

From Risk and Conflict to Peace and Prosperity

THE URGENCY OF SECURING COMMUNITY
LAND RIGHTS IN A TURBULENT WORLD

RIGHTS AND RESOURCES INITIATIVE
ANNUAL REVIEW 2016-2017



The Rights and Resources Initiative

RRI is a global coalition consisting of 15 Partners, 6 Affiliated Networks, 14 International Fellows, and more than 150 collaborating international, regional, and community organizations dedicated to advancing the forestland and resource rights of Indigenous Peoples and local communities. RRI leverages the capacity and expertise of coalition members to promote secure local land and resource rights and catalyze progressive policy and market reforms.

RRI is coordinated by the Rights and Resources Group, a non-profit organization based in Washington, D.C. For more information, please visit www.rightsandresources.org.

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AT A GLANCE:

Rights and Resources

2016-2017

2016 was a year of major political turbulence. Brexit, the continuing refugee crisis, the election of Rodrigo Duterte in the Philippines and Donald Trump in the United States, Colombia's rocky path to peace, increased killing and persecution of land rights defenders, a tightening democratic space, and major civil strife over land rights in Brazil and Ethiopia all challenged conventional development models and the primacy of human rights. And despite the looming climate crisis, many governments resisted, if not scaled back, commitments to act. Amid these political shocks and government rollbacks, there was at least one consistent and inspiring global trend: the growing recognition that the land rights of Indigenous Peoples and local communities are key to ensuring peace and prosperity, economic development, sound investment, and climate change mitigation and adaptation.

A surprising aspect of this trend is that despite equivocation by governments, a critical mass of influential investors and companies now recognize the market rationale for respecting community land rights. There is increased understanding that development projects that ignore these rights carry significant financial and reputational risks, cause conflict with local peoples, and almost always fail to deliver on development promises.

Looking back, there were at least five other significant developments in 2016. First, despite growing awareness of tenure risk worldwide, local communities faced ever increasing levels of violence and criminalization when they stood up for their rights, with women and Indigenous Peoples disproportionately victimized.

Second, despite sometimes violent opposition, these groups achieved major breakthroughs in securing rights on the ground. At least 400,000 hectares of forestland shifted to their control in 2016, and global mobilization successfully resisted new investments that threatened their lands and resources.

Third, some development finance institutions emerged as potential leaders in the land rights arena. These investors have significant leverage over investments in the developing world, heralding a potentially broader change in the financial sector.

Fourth, it became obvious that many of the companies that pledged to both prevent deforestation and respect human rights are far from implementing these commitments. Much more effort will be required to change long-standing business models that in the past often ignored the rights of local peoples.

Finally, the required minimum number of governments ratified the Paris Agreement in 2016, but few capitalized on community rights recognition as a key climate change strategy.

Last year, Indigenous Peoples and local communities began to leverage a new platform of tools and institutions designed to accelerate the transition from "commitment" to "action." Looking forward, we see major opportunities for securing millions of hectares of community forests, and for path-breaking investment and business models that respect local land rights. The political world is likely to remain turbulent in 2017, but the path from risk and conflict to peace and prosperity remains clear and promising.

DEDICATION

This report is dedicated to the families and community members of the land rights activists who lost their lives in 2016.

ACKNOWLEDGEMENTS

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ACRONYMS

CSO	civil society organization
DEG	Deutsche Investitions- und Entwicklungsgesellschaft mbH (German Investment Corporation)
DFI	development finance institution
DRC	Democratic Republic of the Congo
EIB	European Investment Bank
EU	European Union
FARC	Revolutionary Armed Forces of Colombia
FLEGT	Forest Law Enforcement, Governance and Trade (EU)
FMO	Netherlands Development Finance Company
FRA	Forest Rights Act (India)
FUNAI	Fundação Nacional do Índio (Brazil)
GCF	Green Climate Fund
GDP	gross domestic product
GVL	Golden Veroleum Liberia
IFC	International Finance Corporation
MtC	million metric tons of carbon
NGO	non-governmental organization
RRI	Rights and Resources Initiative
RSPO	Roundtable on Sustainable Palm Oil
SDI	Sustainable Development Institute (Liberia)
SEL	Stora Enso Laos
UK	United Kingdom of Great Britain and Northern Ireland
UNEP	United Nations Environment Programme
US\$	United States dollar(s)
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security
ZIDRES	Zonas de Interés de Desarrollo Rural, Económico y Social (Colombia)



1

Tenure Risk, Conflict, and the Path to Prosperity

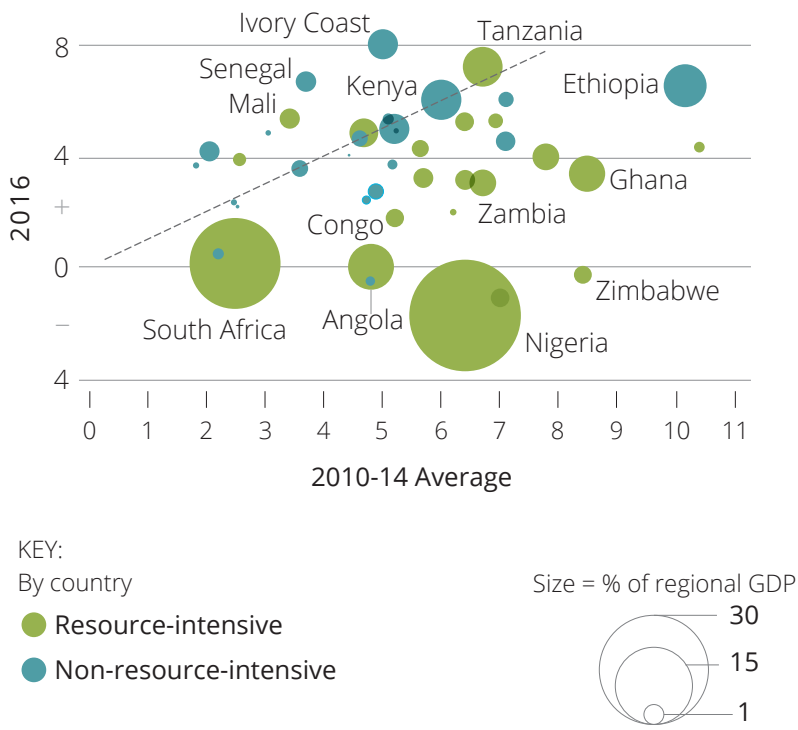
Many countries are still struggling to recover from the 2008 financial crisis. Even in the developing world, which accounted for more than three-quarters of growth in 2016, inequality has never been greater and household economic prospects never less secure.¹ Political instability, competition over resources, the refugee crisis,² and the looming threat of climate change compound these challenges.

In recent years, governments across Africa, Asia, and Latin America seeking to become emerging economies have increased natural resource exploitation to drive economic growth. Many investors see Africa as the last frontier for cheap land, and many governments view foreign direct investment as a means to promote economic growth. But far from delivering improved economic wellbeing for all, such investments often drive conflict and competition over increasingly scarce resources.³ The International Monetary Fund found that African countries that depend on natural resources to power their economies—and are therefore tied to volatile global commodity markets—were likely to grow by just 0.3 percent in 2016, compared with 5.6 percent in African countries that are less resource-dependent (Figure 1).⁴ This demonstrates a clear need for countries to diversify.⁵

The UN Environment Programme found that 40 percent of all internal conflicts are related to natural resources and that such areas are twice as likely to experience renewed episodes of conflict within five years.

FIGURE 1

The Great Divide: Sub-Saharan Africa GDP, Percent Change on a Year Earlier



Source: Data from IMF. Reproduced from The Economist. 2016. African Economies Are Growing at Very Different Speeds.

Across Africa, investments in natural resource exploitation that ignore rights have caused significant and costly conflicts (Box 1). Mining, infrastructure, and renewable energy projects—which are likely to increase in coming years—are also significant drivers of land conflicts and deforestation in Latin America, Asia, and Africa.⁶ These projects often fail to deliver promised economic benefits to governments or local peoples.⁷ The Environmental Justice Atlas documented over 1,880 resource-related conflicts worldwide, many caused by extractive projects that polluted or damaged the land, air, water, forests, and livelihoods of communities.⁸

BOX 1

An In-Depth Look at Land Tenure-Related Conflict in Africa

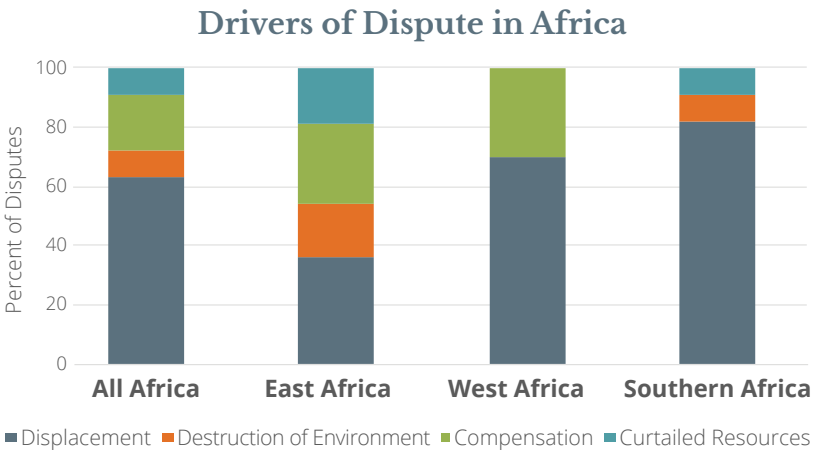
New research by the consultancy TMP Systems examined 32 cases of tenure conflict in West, East, and Southern Africa, and compared these with 281 cases outside the continent. More than 69 percent of the African conflicts involved a delay in operations and a subsequent loss of money for investors, well above the global average of 56 percent. This is a significant finding given that the region is perceived as an attractive target for international investment. Population density around dispute sites in West Africa was higher than any other sites examined, further contradicting the belief that there are large tracts of available land in the region.

The research found that the displacement of local peoples was the most significant driver of investment disputes in Africa, and was a more common cause of conflict there than elsewhere in the world. Rates of violence were also significantly higher than the global average in Southern Africa, but lower in West Africa, where communities were more likely to use media campaigns, and East Africa, where they were more likely to use legal avenues for redress.

Disputes over water are another major risk to investment in the continent, according to the study, and were common even where there appeared to be sufficient resources. Access to drinking water around dispute sites was very poor.⁹ Overall, curtailing access to or destroying the natural resources that communities rely on is a common cause of disputes worldwide.¹⁰

The research shows that companies cannot typically buy their way out of disputes with local peoples: fewer than 7 percent of tenure disputes worldwide were primarily driven by issues of financial compensation, although the percentage in Africa was 21 percent.¹¹

FIGURE 2



Source: TMP Systems and RRI. 2017. Tenure and Investment in Africa.

A 2016 analysis of 289 conflicts in India found that almost 80 percent of them resulted from development and industrialization projects, with infrastructure as the single largest cause. These conflicts affected 3.2 million people and put at risk more than US\$179 billion in investments. The study concluded that a majority of conflicts arose because the government diverted lands without community consent.¹²

Many of these conflicts are localized, but failure to respect the rights of local communities can lead to wider confrontations and even undermine the stability of the state. For example, civil and political unrest in Ethiopia—which led the government to declare a state of emergency in October¹³—was in part driven by threats to land rights and the government's decision to clear forestland for an investment project.¹⁴ Human Rights Watch estimated that Ethiopian security forces killed more than 400 protesters and bystanders, with countless more injured and tens of thousands arrested.¹⁵ Activists in Ethiopia contend with a tightening democratic space, increased government control over the media, and a compromised judicial system.¹⁶

Countries where the majority of land is claimed by the state are more likely to fall into the World Bank's "fragile" classification than countries where communities have a higher percentage of ownership.¹⁷ The UN Environment Programme (UNEP) found that 40 percent of all internal conflicts are related to natural resources and that such areas are twice as likely to experience renewed episodes of conflict within five years.¹⁸ UNEP also noted that the way natural resources are allocated can "make or break" a peace agreement. Securing land and resource rights for local peoples is a crucial component of post-conflict peacebuilding for countries like Colombia and Mali, whose conflicts were fed in part by insecure land rights.

Private companies investing in the developing world also expose their investments and reputations to significant risk when they ignore the rights of Indigenous Peoples and local communities. "Tenure risk" is the financial risk associated with transferring land rights without the consent of affected communities. Indeed, one of the most remarkable developments of 2016 was that a critical mass of influential investors and companies realized that the developing world does not contain vast areas of uninhabited, vacant land and



Securing the unrecognized land rights of Indigenous Peoples and communities in India alone could secure the livelihoods of at least 200 million people and protect over 34 million hectares of forest—a large step forward in meeting India's commitments under the Sustainable Development Goals and the Paris Agreement.

that “tenure risk” is real, significant, and far more than a mere reputational issue. Research demonstrates that 93–99 percent of concessions in emerging markets are inhabited.¹⁹ In fact, tenure risk is nearly ubiquitous in developing countries, and contested land claims can lead to conflict, regulatory disputes, and project delays that can increase operating costs by as much as 29 times and can even lead to project abandonment.²⁰

This means that the private sector is beginning to understand what many development practitioners have known for years: for countries to develop equitably and build lasting peace, securing and protecting the land rights and livelihoods of their poorest and most marginalized people is an essential first step. Indigenous Peoples and local communities rely on forests and pasturelands for food, shelter, income, and employment. Secure rights lead to higher incomes, increased food security, and greater resilience to both economic and climate shocks. Securing the unrecognized land rights of Indigenous Peoples and communities in India alone could secure the livelihoods of at least 200 million people and protect over 34 million hectares of forest—a large step forward in meeting India’s commitments under the Sustainable Development Goals and the Paris Agreement.²¹

Where rights have already been recognized in India, higher incomes and better forest management have followed. Residents in Sirsanapalli village in Andhra Pradesh State, for example, began receiving significant incomes from bamboo after their rights were recognized, and dedicated half of that income to restoring their forests.²² In China, reforms provided more than 400 million people with stronger rights to over 100 million hectares of forestland and steadily increased farmer incomes.²³ Family and smallholder plots in Java, Indonesia, added far more value to the economy at far lower costs than industrial palm oil, rubber, and pulp production in Sumatra and Kalimantan, where community rights were transferred to foreign companies on a massive scale.²⁴

Securing women’s rights to community land and resources, in particular, leads to additional benefits for equitable development and stable societies. Women suffer disproportionately from land acquisitions²⁵ and violence during any ensuing conflict.²⁶ A 2016 World Bank study found that rates of violence, child marriage, and poverty all decline when women have strong land rights,²⁷ and additional research indicates that securing women’s land rights leads to higher incomes, more money devoted to education, and lower rates of childhood malnutrition.²⁸

Securing communities’ and Indigenous Peoples’ rights to land and resources is also a key tool in the global struggle to mitigate climate change. The climate crisis is a near certainty, with arctic sea ice shrinking dramatically more in 2016

than in any year on record.²⁹ Yet government actions are insufficient to tackle this growing threat, and under President Trump the United States' commitment to the Paris Agreement is in jeopardy. If the world's second largest emitter rolls back its commitments,³⁰ others may follow suit.

Where communities have secure rights, deforestation rates are lower and carbon storage higher.³¹ New research in 2016 found that indigenous and community forestlands hold at least one-quarter of all aboveground tropical forest carbon, 54,546 million metric tons, equivalent to four times global carbon emissions in 2014 (Figure 3).³² At least one-tenth (and likely much more given limited recognition of community rights) of the aboveground carbon in these forests is in community lands that lack legal recognition, leaving them vulnerable to land grabs and deforestation.³³ Coupled with inadequate

government commitments, this makes it even more urgent for philanthropists, investors, companies, and NGOs to capitalize on a proven and cost-effective climate change strategy: securing community land rights.³⁴ Without them, we dramatically compromise the world's ability to address climate change.³⁵

Peace and prosperity require secure, protected land and resource rights for the benefit of the 2.5 billion community land holders who rely directly on these resources, and the billions more who want stable societies, sustainable and equitable economic growth, and delivery on the promises of the Paris Agreement.³⁶ No one knows this better than the world's Indigenous Peoples and local communities, whose dedicated, concerted actions and sacrifices are driving change at all levels. In Part 2, we look at five developments that characterize 2016 and will shape efforts to secure peace and prosperity in 2017 and beyond.

FIGURE 3

Aboveground Forest Carbon Storage in Collective Lands

at least **54,546 MtC**
held in indigenous and community forestlands

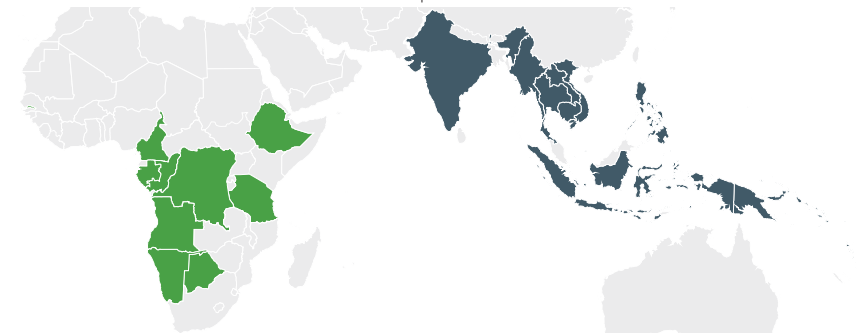
at least **24%**
of global aboveground tropical forest carbon

Mesoamerica
4,007 MtC

South America
30,019 MtC

Sub-Saharan Africa
8,376 MtC

South/Southeast Asia
& Pacific
12,144 MtC



Source: RRI, Woods Hole Research Center, and World Resource Center. 2016. Toward a Global Baseline of Carbon Storage in Collective Lands.





2

2016 in Depth: Five Developments that Characterize the Year

Rising nationalism, waves of refugees from war zones, growing certainty of a climate crisis, and increasing violence against land rights defenders marred 2016. Amid this extraordinary political turmoil, five major developments throughout the year will shape efforts to secure community rights and sustain livelihoods in 2017 and beyond.

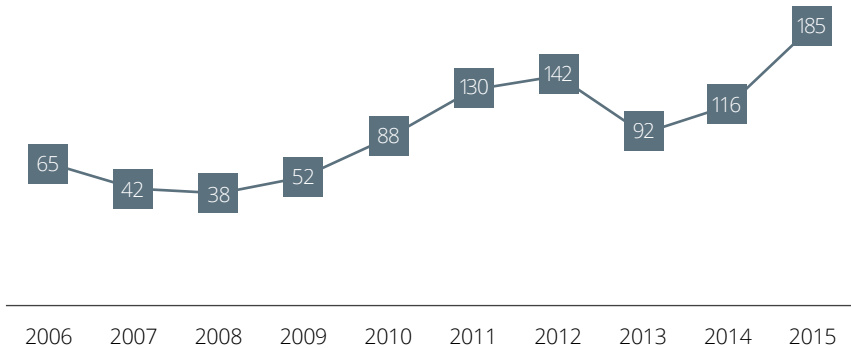
Fear, violence, and defense: Communities face ever increasing criminalization and violence for practicing their traditional livelihoods and protecting their lands

Indigenous Peoples and local communities only have legal rights to one-fifth of the land they claim worldwide.³⁷ In 2016, communities continued to mobilize at the local, national, and global levels to demand respect for their land and resource rights. At the same time, they suffered increasing violence and persecution—both for their activism and for simply living on land coveted by others.

The targeting and murder of land rights defenders is a human rights crisis and an impediment to sustainable development, climate change mitigation, and societal stability. There is no path to peace without addressing this grave and growing threat. A June 2016 report by Global Witness named 2015 the worst year on record for the killing of environmental and land rights activists: it documented 185 deaths, 122 of them in Latin America (Figure 4).³⁸ This violence showed no sign of abating in 2016. In **Colombia**, the murder of indigenous activists increased dramatically in retaliation for the initial peace deal signed between the Revolutionary Armed Forces of Colombia (FARC)³⁹ and the Colombian government: 52 community leaders were murdered in October and November alone.⁴⁰

FIGURE 4

Global Land and Environmental Defenders Deaths, 2006-2015



Source: Global Witness. 2016. *On Dangerous Ground*; Global Witness. 2014. *Deadly Environment*.

The high-profile murder in March of **Honduran** land rights activist and Goldman Prize winner Berta Cáceres drew attention to the vulnerability of indigenous leaders and the heightened risks faced by women. A report by Oxfam International found an increase in attacks against female human rights activists in **El Salvador, Guatemala, Honduras, and Mexico**.⁴¹ International recognition offers little protection to women defenders, who are often perceived as challenging accepted gender norms and sociocultural traditions. Their murders—as well as those of male activists—frequently remain unsolved, with government officials and companies sometimes complicit. The Honduran government refused to protect Berta Cáceres despite international scrutiny and an explicit request from the Inter-American Commission on Human Rights.

Global Witness has noted that, especially in Africa, governments and business elites tend to frame the work of land rights activists as a barrier to economic growth, even as communities are losing their livelihoods.⁴² Governments and corporations often treat local peoples as trespassers on the land that has sustained them for generations. In **Liberia**, the staff of Green Advocates—an NGO working to protect the land rights of impoverished rural communities against palm oil companies and other harmful investments—had to go underground after threats from police. This is the latest in a long history of intimidation and harassment against communities and their allies in Liberia.⁴³

In many cases, criminalization and violence against Indigenous Peoples and local communities occur in the name of conservation. Global estimates of the number of people displaced to make way for protected areas run into the millions, despite clear evidence that local communities are the best stewards of their lands.⁴⁴ And protected areas continue to expand: from 8.7 million square kilometers worldwide in 1980, to an area four times greater in 2014, and growing still.⁴⁵ This risk is likely to increase as countries work to meet the Aichi Biodiversity Targets, which call for establishing protected areas on more of the world's terrestrial and inland waters as well as coastal and marine areas.⁴⁶

In recognition of injustices committed in protected areas, the world's leading conservation organizations pledged with the 2005 Durban Accords to respect community land rights.⁴⁷ However, a 2016 report by the UN Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, found that conservation projects are still ignoring rights, driving conflict, and threatening long-term climate goals.⁴⁸ In December, the **Kenyan** Forest Service—which has a history of displacing Indigenous Peoples and burning homes in the name of conservation—served the Sengwer people an eviction notice and gave them only seven days to evacuate their community.⁴⁹

There is no doubt that combating the criminalization of environmental and land rights activists will require significantly more effort. Many activists—including Berta Cáceres and her colleague Nelson García—lived with the daily threat of violence until their murders, but refused to give in. In 2016, Indigenous Peoples and local communities across the world continued to fight for the protection of their customary homes, forests, and livelihoods in spite of the risks, and established new tools and approaches against the far-reaching effects of criminalization. In **Indonesia**, a new emergency fund managed by the National Committee for Agrarian Reform is providing victims of criminalization with grants of up to US\$5,000 to assist in urgent cases. The fund has already benefited 18,634 people by providing legal aid, medical and psychological support, shelter, relocation, and financial assistance for struggling families.⁵⁰

Breakthroughs to scale: Indigenous Peoples and communities make major gains in protecting their land rights

In 2016, Indigenous Peoples and local communities achieved breakthroughs in both the recognition of their rights and the security of the lands and resources they historically own. Indigenous and community efforts in **Cameroon, Indonesia, Liberia, Mali, Peru, and Panama** alone secured their rights to more than 300,000 hectares of land. This progress, which is on track to secure a total of 1 million hectares by mid-2017, was made possible

by direct financial support and technical assistance from the International Land and Forest Tenure Facility (the “Tenure Facility”). The Tenure Facility is the first and only funding mechanism that focuses exclusively on indigenous- and community-led efforts to secure lands through quick and flexible financing. Pilot projects, which all have a large focus on sharing lessons learned, are demonstrating the value of this community-led model.⁵¹

In **Indonesia**, for example, the Indigenous Peoples’ Alliance of the Archipelago (AMAN) secured almost 200,000 hectares of community forestland with support from the Tenure Facility. In total, the Indonesian pilot is on track to secure rights for more than 485 communities protecting over 1.9 million hectares of forest. Likewise, in **Peru**, the Sociedad Peruana de Derecho Ambiental and la Federación Nativa del Río Madre de Dios y Afluentes secured titles for five indigenous communities covering more than 80,000 hectares and enhanced security for the Indigenous Peoples Living in Voluntary Isolation (“uncontacted”) in a 1-million-hectare corridor of tropical forest.⁵²

Community organizations also successfully allied with civil society, academia, and other Indigenous Peoples’ groups in 2016 to advance their rights. In **Colombia**, alliances between Afro-descendant and Indigenous Peoples’ organizations lobbied for the inclusion of protections for their land rights in the peace agreement. There was also a groundbreaking victory in land titling: advocacy by community councils and analysis provided by Pontificia Universidad Javeriana enabled the Guacoeche Afro-descendant community to finally receive formal title to its collectively held lands. The Guacoeche title is the first claim to be granted anywhere in the Caribbean region of Colombia since 2012 and will hopefully be the first of many.

Across the **United States** and **Canada**, Native Americans also formed new alliances in 2016 to resist assaults on their lands. When the Dakota Access Pipeline was moved to Sioux territory to accommodate complaints from other Americans about potential water pollution, the Sioux were criminalized for raising the same objections.⁵³ In response, they linked with other Indigenous Peoples, environmentalists, and activist groups, including Black Lives Matter, to increase awareness of their plight.⁵⁴ Leaders of the Mesoamerican Alliance of People and Forests traveled to Standing Rock in the United States to show solidarity with the Sioux.⁵⁵ And it was the efforts of members of the Sámi Parliament of **Norway**—using evidence provided by a Navajo lawyer—that caused Norway’s largest bank, DNB, to divest from the pipeline.⁵⁶ Other investors are following DNB’s lead.⁵⁷ In December, the Obama administration denied a permit needed to move forward with the project and announced that it was exploring alternate routes, although there are concerns that President Trump will reverse this decision.⁵⁸

Finally, in 2016 communities resisted attempts to circumvent their rights through legal challenges and other redress mechanisms. In August, **Brazil's** federal environmental agency denied a license for the construction of the São Luiz do Tapajós dam on the Tapajós River, which threatened to flood the customary lands of the Munduruku people. The Munduruku fought the project for more than five years with support from NGOs such as Instituto Socioambiental and attorneys from the Federal Prosecutor's Office. The dam would have been the first—and largest—of seven proposed dams in the Amazon.⁵⁹

In **Peru**, the indigenous Shipibo community in Santa Clara de Uchunya in the Amazon fended off Plantaciones Pucallpa SAC, an oil palm company that was clearing customary forests without community consent. The Shipibo allied with regional Indigenous Peoples' organizations, NGOs, and legal aid organizations, including Federación de Comunidades Nativas del Corrientes, Instituto de Defensa Legal, Forest Peoples Programme, and the Environmental Investigation Agency, to engage the media and file a complaint with the Roundtable on Sustainable Palm Oil (RSPO) and the London stock market. Both the Peruvian government and the RSPO ordered the company to stop operations, which it eventually did. The company also withdrew from the RSPO in October and can no longer capitalize on the increased profits that come with certified palm oil.⁶⁰ With another 1.4 million hectares earmarked for oil palm development in Peru, it is likely that similar conflicts will arise in the future.⁶¹

Despite the grim situation on the ground in many countries for activists, mobilization continues: women, Indigenous Peoples, and local communities are tapping into new tools, supporting institutions, and a more interconnected digital world. The International Criminal Court's 2016 announcement that environmental destruction and land grabs can now lead to charges of crimes against humanity opened another potential window for community efforts.⁶² Increasingly, communities are using these mechanisms to ensure that their messages are heard—and that rights violators are brought to justice.

The public finance lever: Development finance institutions emerge as potential leaders on community land rights

Development finance institutions (DFIs) have been grappling with land rights issues for many years, but 2016 saw them emerge as promising drivers of tenure security and community land rights. DFIs—such as the International Finance Corporation (IFC), the European Investment Bank (EIB), the UK's CDC Group, and Germany's Deutsche Investitions- und Entwicklungsgesellschaft mbH (DEG)—are impact investors who in addition to obtaining a financial return seek to serve the public good in developing economies.⁶³

DFIs play an instrumental role in formulating and implementing international best practices on social and environmental diligence (such as the IFC's Performance Standards);⁶⁴ have leverage over the activities they fund; and provide an entry point for local and regional organizations seeking to follow best practices for respecting local land tenure.⁶⁵

In the past, DFI efforts on land rights have often been isolated, limiting their influence on tenure diligence. In recent years, however, these institutions began to realize the many benefits of respecting community land rights and scale up their efforts to implement and improve on best practices for tenure. This potentially heralds a significant shift in the financial architecture toward respecting tenure rights.

In 2016, we saw this combination of experience and expertise—coordinated through initiatives like the Interlaken Group—drive increased recognition of local tenure in land-based investments. The Interlaken Group is an informal network of leaders from influential companies, investors, CSOs, governments, and international organizations working to expand private sector action to secure community land rights.⁶⁶

In particular, some DFIs are now actively:

- **Sharing and improving best practices and tools to support them.** In 2016, DFIs demonstrated increased attention to the United Nations Food and Agriculture Organization's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT). For example, EIB, CDC Group, and Proparco are assessing whether their portfolios meet the guidelines laid out in the VGGT.⁶⁷

Through the Interlaken Group, DFIs are developing strategies to comply with the guidelines, mitigate land tenure risk, encourage respect for land rights in investment processes, and improve environmental and social due diligence. In 2016, EIB also organized an internal seminar to discuss the work of the Interlaken Group, including its guide on VGGT compliance, while CDC Group hosted a DFI seminar on land rights.

- **Sharing their implementation experiences and learning.** DFIs are also beginning to share their experiences respecting land rights in challenging conditions. For example, CDC Group shared insights and lessons learned from investing in the Feronia palm oil plantation in **DRC**. Similarly, IFC is discussing protocols to ensure the security of community members who

lodge complaints.⁶⁸ It is also working with leading agribusiness company Olam on a project in **Gabon** that aims to achieve high social and environmental standards performance.⁶⁹ Communicating stories of improvement is an important contribution to the discourse around a problem that is well understood, but whose solutions are not.

- **Commissioning and contributing to valuable research on specific problems for investors.** CDC Group and DEG published research in 2016 on legacy land issues, noting that these issues can create significant business risks and can diminish economic opportunities for local communities.⁷⁰ This research, and subsequent collaborative efforts, was vital in the development of the Interlaken Group's authoritative guidance of legacy issues.

There are three key reasons for the shift among DFIs. First, as public institutions whose governments have committed to the VGGT, DFIs must now assess how they will comply with and implement their governments' commitments. EIB, for instance, is coming under growing pressure from the **European Union** (EU) to verify its compliance.

Second, DFIs are increasingly aware that insecure or unclear land rights compromise their ability to deliver on development outcomes. DFIs sometimes act as late stage investors, joining deals after assets have been acquired and terms agreed on. Theoretically, government or private sector partners will have already conducted proper due diligence processes, but in reality they often fail to do so, threatening investments as well as local peoples' rights.

Third, the financial and reputational risks of ignoring tenure are high. In 2016, a **Kenyan** court halted the US\$150 million Kinangop Wind Park in response to local opposition. The project was funded partly by Norfund, the Norwegian development finance vehicle, along with Sydney-based Macquarie Group and South African asset manager Old Mutual Investment Group. Similarly, after the murder of **Honduran** indigenous activist Berta Cáceres, major development financiers such as FinnFund and FMO withdrew financial support worth US\$20 million for the dam Cáceres was protesting. The project is currently on hold, but has yet to be formally canceled by President Hernández.⁷¹

The new implementation gap: Companies are slow to implement commitments and change business models

Pledges made by major companies in previous years to clean up their supply chains—primarily through the New York Declaration on Forests and the Tropical Forest Alliance 2020—began to see the light of day in 2016.⁷²

Strong commitments from Unilever, Nestlé, Coca-Cola, PepsiCo, and other multinationals demonstrate the growing consensus that tenure conflict represents a threat to companies' reputations and bottom lines.⁷³ However, it has become clear that many are struggling to implement these commitments across their supply chains.

In 2016, leading producers recognized the changing attitudes of their buyers and financiers, and responded to the business case for tenure diligence. A report examining the agribusiness operations of Stora Enso Laos (SEL) in the **Lao People's Democratic Republic** found that SEL created a model of "village leasing" that recognizes community tenure rights and maintains a "social license to operate" with affected local communities as a way of preventing conflict.⁷⁴

Examples of promising practice offer much-needed evidence on how and why companies should invest in land responsibly. But many domestic actors in emerging markets have not heeded the call to respect land rights. Oil palm plantations—which account for a substantial portion of agricultural land grabs in recent years—remain a serious concern for Indigenous Peoples and local communities (Box 2).

Even for those companies making efforts to recognize community land rights, implementation is difficult. Most of the companies making commitments are large and well-known; their reputations, and therefore profits, might be at risk if they are exposed as human rights violators. However, it can be difficult to trace commodity supply chains—particularly in agriculture. Multinational buyers of commodities may not know exactly where their raw materials come from, let alone the social and environmental conditions in which they were produced.⁷⁵ The ability of multinational buyers to meet their commitments often hinges on whether they can clarify their supply chains and get buy-in from local and regional suppliers, who account for the majority of commodity production and market share. Local suppliers often have business models based on the unjust or insecure tenure systems that prevail in the developing world, and, as such, may be unable or unwilling to adhere to international requirements to respect rights.

As a result of traceability issues, companies like Coca-Cola and PepsiCo—who have committed to zero land grabs in their supply chains—have not always had a clear understanding of who to hold accountable. Both companies commissioned assessments of their progress in **Brazil**, where sugar plantations have a history of displacing Indigenous Peoples and local communities. The study found a significant gap between Coca-Cola's policies and the operations of its local suppliers, and that PepsiCo needed a better process to assess the risks of inequitable land acquisition. In October, PepsiCo committed to new principles for future assessments.⁷⁶

BOX 2

Palm Oil and the Violation of Community and Women's Land Rights in Liberia

Despite commitments to only operate with the consent of local peoples, palm oil giant Golden Veroleum Liberia (GVL) bulldozed sacred sites of the Blogbo people in Sinoe County and paid armed police to protect its oil palm plantation in 2016. When it reaches full size, the plantation will be one of the largest in the world and affect some 41,000 people.⁷⁷ Moreover, GVL accelerated its plantation expansion at the height of the Ebola outbreak, encouraging illiterate community members to sign away land rights in the absence of supporters and advocates who could not be present due to the outbreak.⁷⁸

Palm oil is forecast to replace iron ore as Liberia's leading export,⁷⁹ but the continued expansion of the industry may do more economic harm than good. The benefits communities obtain from their traditional lands—such as food, water, and raw materials—are four times greater than the value of the salaries and social services GVL promised to provide, which will benefit few community members.⁸⁰

A 2016 study found that Liberian women were particularly likely to be negatively affected by large-scale land acquisitions, including oil palm plantations.⁸¹ Many lost access to the forests, lands, and rivers that formed the basis for their livelihoods and sacred sites, and some faced forcible displacements. Compensation and jobs were scarce and did not make up for losing access to the resources that sustained them. While men faced similar problems, the impact on women was greater because they had weaker tenure rights in customary systems and were primarily responsible for their families' food security. Where women defended their land rights, they faced harassment, beatings, and even jail time. Organizations like Green Advocates—one of the groups that produced the report—faced systematic threats and harassment for supporting communities' land claims.

Such problems are not unique to Liberia, however; Latin America is also facing significant challenges from unscrupulous palm oil companies linked to a host of human rights violations in Guatemala and Peru.⁸²

New tools are emerging to help multinational corporations clarify their supply chains and get local suppliers on board. An initiative from the Stockholm Environment Institute and the Global Canopy Program called “Transparency for Sustainable Economies,” or TRASE, is poised to provide unprecedented supply chain transparency.⁸³ The IAN suite of products, developed by TMP Systems, can also help investors identify and manage tenure risk in their operations, enhance diligence, and engage with local peoples.⁸⁴ Finally, the Interlaken Group is working to create “pre-competitive” networks in select developing countries to mobilize the adoption of best practices and create sector-wide, locally practical solutions and business models. Work is underway in **Cameroon** and **Kenya**, and the Interlaken Group is appraising other countries, including **Cambodia**, **Colombia**, and **Liberia**.⁸⁵

During 2016, leading companies also engaged in efforts to implement and improve guidance on the VGGT. Nestlé, Unilever, and others are conducting formal inquiries into their operations, with Nestlé using the Interlaken Group’s guide as an entry point for this analysis. These efforts represent genuine intent to respect tenure as well as sustainable profitability.⁸⁶

Paris Agreement in limbo: Some governments show progress, while others stall reforms and actively roll back rights

The Paris Agreement was enacted in 2016, a huge step forward for our planet; 175 Parties signed it on April 22, allowing the Agreement to come into effect during the year.⁸⁷ **China** emerged as a potential leader amid concerns that President Trump will pull out of the Agreement and that others might follow.⁸⁸ But although community rights were widely promoted at the UN Climate Change Conference in Marrakech (COP 22) and mounting evidence highlighted the importance of respecting community rights, governments made few new commitments to support land rights.⁸⁹ Furthermore, most countries have failed to include secure community rights in their climate change mitigation strategies: only 21 of 188 countries—representing 13 percent of the tropical and subtropical forest area—included forest peoples in their Nationally Determined Contributions (NDCs) to the Paris Agreement.⁹⁰ The Green Climate Fund (GCF), which was created to respond swiftly to climate change with increased funding, bypassed civil society consultation and safeguards in a rush to approve projects in 2016. This resulted in high-risk investments, including a new dam in **Nepal** that threatens Indigenous Peoples’ lands.⁹¹

Many governments are also failing to respect rights in practice despite their commitments to international standards. In Cross River State, which is to pilot **Nigeria’s** REDD+ implementation,⁹² the government published a notice that

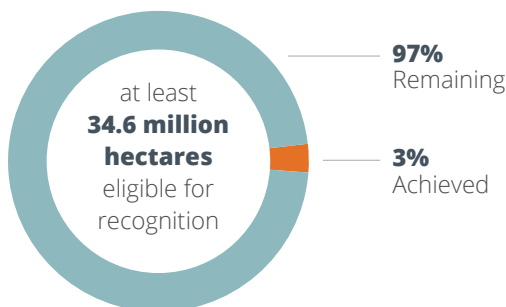
community forest rights were being revoked without due process, consultation, or consent for the construction of a superhighway. The 160-mile road will affect at least 180 communities, entail considerable destruction of the Ekuri community's ancestral forests, and cause irreparable damage to one of Nigeria's most biodiverse regions.⁹³ As investments in infrastructure increase worldwide,⁹⁴ so too do the high costs to local peoples and the environment.

In **Brazil**, which has been a leader in recognizing community land rights and reducing deforestation, political turmoil following the impeachment of Dilma Rousseff reawakened fears of rollback. Deforestation is now on the rise, with a series of new government threats to community land rights, including the proposed constitutional amendment PEC 215. This amendment would transfer land titling responsibility from Fundação Nacional do Índio (FUNAI), the Brazilian government agency that titled more than 191 million hectares for communities, to Congress, which has many members beholden to corporate interests.⁹⁵

In another of the world's most forested countries, **India**, the landmark 2006 Forest Rights Act (FRA) has been largely dormant for a decade. Over 200 million people could benefit from legally recognized ownership rights to more than 34 million hectares of forestland under the FRA, yet just 3 percent of the law's potential has been achieved (Figure 5), largely due to active opposition by the forest bureaucracy and a lack of political will.⁹⁶

FIGURE 5

Potential Recognition of Community Forest Resource Rights in India, 2007-2016



Source: Community Forest Rights-Learning and Advocacy. 2016. Promise and Performance: Ten Years of the Forest Rights Act in India.

There were some signs of progress by governments, however. In August, **Kenya** took a major step forward by passing the Community Land Act, which articulates procedures for formalizing community land titles. Under the law, investment agreements concerning community lands may only be made between investors and communities, and must follow a free and open consultative process. While this legislation represents an opportunity to secure community land rights, Indigenous Peoples are still being evicted in the name of conservation, and community rights are not being respected in the implementation of infrastructure and renewable energy projects.⁹⁷

In **DRC**, which is home to the world's fourth-largest carbon reservoir,⁹⁸ a landmark Ministerial Decree in February 2016 laid out guidelines allowing communities to apply for customary ownership rights over forest concessions of up to 50,000 hectares. In total, more than 70 million hectares of DRC's forests are now eligible for recognition as community lands,⁹⁹ but political instability could potentially threaten the reform process (Box 3). If implemented, the decree could be a significant step forward for both communities and climate change mitigation.

Senegal also took an important step forward in 2016, adopting a land tenure policy after extensive consultation with the land administration, local officials, the private sector, and civil society.¹⁰⁰ Civil society and farmers' organizations mobilized to promote the inclusion of community and farmer rights in the policy. As it moves toward implementation, policy makers are also strongly advocating for the inclusion of measures on land speculation, tenure disputes, and women's access to land.¹⁰¹ However, land conflicts have become common in Senegal in recent years,¹⁰² and the government is still struggling with how to reconcile securing rights with promoting investment.¹⁰³ Implementing the policy could help prevent these conflicts, ensure that Senegalese communities and farmers have secure rights, and promote investment and economic development.

The EU's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan also bore fruit in 2016. In September, **Indonesia** and the **EU** agreed to issue the world's first FLEGT timber license, delivering on a promise years in the making, and Indonesia shipped its first FLEGT-licensed timber in November.¹⁰⁴ FLEGT licensing could substantially reduce illegal logging, which has devastated communities and the environment for years. With these policies, benefits are starting to flow to forest communities in the **Central Africa Republic**, **Ghana**, and **Liberia** for the first time.¹⁰⁵ Ghana has had provisions in place for community benefit-sharing since 1998, but they were rarely implemented until FLEGT provided the opportunity to raise communities' awareness of their rights. Ghana is likely to export its first FLEGT-licensed timber in early 2017.¹⁰⁶

In another 2016 milestone, **Norway** became the first country to ban deforestation in government-funded activities, following through on a commitment it made at the 2014 UN Climate Summit. This pledge has the potential to create a global ripple effect on protecting the world's forests.¹⁰⁷

Around the world, government peacebuilding processes represent both an opportunity and a potential danger to community land rights. Research published by Forest Trends in 2016 found that fewer than 15 percent of the 800 peace agreements signed since 1945 address the ownership of natural resources, despite evidence that disagreements over resources are a major driver of conflict.¹⁰⁸ But research also shows that many of the strongest reforms to respect community land rights have taken place in the context of major countrywide reforms, including post-conflict periods.¹⁰⁹

One such opportunity is in **Mali**, where the 2015 peace agreement ended the armed rebellion in the north. While the agreement had no specific reference to tenure, it is widely recognized that tenure insecurity and weak natural resource management played a significant role in the conflict and must be addressed to ensure lasting peace and stability. In 2016, the Women's Network on Law and Citizenship began working with CSOs to develop an advocacy strategy to ensure that the tenure rights of local communities, women, pastoralists, and other marginalized populations are included in the peace and reconciliation process.



In another 2016 milestone, Norway became the first country to ban deforestation in government-funded activities, following through on a commitment it made at the 2014 UN Climate Summit. This pledge has the potential to create a global ripple effect on protecting the world's forests.

In **Colombia**, land grabs, insecure rights, and unequal land distribution exacerbated the 52-year civil war, which relied on seized lands as a key funding source.¹¹⁰ With two-thirds of the population lacking formal titles to their land,¹¹¹ respect for customary land rights is an essential building block for peace.¹¹² The Peace Agreement, approved by Congress in late 2016, includes provisions to protect the land rights of Indigenous Peoples and Afro-descendant communities. Although measures to further speed up recognition did not make it into the final agreement¹¹³ and there are concerns that the 2016 ZIDRES law gives companies a legal path to acquiring communities' customary lands, the post-conflict peacebuilding process remains a key opportunity to pursue the recognition of land rights.¹¹⁴

In **Liberia**, too, conflict over land and resources was a root cause of the civil war that ended in 2003.¹¹⁵ As many as 63 percent of violent conflicts in the country involved disputes over land,¹¹⁶ yet in 2016 the Liberian government again failed to pass the Land Rights Act, which was originally up for approval in 2014. The future of this legislation—which could set a precedent in West Africa by recognizing the land rights of communities without requiring titles—is uncertain.¹¹⁷ With the recent departure of the UN Mission in Liberia and uncertainty around the 2017 elections, there are fears that the Land Rights Act may fall by the wayside (Box 3).¹¹⁸ Justice for Liberia's forest communities in 2017 could lead the way for the entire region.

BOX 3

Instability, Elections, and Land Reform Processes

The politicization of land ownership can inhibit reform processes, especially those that are pro-community. This is particularly true in countries where elections are more strongly associated with instability than with peace. Lawmakers divert attention from reform to re-election, and urgent legislation is neglected in the frenzy of campaigning. New administrations may roll back the gains of more progressive predecessors, and elected officials may neglect land rights. CSOs and other stakeholders struggle to maintain advocacy efforts when faced with rotating policy makers, a phenomenon aptly described in French as *remaniement ministériel* (“ministerial reshuffling”). The breakdown of reform processes can lead to protests and even violence from citizens dissatisfied with a tightening democratic space and a loss of faith in the political process.

The coming year is likely to illuminate these challenges, particularly in Africa. There are concerns that the 2017 election in Kenya will compromise the prompt drafting of regulations for the groundbreaking Community Land Act, leaving community land susceptible to further abuse.

In DRC, political instability has stalled the land rights reform process that began in the world's second largest rainforest in 2012.¹¹⁹ In the last three years, the country has had three different Ministers of Land. While the reform process started to pick up again in early 2016, with great representation from civil society actors and Indigenous Peoples, recent political unrest has essentially put the process on hold until a new government is in place. President Joseph Kabila postponed elections that were supposed to occur in late 2016,¹²⁰ prompting protests in which more than 50 people died.¹²¹ On November 15, the Prime Minister and his government resigned as part of an agreement that would allow President Kabila to remain in power until new elections take place, currently scheduled for April 2018.¹²²



3

Priorities for Progress in 2017

Looking forward, international development actors see a world that is in many ways different, and much more challenging, than they anticipated even 12 months ago. The shocking rise of political nationalism and flouting of the global human rights regime may well continue in 2017. Yet one source of hope for our shared future is the very real possibility to make great gains in securing the land rights of 2.5 billion people who protect and conserve the forests, water, biodiversity, minerals, and ecosystems the rest of humanity depends on. The continued mobilization and ingenuity of communities and Indigenous Peoples worldwide can help lead us to a more peaceful and prosperous world.

Below, we identify six priorities for 2017 to capitalize on the progress that has been made to date, and reduce the risk of rollback and stagnation in the years ahead.

1. Ensure no rollback of Indigenous Peoples' and communities' land rights.

In Brazil, where the proposed Constitutional Amendment PEC 215 already threatens the great progress made on recognizing community land rights in the country, a new Ministry of Justice decree calls into question lands already recognized as indigenous-owned. If implemented, it could also threaten recognition of 600 territories moving through the recognition process.¹²³ A similar risk of rollback exists in Peru, Colombia, and other countries in Latin America, a region that has been a beacon of progress on community rights for the last three decades. With the rise of nationalist movements worldwide, a tightening democratic space in many countries, and growing competition over resources, there is a real risk of even greater rollback across the world. This threatens global political stability, as well as our climate. All efforts must be made by those dedicated to protecting the environment, mitigating the effects of climate change, and ensuring that human rights and Indigenous Peoples' rights are respected to ensure that this doesn't happen.

2. Strengthen indigenous and community organizations' ability to advance their messages and hold rights violators accountable through networking and strategic communications.

Local communities are increasingly the planet's front line of defense for both ensuring democratic accountability and protecting the natural resources we all depend on. In the face of weak government protections and rising demand for land and resources, secure community resource rights ultimately depend on the leadership and leverage of courageous local peoples. Strengthening the communications and networking capacities of Indigenous Peoples, local communities, and women's groups helps these groups to mobilize support, learn from one another, and hold public, private, and conservation actors accountable. NGOs, legal aid organizations, and donors need to increase direct support to communities and the tools they use to secure their rights and combat criminalization, such as the early warning systems established by AMAN in Indonesia and the Sustainable Development Institute in Liberia.¹²⁴

3. Support Indigenous Peoples' and communities' efforts to develop and defend their own forest management and enterprise models.

A significant number of development finance institutions and multinational companies have emerged as potential leaders on the land rights scene, but on the whole they still need to alter their business models to respect local land rights and ensure accountability in their supply chains. Those who have begun to incorporate "tenure risk" into their investments should encourage their peers and business partners to do the same, but such measures on their own do not go far enough.

Companies need to consult with local peoples to develop new rights-respecting business models that reflect communities' development goals. As the first line of defense against political, market, and climate-related threats, the management and enterprise models that work best for communities are certain to be best for sustainable and equitable development. Such models can ensure that investments in development actually deliver on their promises to lift up the world's poorest and most marginalized and respect their self-determined development initiatives.

This shift will only happen with rigorous adoption of the VGGT, UN Declaration on the Rights of Indigenous Peoples, and other international standards. An early step in this direction is private actors and communities working together to establish "communities of practice" that support indigenous- and community-led development and business models.

4. Accelerate the recognition of rights on the ground by consolidating and connecting the existing platform of tenure-related instruments.

In 2016, communities secured rights to at least 400,000 hectares of their customary lands.¹²⁵ In 2017, the tenth anniversary of the United Nations Declaration on the Rights of Indigenous Peoples, communities can secure at least another five million hectares with the effective mobilization of existing tools. Once consolidated and connected, these tools—which include the Tenure Facility, Interlaken Group, MegaFlorestais, LandMark Map, and the Land Rights Now initiative—will strengthen the capacities of communities and their allies to act; encourage governments and the international community to prioritize tenure reforms; trigger private sector action to respect community land rights; and build trust between unlikely allies to design and implement path-breaking solutions.

5. Mobilize greater effort by the private sector to secure community land rights as a way to minimize business and climate risks.

With the recognition that current NDCs to the Paris Agreement will collectively fail to limit global warming to two degrees above pre-industrial levels, countries urgently need to make 2017 a pivot year for climate actions that substantially curb emissions and conserve and enhance greenhouse gas sinks and reservoirs.

But government efforts to prevent the climate crisis remain wholly insufficient. To date, few countries have included community rights and community-based actions in their climate strategies, despite mounting evidence that securing the land and forest rights of Indigenous Peoples and local communities represents our best hope of protecting and enhancing the world's terrestrial carbon sinks.

In the face of governments' failure to capitalize on this cost-effective solution to climate change, leadership and action by investors like the DFIs, the GCF, and private philanthropic individuals and foundations becomes even more critical. Securing community land rights is in these actors' self-interest, as mounting tenure and climate risk threaten their own investments, supply chains, and businesses.

6. Prioritize women's rights to community land and forests, promote recognition of their role in forest management, and champion their political leadership across the developing world.

The exodus of men from many forest areas for work in cities and other countries means that women have become the political leaders and de facto managers of many community forests. Women as forest stewards is increasingly a global phenomenon. Yet, we know that the legal, social, and cultural support necessary for women to take on these leadership roles is absent or weak in most countries.

Given the central role of Indigenous Peoples' and communities' forests in saving the climate and sustaining natural resources across the globe, equal rights for women have become a practical, as well as moral, imperative.

New research by the Rights and Resources Initiative, to be released in 2017, will provide a baseline for the recognition of women's community-based forest tenure rights in the national laws of 30 lower- and middle-income countries containing approximately 78 percent of the developing world's forests. This analysis will allow us to monitor the progress of developing countries in statutorily protecting women's rights to collective forests, and will help clarify the implementation gaps between statutory law and the lived experiences of women. This research is a key step in raising global awareness and action to ensure that women have equal rights and protections—in law and in practice—in community tenure systems worldwide.

Everyone wants a secure place in this world. The desire for a secure home was a key driver in many of the global shocks of 2016: rising populism, refugees fleeing their homelands, and environmental activists' increasing willingness to risk their lives for secure property rights. For 2.5 billion people, the fundamental human need for a secure place in the world remains unfulfilled. Scaling up support for their struggle for rights is essential to achieve a more peaceful and prosperous world for us all.

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