



Progress on the New York Declaration on Forests

Improving Governance to Protect Forests

Empowering People and Communities, Strengthening Laws and Institutions

The New York Declaration on Forests (NYDF) is an international pledge to halt global deforestation. It sets out ten ambitious goals related to protecting and restoring forests. This brief presents the main conclusions of a multipartner assessment of progress toward Goal 10, which calls for the strengthening of forest governance.

KEY MESSAGES

- Clear and well-designed legal and policy frameworks, strong institutions, and legitimate decisions are essential to end deforestation and use forests more sustainably. In many countries forest-related governance is weak and has negative impacts on poor people, ethnic minorities, and women. Improvements in forest governance remain too slow to adequately support efforts to reduce deforestation.
- Forest governance is weakest in poorer countries, where institutions and the rule of law tend to be weak overall. Many countries have strong laws on paper, particularly regarding access to information and justice, but these are often inadequately implemented.
- Illegality drives deforestation. Especially where commercial agriculture is causing significant forest loss, the risk that forest-related laws are violated in the production of commodities remains alarmingly high.
- Several Asian countries have started to adopt measures to restrict market access for illegally harvested timber, complementing existing frameworks in the European Union, the United States, and Australia. The design of the new measures has, however, raised some concerns about how well they will be enforced.
- Most countries have laws requiring governments to provide access to information and opportunities to participate in forest-related decision-making, but these laws often contain significant restrictions that limit these rights in practice. Overall, the forest sector remains relatively opaque in many countries.
- Progress in recognizing the rights of indigenous peoples and other local communities to their lands and resources remains slow, and a significant share of community lands remain unrecognized. Even where communities do possess recognized land rights, these rights are often not secure in practice. Developed countries tend to provide less protection for indigenous land rights than developing countries.
- Weak recognition of rights, limited consultation of communities, and growing demand for land have led to an increase in land conflicts and growing dangers for communities defending their land rights, with the number of murders of community activists increasing every year since 2014. Brazil, the Philippines, and Colombia are the deadliest countries for forest defenders.
- Local organizations are leading innovations for community empowerment, such as installing financial vigilance mechanisms and focusing on women's entrepreneurial training. While there is great potential for replication of these strategies and forest-linked development finance is getting through to some of them, much more needs to be done to bring them to scale.
- There continues to be significant gender bias against women in forest governance, including in the allocation of land and forest tenure rights and in decision-making processes concerning forests.

Good governance is essential to address deforestation

Farming and forestry, insatiable consumer appetites in developed countries, and growing demand in emerging economies exercise an ever-increasing pressure on forests. Responding to this threat, in 2014, more than 190 governments, corporations, and nongovernmental and indigenous peoples' organizations endorsed the New York Declaration on Forests (NYDF), which aims to halt natural forest loss by 2030 through 10 ambitious forest goals. Despite this and other pledges to address deforestation, the world continues to lose natural forests at an alarming rate. In the years following the adoption of the NYDF (2014–17), the average annual rate of natural forest loss was 42 percent higher than in the previous decade (see update on [Goal 1 NYDF](#)).

Goal 10 of the NYDF recognizes the link between governance and deforestation and commits endorsers to “strengthen forest governance, transparency, and the rule of law, while also empowering communities and recognizing the rights of indigenous peoples, especially those pertaining to their lands and resources.”

Over the past year, a coalition of nongovernmental organizations and think tanks – the NYDF Assessment Partners – have analyzed progress toward achieving Goal 10. The partners have evaluated eight indicators of forest governance, covering forest laws and policies, the rule of law, demand-side measures, transparency, participation and access to justice, and empowering and ensuring the rights of indigenous peoples and local communities. This brief provides an overview

of the main findings. Full findings are available in the report, *Improving Governance to Protect Forests: Empowering People and Communities, Strengthening Laws and Institutions*.

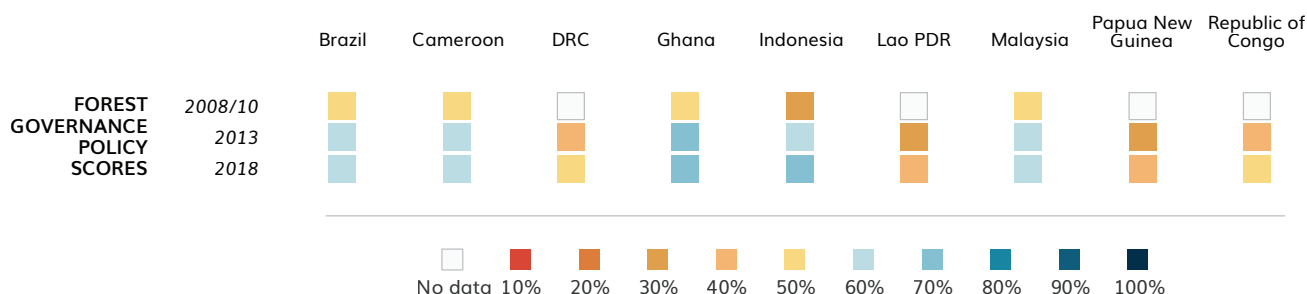
Laws and policies to address deforestation are often weak and unclear

Forest protection depends on strong national regulatory frameworks combined with local institutions that are empowered and equipped to implement policies and laws. An assessment of nine countries that are home to almost half of tropical forests, conducted by Climate Focus and Chatham House, shows that almost all countries made progress in strengthening their laws and policies tackling illegal logging and deforestation over the past five years ([Figure 1](#)).¹ However, in most countries we found major inconsistencies within forest legislation or with legislation governing the sectors (e.g., agriculture) that drive deforestation. Some countries also lack the political will to implement these laws.

Weaknesses in the rule of law limit the implementation of even relatively strong legal frameworks

Several of the nine countries assessed have fairly strong checks and balances to ensure the rule of law is respected.² These checks and balances include limiting the powers of senior government officials to override laws, providing for performance audits, ensuring parliamentary and judicial oversight of government decisions, enabling the public to mount legal challenges against government decisions, and imposing penalties for bribery. Notable improvements to the rule of law in recent years include the adoption of laws in Ghana

Figure 1. Average forest governance policy scores (of nine indicators) for nine tropical countries



Note: Scores are on a scale of 0 to 100 percent, from worst to best performance. This research builds on two previous assessments carried out by Chatham House under the project Illegal logging and related trade: Indicators of the global response. DRC = Democratic Republic of the Congo, Lao PDR = Lao People’s Democratic Republic.

Source: Climate Focus and Chatham House. (2018). Assessments of government forest policy in nine countries.

and Indonesia to strengthen public control and transparency and hold government officials and forest officers accountable for their involvement in the trade of illegal timber. Ghana also recently increased penalties for forest offenses.

In many countries, nonetheless, progress in strengthening institutions and enforcing laws remains slow and limited. Enforcement is particularly challenging in developing countries, many of which have relatively strong legal frameworks (sometimes stronger than those of developed countries), but often struggle to fully implement their laws, regulations, and commitments, including moratoria on forest use or conversion.³ Common impediments include a lack of coordination, limited resources, and insufficient capacities. Some countries, such as the Lao People's Democratic Republic (Lao PDR), have nonetheless made important gains through new information management systems and smartphone-based reporting and assessment systems.

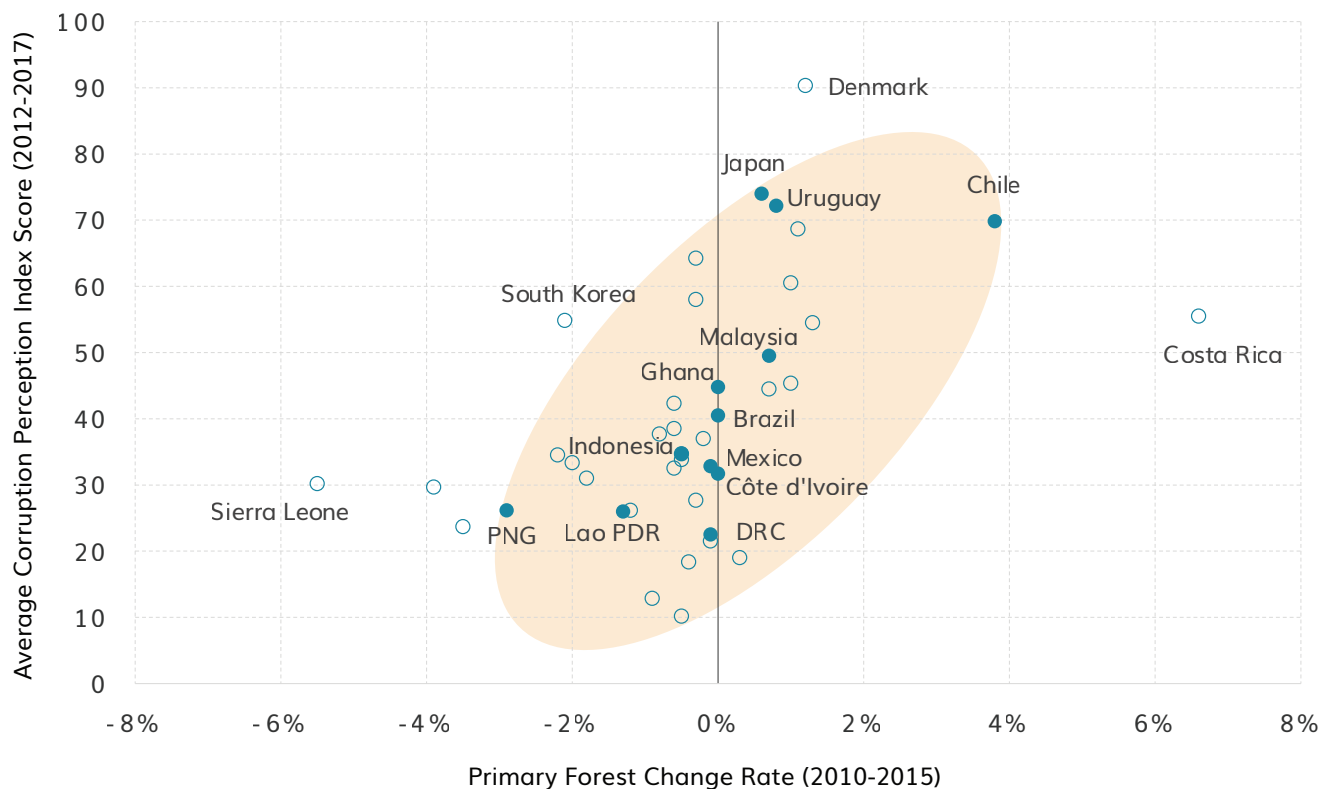
Only limited progress has been made in controlling corruption

Corruption undermines all efforts to strengthen the rule of law. Global corruption levels remain high and, for the most part, unchanged over the past five years.⁴ A comparison of corruption scores from Transparency International with changes in primary forest cover in 180 countries from the Food and Agriculture Organization of the United Nations (FAO) reveals that countries with high perceived levels of corruption experience more forest loss (Figure 2).

Illegality in and around forests remains rampant

Much tropical deforestation is illegal. Almost half of all tropical deforestation in recent decades was due to the illegal conversion of forests for commercial agriculture, in particular for the “big four” commodities: palm oil, soy, paper/timber, and cattle/beef.⁵ Two thirds of illegal deforestation

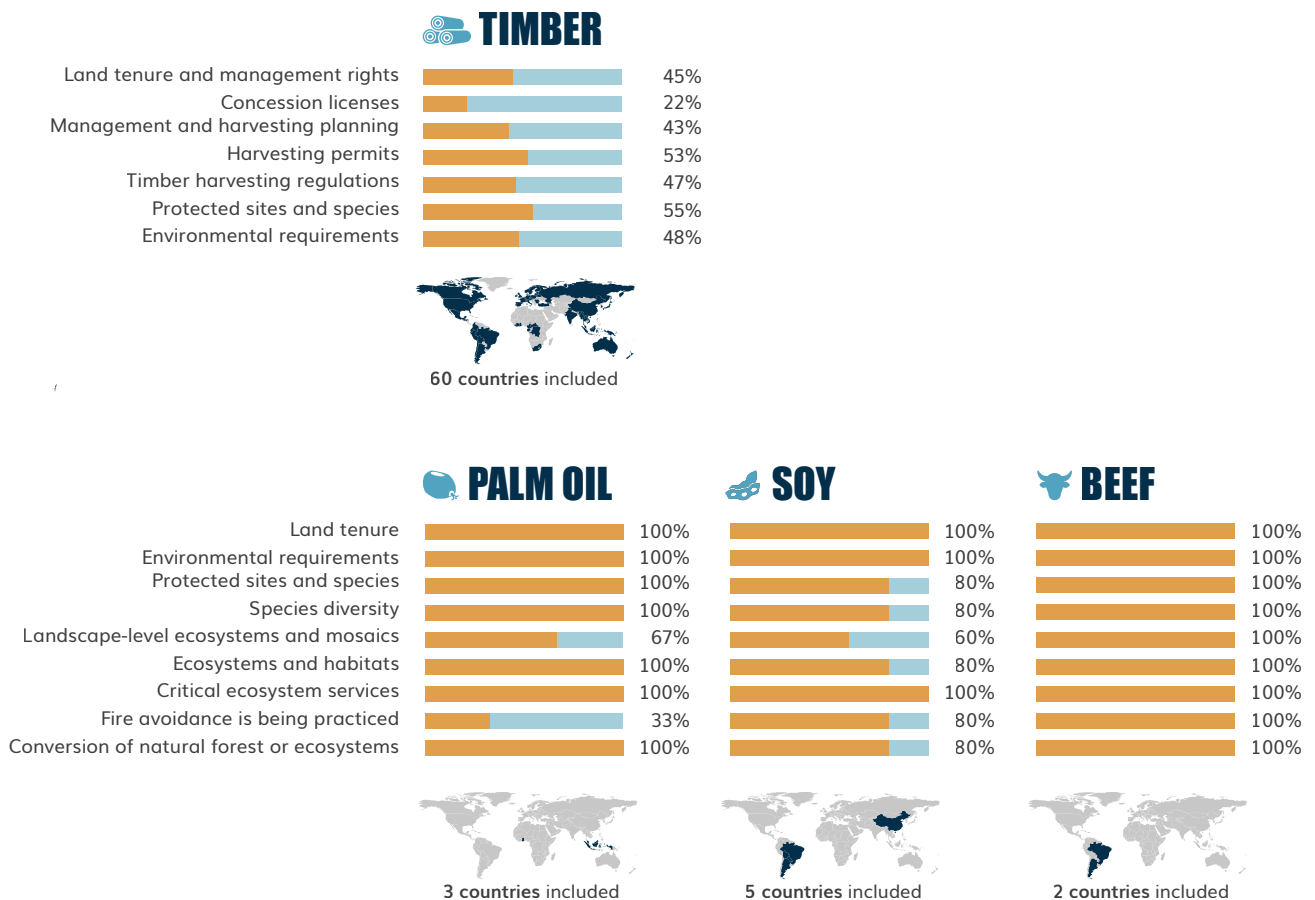
Figure 2. Perceived corruption and rate of primary forest cover change for 42 countries



Note: Scores are on a scale of 0 to 100, from most to least corrupt. Transparency International's Corruption Perceptions Index ranks countries by their perceived level of corruption based on surveys and expert assessments and is not limited to the forestry sector. PNG = Papua New Guinea, Lao PDR = Lao People's Democratic Republic, DRC = Democratic Republic of Congo.

Source: Climate Focus analysis based on data from FAO Forest Resources Assessment 2015 (2010–15 data) and Transparency International's Corruption Perceptions Index (2012–17 data).

Figure 3. Legality risks in forest and agricultural commodity supply chains (2017)



Note: NEPCon conducts country-level legality risk assessments for forest and agricultural commodity supply chains.

Source: Climate Focus analysis based on 2017 data from Nature Economy and People Connected (NEPCon)'s Sourcing Hub.

took place in Brazil and Indonesia, the two largest producers of forest-risk commodities and the countries with highest forest loss.⁶

Where commercial agriculture is driving significant forest loss, the risk that forest laws are violated in the production of commodities remains alarmingly high. In two thirds of major timber-producing countries and all of the largest tropical producers of palm oil, soy, and beef, there is a significant risk of one or – in most cases – multiple forest-related laws being broken in the production of these commodities.⁷

Legality risks vary by commodity (Figure 3). In the timber sector, the most frequent legality risks related to logging include bribery, violating forest management requirements, and improperly acquiring permits for timber trading and transport. In the palm oil, soy, and cattle sectors, common

causes for illegality are clearing forest for plantations or pastures and noncompliance with laws protecting high-conservation value areas.⁸

For the most part, legality risks are significantly higher in tropical countries. Nonetheless, illegal logging remains a problem in several other countries. In Russia, 20 percent of logging is estimated to be illegal.⁹ In Romania, home to some of Europe's oldest and most extensive forests, nearly a quarter of logging from 1990-2011 was illegal.¹⁰ Illegal logging was recorded in 2016 in the primeval Bialowieza forest in Poland, one of Europe's oldest intact forests.¹¹ In the Italian timber sector there is significant risk of timber harvesting regulations and other environmental requirements being violated. In other developed countries, such as Canada, most logging is legal but is often unsustainable, threatening carbon sinks and indigenous peoples' rights.¹²

Emerging economies are increasingly adopting demand-side measures for timber

Deforestation and forest degradation are fueled by growing demand for commodities.¹³ A large share of this demand comes from export markets, especially in the palm oil, soy, and timber sectors.¹⁴

Several major consumer countries have adopted regulations on timber legality that place obligations on timber importers. In 2008 the U.S. Lacey Act was amended to prohibit the import and trade of illegal wood products, prompting a series of new measures around the globe in consumer countries. Most notably, the European Union adopted the EU Timber Regulation, following its Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, and the Illegal Logging Prohibition Act in Australia. Despite some challenges, these measures have had notable successes in combatting the trade in illegal timber.

Emerging economies in Asia, including China, Indonesia, Malaysia, the Republic of Korea, and Vietnam have also begun to adopt demand-side regulations that prohibit the sale and import of illegally harvested timber. While promising, these laws suffer from potential compliance loopholes and weak enforcement mechanisms.¹⁵

Demand-side measures to address illegality linked to other commodities are emerging but still lag far behind those for timber

Over the past few years, governments and private actors have also started taking action to eliminate deforestation embedded in palm oil and soy. The European Union restricts biofuels originating from recently deforested areas.¹⁶ In France, a 2017 law requires large companies to identify and prevent environmental risks associated with their own activities and activities along their supply chains.¹⁷

The Amsterdam Declarations of December 2015 commit signatories to coordinated demand-side efforts to eliminate deforestation from the palm oil supply chain¹⁸ and other agricultural supply chains, reiterating the goals of the NYDF.¹⁹ Chinese importers of palm oil and soy have also taken steps toward sustainable sourcing. China's leading palm oil companies have established the Sustainable Palm Oil Working Group to build consensus around zero-deforestation and promote sustainability in the sector.²⁰ Similarly, the Chinese Soybean Industry Association has partnered with Brazil's Soja Plus Program to ensure compliance of the Brazilian soybean industry with their domestic legal forest framework.²¹

In contrast with demand-side measures in the timber sector, the majority of these measures remain voluntary or limited in scope.

International cooperation on enforcement is increasing

Enforcement agencies have recently made important strides in international cooperation to tackle the trade in illegal timber. While still relatively new, one such project, INTERPOL's Project Law Enforcement Assistance for Forests, has led to the seizure of USD 1.5 billion worth of illegal timber through international cooperation efforts since 2012.²² Building on this, the Law Enforcement Assistance Programme to Reduce Tropical Deforestation was launched in July 2018. The program aims to support law enforcement agencies in their joint efforts to reduce illegal deforestation and associated crimes in key tropical countries.

Progress in access to information laws is encouraging, but restrictions persist

Accountability, participation, and transparency are important building blocks of good forest governance.²³ On an international level, there has been progress toward the adoption of binding international commitments on transparency, participation, and access to justice in environmental matters. At the national level, however, informed participation and decision-making require information to be not just accessible but also actionable.²⁴

An increasing number of countries are adopting laws that give citizens the right to access information, including forest-related information. However, the forest sector remains relatively opaque. Few countries release data proactively, and systems that make information available to the broader public remain the exception. In many countries, information may not be available in formats or languages that are widely accessible, in particular to vulnerable groups, and governments are allowed broad latitude to refuse access. For example China allows information requests to be refused on ground of "national interests."²⁵ In addition, access to information in most countries is costly, which further limits access in practice.

Slow progress on enhancing supply-chain transparency

Lack of transparency in agricultural commodity supply chains is a barrier to monitoring corporate commitments to address deforestation. The

majority of the companies with the greatest exposure to forest-risk commodities that have committed to eliminating deforestation from their supply chains do not report their progress on implementing their commitments.²⁶ Many companies remain reluctant to share data, and the information they provide is often vague, incomplete, or buried in sustainability reports, which limit its usability for assessing progress and forest impacts.

A small number of large companies, especially in the palm oil sector, has made great progress in disclosing supply-chain information. Several large traders and refiners, including Unilever and Nestlé, now share lists of their suppliers in an effort to increase transparency.²⁷

Participation in decision-making remains limited

The majority of countries assessed provide for consultations on forest-related policies and projects. In more than half of 70 countries assessed, governments are required to solicit input for planning decisions, while just under half provide for participation in policy-making.²⁸ Fewer than half of the evaluated countries require governments to take comments from the public into account when making decisions on forests. Furthermore, consultation processes are often overly technical or focused on discussion rather than decision-making. In Mexico, for example, the government is required to provide opportunities for consultation, but has no obligation to proactively consult affected stakeholders.

The participation of women in forest-related decision-making remains limited in many countries. Women are rarely represented in land-related institutions, and few countries are working to improve female representation.²⁹ Of 25 countries assessed using data from FAO's Legal Assessment tool, only 8 have or are developing laws to ensure the engagement of women.

Access to justice is guaranteed in the law but remains out of reach for many

Most countries have laws guaranteeing the right to access judicial and administrative remedies but in practice these are too costly and slow to provide effective legal protection.³⁰ Grievance mechanisms may provide an alternative avenue for local people to seek redress. Yet, even these informal processes are often out of reach for the most vulnerable in society.³¹

Remedies are also often limited: fewer than 20 percent of the 70 countries assessed make full

restitution available for forest-related matters.³² This limits the ability of courts and administrative bodies to require that companies or government bodies restore land that has been deforested or degraded. Almost all countries provide for compensation, but in over half, compensation is either limited to specific circumstances or is constrained by onerous requirements for proving costs that have resulted from illegal actions.

Women and the poor also have less access to justice in forest-related matters. Of 25 countries assessed, only Ecuador and Rwanda have legislation requiring female representation on land dispute resolution committees, while Mali includes such a requirement in its national gender policy.³³ Experience in local dispute resolution processes indicates that decision-makers tend to give greater weight and consideration to men.³⁴

Indigenous people and local communities manage land with high carbon stock

Many indigenous peoples and other local communities (IPLCs) depend on ecosystems and, in particular, on native forest ecosystems for their livelihoods, food, clothing, fuel, medicine, and shelter.³⁵ The economy, social organization, identity, and cultural and spiritual values of these communities are closely linked to forests. Many also have long-standing claims to the lands and forests they have customarily owned, used, and occupied.

In managing forest land, IPLCs provide an important ecological service and help mitigate climate change. They manage at least 17 percent (293 billion metric tons) of the total carbon stored in the forestlands of 64 assessed countries,³⁶ equal to 33 times the global energy emissions of 2017.

IPLCs continue to lack legal recognition for much of the land they customarily own

Where IPLCs hold secure rights to their land, it is less likely to be deforested. Studies in South America, where local communities hold rights to large areas of land, found that deforestation rates are two to three times lower on lands where IPLCs have secure tenure rights than on land with similar characteristics but without IPLC tenure, including in protected forest areas.³⁷

Progress in recognizing the rights of IPLCs has been mixed. On the one hand, an assessment of 41 countries by the Rights and Resources Initiative found that the amount of forest land where IPLCs have legally recognized rights increased from 11

percent in 2002 to 15 percent in 2017 – by an area about the size of Peru. Positively, most of this increase has been in the recognition of IPLC ownership of forests, meaning that communities are recognized as holding a broad set of rights to access, use, manage, and exclude others from forests for an unlimited duration of time.³⁸

On the other hand, data from the LandMark Initiative indicates that a large portion of IPLC territories remains unrecognized.³⁹ Data on land rights in 14 countries with significant forest cover⁴⁰ indicate that 33–39 percent of land currently occupied or used by IPLCs has not been recognized by governments (Figure 4). IPLCs currently hold⁴¹ 54–59 percent of national land area in these 14 countries combined, indicating that the area under customary IPLC ownership, use, or occupation is significant.

Even if IPLCs enjoy formal recognition of rights, these rights may not be fully secure

In many countries, IPLC rights are often limited in one or several ways and are frequently less secure than other forms of tenure.⁴² Higher-income and upper-middle-income countries perform particularly poorly in providing secure tenure to communities, scoring worse than lower- and lower-middle-income countries in all but 1 of 10 indicators of tenure security (Figures 5 and 6).⁴³

Even if rights are relatively strong on paper, they are often not fully secure in practice. Rights are often not proactively enforced and fail to protect communities from land grabbing and violence

by third parties.⁴⁴ Tenure regimes that provide communities with strong overall tenure security tend to also have stronger provisions protecting women’s rights within the tenure regime.⁴⁵

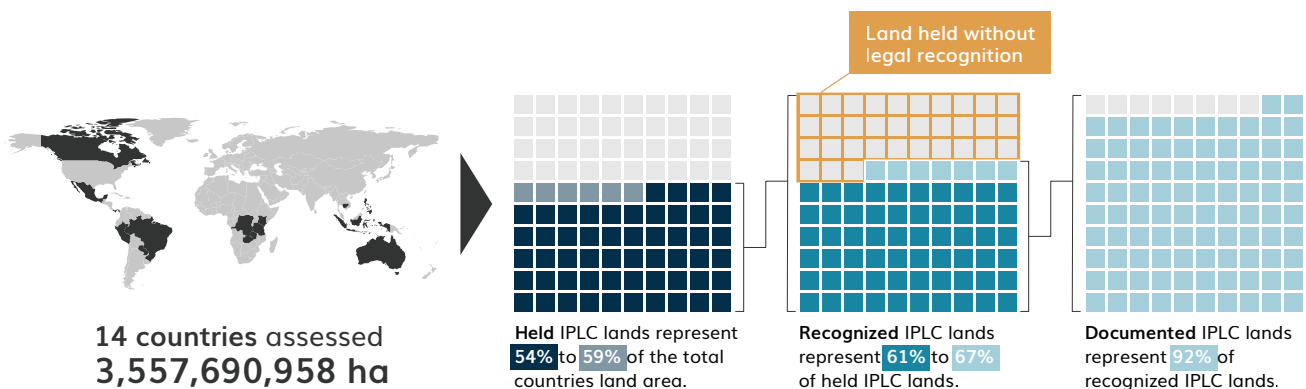
Regimes providing formal rights to IPLCs often fail to uphold those rights in national parks and other protected areas. Indeed, 50–80 percent of protected areas globally are estimated to overlap with IPLC rights.⁴⁶ Since 1990, nearly 250,000 individuals in 15 countries are reported to have been forcibly evicted from their lands following their designation as protected areas. This has led to loss of livelihoods, conflicts and even killings linked to the “militarization of conservation.”

Free, prior, and informed consent is not consistently implemented by governments or companies

The principle of free, prior, and informed consent (FPIC) requires governments and companies whose planned actions may impact indigenous peoples to seek their free (i.e., voluntary and in the absence of coercion), prior (i.e., consent sought in advance of project approval), and informed (i.e., they are presented with a comprehensive list of impacts and risks) consent.

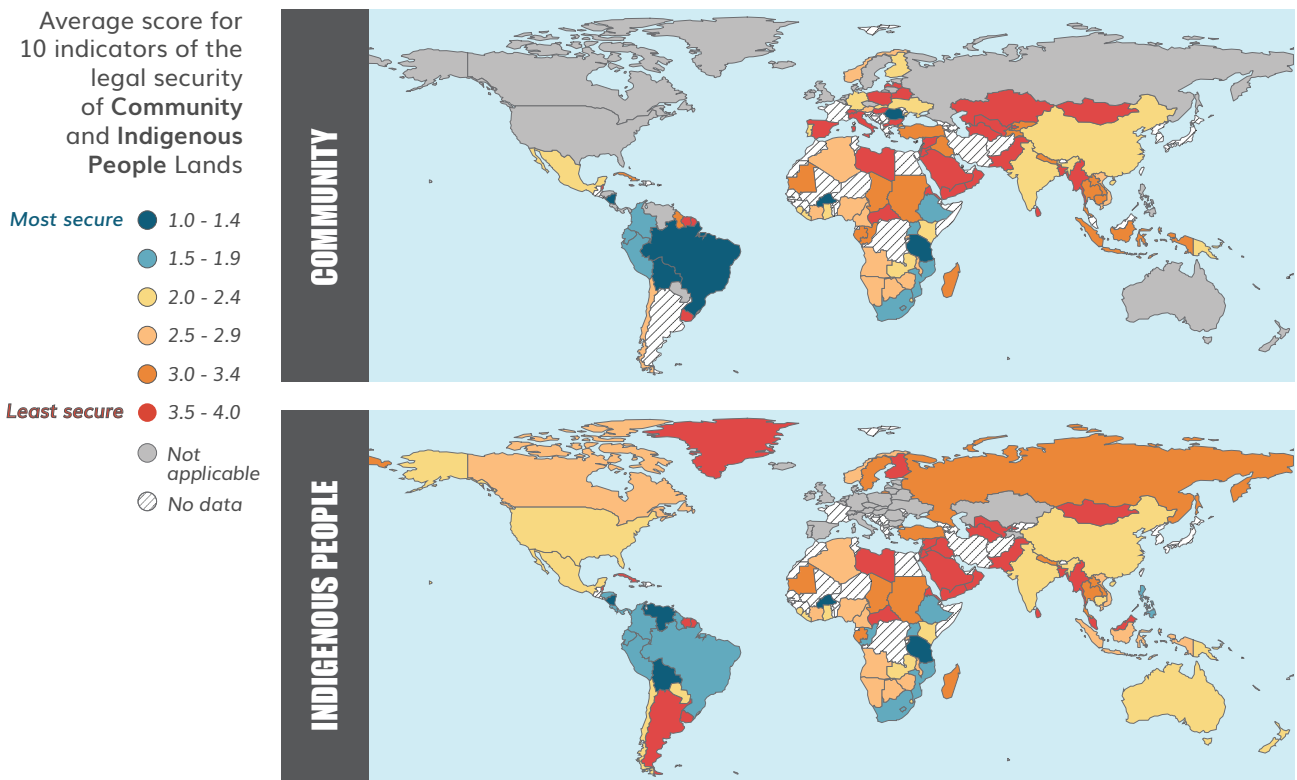
At the national level, few countries have enshrined FPIC in national law. Of 60 countries for which laws relevant to timber extraction were examined, only 16 countries’ laws included requirements for companies to obtain FPIC of local communities.⁴⁷ In several of these countries, such as Peru and Bolivia, FPIC is defined to require only consultation with communities, as opposed to consent. Many

Figure 4. Assessment of land rights in 14 countries (2018)



Source: Climate Focus analysis based on Dubertret, F., & Veit, P.G. (2018). Held, recognized, documented, and claimed indigenous and community land in 14 countries. Research prepared for the New York Declaration on Forests Assessment. IPLC = indigenous peoples and local communities.

Figure 5. Land tenure security for local communities (top map) and indigenous peoples (bottom map)



Note: Each map depicts the average of scores across 10 indicators of the security of land tenure for recognized community lands assessed across 91 countries (top map) and recognized indigenous lands assessed in 95 countries (bottom map).

Source: Climate Focus analysis based on data from LandMark.

countries also lack implementing regulations or guidelines for FPIC requirements even where they exist in the law.

Whether or not FPIC is required by law, companies investing in projects that may impact local people can voluntarily commit to respecting FPIC in their investments. Currently, 127 corporate supply-chain commitments tracked by Supply Change include an explicit commitment to respect FPIC. While welcome, this represents a relatively small share – 27 percent – of overall company commitments.⁴⁸ However, companies that meet their company commitments through product certification also typically commit to ensuring FPIC in their operations through the certification process.

Tenure insecurity fosters land grabbing and violence against local communities and forest defenders

Increasing demand for land for agriculture, mining, and other development has seen governments allocate more and more land to commercial concessions. These concessions are often in direct competition with community lands. Where customary rights and FPIC are not fully recognized

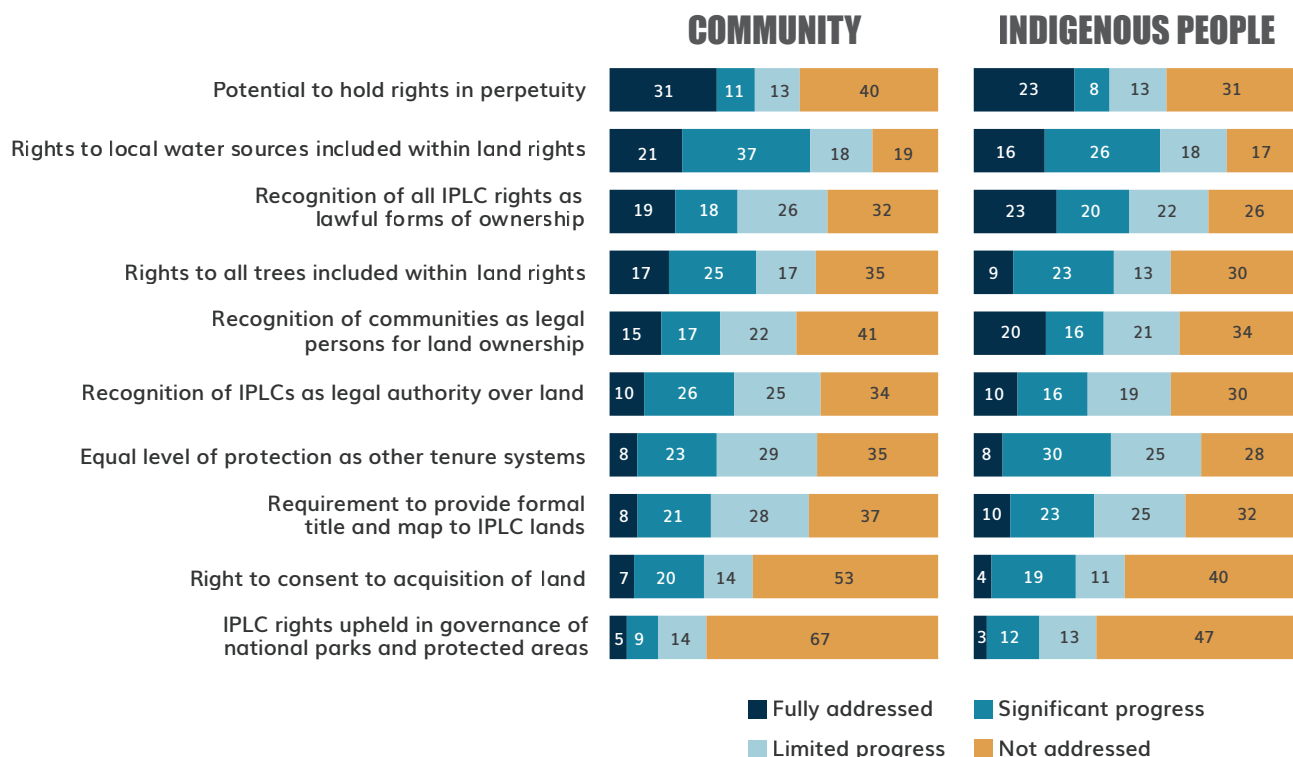
and upheld, concessions can pose a high risk of displacing or coming into conflict with local communities. Rising land values have also led to transactions that are often to the detriment of forest-linked communities.⁴⁹

Geospatial data indicates that the vast majority (93–99 percent) of concessions in emerging markets are in inhabited areas.⁵⁰ A study that reviewed agricultural concessions in 12 emerging economies found overlap with community lands in at least 31 percent of commercial concessions, though the real figure is estimated to be much higher.⁵¹

When companies acquire land that communities own or use under customary law, communities often lose access to food, water, and other resources crucial to their livelihoods. For many communities with limited or no access to legal remedies, the only recourse is to oppose developments through campaigns and physical protests. In many countries, this carries major risks (Figure 7).

Communities defending their rights increasingly face violence, criminalization, and murder.

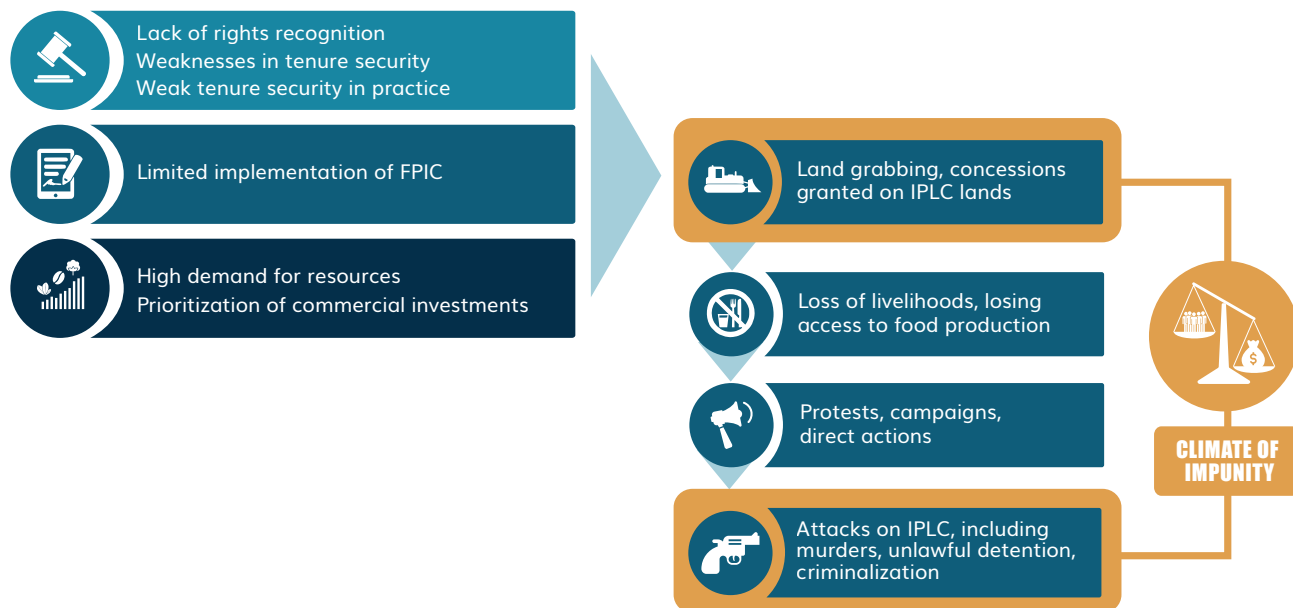
Figure 6. Scores for each of the 10 indicators of land tenure security assessed for local communities (95 countries) and indigenous peoples (91 countries)



Note: The assessment of each indicator is based on a review of relevant national laws, including the constitution, statutes, regulations, and high court cases, to the extent they are available. They do not assess the implementation or enforcement of the law, or government, community or indigenous peoples' perceptions of the security of their land rights. IPLC = indigenous peoples and local communities.

Source: Climate Focus analysis based on data from LandMark.

Figure 7. The consequences of insecure tenure and limited recognition of free, prior, and informed consent



Note: FPIC = free, prior, and informed consent, IPLC = indigenous peoples and local communities.

Source: Climate Focus

According to data from Global Witness, killings of land and forest defenders have been increasing in recent years. The years 2015, 2016, and 2017 saw the highest number of killings since recordkeeping began.

IPLCs are subject to a range of other violent attacks. Available information indicates that the armed forces, criminal gangs, paramilitaries, and police are the most common perpetrators of these crimes. The UN Special Rapporteur on the rights of indigenous peoples has recorded a rising number of attacks on and criminalization of indigenous people in, among other countries, Brazil, Colombia, Ecuador, Guatemala, Honduras, India, Kenya, Mexico, Peru, and the Philippines.⁵² "Criminalization" refers to governments seeking to intimidate land and forest defenders through arresting and prosecuting them for protesting development projects. The majority of attacks currently go unpunished.⁵³

Progress in supporting the empowerment of IPLCs and other rural communities remains slow

Many indigenous peoples and local communities are vulnerable and need to gain or regain authority, including commercial power, over forest goods and services, to overcome marginalization. Empowerment of indigenous peoples and local communities requires not only secure tenure, but also often technical know-how, business capacity, market access, and strong organization.

Supporting the agency of communities by strengthening their organizational structures is an important strategy for securing empowerment. Organization in associations or cooperatives strengthens communities through knowledge sharing, increasing negotiating power in market and political spaces, reducing transaction costs, and defending against unjust or illegal actions.⁵⁴

While aggregate data on the empowerment of IPLCs are unavailable, data in the context of rural communities suggest minimal improvements in providing policies conducive for rural organizations

to engage in dialogue and access land. Rural Sector Performance Assessments conducted in 101 countries by the International Fund for Agricultural Development show only a very slight upward trend in governments involving community organizations in decision-making.⁵⁵

Innovations in community empowerment are coming from local organizations themselves

Where communities have been able to form locally-controlled forestry businesses, this community ownership has led to a number of important innovations and helped to foster local empowerment. A review of 50 case studies of such businesses by the International Institute for Environment and Development found a number of benefits.⁵⁶ For example, democratic oversight bodies support sustained environmental and cultural heritage. Case studies from Mexico and Peru showed that community forestry business tended to avoid unequal power structures by providing a balanced governing structure and maintaining cultural values.

Effective international development finance can support empowerment, but too little finance reaches communities

There have been important advances in making forest-linked development finance directly accessible to communities, though this remains the exception rather than the rule. A number of recent developments indicate that international donors are recognizing the need for dedicated finance flows to support local communities. In 2018, a group of U.S.- based charitable foundations announced USD 459 million to support forest protection, primarily through securing indigenous peoples' land rights.⁵⁷ In addition, several multilateral sources such as the Dedicated Grant Mechanism for Indigenous Peoples and Local Communities and the International Land and Forest Tenure Facility, have set up dedicated mechanisms to support the participation and capacity building of indigenous peoples and communities in REDD+ processes⁵⁸ and secure land and forest rights for IPLCs.⁵⁹

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To download the full report, please visit forestdeclaration.org.

ENDNOTES

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