on Indigenous and Community Land Rights. <http://www.landrightsnow.org>. Accessed April 25, 2018.

LandMark. 2018. LandMark: The Global Platform of Indigenous and Community Land. <http://www.landmarkmap.org>. Accessed April 25, 2018.

Larson, Anne M., and Juan M. Pulhin. 2012. "Enhancing Forest Tenure Reforms through More Responsive Regulations." *Conservation and Society* 10(2): 103–13. https://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/8080/ConservatSoc102103-4884529_133405.pdf.

Larson, Anne M., and Jenny Springer. 2016. "Recognition and Respect for Tenure Rights." Natural Resource Governance Framework Conceptual Paper. Gland, Switzerland: International Union for the Conservation of Nature, Commission on Environment, Economic and Social Policy, and Center for International Forestry Research. https://www.iucn.org/sites/dev/files/content/documents/tenure_rights_final.pdf.

Larson, Anne M., Fernanda Soto, Dennis Mairena, Edda Moreno, Eileen Mairena, and Jadder Mendoza-Lewis. 2016. "The Challenge of 'Territory': Weaving the Social Fabric of Indigenous Communities in Nicaragua's Northern Caribbean Autonomous Region." *Bulletin of Latin American Research* 35(3): 322–37.

Lawry, Steven, Cyrus Samii, Ruth Hall, Aaron Leopold, Donna Hornby, and Farai Mtero. 2014. *The Impact of Land Property Rights Interventions on Investment and Agricultural Productivity in Developing Countries: A Systematic Review*. Campbell Systematic Reviews 2014:1. https://www.cifor.org/forestsasia/wp-content/uploads/2014/02/Lawry_Land_Property_Rights_Review.pdf.

Macqueen, Duncan, and Mário Falcão. 2017. *Boosting Governance in Mozambique's Forests: Options for More Sustainable Forestry among Chinese Timber Traders and Mozambican Partners*. London: International Institute for Environment and Development (IIED). <http://pubs.iied.org/pdfs/17601IIED.pdf>.

Makwarimba, Melissa, and Prosper Ngowi. 2012. *Making Land Investment Work for Tanzania: Final Report March 2012*. Arusha, Tanzania: Tanzania Natural Resource Forum, International Institute for Environment and Development, and Research on Poverty Alleviation. <https://tnrf.org/LBI-report.pdf>.

Mandamule, Uacitissa. 2017. "Land Registration, Agricultural Production and Food Security in Mozambique." Paper presented at the World Bank Land and Poverty Conference, World Bank, Washington, DC, March 20–24. https://www.conftool.com/landandpoverty2017/index.php?page=browseSessions&form_session=639.

Martin, William G., and Ravi Arvind Palat. 2014. "Asian Land Acquisitions in Africa: Beyond the 'New Bandung' or a 'New Colonialism'?" *Agrarian South: Journal of Political Economy* 3(1), 125–50. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1028.216&rep=rep1&type=pdf>.

Maya Leaders Alliance. 2016. "Maya Villages Sue Government of Belize for Failing to Protect Indigenous Lands." Maya Leaders Alliance Press Release, April 6. <https://www.culturalsurvival.org/news/maya-villages-sue-government-belize-failing-protect-indigenous-lands>.

Mendes, Karla. 2018. "Slaves' Descendants in Brazil Braced for Land Titles' Fight." Reuters, March 6. <https://www.reuters.com/article/us-brazil-landrights-slaves/slaves-descendants-in-brazil-braced-for-land-titles-fight-idUSKCN1GI204>.

MITADER (Ministério da Terra, Ambiente e Desenvolvimento Rural). 2018. "Processo Simplificado de Autorização do Direito de Uso e Aproveitamento da Terra (DUAT)." <http://mitader.info/atendimento>. Accessed April 25.

Morgera, Elisa. 2009. "Participation, Balancing of Rights and Interests, and Prior Informed Consent." In *Legal Frameworks for REDD: Design and Implementation at the National Level*, edited by John Costenbader, 35–56. IUCN Environmental Policy and Law Paper No. 77. https://www.research.ed.ac.uk/portal/files/16220038/participation_balancing_of_rights_and_interests_and_prior_informed_consent.pdf.

Mwakyusa, Alvar. 2016. "Tanzania: Banks Urged to Accept Land Guarantee." *Tanzania Daily News* (Dar es Salaam), May 9. <http://allafrica.com/stories/201605100011.html>.

Nelson, Fred. 2007. "Emergent or Illusory? Community Wildlife Management in Tanzania." Issue Paper 146. London: International Institute for Environment and Development. https://www.tnrf.org/files/E-INFO_IIED_Nelson.F_2007_Emergent_or_illusory-Community_wildlife_management_in_Tanzania_0.pdf.

Nguiffo, Samuel, and Michelle Sonkoue Watio. 2015. *Agro-Industrial Investments in Cameroon: Large-Scale Land Acquisitions since 2005*. London: Institute for Environment and Development and Centre pour l'Environnement et le Développement. <http://pubs.iied.org/pdfs/17571IIED.pdf>.

Nkuintchua, Téodyl. 2016. *The State of Community Land Rights in Africa: African States Can Better Protect Community Land Rights*. Yaoundé, Cameroon: African Community Rights Network. http://rightsandresources.org/wp-content/uploads/2017/02/The-State-of-Community-Land-Rights-in-Africa_English_Africa-Community-Rights-Network_Dec-2016.pdf.

Oakland Institute. 2011. *Understanding Land Investment Deals in Africa, Country Report: Mozambique*. Oakland, California: Oakland Institute. https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_country_report_mozambique_0.pdf.

OHCHR (Office of the United Nations High Commissioner for Human Rights). 2007. *Economic Land Concessions in Cambodia: A Human Rights Perspective*. Special Representative of the Secretary-General for Human Rights in Cambodia. Phnom Penh, Cambodia: United Nations Cambodia Office of the High Commissioner for Human Rights. <http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Economic%20Land%20Concession%20-%20a%20human%20rights%20perspective%202007.pdf>.

Okello, Julius. 2016. "Securing Women's Access to Land: Piloting the Use of CCO in Uganda—a Case of Oyam and Apac under the District Livelihood Support Programme (DLSP)." Powerpoint presented at the World Bank Conference on Land and Poverty, World Bank, Washington DC, March 14–18. <http://slideplayer.com/slide/10815308>.

Olenasha, William Tate. 2013. *Legal Tools for Citizen Empowerment: A Guide to the Laws Governing Land and Investment in Tanzania*. Arusha, Tanzania: Tanzania Natural Resource Forum and Institute for Environment and Development. <http://pubs.iied.org/pdfs/G03680.pdf>.

Ortiga, Roque Roldán. 2004. "Models for Recognizing Indigenous Land Rights in Latin America." World Bank Environment Department, Biodiversity Series Paper 99. Washington, DC: World Bank. <http://siteresources.worldbank.org/GLOBALENVIRONMENTFACILITYGEFOPERATIONS/Resources/Publications-Presentations/Biopublication2005ModelsforRecognizing.pdf>.

Ostrom, Elinor. 1992. "The Rudiments of a Theory of the Origins, Survival, and Performance of Common-Property Institutions." In *Making the Commons Work: Theory, Practice, and Policy*, edited by Daniel W. Bromley and David Feeny, 293–318. San Francisco, California: Institute for Contemporary Studies Press. <https://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/657/EORU90AA.pdf>.

Ostry, Jonathan D., Andrew Berg, and Charalambos G. Tsangarides. 2014. "Redistribution, Inequality, and Growth." Staff Discussion Note, SDN/14/02. Washington, DC: International Monetary Fund. <http://www.imf.org/external/pubs/ft/sdn/2014/sdn1402.pdf>.

Oyono, Phil René, Jesse C. Ribot, Samuel Assembe, and Patrice Bigombé Logo. 2007. "Improving Decentralized Forest Management in Cameroon: Options and Opportunities from Ten Years of Experience." Governance Brief Number 33. Bogor, Indonesia: Center for International Forestry Research. http://www.cifor.org/publications/pdf_files/govbrief/GovBrief0733E.pdf.

Palm, Lars, and Michael Odhiambo. 2015. Identification Mission for Integrating a Land Component in the EU 11th EDF Programme in Northern Uganda. http://www.eeas.europa.eu/archives/delegations/uganda/documents/press_corner/20151015-final-report_en.pdf.

Paudel, Naya Sharma, M.R. Banjade, and G.R. Dahal. 2009. *Community Forestry in Changing Context: Emerging Market Opportunities and Tenure Rights*. Kathmandu, Nepal: Forest Action and Center for International Forestry Research.

Pearce, Fred. 2016. "Common Ground: Securing Land Rights and Safeguarding the Earth." Oxfam, International Land Coalition, and Rights and Resources Initiative. Oxford, United Kingdom: Oxfam International. http://www.oxfamamerica.org/static/media/files/GCA_REPORT_EN_FINAL.pdf.

Pheap, An. 2017. "Firm Accused of Indigenous Mondolkiri Land Grab." *The Cambodia Daily*, July 4. <https://www.cambodiadaily.com/news/firm-accused-indigenous-mondolkiri-land-grab-132098>.

Phillips, Dom. 2018. "Their Forefathers Were Enslaved. Now, 400 Years Later, Their Children Will Be Landowners." *The Guardian*, March 5. <https://www.theguardian.com/world/2018/mar/05/descendants-of-slaves-celebrate-brazil-land-rights-victory>.

Piketty, Thomas. 2013. *Capital in the Twenty-First Century*. Paris, France: Éditions du Seuil.

Pyhälä, Aili, Ana Osuna Orozco, and Simon Counsell. 2016. *Protected Areas in the Congo Basin: Failing Both People and Biodiversity?* London: Rainforest Foundation-United Kingdom. <http://www.mappingforrights.org/files/38342-Rainforest-Foundation-Conservation-Study-Web-ready.pdf>.

Quan, Julian, José Monteiro, and Paulo Mole. 2013. "The Experience of Mozambique's Community Land Initiative (iTC) in Securing Land Rights and Improving Community Land Use." Paper presented at the World Bank Land and Poverty Conference, World Bank, Washington, DC, April 8–11. [http://gala.gre.ac.uk/13137/1/13137_Quan_The_experience_of_Mozambiques_community_\(conf_paper\)_2013.pdf](http://gala.gre.ac.uk/13137/1/13137_Quan_The_experience_of_Mozambiques_community_(conf_paper)_2013.pdf).

Ramesh, Jairam, and Muhammad A. Khan. "Winking at the States." 2016. *The Hindu*, December 2. <http://www.thehindu.com/opinion/lead/Winking-at-the-States/article16086906.ece>.

RFUK (Rainforest Foundation-United Kingdom). 2018. Mapping for Rights. <http://www.rainforestfoundationuk.org/what-we-do/projects/mapping-for-rights>.

RFUS (Rainforest Foundation-United States), AIDSESP (Asociación Interétnica de Desarrollo de la Selva Peruana), and Alto Tamaya Saweto. 2015. *Peru at the Climate Crossroads: How Saweto and Indigenous Communities Can Guide Peru Down the Right Path*. Washington, DC: RFUS. http://dev.rainforestfoundation.org/wp-content/uploads/2015/12/climate_crossroads_20pp_CMYK.pdf.

RNZ (Radio New Zealand). 2018. Proposed Law Could Affect Land Owning Groups in French Pacific. January 11. <https://www.radionz.co.nz/international/pacific-news/347912/proposed-law-could-affect-land-owning-groups-in-french-pacific>.

Rose, Ian M. 2014. "Analysis of Proposed Regulation on 'Cessão de Exploração'" (draft). U.S. Agency for International Development (USAID)/Support Program for Economic and Enterprise Development (SPEED). Washington, DC: USAID. <http://www.speed-program.com/wp-content/uploads/2014/06/2014-SPEED-Report-008-Analysis-of-Proposed-Regulation-on-%E2%80%9CCess%C3%A3o-de-Explora%C3%A7%C3%A3o%E2%80%9D-EN.pdf>.

RRI (Rights and Resources Initiative). 2012. *What Rights? A Comparative Analysis of Developing Countries' National Legislation on Community and Indigenous Peoples' Forest Tenure Rights*. Washington, DC: RRI. <https://rightsandresources.org/wp-content/exported-pdf/whatrightrightsnovember13final.pdf>.

RRI. 2015. *Who Owns the World's Land? A Global Baseline of Formally Recognized Indigenous and Community Land Rights*. Washington, DC: RRI. http://www.rightsandresources.org/wp-content/uploads/GlobalBaseline_web.pdf.

RRI. 2017. *Power and Potential: A Comparative Analysis of National Laws and Regulations Concerning Women's Rights to Community Forests*. Washington, DC: RRI. http://rightsandresources.org/wp-content/uploads/2017/07/Power-and-Potential-A-Comparative-Analysis-of-National-Laws-and-Regulations-Concerning-Womens-Rights-to-Community-Forests_May-2017_RRI-1.pdf.

Ryser, Rudolph C. 2012. *Indigenous Nations and Modern States*. New York: Routledge.

Saez, Emmanuel, Facundo Alvaredo, Gabriel Zucman, Lucas Chancel, and Thomas Piketty. 2017. *The World Inequality Report 2018*. Paris, France: World Inequality Lab, École d'Économie de Paris. <http://wir2018.wid.world/files/download/wir2018-full-report-english.pdf>.

Salazar, Milagros, and Dánae Rivadeneyra. 2016. *Amazonía Arrasada: El Grupo Melka y la Deforestación por Palma Aceitera y Cacao en el Perú*. Oxford, United Kingdom: Oxfam International. <http://convoca.pe/agenda-propia/convoca-presenta-informe-sobre-deforestacion-de-la-amazonia-en-manos-del-grupo-melka>.

Salcedo-La Viña, Celine, and Maitri Morarji. 2016. *Making Women's Voices Count in Community Decision-Making on Land Investments*. Working Paper. Washington, DC: World Resources Institute. https://www.wri.org/sites/default/files/Making_Womens_Voices_Count_In_Community_Decision-Making_On_Land_Investments.pdf.

Schlager, Edella, and Elinor Ostrom. 1992. "Property-Rights Regimes and Natural Resources: A Conceptual Analysis." *Land Economics* 68(3): 249–62. http://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/3857/Schlager_and_Ostrom--Property_Rights_regimes_and_natural_resources_a_conceptual_analysis.pdf.

Schreiber, Leon. 2017a. "Registering Rural Rights: Village Land Titling in Tanzania, 2008–2017." Princeton, New Jersey: Woodrow Wilson School of Public and International Affairs. https://successfulties.princeton.edu/sites/successfulties/files/LS_Tanzania_Land_GC.pdf.

Schreiber, Leon. 2017b. "Putting Rural Communities on the Map: Land Registration in Mozambique, 2007–2016." Princeton, New Jersey: Woodrow Wilson School of Public and International Affairs. https://successfulties.princeton.edu/sites/successfulties/files/LS_Land_Mozambique.pdf.

Seok-gon, Cho. 2016. "Land, from Driver of Growth to Source of Inequality." *Journal of Contemporary Korean Studies* 3(1–2): 31–59.

Shahab, Nabiha. 2016. "Indonesia: One Map Policy." Open Government Partnership (OGP). Washington, DC: OGP. https://www.opengovpartnership.org/sites/default/files/case-study_Indonesia_One-Map-Policy.pdf.

Smith, K.N., 2017. "Indigenous People Are Deploying Drones to Preserve Land and Traditions." *Discover* (blog) December 11. <http://blogs.discovermagazine.com/crux/2017/12/11/indigenous-drone-land-traditions/#.Wt4RtYjwaUk>.

Stein, Howard, Faustin P. Maganga, Rie Odgaard, Kelly Askew, and Sam Cunningham. 2016. "The Formal Divide: Customary Rights and the Allocation of Credit to Agriculture in Tanzania." *The Journal of Development Studies* 52(9): 1306–19. <http://www.tandfonline.com/doi/pdf/10.1080/00220388.2016.1146701>.

Stickler, M. Mercedes, and Heather Huntington. 2015. "Perceptions of Tenure Security: An Exploratory Analysis of Pretreatment Data in Rural Communities across Ethiopia, Guinea, Liberia, and Zambia." Paper presented at the World Bank Conference on Land and Poverty, World Bank, Washington DC, March 23–27. https://www.land-links.org/wp-content/uploads/2016/09/Perceptions_of_Tenure_Security-Ethiopia_Guinea_Liberia_Zambia.pdf.

Sturtevant, Chuck. 2015. "Evo Morales Champions Indigenous Rights Abroad, but in Bolivia It's a Different Story." *The Conversation*, February 27. <http://theconversation.com/evo-morales-champions-indigenous-rightsabroad-but-in-bolivia-its-a-different-story-38062>.

Sulle, Emmanuel, Edward Lekaita, and Fred Nelson. 2011. *From Promise to Performance? Wildlife Management Areas in Northern Tanzania*. Tanzania Natural Resource Forum (TNRF), Ujamaa Community Resource Team, and Maliasili Initiatives. Arusha, Tanzania: TNRF. https://tnrf.org/files/WMA_summary.pdf.

Sulle, Emmanuel, and Fred Nelson. 2013. "Biofuels Investment and Community Land Tenure in Tanzania." Working Paper 073. Brighton, United Kingdom: Future Agricultures Consortium. http://www.plaas.org.za/sites/default/files/publications-pdf/FAC_Working_Paper_073.pdf.

Tagliarino, Nicholas K. 2017. "The Status of National Legal Frameworks for Valuing Compensation for Expropriated Land: An Analysis of Whether National Laws in 50 Countries/Regions across Asia, Africa, and Latin America Comply with International Standards on Compensation Valuation." *Land* 6(37). <https://pdfs.semanticscholar.org/4c89/13088e8bea70e37850fcc5a0d0bc1034daec3.pdf>.

Tenure Facility. 2018. International Land and Forest Tenure Facility. <https://thetenurefacility.org>. Accessed April 25.

TFCG (Tanzania Forest Conservation Group). 2015. *Securing Village Land Certificates and Acquisition of Certificates of Customary Right of Occupancy: A Case Study of 10 Villages in Kilosa, Mpwapwa, Lindi and Rufiji Districts*. Technical Report 50. Dar es Salaam, Tanzania: TFCG. <http://www.tfcg.org/pdf/TFCG%20Village%20Land%20Tenure%20Report%202015%20FINAL.pdf>.

Toulmin, Camilla. 2006. *Securing Land and Property Rights in Sub-Saharan Africa: The Role of Local Institutions*. London: International Institute for Environment and Development. <http://pubs.iied.org/pdfs/G00460.pdf>.

Trujillo, Rocío Roxana. 2012. *Línea Base sobre la Situación de los Pueblos Indígenas en Madre de Dios en Cuyo Ámbito se Desarrolla la Actividad Minera*. Mazuko, Peru: Asociación Huarayo.

UN (United Nations). 2014. "Lands, Territories and Resources." Inter-Agency Support Group on Indigenous Peoples' Issues. Thematic Paper towards the Preparation of the 2014 World Conference on Indigenous Peoples. New York: UN. http://www.un.org/en/ga/president/68/pdf/wcip/IASG%20Paper%20_%20Lands%20territories%20and%20resources%20-%20rev1.pdf.

U.S. Department of State. 2009. Cable, from Cambodia to Secretary of State, May 5. Land in Cambodia, Part II: Land Concessions and Urban Development. https://wikileaks.org/plusd/cables/09PHNOMPENH285_a.html.

Varagur, Krithika. 2017a. "Indigenous Indonesians Still Waiting for Promised Forest Land." *Voice of America*, March 21. <https://www.voanews.com/a/indonesia-indigenous-forest-land-return/3775469.html>.

Varagur, Krithika. 2017b. "Indigenous Indonesians at a Crossroads." *Voice of America*, March 18. <https://www.voanews.com/a/indigenous-indonesians-crossroads/3772040.html>.

Veit, Peter G., Rugemeleza Nshala, Michael Ochieng' Odhiambo, and Jacob Manyindo. 2008. *Protected Areas and Property Rights: Democratizing Eminent Domain in East Africa*. Washington, DC: World Resources Institute. http://pdf.wri.org/protected_areas_and_property_rights.pdf.

Veit, Peter G., and Ryan Sarsfield. 2017. "Land Rights, Beef Commodity Chains, and Deforestation Dynamics in the Paraguayan Chaco." U.S. Agency for International Development (USAID) Tenure and Global Climate Change Program. Washington, DC: USAID. https://www.land-links.org/wp-content/uploads/2017/06/USAID_Land_Tenure_TGCC_Paraguay_Risk_Assessment_June-2017.pdf.

Wallace, Scott. 2016. "Brazil Seeks to Save Isolated Amazon Tribe Threatened by Loggers." *National Geographic*, May 23. <https://news.nationalgeographic.com/2016/05/160519-Brazil-Amazon-Kawahiva-Reserve>.

Watts, Jonathan. 2018. "Almost Four Environmental Defenders a Week Killed in 2017." *The Guardian*, February 2. <https://www.theguardian.com/environment/2018/feb/02/almost-four-environmental-defenders-a-week-killed-in-2017>.

World Bank. 2017. *Enabling the Business of Agriculture 2017*. Washington, DC: World Bank.

World Bank. 2018a. *Land*. <http://www.worldbank.org/en/topic/land>. Accessed April 25, 2018.

World Bank. 2018b. *Doing Business 2018: Reforming to Create Jobs*. Washington, DC: World Bank. <http://www.doingbusiness.org>. Accessed April 25, 2018.

Zevenbergen, Jaap A., Thea Hilhorst, and Eddie Nsamba-Gayiyi. 2012. "Increasing Tenure Security in Northern Uganda: How to Use External Support for Strengthening Bottom-Up Approaches." Paper presented at the World Bank Land and Poverty Conference, World Bank, Washington, DC, April 23–26. http://www.landandpoverty.com/agenda/pdfs/paper/hilhorst_full_paper.pdf.

Zimmerman, Barbara. 2013. "Rain Forest Warriors: How Indigenous Tribes Protect the Amazon." *National Geographic*, December 23. <https://news.nationalgeographic.com/news/2013/12/131222-amazon-kayapo-indigenous-tribes-deforestation-environment-climate-rain-forest>.

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World Resources Institute is a global research organization that turns big ideas into action at the nexus of environment, economic opportunity and human well-being.

Our Challenge

Natural resources are at the foundation of economic opportunity and human well-being. But today, we are depleting Earth's resources at rates that are not sustainable, endangering economies and people's lives. People depend on clean water, fertile land, healthy forests, and a stable climate. Livable cities and clean energy are essential for a sustainable planet. We must address these urgent, global challenges this decade.

Our Vision

We envision an equitable and prosperous planet driven by the wise management of natural resources. We aspire to create a world where the actions of government, business, and communities combine to eliminate poverty and sustain the natural environment for all people.

Our Approach

COUNT IT

We start with data. We conduct independent research and draw on the latest technology to develop new insights and recommendations. Our rigorous analysis identifies risks, unveils opportunities, and informs smart strategies. We focus our efforts on influential and emerging economies where the future of sustainability will be determined.

CHANGE IT

We use our research to influence government policies, business strategies, and civil society action. We test projects with communities, companies, and government agencies to build a strong evidence base. Then, we work with partners to deliver change on the ground that alleviates poverty and strengthens society. We hold ourselves accountable to ensure our outcomes will be bold and enduring.

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We don't think small. Once tested, we work with partners to adopt and expand our efforts regionally and globally. We engage with decision-makers to carry out our ideas and elevate our impact. We measure success through government and business actions that improve people's lives and sustain a healthy environment.

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