

OPPORTUNITIES TO STRENGTHEN

COLLECTIVE LAND TENURE RIGHTS

IN FCPF CARBON
FUND COUNTRIES

REPORT SUMMARY



This report identifies emerging opportunities for strengthening the land and forest tenure rights of Indigenous Peoples, local communities, and Afro-descendant peoples (hereafter IPLCs) in Forest Carbon Partnership Facility (FCPF) Carbon Fund (CF) countries.

It aims to inform governments of CF countries, IPLCs, civil society, and land and forest rights practitioners on opportunities and pathways for strengthening communal and collective land and forest tenure. Furthermore, the study provides important findings and lessons for the FCPF and Enhancing Access to Benefits while Lowering Emissions (EnABLE) fund on opportunities to further promote social inclusion in results-based climate finance.

Using a World Bank analytical framework¹ to organize data collection, conceptualize the links between key elements of tenure security, and formulate opportunities for advancing tenure rights, the study presents an Opportunity As-

essment methodology to collate and analyze both quantitative and qualitative data from a diverse and innovative range of sources, resulting in comprehensive individual country profiles as well as a synthesized report that presents common threads and overarching opportunities to advance collective land and forest tenure of IPLCs.

The study was managed and financed by the Climate Funds Management Unit² and conducted by the Rights and Resources Initiative (RRI) and Global Land Alliance (GLA)³. The full report and country profiles can be accessed at forestcarbonpartnership.org.

BACKGROUND

To address the global climate and biodiversity crisis, governments, development institutions and the private sector increasingly look to forest and land-based emission reductions programs to achieve early mitigation gains.

Central to these programs are efforts to reduce deforestation, while promoting forest conservation, restoration, and sustainable use in developing countries, mainly in areas customarily held by IPLCs. Together, some 1.6 billion people are estimated to live in, and depend on, the land

and forest areas, and many of them are now being targeted for emissions reductions and offset schemes. At the same time, less than half of the lands and territories claimed by communities are formally recognized by governments.

¹ Securing Forest Tenure Rights for Rural Development

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Clear and secure IPLC tenure rights are essential for the sustainable conservation, management, and restoration of the world's lands and forests. Compared to areas managed by governments or private entities, IPLC-held forests with secure land rights are associated with lower rates of deforestation, reduced greenhouse gas emissions, better biodiversity protection, and improved livelihoods. Expanded recognition of IPLCs' natural resource rights would contribute

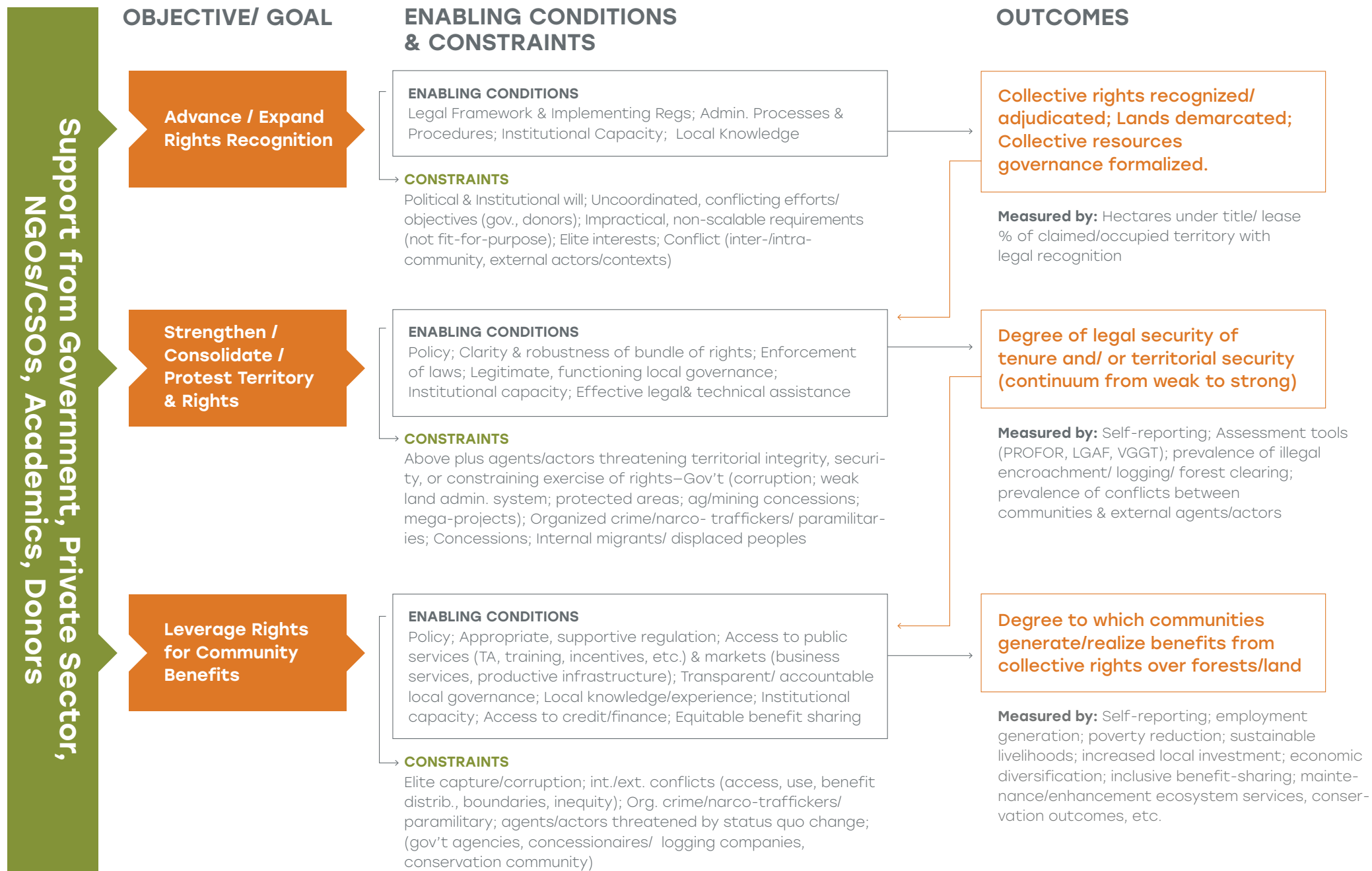
to achieving global climate and biodiversity targets, as well as protecting and restoring greenhouse gas sinks and biodiversity areas. While legal recognition of community forests in Africa, Asia, and Latin America has increased by 40 percent—from 337 to 484 million hectares—over the last two decades, customarily held forestlands are estimated to be at least twice the area of formally-recognized forest land tenure.

OPPORTUNITY ASSESSMENTS AND COUNTRY PROFILES

The approach to defining and evaluating opportunities for strengthening IPLCs' land and forest tenure rights assumes the need to pursue three overarching objectives: to advance or expand the legal recognition of collective rights; to strengthen and secure collective rights; and to leverage collective rights for IPLCs' benefits. The action framework below details the research pursued under each of these objectives in terms of enabling conditions and constraints and the types of desired outcomes.

Country Profiles consisting of review and assessments of opportunities for each of the FCPF Carbon Fund countries—the main outputs of the study—include: an overview of community forest rights and issues; a description of the legal, institutional, and operational status of forest rights; a synthesis of opportunities with entry points; and summaries of existing investment vehicles with potential for financing action on the opportunities identified, and of constraints and risks to improving collective forest rights. Deeper examination is undertaken for six countries (Ghana, Mozambique, Costa Rica, Guatemala, Indonesia, and Vietnam) to illustrate opportunities identified during data collection in more detail.

FIGURE 1 Action Framework for Advancing, Strengthening and Leveraging Tenure Opportunities





CORE FINDINGS

While each of the countries featured in the study is unique and few opportunities for advancing community-based land and forest tenure rights are applicable to all, the following core findings emerge.

- **All FCPF Carbon Fund countries have legal frameworks recognizing IPLC rights corresponding to one or more of the three categories noted above.** However, for various reasons some are not actionable at scale. Issues affecting the efficacy of legal frameworks include limited experimentation with the framework, weak or absent institutional capacity, undefined procedures, and high degrees of legal and operational ambiguity. At the same time, each country represents an opportunity for advancing collective forest rights through policy, legal, and/or institutional reforms.
- **In most countries, there are multiple opportunities to consolidate and strengthen IPLC rights,** even where actionable legal frameworks are not fully in place.
- **Opportunities for sustainable economic growth and improved forest management exist in almost every country.** These opportunities include public-private partnerships to enhance the commercialization of community products, greater involvement of women in the design and management of initiatives, leveraging green and fair-trade certification schemes, and carbon and other environmental payments to strengthen the sustainability and efficiency of community-driven land use priorities.

The multi-country, multi-regional nature of the study yielded six cross-cutting issues and six lessons learned which may help shape more comprehensive responses to the challenge of improved collective forest tenure recognition.

CROSS-CUTTING ISSUES

Enabling conditions

In all CF countries enabling conditions for recognizing collective land and forest tenure rights can be prioritized and achieved within current planning processes, for example through national commitments to recognize and protect IPLCs' rights, expansion of IPLC representation in policy development, strengthened forest law enforcement, earmarking of forest investment funding for tenure-related activities, and capacity development for community forest management.

National climate strategies

Few countries have developed legal frameworks to support their trade in carbon. Only six countries recognize communities' rights either explicitly or as a function of land or forest rights. IPLC representatives have raised numerous questions about how the race to secure carbon rights may affect their land and forest rights. These and related concerns underscore the need for greater coordination between the national authorities charged with the definition of climate goals and the local communities affected by them.

Decentralization

The relationship between decentralized governance and community efforts to secure land and resource rights is a recurrent theme in almost every country—overlapping with issues related to forest tenure, natural resource governance, transparency, revenue and benefit sharing, law enforcement, and other social themes. The importance of the decentralization process, either as an entry point or to address unresolved rights, tenure security, and sustainable natural resource management, is vital for improving outcomes.

Criminalization, criminality, and violence

Criminalization in the form of regulatory barriers to land management, as well as criminal activities and violence in forest areas form a constraint to efforts to realize the recognition of land and forest tenure rights.

Competing land claims, uses, and cover changes

In all three regions—Africa, Asia, and South America—commercial and private interests, including large-scale mining, hydroelectric, agricultural and infrastructure projects, threaten the integrity of IPLC land and forest tenure, for instance through forced relocation, loss of access to resources, and livelihood displacement. These constraints can be circumvented or mitigated through clear policies, high-level inter-sectoral coordination and land use planning, and the use of appropriate analytical tools (e.g., sectoral environmental assessments).

Conflict and competition between authorities

In many countries, there is little or no coordination between public entities charged with administering land rights and those involved in issuing agricultural, forest, and mining concessions, declaring protected areas, planning and building public infrastructure, or developing sectoral plans and policies. The ambitious agenda of long-term forest conservation, including the recognition of IPLC community land and forest tenure, is unlikely to be achieved unless territorial and landscape approaches are based on participation, transparency, inter-sectoral coordination, and the rule of law.

LESSONS LEARNED

Collective forest rights cannot be divorced from communities' broader landscapes and priorities. IPLCs occupy and manage diverse landscapes containing diverse ecosystems and land use strategies. To divide their broader, shared landscape between forest and non-forest lands and uses will therefore ultimately be counterproductive. Community mapping, village boundary setting, participatory land use planning, and inventorying of agricultural and mining concessions in a landscape approach are technical tools which can support multi-stakeholder decisions-making in specific administrative or natural regions.

Tenure security is an essential foundation for resilient and sustainable communities and landscapes. Long-term territorial security and maintenance are significantly dependent on communities being able to sustain themselves, their livelihoods, and their economic well-being. Evidence shows that securing collective land tenure rights is not only an opportunity to promote prosperity, but also an effective incentive for IPLCs' conservation of social-ecological systems that are proven contributors of climate and conservation benefits.

Bottom-up engagement and community leadership are key to achieving effective and sustainable results. Expanding both can happen in many ways, including political representation in local and national government; participation in planning bodies and project design; robust free and prior informed processes; media involvement; and participation in international fora. Community-based, civil society, and non-governmental organizations can play a critical role in achieving a stable operating environment by filling gaps in government capacity.

Legal recognition and protection of collective forest rights requires a whole-of-government approach. While forest agencies are often tasked with adjudicating IPLC claims to customary collective lands, the resolution of such issues generally involves broader public land laws and policies that require a whole-of-government approach.

Community tenure and livelihoods can be advanced even when legal frameworks are weak or inadequate. Global experience demonstrates the value of strengthening *de facto* rights where *de jure* options are lacking or limited. In strengthening existing rights, it is important also to seek opportunities and means for facilitating and establishing durable outcomes. In many cases, *de facto* rights may have *de jure* standing according to overall legal frameworks, but full recognition—through mapping, certification, titling—has not yet been achieved.

Legal recognition of IPLC land and forest rights is a necessary but insufficient condition for achieving local priorities and broader climate ambitions. Besides actions to legally recognize and secure collective land and forest rights, most communities require support to address their social, economic, and environmental challenges. While some may have robust governance institutions, others may be grappling with human rights challenges, food insecurity, or inadequate access to financing or markets. Achieving local development priorities and national climate ambitions may entail improvements in governance, organizational capacity, access to capital, technical knowledge, equitable and transparent benefit-sharing arrangements, and infrastructure.