

## Collective titling in Peru: challenges and opportunities

Monterroso, I.; Larson, A.; Cruz-Burga, Z.; Zamora, A

Key words: Forest tenure reform, implementation processes, livelihood outcomes, Peru

### Extended Abstract

Recent data analyzing changes in statutory regimes around the world during the last thirty years show that Latin America is the developing region where most significant changes have resulted in the transference or recognition of collective rights to land designed for the use and management of communities. According to data from the Rights and Resources Initiative, in total as of 2015 nearly 33% of Latin American forests were under some type of collective tenure regime owned by communities, most of which are of indigenous peoples, and another 6% was designed for their use. Across Latin America this amounts to a total of 232 million ha of forests in the hands of these groups - more than 85 million ha of which have come since 2002 - representing a major shift in tenure rights in the hands of local communities. This portion of land represents above 60% of the global increase of forest under community ownership or control in the period of 2002-2015. Peru has been at the forefront of Latin American countries with a large number of indigenous peoples lands titled as communities in the Amazon. Since 1974, more than 2,000 communities have been titled in the Amazon over 11 million hectares, representing about 20% of the national forest area according to data from the Ministry of Environment (2016). While this is an important progress, pending demands over recognition of indigenous lands has been estimated around 20 million hectares by the National Indigenous organization AIDSESP; data provided by the National Ombudsman office in 2014 estimate that about 1,000 communities are yet to be titled.

This formal redefinition of rights among different right holders at various levels has been defined as forest tenure reforms. Forest tenure reforms stem from changes in institutions, often statutory regulations, that (re)-define the bundle of rights and responsibilities over who uses, manages and controls forest resources and how (Larson 2010). Based on extensive research on forest tenure reforms by the Center for International Forestry Research, this paper will present results from a global comparative study on how reform around recognition of indigenous collective titling emerged and has been implemented in Peru. It will assess the progress and current constraints to implementation. It will also discuss challenges and opportunities to sustain outcomes on livelihoods at the local level based on research in two Amazon regions: Madre de Dios and Loreto. Using a mixed-method approach, research combined different quantitative and qualitative data collecting tools. At the national level, legal and historical analysis of key regulations around reforms illustrated how reforms emerged. At the sub-national level institutional analysis and survey of agents of implementation were used along prospective participatory analysis to identify factors influencing tenures security, as well as the institutional framework around implementation. At the local level, semi-structured interviews, intra-household surveys, and focus groups generated information and promoted the participation of local stakeholders in the discussion of the origins, and nature of forest tenure reform outcomes. The sample includes 22 villages, over 500 households, four sub-national workshops, and more than 50 interviews and surveys to agents of reform implementation.

Results highlight that since the 1974, year in which the first regulation that allowed indigenous land titling was issued; significant shifts in procedures and institutional structures that are responsible for titling have taken place. During this period, four different government institutions have shifted the responsibility to implement indigenous communities recognition and communal land titling, resulting in a confusing framework that deficits from unified guidelines and procedures across institutions and governance levels. To date, the Peruvian government lacks official cadaster information regarding the number of communal lands titled as well as the area under communal titling. According to subnational government's data in Loreto, the region with the largest number of communal lands

(50% of communities titled and over 65% of claims over titling) only 30% of communities recognized have been registered in the national public registries while less than 20% of titled communities have been registered. In fact according to the Institute of the Commons over 90% of native communities lack geo-referenced data of their communal boundaries (IBC 2016:25). This increases the pressure over communal resources affecting considerably the tenure security of communities and their ability of benefiting from the acquired rights. Our results show that while coordination is enforced in most of the government agencies involved, only half of the institutions involved have formal coordination mechanisms in place and not all of them are put into practice.

In regards to outcomes of reform in the studied titled communities over half of the communities analyzed depend on subsistence agriculture and forest product extraction for subsistence. In terms of tenure security over 80% perceive their tenure rights are secured, however several threats have been identified. Sources of tenure insecurity vary across region, linked with the lack of communal land titles, competition with outside interests and neighboring communities. Similar considerations around tenure insecurity exist among both men and women, however men are mostly concerned with restrictions over access to forest resources while women are concerned with the community's inability to defend their communal rights. Less than half of the communities included in the analysis have adopted technologies and practices to manage forests with only one third involved in community forest management activities. Only half of analyzed communities perceive that titling has brought about improved livelihoods, and communities consider that internally there are important differentiations in regards to the distribution of benefits. This raises the need for further examining social differentiation of benefits and rules about internal redistribution of rights brought about reform processes.

While the country struggles to sustain reform processes and ensure positive outcomes, renewed interest in collective titling, partly due to existing climate-change related funding and partly responding to indigenous peoples mobilization, have been able to set new goals for recognizing and titling pending communities. The extent to which these projects consider existing problems of working with updated and official records, making sure existing titles have been properly registered and clarifying the boundaries of existing communal lands jeopardizing represent an opportunity for solving existing conflicts and strengthen the tenure security of indigenous communities in the Peruvian Amazon.

This paper is organized in three sections. The first section provides a brief discussion on tenure reform processes, reviewing important provisions in key reforms recognizing collective rights to land and forests. The second section weighs these formal legal regulations against actual implementation practices. It discusses results from data collected at the local level, mainly drawing from quantitative and qualitative data analysis of how reforms have changed rights and tenure arrangements and what this have meant in terms of livelihoods outcomes for both men and women. Finally, the third section analyzes these changes to discuss lessons on how implementation processes can improve or hinder tenure security of indigenous communal lands in Peru.