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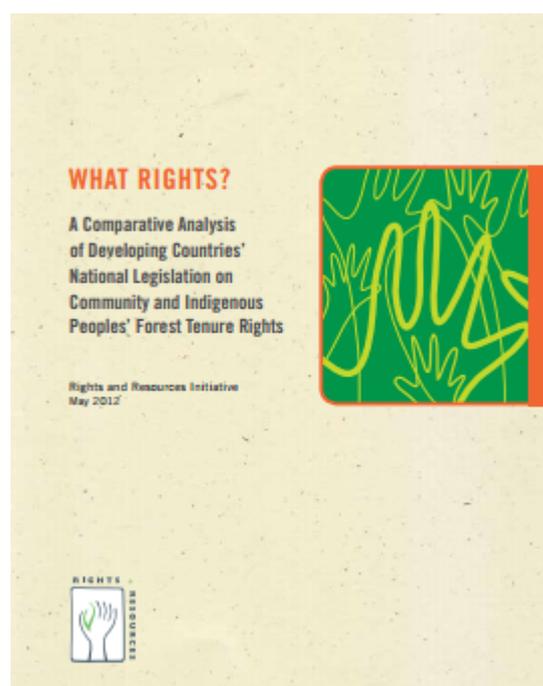
What Rights? A Comparative Analysis of Developing Countries' National Legislation on Community and Indigenous Peoples' Forest Tenure Rights

Resource
May 2012

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Summary

Indigenous Peoples and forest communities have long-established customary land rights to a large proportion of the world's forests. In past decades, some countries have passed legislation that begins to recognize these rights. An emerging body of international law and jurisprudence, signaled most significantly, perhaps, by the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, also recognizes such rights. This report analyzes national laws that relate to the forest tenure rights of Indigenous Peoples and communities. It assesses whether the legal systems of 27 of the world's most forested developing countries recognize the rights of Indigenous Peoples and communities to access, withdraw, manage, exclude, and alienate forest resources and land, the duration of those rights, and their extinguishability (collectively in this report, these are called the "expanded bundle of rights"). The countries included in this study are home to 2.2 billion rural people and contain approximately 75 percent of all forests in developing countries. The study identifies a total of 59 forest tenure regimes in the selected countries that recognize or allocate forest tenure rights to Indigenous Peoples and communities. Of these regimes, 25 are in Latin America, 17 are in Asia, and 17 are in Africa. These regimes involve many different institutional arrangements used by governments to recognize the rights of Indigenous Peoples and communities to forest resources—such as land titles, management conventions, concessions, and written permission to inhabit and/or participate in the management of environmental conservation areas. This study does not attempt to assess whether the rights under these national legal instruments comply with international human rights laws or the rights of Indigenous Peoples that are internationally recognized. Indeed, identifying whether national legislation complies with international law and the decisions of regional human rights commissions is a critical next step recommended by this study.

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