Looking for Leadership

New inspiration and momentum amidst crises

Rights and Resources Initiative
Annual Review 2014–2015

RIGHTS + RESOURCES

THE RIGHTS AND RESOURCES INITIATIVE

RRI is a global coalition of 14 Partners and over 150 international, regional, and community organizations advancing forest tenure, policy, and market reforms. RRI leverages the strategic collaboration and investment of its Partners and Collaborators around the world by working together on research, advocacy, and convening strategic actors to catalyze change on the ground.

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AT A GLANCE:

RIGHTS AND RESOURCES 2014-2015

2014 was a year in which many citizens around the world lost hope and trust in conventional leaders' abilities to solve national and global challenges. Governments were increasingly polarized—and seemingly paralyzed—in the face of growing inequality and entrenched poverty; environmental agencies watered down social and environmental regulations to attract more international investments despite the growing social and political unrest over land grabs; murders of environmental and land rights activists rose across the globe; the World Bank proposed weakening its social and environmental safeguards, forfeiting 40 years of leadership and rushing the sale of carbon, placing communities' rights at risk; and the UNFCCC negotiators in Lima once again failed to reach an agreement that addresses the climate crisis. The credibility of the world's conventional leaders and institutions, which were set up to advance development, democracy, and human rights, crumbled and crashed in 2014. The world and its millions of local and marginalized people urgently need better.

Fortunately, 2014 was also a year in which new, often surprising leadership emerged amidst the wreckage and began to offer inspiration and solutions at scale. From Canada to Papua New Guinea, courts upheld constitutional and international commitments to respect local communities' and Indigenous Peoples' land rights, showing that judicial systems are increasingly beacons of hope for all who care about secure property rights.

Also showing leadership were certain enlightened corporations, which recognized the legitimacy of local rights and the need to find common ground with the true owners of the resources they need. Likewise, development donors made new and unprecedented financial commitments to support the recognition of forest land rights.

Driving all of these shifts were stronger and more effective community and indigenous organizations, whose key role in protecting their forests from destruction and climate change seems to have been finally recognized. All told, despite the tragic murders of many community leaders and an increase in local conflict, the events of 2014 brought new momentum for securing land rights and protecting the world's forests—a welcome change after years of slowdown in the recognition of local rights.

The big questions for 2015 will be: can these unconventional leaders catalyze action on climate change, the widespread recognition of indigenous and community forest land rights, and the implementation of rights-respecting business models? Will conventional leaders join in this momentum, spurring governments like Indonesia, Peru, and those in Central Africa to deliver on their commitments to advance tenure reform? And finally, will the World Bank, which has the chance to reverse course in 2015, choose to maintain its safeguards, protect communities and Indigenous Peoples' rights to carbon, and become a preferred ally of local peoples?

2015 is potentially a pivotal year for the world to finally fully respect the rights of forest peoples. And in doing so, protect the future for us all.

DEDICATION

This report is dedicated to the families and community members of the land rights activists who lost their lives in 2014.

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ACRONYMS

AMAN	Indigenous Peoples' Alliance of the Archipelago (Indonesia)
APP	Asia Pulp & Paper
BRICS	Brazil, Russia, India, China, South Africa
DRC	Democratic Republic of the Congo
FECOFUN	Federation of Community Forest Users, Nepal
FCPF	Forest Carbon Partnership Facility
FPIC	free, prior, and informed consent
G8	Group of Eight
HA	hectares
KFS	Kenya Forest Service
LMICs	lower and middle income countries
NGO	non-governmental organization
OECD	Organisation for Economic Co-operation and Development
REDD+	Reducing Emissions from Deforestation and Forest Degradation
RRI	Rights and Resources Initiative
SDGs	Sustainable Development Goals
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
US	United States of America
WRI	World Resources Institute
WWF	World Wildlife Fund

PART ONE

1 New Leaders Emerge as Conventional Leaders Wane

Global governance is not delivering for citizens, nor is it solving ongoing global climate, inequality, and human rights crises. Corruption and limited access to justice continue to characterize many rural areas. Governments continue to promote deforestation despite pledging to stop it. Aging international institutions such as the World Bank no longer inspire or deliver.[1] The global financial crisis and continuing economic slowdown deprive governments of money to "fix" problems, while the belief that globalized free trade will benefit all is proving ill-founded. Income inequalities are growing globally, and, according to a 2014 OECD report, these inequalities are damaging economic growth.[2] While trust in governments is faltering, global corporations are seen as omnipotent and often unaccountable—with many neither paying taxes nor abiding by environmental or social norms.

Figure 1 demonstrates this crisis of trust in traditional leadership, providing a global comparison of public perception of leadership across various sectors culled from respondents across the globe.[3] Non-profits and charities score the highest level of confidence at 5.53 out of 10. Business scored just ahead of international organizations (4.72 and 4.62, respectively), and governments came in second to last at just 3.83.

Figure 1 Which sector is the most trusted for its leadership?

Source: World Economic Forum. 2015. Outlook on the Global Agenda 2015.

Box 1 Responses to the key questions of 2014

Will private-sector investors engage more widely and become part of the solution?

Yes, in part. Some in the private sector are on the right path. Nestlé's analysis of its supply chains and Stora Enso's human rights assessments of its plantations are good examples.[a] A host of other major consumer goods corporations made commitments in 2014 to end their roles in deforestation by eliminating the purchase of palm oil grown on recently deforested land from their supply chains by 2020.[b] A significant step forward, but far too slow for many people. The questions now are whether corporate leaders will speed up and implement commitments much faster; whether they will use their political power to influence governments; and whether more corporations, the laggards, will come on board in 2015.

Will land rights feature strongly in the post-2015 Sustainable Development Goals?

Not strongly enough, or not yet anyway. The process of developing the Sustainable Development Goals is still underway. The current draft contains several targets on land, but without specific reference to customary, collective land rights, or to the need for local land rights to be secure. Better targets, indicators, and baselines on community land rights are urgently needed.

Will conservation agencies and advocates commit to respecting land rights at the World Parks Congress?

They did—somewhat. Positive commitments were made at the Congress; however, concrete action and accountability lag far behind. This lack of follow-through was nowhere clearer than in the Chure region of Nepal, where the government declared a conservation area in June 2014 without consulting the five million people living in the region. This happened despite ample evidence that forest peoples, not governments, are the best stewards of nature (Box 2). The active support of international conservation organizations in the Chure action—and the failure of the World Parks Congress to address the issue of the continuing "green grab"—shows there is still a long way to go in translating rhetoric to practice.

Will Peru address domestic land rights in the year it hosts the international climate negotiations?

Not really. Progress in Peru has been mixed and ultimately tragically inadequate. The culture ministry made commitments to protecting Indigenous Peoples in isolation;

Box 1 *continued*

the environment ministry liaised with indigenous leaders in preparation for the climate conference; and the new forest service promoted the recognition of rights and community forestry. However, the limited response to the murder of four forest activists (Box 3), and the continued persecution of Indigenous Peoples in Bagua Province, paint a different picture.

The Peruvian government continues to support economic drivers of deforestation and to undermine Indigenous Peoples' efforts to protect their forests. About one-third of the hydrocarbon concessions in Peru overlap with land occupied by indigenous communities; overall, more than 40 percent of the country has been handed over to outside investors. Peru's national congress fast-tracked procedures for transferring land to investors and "simplified" environmental permitting.[c]

Will REDD+ and carbon-rights regimes finally support local land rights, or instead end their progress?

The signs are not good. In 2014, the World Bank Forest Carbon Partnership Facility's Carbon Fund approved a methodological framework for purchasing emissions reductions from developing countries that will inevitably impinge on other rights, and it did so without taking on the recommendations by NGOs to protect or promote community rights. The same logjam emerged in talks on REDD+ at the Lima climate conference, where some heavily forested nations blocked safeguards to protect the rights of forest peoples.

[a] See Boxes 4 and 5 for details.

[b] United Nations. 2014. Forests: Action Statements and Action Plans. UN Climate Summit 2014.

[c] Forest Peoples Programme. 2014. Selling off our forests is a business for the Peruvian government; Responding to Climate Change. 2014. RTCC: Environmental concerns as Peru cuts red tape for mining.

An important element of this crisis in conventional leadership is governance of the world's vital natural resources, including forests, land, and water. These resources are particularly subject to exploitation by powerful, government-supported actors, depriving rural communities of their most important assets. These communities have lost faith in the ability of governments and corporations to manage natural resources on their behalf. Resource conflicts are growing, and therefore, resource insecurity is on the rise for all parties.

As a Chatham House report put it in 2014: "Concern about the accessibility of resources, rather than physical scarcity, is the primary driver of resource insecurity."[4] This insecurity is driving a grab for resources without community consent. Governments continue to promote deforestation in the name of commercial development. Laws enacted in the European Union and the United States to ban imports of illegal timber are yet to be enforced effectively.[5] It emerged this year that the G8's 2012 "New Alliance for Food Security and Nutrition Initiative," which aims to increase foreign agricultural

investment, is encouraging African governments to lease customary land to commercial investors and extraction companies, often from abroad.[6]

Meanwhile, a 2014 World Bank review of policies proposed weakening social and environmental safeguards on its loans as part of a strategy aimed at maximizing investment opportunities. The Bank's own internal advisers warned, however, that the strategy would increase the number of "problem projects."[7] And the African Union's human-rights commission also warned that its implementation could be "a major setback [for the] recognition and protection of Indigenous Peoples" on the continent.[8]

The successful—not to mention equitable—management of natural resources requires the consent of and respect for local peoples. The recognition of this, and the call for a new approach, now extends far beyond local communities.

Researchers warn that conflicts with communities over land, forests, and water are an increasing hazard for resource-intensive industries. A study

Box 2 Research backs green benefits of community leadership

Some myths are hard to break. One such myth is that the biggest destroyers of forests are their inhabitants. This is rarely true. Most of the time and in most places, the best way to secure forests is to ensure that the people who live in them, and who depend on them most, have full legal title to them—as well as the ability to exclude others and to fully manage the natural resources found there.

A joint study by RRI and the World Resources Institute (WRI) in 2014, which explored a range of forest governance models, concluded that strengthening local rights to forests is not just good for communities, it is also the best option for preserving forests and mitigating climate change.[a] The study, which reviewed 130 studies in 14 countries, found that deforestation rates inside community forests are usually dramatically lower than in other forests. The star exhibit is Brazil: since 1980, the government there has created about 300 indigenous territories—covering one-fifth of the Amazon—where communities have the right to use their forests for their own needs and to exclude outsiders. The deforestation rate in those indigenous territories is 0.6 percent per year, compared with seven percent in the rest of the Brazilian Amazon. The study also found that the rate of deforestation in community forests compared with those outside is six times lower in Bolivia, 20 times lower in the Petén, Guatemala, and 350 times lower in the Yucatán Peninsula, Mexico.

Communities and Indigenous Peoples are more concerned about the future, and are more inclined to take a long-term view, than either the state or the private sector. As WRI president Andrew Steer put it: "If you want to stop deforestation, give legal rights to communities."

[a] Stevens, Caleb, Robert Winterbottom, Jenny Springer, and Katie Raytar. 2014. Securing Rights, Combating Climate Change. Washington DC: World Resources Institute and Rights and Resources Initiative.

Box 3 Murdering the stewards: Assassinations of land defenders on the rise

Globally, murders of environmental and land-rights activists are on the rise. According to Global Witness, 900 activists have been killed since 2001. Brazil, Honduras, the Philippines, and Peru are the four most dangerous countries.[a]

In one of the highest-profile assassinations of 2014, indigenous leader Edwin Chota and three fellow campaigners were murdered while walking across the Peruvian border to Brazil, probably by the illegal loggers they had been trying to stop. Chota and his Asháninka community of Saweto were on the verge of an agreement under which they would become the first local Indigenous Peoples to gain formal title to their lands.[b]

In the Philippines, two activists who opposed mining and banana plantations—Arnel Taduya and Tony Bago—were shot dead within weeks of each other after being accused of belonging to a rebel group, reportedly by a battalion of the Philippine army.[c]

Rigoberto López Hernández campaigned to shut an iron-ore mine that had taken farmland and destroyed springs used by his community in El Níspero in the mountains of western Honduras. In May, the police and military broke up a blockade he had organized on the highway to the mine and, shortly after, he was found with his throat slit and his tongue cut out.[d]

Jesús Quinto, a Colombian land-rights activist, was being protected by government agents after receiving death threats. One day in April, however, the agents did not show up, and hit men shot him when he stepped outside his house. Quinto was the leader of a movement demanding the return of land in Caricaro, close to the border with Panama, to the country's large Afro-Colombian community.[e]

Taing Try was a Cambodian journalist investigating illegal logging. He was shot dead in October while on assignment at a logging site in Kratie Province, trailing the nighttime transportation of logs. His assailants appeared to be military police who were protecting the operation.[f]

In early December, the body of José Isidro Tendetza Antún, an Ecuadorian campaigner against the Mirador copper mine planned in the forest home of the Shuar Indigenous Peoples, was found battered, trussed, and buried—just days before he was due to take the campaign against the mine to the Lima climate conference.[g]

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[a] Global Witness. 2014. Sharp rise in environmental and land killings as pressure on planet's resources increases – report. London: Global Witness.

[b] Amazon Watch. 2014. Peruvian antilogging activist Edwin Chota killed; Hill, David. 2014. Assassinations in the Amazon: How will Peru respond? The Guardian.

[c] Asia Human Rights Commission. 2014. Two activists killed for opposing mining and banana plantations.

[d] Rights Action. 2014. Brutal, public murder of anti-mining, community and environmental defender in Honduras.

[e] BBC Mundo. 2014. Colombia: Matan a activista que pedía restitución de tierras.

[f] BBC News. 2014. Cambodia arrests three after logging journalist killed.

[g] Watts, Jonathan and Dan Collyns. 2014. Ecuador indigenous leader found dead days before planned Lima protest. The Guardian.

by The Munden Project covering 73,000 private-sector concessions for mining, logging, hydrocarbons, and agriculture in eight tropical forested countries found that 93 percent of the concessions were inhabited by local communities, including Indigenous Peoples.[9] The study also showed that approaches aimed at achieving economic development through resource grabs for the large-scale supply of global commodity markets and extractive industries are doomed to fail.[10]

Some corporations recognize that they have a strong interest in resolving disputes over land and other natural resources. Mark Bowman, the Africa managing director of SABMiller (one of the main corporate supporters of the G8's New Alliance for Food Security and Nutrition Initiative), said, in 2014: "Land purchases which ignore the interests of local communities … are both morally wrong and commercially short-sighted."

In this annual review we report on the examples of leadership that are emerging around this new consensus on the importance of community land and resource rights. They are being seen from Indigenous Peoples, local communities, courts, corporate boardrooms, and elsewhere. These signs of leadership are emerging from the void created by the failure of conventional forms of governance.

In the coming months, new leaders will need to step even further forward. The promises made by many corporations in 2014 for a supply-chain revolution to legitimize their activities will lose credibility if they are not swiftly matched by actions to end land grabs. On climate change, a global deal in 2015 must place secure land rights at the center of action to protect forest carbon stores.

Land rights are no longer simply an issue of social justice or local development. Secure land rights are linked to democratic legitimacy, economic prosperity, and environmental sustainability at local, national, and now even global scales. It is increasingly clear that secure land rights and strong local voices are required to deliver global solutions.

PART TWO

2 State of Forest Tenure Rights in 2014: The Rush for Carbon

There is growing global agreement that securing local land rights is essential for fighting climate change because local people protect forests—and the carbon they contain—when they have secure rights and government support. In 2014 it was estimated that community forests contain 37.7 billion tons of carbon, equivalent to 29 times the annual emissions of all passenger vehicles worldwide.[11] This growing recognition of the importance of local land rights was reflected in numerous commitments made by governments, private sector actors, and donors in 2014, despite a recent slowdown in the recognition of community rights to forest lands and amid growing concern that REDD+ initiatives have so far failed to catalyze tenure reforms.[12]

A major worry moving into 2015 is the methodological framework adopted by the World Bank's Forest Carbon Partnership Facility (FCPF), which enables the purchase of carbon emissions reductions from developing countries. This framework creates new carbon property rights that can be purchased and transferred separately from other forest rights, thereby threatening the existing customary and statutory rights of Indigenous Peoples and local communities. The concern is amplified because the FCPF's Carbon Fund is preparing to buy carbon emissions reductions from countries with legal systems that are not sufficiently robust to protect customary rights or prevent conflict due to overlapping claims on forest land.

> The inevitable conclusion is that many of these carbon "ready" countries are actually far from ready for the reality and certain complexity of carbon transactions.

RRI's global forest tenure dataset of 34 lower and middle income countries (LMICs) includes eight of the 11 countries selected by the Carbon Fund as "ready" for pilot projects. Carbon Fund selection is based on submission and review of Emission Reduction Project Idea Notes (ER-PINs). The eight countries are: the Democratic Republic of the Congo, Costa Rica, Mexico, Nepal, Republic of the Congo, Vietnam, Indonesia, and Peru.[13] Our assessment reveals that—in the aggregate—the eight LMICs in the Carbon Fund "pipeline" have half as much forest owned by communities as compared

with the 26 other lower and middle income countries RRI examined. Similarly, the extent of forest land classified as designated for communities is only two percent, a quarter of the total for non-Carbon Fund countries (Table 1). The proportion of government-administered forests is also significantly higher in many of the pipeline countries: for example, 100 percent of forests in the DRC, and 96 percent in Indonesia, are government-administered.

Table 1 Percentage of forest land in different tenure categories

	n	Government-administered	Designated for Indigenous Peoples and local communities	Owned by Indigenous Peoples and local communities
Carbon Fund Countries	8	79 percent	2 percent	14 percent
Non-Carbon Fund Countries	26	55 percent	8 percent	28 percent

Note: Table 1 reflects the aggregate figures for forest land in the countries in the sample.
Source: RRI. 2014. What Future for Reform? Progress and Slowdown in Forest Tenure Reform since 2002.

The relatively limited recognition of community rights to forests in the pipeline countries indicates the problem that national legal systems recognizing forest land rights in these countries are weak. Seven of the 20 laws governing forest rights in these eight countries do not recognize local communities' and Indigenous Peoples' right to refuse another individual, group, or entity access to or use of their land.[14] Likewise, eight of the 20 do not recognize the rights of due process or compensation in cases where the government seeks to extinguish local rights (Table 2).[15]

Table 2 Status of rights to exclude and due process in 8 Carbon Fund countries

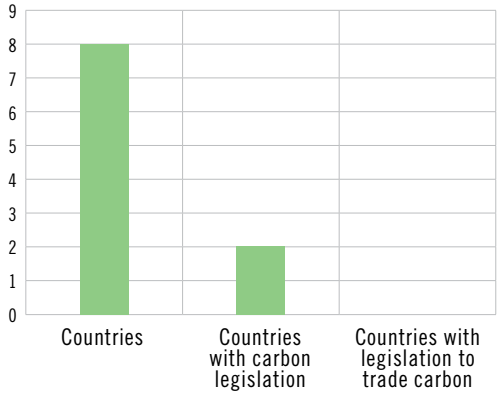
	Total Laws	Do Not Recognize	Percent
Right to Exclude	20	7	35
Right to Due Process	20	8	40

Source: RRI. 2014. What Future for Reform? Progress and Slowdown in forest tenure reform since 2002.

For example, Indonesia's 2007 Kemitraan law on the rights of local communities does not recognize their right to exclude outsiders from their lands, nor does it allow for communities to challenge any government efforts to extinguish, alienate, or revoke their land rights.[16] Likewise, there is a lack of government commitment to resolve Indigenous Peoples' land claims and provide protection against intruders—such as illegal loggers—in Peru.[17] In the

DRC, legislation passed in 2002 creating local community forest concessions has not yet been implemented (although there was some movement in 2014—see Part Three). The DRC's Climate Fund project for Mai Ndombe is going ahead despite a lack of data on, and analysis of, the existing tenure arrangements of 1.9 million people.[18]

Figure 2 **Carbon Fund countries in this review**



Source: RRI. 2014. Status of Forest Carbon Rights and Implications for Communities, the Carbon Trade, and REDD+ Investments.

Limited recognition and weak legal frameworks mean that the Carbon Fund pipeline countries are unprepared to move forward with the sale of emissions reductions. Indeed, the danger of moving forward with the sale of carbon is perhaps best exemplified by the fact that only two of the Carbon Fund pipeline countries, Guatemala and Mexico, have legislation defining tenure rights over carbon. None of the countries reviewed have legal rules for determining how carbon savings should be traded.[19]

The inevitable conclusion is that many of these carbon "ready" countries are actually far from ready for the reality and certain complexity of carbon transactions. To avoid significant risk to existing community forest rights and the associated increase in rural poverty and conflicts, stronger forest governance and robust and secure community forest rights should be a precondition for any World Bank Carbon Fund projects.

PART THREE

3 2014 in Focus: Leadership Amidst Crises

Community leadership changed the political climate in 2014, and so did judges, constitutionalists, and legislators in some countries. Most surprisingly, corporate leadership grew more vocal—and more believable. Concerned about their corporate reputations, and with hard-headed realism about the financial risks created by climate change, poor governance, and insecure local land rights, some corporations genuinely want to tackle deep-seated problems in their operations and business models.

Judges: Community and Indigenous Peoples' rights find new recognition in courts

Constitutionally and legally, land and forest rights progressed well in 2014. In the vacuum created by the lack of political leadership, judges took the lead in enshrining the rights of communities, and legislators passed laws attending to the rights of communities over their lands. Canada's Supreme Court granted title to 1,750 km^2 of British Columbia to the Tsilhqot'in First Nation. This was the first time the Court had granted Aboriginal title to a specific parcel of land, and the decision established a significant legal precedent for other unresolved First Nation land claims that a new generation of leaders is taking up.[20] In July, Clarence Innis, acting chief of the Gitxaala, challenged plans to route the Northern Gateway pipeline through his people's lands. In September, law graduate Constant Awashish, the young grand chief of the Atikamekw, declared Atikamekw sovereignty over forests in Quebec, challenging plans to open up northern Quebec to mining.[21]

In another long-standing case, Paraguay's Supreme Court rejected calls from ranchers to overturn a government decision returning 14,000 ha of Chaco forest to the Enxet people of Sawhoyamaxa—eight years after the Inter-American Court on Human Rights called for the handover.[22]

> Many of the positive actions by courts, corporations, and others have only come about because of the courage and growing voice of local leaders.

In Colombia, a legal tribunal ordered 11 companies, headed by South Africa's AngloGold Ashanti, to vacate a 50,000 ha reserve in the northwest of the country. The judges annulled all titles and concessions granted to the companies and reinstated the traditional owners, the Embera Katio people.[23] Days later, President Juan Manuel Santos signed a decree giving Colombia's 95 indigenous communities greater autonomy over resources such as water and independence from municipal authorities. The decree formalized a right that is enshrined in the country's 1991 constitution but previously was unimplemented.[24]

Meanwhile, the Chilean Supreme Court sided with the Diaguita people to repel the world's largest gold-mining company, Canada's Goldcorp, from their lands, overruling a lower court by halting work at the company's El Morro mine.[25] Chilean courts also halted the development of Barrick Gold's Pascua-Lama gold mine on the Argentine border after Diaguita leaders complained about contamination of their water supplies.

In another bright spot in 2014, the Supreme Court of India declared illegal more than 200 coal-mining licenses—including every license issued since 1993.[26] The court ruled that the licenses had been sold too cheaply and often corruptly, without proper bidding or community consent.

In a show of political leadership, lawmakers in El Salvador made a crucial step forward. The country's legislative assembly amended its constitution to "recognize Indigenous Peoples," who make up one-tenth of the population, and to "adopt policies to maintain and develop their ethnic identity." The UN Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, called this amendment a "crucial step."[27]

Lastly, Cambodian victims of land grabs took their case to the International Criminal Court in The Hague, alleging that the Cambodian government's land policies—which benefit members of the ruling elite and are characterized by murder, illegal imprisonment, and persecution—amount to a crime against humanity. Since 2000, the equivalent of more than 70 percent of Cambodia's arable land has been leased to companies supplying sugar, rubber, and other commodities to international markets.[28]

Corporations: More commitments and examples of real leadership on the ground

A new norm of corporate governance may be emerging from the wreckage of the global financial crisis. Numerous companies involved in land exploitation through forestry, mining, and agriculture are starting to go beyond the box-ticking of "corporate social responsibility." Such companies are pursuing business strategies that minimize the risk to their balance sheets and supply chains posed by disputed tenure, social conflicts, and environmental debacles. They are also recognizing that, in many places

where they operate, their financial and political power far outstrips that of governments and, therefore, they are in a position to leverage such power to effect change.

On the environmental side, extractive industries and banks are growing concerned that, as controls on carbon emissions tighten, expensive fossil-fuel assets like coal mines could become liabilities. In 2014, the Governor of the Bank of England declared that the "vast majority of [fossil-fuel] reserves are unburnable" if global warming is to be kept below two degrees.[29]

Many companies are pursuing business strategies that minimize the risk to their balance sheets and supply chains posed by disputed tenure, social conflicts, and environmental debacles.

Tracking of 92 major banks—including JPMorgan Chase, Citi, RBS, and Barclays—revealed that they provided US$500 billion for coal investment between 2005 and 2013, reaching an all-time high of US$88 billion in 2013.[30] But more than 340 other major institutional investors—including Scandinavian pension funds AP4 and PKA, US insurer TIAA-CREF, the Dutch bank ASN, and European asset manager Amundi—are leading the way in dropping carbon-linked investments, announcing plans to "decarbonize" their investment portfolios.[31]

In another sign of forward thinking, many corporations and investment houses signed the New York Declaration on Forests, pledging to halve the net deforestation in their supply chains by 2020 and to eliminate it entirely by 2030.[32] A growing number of companies—headed by Procter & Gamble, PepsiCo, Kelloggs, L'Oréal, Colgate-Palmolive, General Mills, Hershey, McDonalds, and commodity traders Bunge and Cargill—have promised to purge their supply chains of commodities, such as palm oil and sugar, which are grown on illegally cleared land.[33]

In 2014, Unilever, Nestlé, and Coca-Cola—the three best-performing food companies in the "behind the brands" scoreboard established by Oxfam—moved further ahead of the pack with improvements in their "scores" of more than 10 percent.[34] Unilever, which is the biggest supplier of branded goods to the world's stores, signed a partnership with WRI to use satellite data to monitor forest change in areas where it obtains its agricultural commodities.[35]

Promises were also made on land rights. PepsiCo announced its "zero tolerance for … land displacements of any legitimate land tenure holders … whether based on indigenous rights, custom, informality, or occupation, regardless of whether the right is currently protected by law or formally recorded."[36] SABMiller's Mark Bowman declared in 2014 that "the present free-for-all" allows "bad investors to ride roughshod over the rights of small-holders and communities" and "makes it difficult for good investors who want to farm in a way which is beneficial to local people and the environment from accessing land." Strong land rights, Bowman argued, could change that.[37]

Corporations such as Stora Enso and Nestlé show evidence that companies are actively trying to deliver on their promises (Boxes 4 and 5).

Corporate leaders are starting to recognize that seeking free, prior, and informed consent (FPIC) from communities at the start of projects helps them secure supply chains for raw materials; reduces reputational risk from being seen as unethical and bad neighbors; and reduces the growing financial risks associated with community conflicts, regulatory disputes, and project delays. In short, seeking FPIC is good for business.[38]

The common ground is there. But ensuring that these commonalities are nurtured sufficiently to save forests and address global priorities will require implementation, follow-through on commitments, and sustained leadership.

Governments: Some move ahead but others fall back

Possibly the best news on forest governance in 2014 came from Indonesia. While this comes in the same year that it passed Brazil as the country with the greatest annual forest loss, the good news is that new leadership and a growing forest-rights movement offer hope of fixing the forest crisis. Indonesia's rampant forest loss has occurred because endemic government corruption and the absence of community land rights have left its forests open to the burgeoning oil-palm and pulp industries.

Now, however, Indonesia could follow Brazil along a path that has allowed forest protection to flourish in large indigenous territories in the

Box 4 Stora Enso: Papermaker shifts from paper to practice

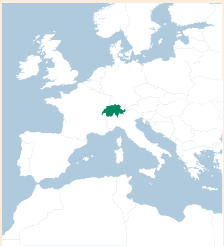
One company that has gone beyond mere words in changing its attitude to community land rights is Scandinavia's Stora Enso. In 2014, this forestry and papermaking giant hired independent human-rights experts to assess its operations and plantations worldwide. Final reports are due in early 2015.

The company has already renegotiated 35 percent of its lease contracts with village collectives in China's Guangxi Zhuang Autonomous Region, where it accesses timber for pulp, with the aim of ensuring full local consent.[a] The move is unprecedented and could become a model for other major pulp and paper manufacturers, such as the Indonesia-based company APP, which has made commitments to clean up its supply chain but has a long history of violating farmers' rights in China and elsewhere, as outlined in a study by RRI and Landesa in 2014.[b]

[a] Rights and Resources Initiative. 2014. Press release: New study: Global paper company makes progress, but continues to face challenges in ensuring legality of land holdings in China.

[b] Rights and Resources Initiative. 2014. New study: Global paper company Asia Pulp & Paper (APP)'s operations in China found to have historic land rights issues; APP welcomes report and resolves to address the challenges.

Box 5 **Nestlé: Linking land rights and supply chains**



Nestlé, the world's largest food company, adopted a new policy on land rights in 2014 for its agricultural supply chain. It says that "without clearly defined and protected land rights, farmers and investors face substantial risks, and poor rural families are at risk of displacement. This is particularly the case with investments that involve land acquisition."[a]

In an effort to clean up its supply chain that is unprecedented for a company its size, Nestlé is aiming for total traceability. It has undertaken a global assessment of the land tenure of its commodity suppliers using independent partners such as TFT and ProForest. Nestlé's head of stakeholder engagement, Duncan Pollard, says the assessment showed, for example, that only 58 percent of its chocolate-producers in Côte d'Ivoire had secure land rights. Such data have convinced the company that its supply chain is vulnerable and that it needs to take more steps to help secure the land rights of its producers, particularly smallholders.[b]

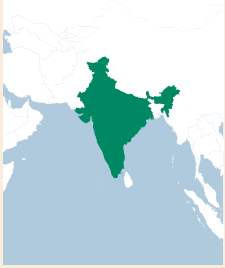
[a] Nestlé. 2014. Nestlé Commitment on Land and Land Rights in Agricultural Supply Chains.
[b] Nestlé. 2014. Next Steps: Rural Development Framework. Land Rights.

Amazon. Indonesian civil-society groups are pushing for the effective implementation of a 2013 court ruling annulling government ownership of customary forests and for the recognition of the rights of Indigenous Peoples and local communities. The national human-rights commission is holding public hearings to document resource-rights abuses, while human rights NGO Aliansi Masyarakat Adat Nusantara (AMAN, the Indigenous Peoples' Alliance of the Archipelago) and other community groups are mapping customary lands, estimated to cover around 40 million ha. The hope is that the July 2014 election of President Joko Widodo marked a significant shift in Indonesia's political direction. Widodo has endorsed a pro-community land-rights agenda drawn up by AMAN,[39] and has taken steps to stem illegal logging and forest clearing.[40]

But too many governments around the world are resisting reform and court rulings and are instead responding to economic slowdown by tearing down "barriers" to corporate investment. Militarism and the state appropriation of land for private-sector exploitation, often accompanied by the intimidation of land-rights activists, still prevail in most of Southeast Asia.[41] And in India, the aggressive economic reform agenda of a new government threatens to rollback much of the progress made in community land rights over the last decade (Box 6).

The situation is not much better in Latin America, where there is growing concern about the rollback of the land-rights advances that have

Box 6 India: Under Modi, land rights meet modernizing zeal



India's land-rights agenda was in ferment in 2014. Advances were made in the courts, but there were concerns that the development agenda of the government of Prime Minister Narendra Modi, elected in May, could lead to major rollbacks in existing environmental protections and land rights.[a]

Forest communities have high hopes for the continued implementation of the 2006 Forest Rights Act.[b] About 40 million ha —more than half of India's forests—could eventually be recognized as community forests. But this won't happen automatically. Communities must claim and assert their rights, and reciprocal action is required from government to enforce those rights.

In most states, the land-rights process has been held up by a lack of interest among state governments. The administrations of Kandhmal and Mayurbhanj districts in the state of Odisha, however, have shown how genuine leadership can make a difference in their collaboration with the Indian non-profit group Vasundhara.[c] Vasundhara has developed methodologies for mapping community forests, now used by district administrations and communities to assert their forest rights in almost 2,000 villages. These methodologies are being adopted by the state government and could be taken up nationally.

The question now is whether the new national government will push forward on land rights or seek to rein the movement in. There have already been several worrying signs. Since taking power, the Modi government has prioritized fast-track economic development and diluted environmental and community-consent laws. State governments can now approve mid-sized coal mines and agricultural irrigation schemes without public hearings. The National Wildlife Board, which vets industrial and infrastructure projects for their impacts on parks and sanctuaries, has been stripped of most of its independent scientific and civil-society members. Reportedly under pressure from Modi, the Ministry of Environment, Forest, and Climate Change abruptly approved construction of the country's largest hydroelectric dam, which will flood 4,000 ha of forest. And finally, a recent executive order seeks to strip the progressive 2013 land acquisition law of the FPIC clause for land acquisition.[d] This order has been strongly criticized by communities struggling for land and forest rights, environmental groups, and political parties.[e]

There are also strong indications that the Indian Government may move to amend the Forest Rights Act to reduce the rights of village councils to veto projects needing forest land. It seems clear that a fight is underway inside the new government between land rights and economic liberalization. With 165 of India's 644 districts experiencing land-related conflicts in 2013 and 2014, this battle is likely to get fiercer.[f]

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[a] Wilkes, Tommy. 2014. India approves projects in dash for growth, alarming green groups. Reuters; Sethi, Nitin and Somesh Jha. 2014. Govt eases environment rules to attract investments. Business Standard.

[b] Sethi, Nitin. 2014. Taking away forests: tribal consent regulations to be diluted. Business Standard.

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[f] Rights and Resources Initiative. 2014. As Modi government in India proceeds with economic development agenda, new map tracking land disputes shows disturbing pattern of conflicts with local people.

been made in recent years. According to Lucilla Bettina Cruz, an indigenous leader who faced criminal charges in 2014 for her part in peaceful protests against oil companies, changes to Mexico's national energy policy passed in August deem oil exploitation to be a "social interest" that can override surface land rights.[42]

Even Brazil, which has been a leading light in forest land reform for more than a decade, is not immune to rollback. The Brazilian Forest Code, which limits forest clearance by farmers, was weakened in 2013, and there was a consequent upsurge in deforestation after a decade of decline. In 2014, legislative proposals in the national congress sought to reverse recognized land rights and open up Indigenous Peoples' lands to development projects, including large dams. While it remains unclear whether this rollback of rights will be halted following the re-election of President Dilma Rousseff in October, the late December decision by the Brazilian Congress to shelve a proposed constitutional amendment that would have taken territorial demarcation rights away from Indigenous Peoples is a sign that more good may be to come.[43]

Many countries have contradictory policies that are coming clearly into focus as the rising demand for land rights meets frantic land grabs by entrenched interests. Failing to recognize the ability and willingness of communities to protect their forests, governments—such as those in Kenya and Nepal—even attacked community land rights in the name of environmental protection in 2014.

Nepal has a successful tradition of community forest management. But in 2014, the government failed to consult community forest organizations when it declared the forests of the Chure region to be a conservation area. Although the move threatens to turn 60 percent of the region's five million people into squatters and take away their traditional rights to use their forests, the World Bank's Global Environment Facility and the environmental group WWF have effectively endorsed this initiative through implementation of local conservation projects in the region.[44]

In Kenya in early 2014, thousands of Sengwer forest peoples in the Cherangani hills were evicted and their homes burned by government forest guards (KFS). It was the latest phase in the ongoing dispossession of such peoples as part of an exclusionary approach to conservation. Given the World Bank's involvement in funding KFS, the evictions caused a storm of protest. In October, with many of the Sengwer people returning to their lands, Bank president Jim Yong Kim intervened with Kenyan president Uhuru Kenyatta to defuse the crisis, but subsequent reports suggested that Kim's intervention had little effect.[45]

Progress in securing land rights has been slowest in sub-Saharan Africa, but a sea-change may be coming. In the DRC, which holds Africa's largest tract of tropical forest, the government laid down detailed rules in 2014 for

the allocation of local community forest concessions; these rules, which were established after a decade of pressure from community leaders, recognize customary rights to access forests up to 50,000 ha in size.[46] The concessions do not recognize the communities as legal entities, nor do they grant land titles or mention Indigenous Peoples. If well-managed, however, this new system of concession recognition could be a turning point in a country where no forests are currently allocated to communities.

In Tanzania, a new draft constitution states that laws giving women equal land rights must take precedence over customary practices. This would be a major change in Tanzania, where land is often handed over exclusively to men through inheritance and marriage.[47]

These seem like small steps. But it is at least possible that forest land reform will catch fire in Africa in 2015.

Indigenous Peoples and Communities: No longer just "at the table" but in the chair

Many of the positive actions by courts, corporations, and others described in this report have only come about because of the courage and growing voice of local leaders. The momentum they are generating in the local quest for social justice has the potential to help solve global problems. Not least in the ongoing development of an overarching climate change mitigation strategy.

In an increasing number of cases, women are at the front of the barricades. In Colombia, a group of 60 women of African descent walked for several weeks from the south of the country, where their lands are being invaded by mining companies, to the capital, Bogota, to demand action from ministers.[48] In Nepal, mass protests against unilateral government action to turn community forests into a conservation area have been led by women such as Bharati Pathak, general secretary of FECOFUN, a network of community-based forest-user groups in Nepal.

In Kenya, past government efforts to evict the Ogiek peoples from both the Mau forest and Mount Elgon in the name of conservation are potentially being reversed. While the Ogiek at Mau are awaiting a court decision by the African Court, local Ogiek leaders at Mount Elgon have worked in their communities to develop and implement plans for community-led conservation. At Mount Elgon, they are working to obtain the government's support to resume control of their land to manage according to their own bylaws. Securing such support would provide a blueprint for resolving disputes that threaten other indigenous groups in Kenya, such as the Sengwer.[49] Such battles can and are being won.

In southern Chile, the Mapuche people continue to make progress in reclaiming land colonized by Europeans in the late 19th century. In February

2014, the country's justice minister declared that the long-promised repatriation of 50,000 ha of Mapuche land would be completed within two years. Although the minister claimed that this represented "100 percent" of the disputed land, it is actually only a fraction of the land claimed by the approximately 1.5 million Chilean Mapuche people,[50] with pulp and paper firms having taken much of the remainder for pine and eucalyptus plantations. The fight goes on: the Mapuche and other Indigenous Peoples with land claims held demonstrations in Santiago on the 2014 Day of Indigenous Resistance to push their demands.[51]

The bottom line is that neither governments nor corporations can offer legitimate leadership without finding common ground with local communities and Indigenous Peoples.

Indigenous leaders are increasingly reaching the top tables internationally. In June 2014, Victoria Tauli-Corpuz became the UN's third Special Rapporteur on the Rights of Indigenous Peoples and the first indigenous woman to hold the post. A member of the Kankana-ey Igorot people in the Cordillera region in Northern Luzon, the Philippines, Tauli-Corpuz was part of the establishment of Indigenous Peoples' movements at home—such as the movement which stopped the development of the Chico River Hydroelectric dam—as well as abroad.

Daniel Franks of the Centre for Social Responsibility in Mining at the University of Queensland, Australia, led the analysis of 50 cases which revealed that land conflicts are becoming a major systemic problem for mining companies. According to Franks and his co-authors, "non-technical risks accounted for nearly one-half of the total risks faced by these companies," with conflict with local communities constituting the main element. Half of all the projects studied were met by blockades from locals, and 30 percent were eventually abandoned.[52] The bottom line is that finding common ground with local communities and Indigenous Peoples is an essential factor in providing corporations the legitimacy needed for them to operate successfully.

A study by The Munden Project of 100 conflicts in eight major tropical-forest countries found that conflicts were most frequent at the start of operations because companies failed to seek community consent. The study concluded: "Property rights in many emerging and frontier markets are dysfunctional to the point that ownership of land can be granted to an operator without the tens of thousands of people who live or depend on that land knowing about it."[53] If corporations want to avoid conflict they must engage with local communities from the start and seek their free, prior, and informed consent.

PART FOUR

4 Six Questions for 2015

The world has huge problems, and citizens are impatient for solutions. The new momentum and leadership on display in 2014 is exciting, offering many opportunities for action in 2015. The big question for the year ahead is whether these emerging leaders can leverage governments, the World Bank, and laggard corporations to act on climate change and land rights at speed and at scale. If so, 2015 could be a pivotal year for us all.

Will the World Bank water down safeguards and promote carbon "grabbing," or will it become a critical ally in the struggle of Indigenous Peoples and local communities?

The World Bank has developed (and tried fitfully to uphold) environmental and social standards that have been adopted by other development banks, corporations, and governments around the world. But it now seems that the Bank has joined a race to the bottom, just as private-sector investors start to raise their game on these issues. The Bank's move seems to be a reaction to the creation of the new US$100 billion development bank planned by the BRICS nations (Brazil, Russia, India, China, and South Africa), which opens for business in 2016. In its attempt to remain competitive, the Bank could become irrelevant. The Bank has a choice in 2015: will it proceed with the plan to weaken its safeguards and purchase carbon from governments that have "taken" it from local communities, or will it become the preferred international ally that Indigenous Peoples and local communities greatly need?

Will the drafters of the Sustainable Development Goals change tack and include substantive targets and indicators on collective rights to land?

The gestation of the Sustainable Development Goals (SDGs) is proving to be long and painful. But the SDGs matter a great deal. Once agreed (at the UN in September 2015), they will become benchmarks for the global development agenda. The need to respect and secure land rights is now included in the draft, but securing community and customary land rights is not. Targets and indicators need to be identified in order to measure progress on land rights moving forward.

Will corporations and donors implement the commitments they made in the 2014 New York Declaration on Forests and fully embrace forest peoples' rights?

Targets for ending deforestation are vital for curbing climate change and the loss of biodiversity—and they are also vital for the hundreds of millions of people who live in or near forests. The New York Declaration on Forests makes it clear that securing forest peoples' rights is a crucial part of conservation. If the declaration is to be delivered, the task is not to protect forests from their inhabitants but to ensure that those inhabitants have secure rights to defend and manage the forests themselves. The focus in 2015 is on whether or not these companies will begin to take concrete steps forward in their operations.

Can the UN climate conference in Paris deliver a deal, and will it recognize the critical role of community land rights in halting climate change?

After the ill-fated talks in Copenhagen in 2009, it has taken six years for the world to again address binding national limits on greenhouse-gas emissions to fight climate change. In that time, annual carbon emissions have risen by 15 percent, making curbing global warming much harder. Most negotiators agree that ending deforestation is essential, but what became clear in 2014 is that only communities with secure forest and land rights can achieve that, and thus, they are essential for combating climate change. While this was largely recognized on the margins in Lima, it remains to be seen if the REDD+ safeguards will be included in the forthcoming Paris agreement, or whether human rights will be accepted as central element of the deal—as recommended by organizations around the world. Likewise, governments' inclusion of secure land rights as a key component of national climate change mitigation strategies is uncertain, at best.

Will Africa get serious about forest and land rights?

There are positive signs that Africa—which has been slow to adopt a community-rights agenda for forests—may be changing tack. Liberia has a progressive land-rights policy that elevates customary rights to the same level as statutory rights, although this has not yet been enacted into law. Tanzania is bolstering women's land rights, and Uganda's land ministry announced in 2014 that it would use a loan from the World Bank to issue a million land titles to boost customary land ownership.[54] The hope is that all this will spur a continent-wide shift towards support for community land rights.

In what direction will Indonesia and Brazil head on forest governance?

Indonesia and Brazil both have governments with new mandates following presidential elections, and both have huge forest areas. Brazil reduced its rate of forest loss by two-thirds between 2004 and 2012 by ceding large areas of forest to indigenous communities and enforcing forest laws elsewhere. That progress was halted in 2013 and 2014, when the partial repeal of a forest law led to a 29 percent increase in deforestation. Indonesia, meanwhile, has succeeded Brazil as the world's largest deforester.

In 2015, we will discover whether, under President Joko Widodo, Indonesia can at last follow Brazil's earlier lead. We will also discover if, with Dilma Rousseff in charge in Brasilia, Brazil's recent reversion to the harmful ways of the past was a blip or a long-term trend. Stemming the loss of the world's great tropical forests and forest peoples will be impossible unless both nations are onside.

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