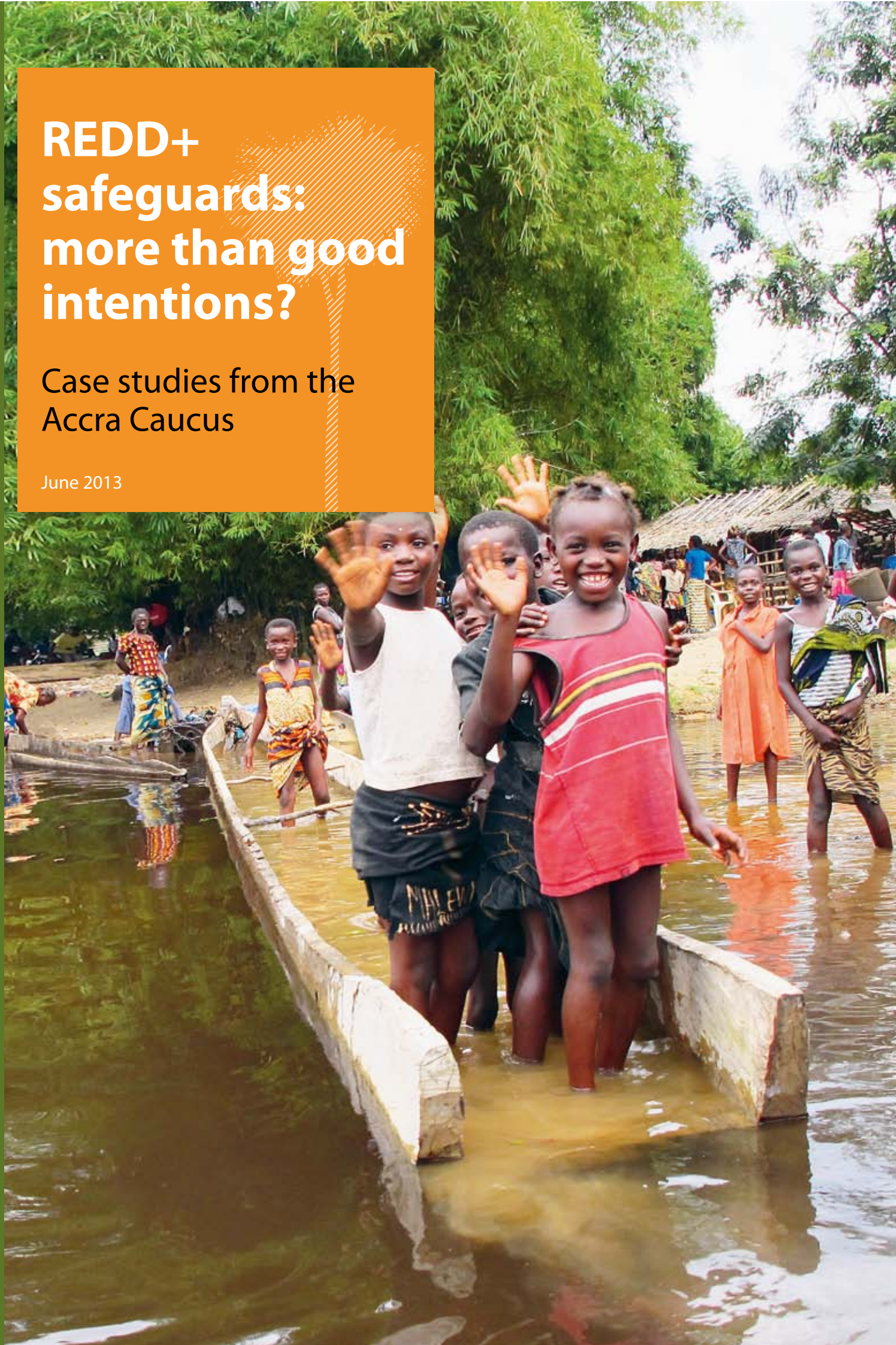
REDD+ safeguards: more than good intentions?

Case studies from the Accra Caucus

June 2013



Accra Caucus on Forests and Climate Change

The Accra Caucus on Forests and Climate Change is a network of southern and northern NGOs representing about a hundred civil society and indigenous peoples' organisations from 38 countries, formed at the United Nations Framework Convention on Climate Change (UNFCCC) meeting in Accra, Ghana in 2008.

The Caucus works to place the rights of indigenous peoples and forest communities at the centre of negotiations on Reducing Emissions from Deforestation and Degradation (REDD+), and to ensure that efforts to reduce deforestation promote good governance and are not a substitute for emissions reductions in industrialised countries.

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Contents

Contributors:
- Jean La Rose, Amerindian Peoples Association (APA)
- Anggalia Putri Permatasari and Bernadinus Steni, HuMa (Association for Community and Ecology-Based Law Reform)
- Pasang Dolma Sherpa, Nepal Federation of Indigenous Nationalities (NEFIN)
- Eric Parfait Essomba, Centre for Environment and Development (CED)
- Joëlle Mukungu, Forest Peoples Programme, Democratic Repuplic of Congo
- Siri Daman, Rainforest Foundation Norway
- Marina Campos, Rainforest Foundation US
- Raja Jarrah, CARE International
- Samuel Nnah Ndobe, Accra Caucus Facilitator, Cameroon

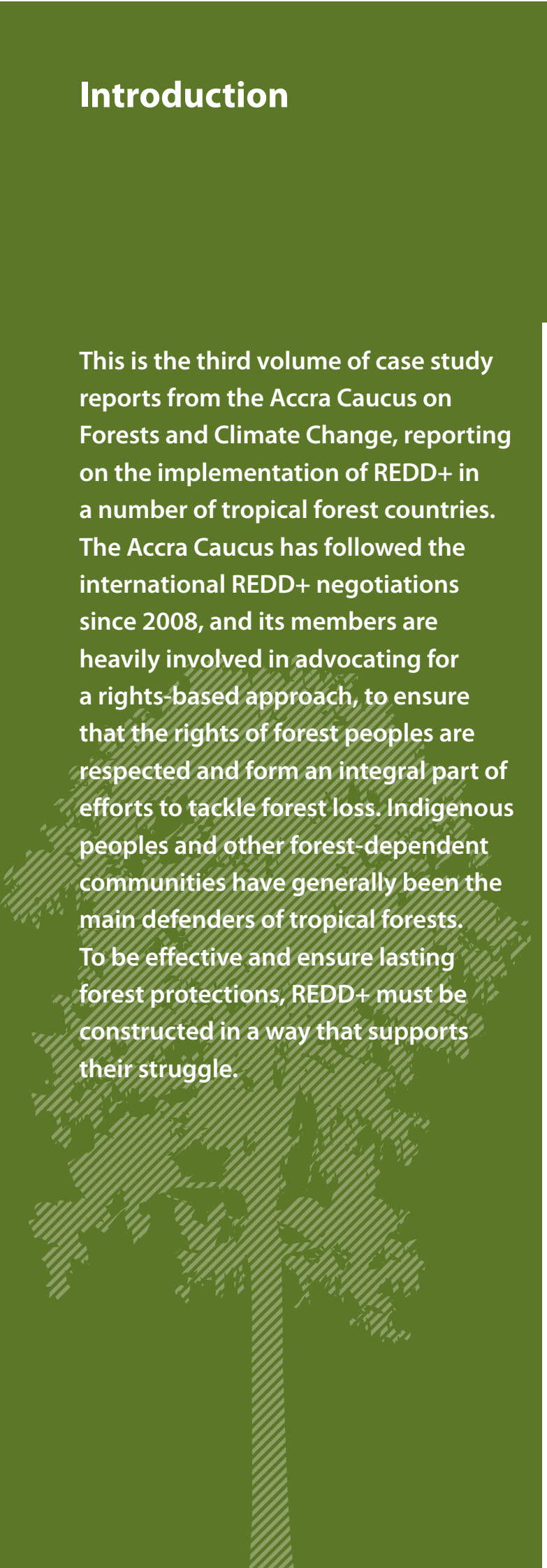
Special thanks to:
- Lionel Dis , Ellen Hofsvang and Nils Hermann Ranum, Rainforest Foundation Norway
- Christine Halvorson, Rainforest Foundation US

Acronyms

ADB	African Development Bank
AFR	annual forestry royalty
AIPP	Asian Indigenous Peoples' Pact
ANSAB	Asia Network for Sustainable Agriculture and Bioresources
APA	Amerindian Peoples Association
CBFF	Congo Basin Forest Fund
CCBA	Climate, Community and Biodiversity Alliance
CED	Centre for Environment and Development
CERD	Committee on the Elimination of Racial Discrimination
CIFOR	Center for International Forest Research
COP	Conference of Parties
COVAREF	Comité de Valorisation des Ressources Fauniques
CSO	civil society organisation
DCC	District Coordination Council
DRC	Democratic Republic of Congo
EITI	Extractive Industries Transparency Initiative
ERA	Ecosystem Restoration Associates
ERPA	Emissions Reduction Purchase Agreement
FCPF	Forest Carbon Partnership Facility
FECOFUN	Federation of Community Forestry Users, Nepal
FEICOM	Inter-Communal Equipment Fund
FIP	Forest Investment Programme
FPIC	free, prior and informed consent
GRIF	Guyana REDD+ Investment Fund
GTCR	Climate and REDD+ Working Group
ICIMOD	International Center for Integrated Mountain Nepal
IDB	Inter-American Development Bank
IEC	Information, Education and Communication
ILO	International Labour Organisation
IWGIA	International Working Group for Indigenous Affairs
KFCP	Kalimantan Forests and Climate Partnership
LCDS	Low Carbon Development Strategy
LOI	Letter of Intent
MoF	Ministry of Forestry, Indonesia
MRV	Measurement Reporting and Verification
NC-REDD+	REDD+ National Committee
NEFIN	Nepal Federation of Indigenous Nationalities
NFDIN	National Foundation for Development of Indigenous Nationalities
NGO	non-governmental organisation
OCEAN	Organisation of Ecologists and Friends of Nature, DRC
PCI	Principles, Criteria and Indicators
PRISAI	Principles, Criteria, Indicators for REDD+ Safeguards Indonesia
REDD+	Reducing Emissions from Deforestation and Degradation
R-PIN	Readiness Plan Idea Note
RPP	Readiness Preparation Proposal
RWG	REDD+ Working Group
SES	Social and Environmental Standards
SESA	Strategic Environmental and Social Assessment
SIS	Safeguards Information System
TC	thematic coordination
TEBTEBBA	Indigenous Peoples' International Center for Policy Research and Education
UKP4	Presidential Delivery Unit for Development Monitoring and Oversight, Indonesia
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCC	United Nations Framework Convention on Climate Change
UNPFII	United Nations Permanent Forum of Indigenous Issues
WCS	Wildlife Conservation Society
WWF	World Wildlife Fund
VCS	Voluntary Carbon Standard
VDC	Village Development Council
ZIC	Zone d'intérêt cynégétique / special-interest areas for hunting
ZICGC	Zone d'intérêt cynégétique à gestion communautaire / community-managed hunting

Introduction

This is the third volume of case study reports from the Accra Caucus on Forests and Climate Change, reporting on the implementation of REDD+ in a number of tropical forest countries. The Accra Caucus has followed the international REDD+ negotiations since 2008, and its members are heavily involved in advocating for a rights-based approach, to ensure that the rights of forest peoples are respected and form an integral part of efforts to tackle forest loss. Indigenous peoples and other forest-dependent communities have generally been the main defenders of tropical forests. To be effective and ensure lasting forest protections, REDD+ must be constructed in a way that supports their struggle.



The first set of case studies from the Accra Caucus, published in 2010, outlined the risks of implementing REDD+ in countries with a poor forest governance record; the second volume, in 2011, confirmed that the REDD+ readiness process had done little if anything to address these concerns. The present volume provides updated information from national REDD+ processes in Guyana, Nepal, Indonesia, Cameroon and the Democratic Republic of Congo.

These case studies present evidence from the perspective of civil society, indigenous peoples and forest-based communities, and show that there are continuing concerns about the current direction of REDD+, especially in some countries. Civil society and indigenous peoples in all countries have shown both interest and ability to engage in REDD+ policy development. This engagement must be taken seriously by governments, and not used to legitimise processes without taking concerns raised seriously. In the national REDD+ 'readiness' processes evaluated here, concerns over land-tenure issues have been ignored (Guyana); consultations have proved to be inadequate and partial (DRC and Nepal); and in many cases the lure of financial payments for REDD+ is undermining reform, and leading to an increased risk of resource conflict and, ironically, forest loss (Guyana and Cameroon). The need for robust safeguards to influence the development of national law is evident in the Indonesia case.

REDD+ has been marked since its inception by controversy over the focus on carbon, and the potential for REDD+ to be used for forest carbon trading. Many are concerned that the focus on carbon will undermine other social and environmental values of forests, and REDD+ if used as an offset will allow industrial countries to continue polluting. This has lead to a growing opposition to REDD+ from civil society movements and forest dependent peoples around the world. In 2010, due to the realisation that REDD+ may have far-reaching social and environmental consequences, the UNFCCC Conference of Parties (COP) in Cancun agreed on a set of social, environmental and governance safeguards (the Cancun safeguards) which must be respected for countries to be eligible for results-based payments for REDD+. Subsequently, the need for a system to provide information on these safeguards was agreed in Durban,

though as yet with no firm guidance or reporting requirement.

However, the Cancun safeguards may still be inadequate to deal with the risks posed by REDD+. Presently there is no established mechanism to check if countries comply with the safeguards, so they may easily end up as mere good intentions. The cases in this report demonstrate the need for any international donor programme, such as REDD+ currently is, to adhere to international standards and obligations related to consultation, participation and human rights, including indigenous peoples' rights. Robust reporting on REDD+ safeguards, at both the national and international level, could increase transparency and information-sharing, with the aim of raising standards and political will in implementing countries, and with the effective engagement of the international community.

Lessons from the case studies

The example of Guyana demonstrates the failure of national consultation processes with indigenous communities, and shows the extent of the gap between current practice and established international standards on full and effective participation and consultation, and respect for free, prior and informed consent (FPIC). Not only does the process of participation and consultation often fail to live up to its name: it may also be used to manipulate communities that are poorly informed about climate change and REDD+, and to undermine the rights of forest-dependent peoples. Furthermore, existing laws and policies that are relevant to indigenous peoples in Guyana are not in line with Guyana's commitment to international standards. This leaves little hope that REDD+ will improve matters, unless the international community can shine a spotlight on current shortcomings.

The case from Nepal highlights the need for awareness-raising in indigenous communities that are likely to be involved in and affected by REDD+. Nepal has not used the REDD+ readiness process as an opportunity to acknowledge indigenous cultures and livelihoods or to acknowledge indigenous peoples as rights-holders, even though it was a party to the recent International Labour Organisation (ILO) Convention No. 169 (see Appendix). The lack of security of the land rights of indigenous peoples in Nepal raises the risk that REDD+ may in fact undermine their livelihoods and rights, and drive them deeper into poverty.

The Cameroon case study outlines lessons from existing benefit-sharing systems in existing laws regarding forestry, wildlife and fisheries, raising concerns with these existing mechanisms to inform the development of a REDD+ benefit-sharing mechanism. Existing systems have had mixed results, with sometimes negative impacts on local development and poverty reduction. To avoid elite capture, and the corruption which has beset other areas of resource distribution in Cameroon, the case highlights that the rules for the distribution of REDD+ benefits must be based on a transparent and participatory process involving all stakeholders and rights-holders.

The Democratic Republic of Congo (DRC) is perceived to have good civil society and indigenous peoples' involvement in the preparations for REDD+, but there is still a long way to go for meaningful and influential participation. Thier participation has been hampered by insufficient resources, lack of capacity in the REDD+ governance bodies, and, crucially failure of commitment by the government to assume the overall responsibility for consultations on REDD+. In practice, consultations have been left in the hands of civil society, who have been increasingly distrustful of the multiple REDD+ institutions established to enable stakeholder participation. The suspicion is that they are designed to give the international community the impression that there is a participatory process, while in reality the key decisions are made behind closed doors.

The case study from Indonesia illustrates the importance of strong safeguards for the functioning of REDD+. The notion of 'national circumstances' is setting REDD+ up for failure when existing laws and policies are not consistent with the safeguards. In these cases REDD+ is less likely to contribute to sustainable forest protection, and forest-dependent communities may have little protection against possible negative consequences. An authoritative Safeguards Information System (SIS) should provide guidance, monitor national developments, and give feedback on the impact of REDD+ activities on indigenous peoples in Indonesia.

The reported lack of participation, lack of will to address tenure concerns, and failure to respect internationally recognised rights in the implementation of REDD+, all give cause for concern; however, international attention on REDD+ safeguards has in some cases encouraged greater dialogue between governments and forest-dependent communities, including indigenous peoples. The focus on REDD+ safeguards has brought increased attention to old problems, such as poor forest governance, biodiversity loss, disrespect for local and indigenous knowledge and human rights (including indigenous peoples' rights and the lack of good participation and consultation processes), and it has spotlighted human rights issues such as free, prior and informed consent (see Box 1).

Conclusions

The country based examples presented here reveal that some governments lack understanding of

Baka (pygmy) people, indigenous forest peoples of Cameroon, at Mbele in the Moloundou district Woman constructing a Mongulu, or hut, from branches and leaves. Photo Kate Davison Greenpeace

implementation of the REDD+ safeguards. The lack of common standards open the door for diverging views and practices, meaning that while some countries may spend significant resources and effort on the implementation of safeguards, others may take shortcuts. The consequence of these shortcuts can be human rights violations and other unintentional negative effects from REDD+.

These conclusions support the argument that to sustainably reduce forest loss in tropical countries, policy and legislative reforms needed which take account of key governance, social and environmental issues are needed. Measures designed to improve forest governance, in particular securing the tenure rights of forest dependent peoples, must be at the forefront of efforts to halt forest loss. There is strong evidence that greenhouse gas emissions reductions will occur as a co-benefit of policies targeted at governance reform, and that policies and laws designed through inclusive processes and delivering a broad range of benefits are more likely to be sustainable in the long term.

Important progress has been made at the international level, such as the agreement at COP17 in Durban to develop further guidance on an SIS, and the agreement at COP18 in Doha to develop methodologies on non-carbon benefits and non-market approaches to financing forest protection. However, these declarations of intent are a long way from practice on the ground. These case studies illustrate the risks which threaten to undermine the success of REDD+. Parties to the UNFCCC as well as other international REDD+ institutions must ensure that the international framework and incentives do warrant truly sustainable forest protection and respect the rights of forest dependent communities.

The social, environmental and governance safeguards included in the Cancun Agreements,[1] not only introduce minimum standards that must be addressed and respected. They also outline the key benefits that REDD+ should deliver in relation to governance,[2] biodiversity[3] and social issues.[4] It is important to consider how best to maximise these additional non carbon benefits, through delivering incentives, and through robust reporting on safeguards. The experiences presented here show how and why states should design appropriate and well-functioning national Safeguards Information Systems. The implementation of strong safeguards should not be seen as a burden, but rather as a prerequisite for the success of REDD+ to address forest loss, including the protection of the rights and livelihoods of forest peoples, biodiversity and the ecosystem services of natural forests.

1 Decision 1/CP.16, Appendix II

2 paragraphs 2b–d

3 paragraph 2e

4 paragraph 2c, d, see also paragraph 1g

Box 1
The content of free, prior and informed consent

As stated in the UN Declaration on the rights of indigenous peoples (UN 2007), free, prior and informed consent can be understood as follows:

— *Free* should imply that there has been no coercion, intimidation or manipulation;

— *Prior* should imply that consent has been sought sufficiently in advance of any authorisation or commencement of activities, and has paid respect to the time requirements of indigenous consultation/consensus processes;

— *Informed* should imply that information is provided that covers (at least) the following aspects:

- the nature, size, pace, reversibility and scope of any proposed project or activity;
- the reason/s or purpose of the project and/or activity;
- the duration of the above;
- the locality of areas that will be affected;
- a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle;
- personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others);
- procedures that the project may entail.

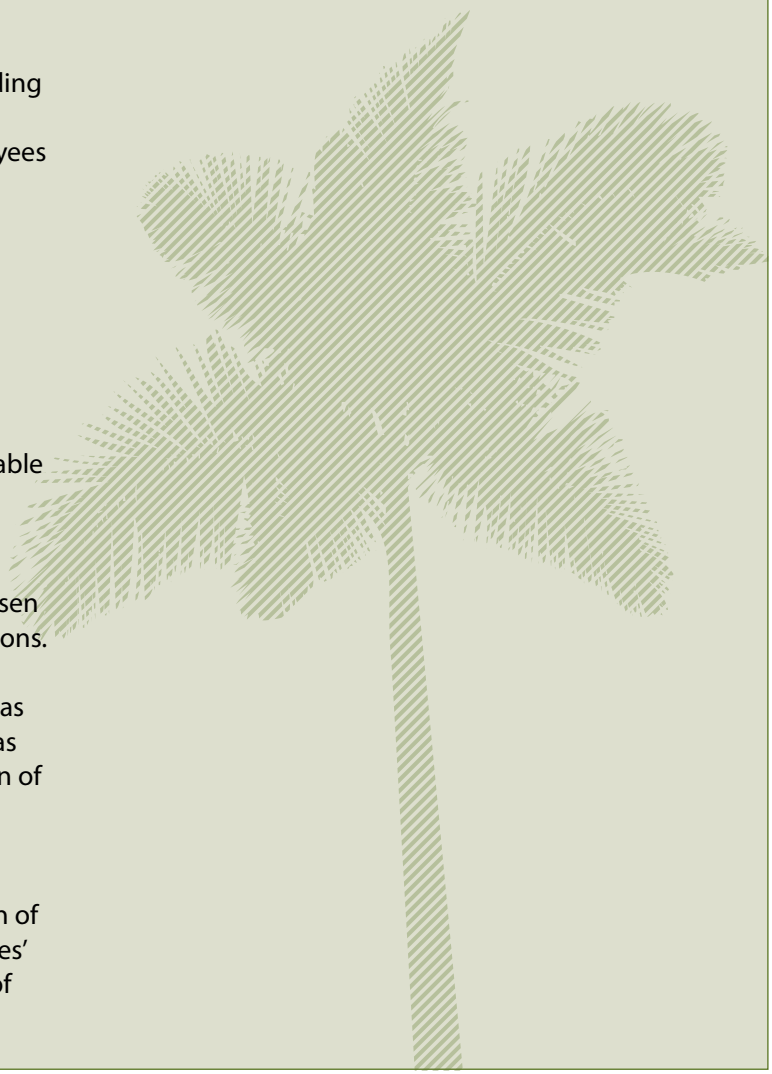
Consultation and participation are crucial components of a *Consent* process. Consultation should be undertaken in good faith. The parties should establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect in good faith, and full and equitable participation. Consultation requires time and an effective system for communicating among interest-holders. Indigenous peoples should be able to participate through their own freely chosen representatives and customary or other institutions. The inclusion of a gender perspective and the participation of indigenous women is essential, as well as the participation of children and youth, as appropriate. This process may include the option of withholding consent.

When? FPIC should be sought sufficiently in advance of the commencement or authorisation of activities, taking into account indigenous peoples' own decision-making processes, in the phases of assessment, planning, implementation, monitoring, evaluation and closure of a project.

Who? Indigenous peoples should specify which representative institutions are entitled to express consent on behalf of the affected peoples or communities. In FPIC processes, indigenous peoples, UN agencies and governments should ensure a gender balance and take into account the views of children and youth as relevant.

How? Information should be accurate and in a form that is accessible and understandable, including in a language that the indigenous peoples will fully understand. The format in which information is distributed should take into account the oral traditions of indigenous peoples and their languages.

Source: Excerpt from the Report of the International Workshop on Methodologies Regarding Free Prior and Informed Consent E/C.19/2005/3, endorsed by the UNPFII at its Fourth Session in 2005.



Guyana: indigenous peoples and the lack of adequate consultation on REDD+

Author: Jean La Rose, Program Administrator of Amerindian Peoples Association (APA)

This case study centres on the lack of proper consultation with indigenous peoples on several issues relating to REDD+ in Guyana. Two examples are used: 1) inadequate consultation on the government's Low Carbon Development Strategy (LCDS), and 2) the lack of a consultation process for a land demarcation proposal. The way that the consultations were conducted, or not conducted, has raised many questions about the government's treatment of indigenous peoples' concerns over REDD+ in Guyana.

Background and context

With nearly 80% of its land covered in tropical rainforest, Guyana is an important testing ground for REDD+ programmes.[5] It was one of the first countries in South America to be included in the Forest Carbon Partnership Facility (FCPF), the World Bank's REDD+ pilot scheme. The government, supported by Norway, has also aggressively pursued its Low Carbon Development Strategy, which is supposed to reduce forest loss. The first tranche of funding for the LCDS, around US $70 million, will be used for projects such as the construction of a hydroelectric dam (which itself is problematic), as well as for the demarcation of indigenous lands – a safeguard that the Norwegians insisted on, but which has not been discussed with communities or indigenous peoples' organisations. To date, the government's demarcation process has been fraught with problems, including granting titles to areas that do not correspond with the reality on the ground.

Since 2009, the government of Guyana has pushed the LCDS and its various initiatives with little or no consultation with indigenous peoples, and without regard for indigenous rights. As a major indigenous representative organisation in Guyana, the Amerindian Peoples Association (APA) has expressed concerns about the process. The government has responded by undermining the APA's ability to represent the indigenous peoples of Guyana and their views on the LCDS and REDD+.

The Guyanese government was able to secure US $70 million from the Norwegian government for the LCDS, despite several serious concerns: the lack of proper consultation with indigenous groups and civil society in general; the 100% increase in deforestation rates in comparison with the mean annual level for the previous decade; and the lack of transparency in the structuring and implementation of LCDS projects. This money was deposited in the Guyana REDD+ Investment Fund (GRIF)

5 Guyana is divided into ten administrative regions.

at the World Bank, which acts as a trustee for these funds.[6]

The Guyanese government chose the United Nations Development Programme (UNDP) and the World Bank to be the implementing partners of the GRIF (LCDS), while the Inter-American Development Bank (IDB) is the implementing partner for the FCPF. The IDB has been instrumental in structuring the GRIF and will certainly have a more prominent role in the future. The GRIF is meant to be a model for REDD+ payments to countries with low deforestation rates and high forest cover, so ensuring that this mechanism works properly has relevance worldwide.

1) Lack of proper consultation process on the LCDS

The government of Guyana first unveiled its LCDS in May 2009, when it released its draft paper at a launch ceremony in Georgetown. Prior to this, the average Guyanese did not know that the government was looking to cash in on payments for keeping its forest standing. Very early on, some indigenous leaders were encouraged to signal their support for the government's plan even though the idea was vague, with little information.

In June and July 2009 the government took its draft LCDS strategy paper to the wider public, including indigenous communities. In coastal Guyana, where the majority of the population lives, there was an aggressive advertising campaign on radio and television, including footage of Amerindians saying that they agreed with the draft LCDS strategy. The newspapers also contained advertisements and positive comments on the draft strategy. Despite all the media coverage, however, the average non-indigenous Guyanese remained largely in the dark about what the LCDS actually means.

It was important for the government to reach the leaders of indigenous communities, as the strategy had implications for indigenous lands, both titled and untitled. This also meant that the people had to buy into the government's plan, which would include their lands, especially their traditional untitled lands. Indigenous leaders were brought together at various central locations within their regions, but these so-called consultations were rushed, often lasting only two or three hours. Communities were given little information beforehand, and when they received the 57-page draft LCDS paper in advance, often they did not understand what it meant. Most communities received one copy for the entire community, perhaps a few days or a couple of weeks advance, but most indigenous leaders did not receive their copy of the LCDS document before the actual day of the consultation.

At the time of the visits to the communities, the Guyanese government had three indigenous female ministers, and these three women would often be part of the high-powered teams that would take the LCDS message to the indigenous communities. Others on the teams usually included representatives of the international agencies, NGOs and indigenous representatives. But the consultations turned out to be heavy on propaganda, with the government representatives – especially the ministers – singing the praises of the LCDS and focusing on the financial benefits that could be accrued. There was no mention of the challenges and risks for the indigenous communities, who were promised return visits to update them on the progress of the strategy. The indigenous representatives on the visiting team were almost voiceless early on in the process, with limited input as consultations developed.

Although the indigenous communities had limited understanding of the LCDS, they quickly understood that their land was at stake, because their land is still the most heavily forested in Guyana. They spoke about the many concerns for which they had been seeking redress over the years. It was reported that concerns on land issues made up the majority of the comments received by the visiting teams, yet these concerns were ignored when the government later began signing agreements and developing project proposals. No return visits were made to the communities as promised, and only a few leaders saw the amended strategy paper, which was scarcely an improvement on the first draft. Most of the indigenous communities still do not understand the LCDS and how it could impact them.

Since the first round of visits to the communities for consultations, village leaders have been brought to the city on several occasions and encouraged to sign documents that unconditionally support the government's plan. These leaders generally do not report back to the communities about their actions, partly because they are unsure about what they should say. There is much intimidation involved in getting the leaders to sign the documents. Those who dare to express opinions which differ from the government's are labelled as anti-government and anti-development; they are publicly vilified and threatened with non-receipt of LCDS funding. There have even been visits from the Minister of Amerindian Affairs in an open show of power. Some so-called indigenous leaders have been taken on

6 The Guyana REDD+ Investment Fund is a mechanism created in 2010 to channel all REDD+ financial support from Norway and other potential contributors. The GRIF is managed by the World Bank, which acts as a trustee, and oversees the use of the funds. Under the GRIF agreement, the money that Norway gives to Guyana for keeping standing forests does not go directly to its government. Norway instead gives money to the GRIF and it makes payments for specific projects to 'partner entities'. For the GRIF, the partner entities are the UNDP and World Bank.

Logging in Guyana. Laws do not adequately protect the rights of indigenous peoples against commercial interests
Photo FPP

government-sponsored trips to New York, Washington, London and Norway, among others, and have professed solidarity with the government's plan: but in reality some of these people do not have any constituency, and in some cases, no mandate to claim that he represents the views of the indigenous community in Guyana.

The entire process has been flawed from the beginning. It has largely ignored the indigenous peoples' right to free, prior and informed consent; the consultations have been largely for show; and the indigenous community has been given no solid commitment that their concerns will be dealt with in a systematic and urgent manner.

2) Lack of participation of indigenous peoples on proposals (submitted to the GRIF) that directly impact them

The GRIF steering committee has received two concept proposals directly relevant to indigenous communities, one entitled 'Guyana Amerindian Land Titling and Demarcation Project', and the other 'Low Carbon Development Strategy (LCDS) Amerindian Development Fund: Village Economy Development Under GRIF Phase 1'. Both have been submitted jointly by the United Nations Development Programme (UNDP) and the Ministry of Amerindian Affairs.

These two proposals have direct implications for indigenous land rights and the right to be a part of the decision-making process in matters affecting the lives of indigenous peoples in Guyana. As with the consultations on the draft LCDS paper, these two proposals lack adequate input from the indigenous communities; they ignore issues affecting the communities; and many, if not all, of the indigenous communities are unaware that the proposals are being made on their behalf. In fact the proposals were sent to the GRIF steering committee before any discussion on these initiatives with a broader constituency of indigenous peoples.

One of the projects proposes titling and demarcation of Amerindian lands, and lays out activities and timelines that are supposed to be met. While this proposal addresses indigenous peoples' call for government action on this vital issue, the concept features many serious shortcomings and gaps, starting with the lack of participation of indigenous groups in the design and structuring of this proposal.

The Amerindian Act, which is the legislation that governs indigenous peoples in Guyana, is cited in the demarcation proposal as the authority document that safeguards indigenous land rights and spells out the process for titling and demarcation. However,

numerous organisations, including the Committee on the Elimination of Racial Discrimination (CERD), have expressed concerns about this Act, including that it fails to meet international standards. The Ministry of Amerindian Affairs seems to have ignored these concerns and recommendations. The Amerindian Act contains poorly defined rules for land titling, and land title extensions are arbitrary and unfair; the Act also leaves final decision-making to the Minister's discretion. The Act does not contain any objective criteria for titling, nor does it take into account customary tenure and patterns of traditional occupation and use. Applications for title extensions have been dismissed, significantly reduced or amended by the Ministry of Amerindian Affairs without taking into account traditional occupation and use and without any process of negotiation. There is no due process for appeal, and if a community is dissatisfied with the minister's decision, according to the Act they can go to court; but Amerindian villages in some areas are still awaiting formal responses and/or updates on the status of their applications to land title extensions several years after making submissions to the Ministry of Amerindian Affairs.

The current land titling and demarcation process is fraught with problems, as demonstrated in some preliminary land demarcation exercises carried out by the government. Some of these include reduced lands to individual communities after demarcation, loss of land by one community to another, overlapping boundaries, and the inclusion of mining concessions in title documents. In many parts of Guyana mining, logging and other interests have been issued commercial and prospecting rights over customary lands under claim by indigenous peoples, yet the GRIF project proposal does not address these fundamental issues. In two recent cases which underline the need for legislative and policy reform, mining companies were granted rights through the courts over those of indigenous communities simply because the laws do not adequately protect the rights of these communities to their traditional and ancestral lands.

The decision in favour of the mining companies means that the communities face negative social and environmental consequences from the occupation of these lands by the mining interests. Waterways could be destroyed, which means the destruction of the source of water supply as well as their fishing grounds. Community farmlands, hunting grounds, gathering areas and sacred sites are also at risk.

It is crucial to resolve these problems, to bring protection into line with international standards and obligations to include customary tenure and patterns of traditional occupation and use. If the the project is pushed ahead without due effective Amerindian participation in its design and full compliance with relevant standards, it could jeopardise its intended outcomes and could even generate resource conflicts and disputes due to flawed titling processes and defective decision-making procedures. In any territorial ordering and land-titling project in Guyana, it will be necessary to pinpoint and document competing claims and plan for the fair resolution of land issues, including possible annulment of concessions that have been awarded to third parties on Amerindian traditional lands (titled and untitled) without their free, prior and informed consent.

Had there been consultations with indigenous communities, these fundamental issues could easily have been pointed out by the people and/or their representatives, and recommendations could have been made. Instead it was left up to those who could access the internet and whose networks could post alerts to find out that there was limited time for comments. Indigenous leaders in the interior were given no opportunity for direct input, while others who were in a position to comment had been compromised.

There must be significantly more effort to ensure that mechanisms are in place to enable the participatory design of projects with intended beneficiaries and their organisations, before project proposals are finalised and approved. It is also important that procedures for addressing titling and territorial claims are based on an objective and transparent process informed by the land rights situation on the ground and based on the priorities of indigenous peoples. A formal process to reform and strengthen land-titling procedures in Guyana, to bring them in line with international obligations and standards, must be established. This must include changes to rules under the Amerindian Act and related instruments. Methods and regulations for land demarcation, delineation and titling under the project based on customary occupation, land use and traditional tenure in full conformity with relevant international norms must also be ensured.

This brief discussion of the lack of full and effective participation of indigenous peoples and the lack of good consultation processes and compliance with their right to FPIC (see Box 1) are concrete examples of the lack of full and effective participation of indigenous peoples in the projects and proposals regarding REDD+ and climate change in Guyana. Without respecting the rights of indigenous peoples and other forest communities in all phases of REDD+ initiatives, these initiatives are likely to fail. Therefore the implementation of strong social safeguards should not be seen as a regulatory burden, but as a prerequisite for the success of any REDD+ initiative.

Indonesia: the urgent need for a Safeguards Information System

Authors: Bernadinus Steni and Anggalia Putri Permatasari, HuMa (Association for Community and Ecology-Based Law Reform)

Discussions on safeguards under REDD+ in Indonesia have made progress, especially in terms of linking the Cancun Agreement with national policies. Indonesia currently has a set of REDD+ safeguards, known as PRISAI (Principles, Criteria, Indicators for REDD+ Safeguards Indonesia), intended to operate at the project level and as a Safeguards Information System (SIS).

The framework to safeguard REDD+ activities has almost been finalised by UKP4 (Presidential Delivery Unit for Development Monitoring and Oversight). Meanwhile an SIS has been formulated following the initiative of the Ministry of Forestry of Indonesia (MoF). The SIS is quite complex, since various developers proposed different standards, and it is not easy to coordinate: but it should not be dismissed, as together the initiatives may contribute to making the national SIS as good as possible.

This is a long process, and it must be monitored closely so that it does not become just a toothless policy proposal. For REDD+ to work and to bring about the desired reduction in rates of deforestation rates and corresponding greenhouse gas emissions, the safeguards must ensure that they address the root cause of forestry problems in Indonesia: namely the unequal control of natural resources, and deforestation driven by the 'business as usual' policies.

To ensure the implementation and continuation of the positive developments mentioned above, Indonesia needs a more precise instrument to monitor the implementation of safeguards and ensure its robustness at the practical level. It should guide policy-makers to choose the best standards. However, the lack of common international standards and guidance on safeguards for REDD+ threatens to undermine this. Indeed, indigenous peoples and other local forest communities fear an intensification of violence and the violation of their rights if the development and monitoring of safeguards for REDD+ is left to Indonesia's regional and national politicians.

This article deals briefly with the development of safeguards and an SIS in Indonesia following COP16 and 17. Our main argument is that safeguards can only be effectively implemented if there is more systematic international guidance on the concepts that remain open to interpretation. More specific guidance is needed to prevent safeguards from being left open to interpretation by government agencies that favour the exploitation of natural resources and are hostile to the notion that forest communities have rights. In order to ensure the accountability and integrity of the implementation of safeguards based on principles of

Photo Rainforest Action Network

transparency, consistency, comprehensiveness and effectiveness as stated in the Cancun Agreement, there must be a systematic reporting mechanism at the national level, backed up by a counterpart at the international level. A more systematic, detailed and (where possible) verifiable SIS is required.

Is Indonesian forest policy biased against local communities?

Indonesia has 136.88 million hectares of forest area (Ministry of Forestry Strategic Plan 2010–14) and 22 million hectares of peat land. Until 2010, the annual deforestation rate in Indonesia was above one million hectares. The Ministry of Forestry officially reports a more moderate figure of 0,675 million hectares/year (MoF 2012).[7] At the higher rate, it is predicted that Indonesia will lose all its forests within the next fifty years (CIFOR, 2010)[8]. At the same time, control of forests regulated by the framework of state law is heavily biased in favour of large corporations at the expense of the communities that live within them and in the surrounding areas. Currently an estimated 31,957 villages are entirely or partially located inside forest areas or intersecting with them. Figures from the Ministry of Forestry itself show that at least 48.8 million people are living in villages in or around forest areas, and 10.2 million of these people are categorised as poor or 'backward'.[9] Many have been living there for generations, but they have no formal recognition of their rights to forest land from the state and face the constant threat of criminalisation and accusations of being 'illegal dwellers'. Under the 1999 Forestry Law, the Ministry of Forestry claims authority over 70% of Indonesia's total land defined as state forest, while communities also defend their historical claims.[10] As a result, conflicts over land in forest area abound. There are many examples of villagers being imprisoned for cutting down one or two trees to build a house or for firewood, while large-scale logging (both legal and illegal) that damages the environment is left unchecked and even promoted.[11] In the context of REDD+, this is one of the social dimensions that REDD+ safeguards must address.

7 Recently, on July 2012 the Ministry of Forestry, launched a new calculation of deforestation rate which claimed the deforestation rate suddenly decreased drastically from 1,125 million ha per year in 2010 to 0,675 ha per year in 2012. This number was released without a clearly accountable methodology, or efforts to halt deforestation which could justify the reduction. This points to the need to support the safeguards, for increased transparancy among other reasons. See: http://cetak.kompas.com/read/2012/07/24/04592326/laju.deforestasi.ditekan

8 Verchot, L.V., Petkova, E., Obidzinski, K., Atmadja, S., Yuliani, E.L., Dermawan, A., Murdiyarso, D. and Amira, S. 2010 Reducing forestry emissions in Indonesia. CIFOR, Bogor, Indonesia.

9 See Ministry of Forestry Report, Hariadi Kartodihardjo, Bramasto Nugroho, and Haryanto R. Putro, Development of Forest Management Unit (KPH): Concept, Legislations, and Implementations, Jakarta: Ministry of Forestry, October 2011. Article 50 paragraph 3 letter k of Forestry Law No. 41/1999 criminalizes people that carry tools that can be used to cut or chop trees inside forest without permission from authorized officials. This article is often used to put people from communities that have had a long tradition of carrying knives to cultivate their land in jail.

10 Legally, MoFoR's claim remains uncertain, as most of the forest delineation process has not been finalized yet. According to an official record of the Ministry of Forestry, only 12% of state forests, or 14,238,516 hectares, have been demarcated. The rest (88%) is still a grey area.

11 See HuMa's report about Kontu Case in Muna, Southeast Sulawesi in Asep Yunan Firdaus et al., Managing Forest by Putting People in Jail, Jakarta: HuMa, 2007. Criminalization activities continued to occur at least up to three years after the report was issued. In 2010, HuMa in collaboration with Pontianak Institute and LBBT exposed a systematic criminalization process in communities in Melawi, West Kalimantan, that have been cultivating their land for centuries in an area that was later claimed by the government as a conservation area. See Agustinus Agus and Sentot Setyasiswanto, After We Are Forbidden to Enter the Forest, Jakarta: HuMa, Pontianak Institute and LBBT, 2010.

Discussion of REDD+ safeguards in Indonesia

REDD+ safeguards in Indonesia have largely been developed by two government agencies: the Ministry of Forestry, and the REDD+ task force under the UKP4, which reports directly to the president. The task force was established by the president to establish REDD+ institutions entailed by his pledge to reduce emissions by 26% without foreign assistance, and by 41% with foreign help by 2020. Indonesia's agreement with the Norwegian government under the 2010 Letter of Intent (LOI) set the ball rolling. With regard to safeguards, there is consensus between the two government agencies that the task force will develop the content of the safeguards (principles, criteria, and indicators). Currently a draft safeguards policy is in place, which combines the seven Cancun safeguards with additional input from a series of public consultations at the national and regional levels, called PRISAI, consisting of ten social and environmental safeguards (see Box 2). In addition, there are seven fiduciary safeguards to guarantee that REDD+ money is managed in a transparent and accountable manner. They include the principles of anti-corruption, real and measurable results-based payment, independent financial audits by a certified public accountant, and public financial reports, which describe financial plans and their implementation.

While the task force develops the content of the safeguards, the Ministry of Forestry is charged with developing the SIS and informing the public about how it is fulfilling its international obligation to address and respect the Cancun safeguards. The proposed structure of the SIS includes an institution that manages data and information on the implementation of safeguards at the project or site level, district and provincial level, and up to the national level. The information will then be collected at the national level, and relayed to the international level through channels agreed upon under the UNFCCC (currently national communications are only required every four years, a timeframe which is too long for reporting on safeguards.)

The problem of national interpretation and coordination

There are several fundamental problems with the national interpretation of safeguards. The first relates to design. In the Cancun Agreement, reinforced by the Durban Platform, there are several terms that are open to interpretation by governments and other actors that are hesitant to use strong language on safeguards. By making safeguards subject to 'specific national and regional development priorities, national objectives and circumstances, consistent with national laws and forestry programs', the Cancun Agreement allows countries to limit the implementation of safeguards. Such phrases limit the opportunity of UNFCCC to push for a more systematic, detailed and strict system of safeguards reporting at the global level. The phrases about considerations for national situations and conditions, including national laws, may in some cases be used to condone widespread forest destruction and human rights abuses in forest countries – all in the name of 'national circumstances', which can mean virtually anything.

In the context of Indonesia, national circumstances may allow – in line with the national Forestry Law – violation of the constitutional rights of citizens of almost 32,000 villages located in forest areas, and perpetuate or even worsen the condition of indigenous peoples. National legislation has not given adequate recognition to the rights of indigenous communities living within forests and in surrounding areas; in fact it has tended to deny that these rights exist. Recently we were able to see how Indonesia interprets the definition of indigenous peoples in the UNDRIP, which Indonesia approved in 2007. Muhammad Anshor, on behalf of the Indonesian delegation, said that 'given the fact that Indonesia's entire population at the time of colonisation remained unchanged, the rights in the Declaration accorded exclusively to indigenous people and did not apply in the context of Indonesia'.[12] This position has been repeated in Indonesia's response to the United Nations Periodic Review, a four-year human rights check-up

Box 2
Ten social and environmental safeguard principles of PRISAI

1. Clarifying the rights to land and territory
2. Complementary to and/or consistent with national emissions reduction target
3. Improving governance in the forestry sector
4. Respecting and empowering the knowledge and rights of indigenous peoples and local communities
5. Providing effective and full participation of multi-stakeholders and paying attention to gender justice
6. Strengthening forest conservation, biodiversity, and ecosystem services
7. Addressing reversals
8. Reducing replacement of emissions
9. Allowing equitable benefit-sharing
10. Guaranteeing transparent, accountable and institutionalised information.

12 Department of Public Information, News and Media Division, New York, Sixty-first General Assembly Plenary 107th & 108th Meetings (AM & PM), General Assembly GA/10612, 13th September 2007

Photo: David Gilbert, Rainforest Action Network

for all countries, by saying that 'the government of Indonesia supports the promotion and protection of indigenous people worldwide … Indonesia, however, does not recognize the application of the indigenous peoples concept … in the country.'[13]

A similarly problematic picture of 'national circumstances' emerges with regard to forest destruction. When the two-year suspension (the so-called moratorium imposed by civil society) on the issuing of new licences for developing primary forests and peat lands was recently launched by the government, important forest areas were excluded. Based on the 2011 report from the Center for International Forest Research (CIFOR), 9.6 million hectares of primary forest, 3.4 million hectares of protected and conservation forest and 4.7 million hectares of peat land were excluded from the 66.4 million hectares on the map of areas included in the moratorium.[14]

When first issued, the map included 69,144,073 hectares of forests and peat lands. Most of it (more than 50 million hectares) was already protected by protected forest and conservation policies. Only 8 million hectares of primary forest were included in the protection. The first revision of the moratorium map excluded 3,769 million hectares of primary forests and peat lands from the protection. In the second revision, there was a divergence between UKP4 and the Ministry of Forestry's version of the map.[15] In the UKP4's version, the moratorium area is increased by 379,000 hectares, to 65,753,810 hectares. Shortly afterwards, the Ministry of Forestry announced a decrease of 92,245 hectares. In the district court, a civil society's suit regarding violation of moratorium by Aceh regional government was thwarted. The Ministry of Forestry seemed to take the provincial government's side by justifying the violation. This is one example of the problem of lack of coordination and conflicting policies among government agencies. Interpretation and coordination for REDD+ as a whole, and particularly the development safeguards, will also face this problem.

Varying experiences from REDD+ pilot projects and voluntary safeguards

Even within existing REDD+ pilot projects, there are several interpretations of safeguards. Experience shows that safeguards are interpreted differently by each REDD+ project proponent. In one HuMa study in Central Kalimantan regarding the Kalimantan Forests and Climate Partnership (KFCP), for example, various parties claimed that they had been implementing FPIC (see Appendix), including the Head of District (Kapuas). However, communities living inside and around the project location testified that they had never been

13 http://www.thejakartapost.com/news/2012/09/18/ri-refuses-comply-with-un-human-rights.html. Complete response from Indonesia government can be seen at General Assembly, Human Rights Council Twenty-first session Agenda item 6 Universal Periodic Review, Report of the Working Group on the Universal Periodic Review, Indonesia Addendum Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/21/7/Add.1, 5 September 2012

14 Murdiyarso D, Dewi S, Lawrence D, Seymour F (2011) Indonesia's Forest Moratorium, A Stepping Stone for Better Forest Governance? Bogor, Indonesia: CIFOR.

15 Presentation of UKP4 for press conference in"1 year the implementation of Inpres 10/2011", Jakarta 21 May 2012

engaged in an adequate FPIC process.[16] This cannot be claimed as a violation, however, as no law, policy or standard that has yet been officially adopted as a national reference.

There are currently some voluntary initiatives related to SIS. One of them is REDD+ Social and Environmental Standards (REDD+SES), which aims to provide tools for monitoring the performance of safeguards implementation at the provincial level. Indicators that have been designed globally are allowed to be adapted at the provincial level, according to local needs and context. However, this initiative has not been properly taken into account in the SIS initiative at the national level. The challenges include:

- The roles and responsibilities of provincial and district government for REDD+ have not been clarified. Therefore it is difficult to initiate a discussion of safeguards that is promoted by non-state actors, before there is a clearer picture of REDD+ among government agencies.

- Indonesia has more than 400 hundred districts and 33 provinces. A bottom-up process would make most sense for proper participation. However, this has consequences for time and resources, especially if the process is to work properly between districts or between provinces. Guidance at the national level is needed to accelerate the work of the bottom-up processes. To support such national guidance, the UNFCCC should provide the necessary standard that allows the national government to design an effective national SIS.

The importance of robust SIS guidance at the international level

Because of the social, environmental and governance issues that Indonesia faces, it needs robust international guidance in order to guarantee that the formulation, implementation and reporting of the SIS are accountable at the national level. There are two important reasons for this.

First, projects with a REDD+ readiness label are now proliferating in Indonesia. More than forty projects have been developed with their own models of implementation. Many projects claim that they have already conducted a social assessment, are following the principle of FPIC, and recognise rights. But there is not one single standard that is officially recognised at the national level to ensure that such models are in line with the pillars of the national REDD+ strategy, including with regard to the fulfilment of social and environmental safeguards. Many projects refer to standards and instruments of safeguards provided by non-government institutions, such as the Voluntary Carbon Standard (VCS), the Climate, Community and Biodiversity Alliance (CCBA), and REDD+ Social and Environmental Safeguards (REDD+ SES).

Other projects refer to legislation claimed to be in the spirit of the safeguards. However, there is still not a single credible report at the national level that can show positive effects of these projects with regard to safeguards implementation. This is partly due to the absence of any institutional structure at the national level with the authority to determine the necessary standards, and fulfill the principles of transparency, consistency, comprehensiveness and effectiveness mentioned in the Durban Platform (not to mention the missing principle of participation).

Secondly, a systematic and informative SIS at the global level can increase the accountability of the processes at the national level. A strong international reporting system is essentially a mechanism to ensure that safeguards are implemented and respected by the relevant parties, including REDD+ project developers, and regional and central governments. Hence SIS is not an end in itself, but an instrument to ensure that safeguards are firmly in place. Without a mechanism to monitor and enforce them, good principles, criteria and indicators will not be able to improve the situation of the communities that have for too long been marginalised and robbed of their rights because the system is set against them. Currently there are many legal instruments in Indonesia that have already accommodated (albeit with many restrictions) the specific rights of indigenous peoples and local communities. A solid SIS at the international level will enable the strongest laws to provide the basis for national-level safeguards implementation. An SIS may not be the ideal mechanism to enforce safeguards, nationally or internationally. In the absence of an MRV system on safeguards, however, it is the only mechanism that can encourage governments to honour their obligations regarding safeguards development and implementation. To make REDD+ work, there is a need for a more detailed SIS in Indonesia. A common template and a review mechanism at the national and international level are needed to make the provision of safeguards information easier to do in an effective, comprehensive and transparent manner.

Given the urgency of the problems of Indonesia forests, in terms of environment, social aspects and governance, fundamental changes must be made to reverse the trend before it is too late.

16 Steni B, Setyasiswanto S (2011) No reason to delay: the portrait of FPIC in REDD+ demonstration activities. Projects in Central Kalimantan and Central Sulawesi. Jakarta: HuMa.

Nepal: issues and challenges relating to the rights and livelihoods of indigenous peoples in REDD+

Author: Pasang Dolma Sherpa, National Coordinator, Nepal Federation of Indigenous Nationalities (NEFIN)

Of the estimated 370 million indigenous peoples in the world, 8.32 million live in Nepal, according to the 2001 Nepalese census. That means that they would constitute around 37% of the 22.38 million inhabitants of the country. However, indigenous peoples in Nepal believe they actually constitute more than 50% of the population.

Socio–economic indicators show that indigenous peoples are disadvantaged in comparison with the main population.[17] They are generally considered to be illiterate and unable to understand theories and issues concerning climate change, such as REDD+.

However, when it comes to skills relating to sustainable forest and resource management, indigenous peoples are far ahead of modern conservation thinking. There is a need for the state to recognise their knowledge, and not undermine the role and collective strength of indigenous peoples nationally. As stakeholders and rights-holders, indigenous peoples should be consulted and encouraged to participate in the development of policies and programmes that could affect their traditional occupation and knowledge systems. They ought to be recognised as having not only a special status, but also specific rights relating to full and effective participation; meaningful consultation processes according to the principle of free prior and informed consent; and a right to decide what should happen to their ancestral lands in the ongoing REDD+ process (see Appendix).

Within the process of developing national REDD+ strategies in Nepal and in the implementation of NEFIN's Climate Change and REDD+ Programme (begun in 2009), NEFIN's main concern has been to sustain indigenous peoples' livelihoods and culture, and strengthen the management of forest resources, including biodiversity.

REDD+ in Nepal

The REDD Forestry and Climate Change Cell (REDD+ Cell) under Nepal's Ministry of Forest and Soil Conservation[18] has been responsible for the implementation of the Readiness Preparation Proposal (RPP) since its approval by the World Bank's Forest Carbon Partnership Facility

17 Bhattachan KB (2010) Peace and good governance in Nepal: the socio-political context. In quest for peace. Kathmandu: South Asia Partnership Nepal.

18 Government of Nepal, Ministry of Forest and Soil Conservation (2010) Nepal's Readiness Preparation Proposal (RPP). REDD. Kathmandu.

(FCPF) in April 2010. The REDD+ Cell has been involved in the readiness and consultation processes, the REDD+ strategy preparation, determining emissions reference levels, and in the creation of monitoring systems for forest and safeguards in Nepal. Under the RPP there is also a revision of forest and land tenure policies. Due to a low level of REDD+ awareness among government officials and the various stakeholders in Nepal, RPP implementation in Nepal has been slow. The plan to develop a national REDD+ strategy by 2012 was pushed forward by a year, giving the REDD+ Cell a mandate to complete the REDD+ readiness process by the end of 2013.

The role of indigenous peoples in the REDD+ process

NEFIN has been implementing its Climate Change and REDD+ Programme in Nepal in partnership with TEBTEBBA (Indigenous Peoples' International Center for Policy Research and Education), IWGIA (International Working Group for Indigenous Affairs) and AIPP (Asian Indigenous Peoples' Pact) with the objective of raising awareness and building the capacity of indigenous peoples in REDD+. The programme also seeks to strengthen indigenous peoples' capacity on community-based forest management and conservation. In order to meet these objectives, NEFIN has focused on designing and delivering research activities and publications, training, advocacy and lobbying, livelihood programmes, school programmes and community radio programmes, and the mapping and delineation of forests and communities. NEFIN's work includes coordination with groups from at least 61 of the 75 districts in Nepal. In turn, these coordinate with village chapters at the community level.

Issues and challenges for indigenous peoples in the REDD+ process

It has been a huge challenge for the Adibhasi Janajati (indigenous peoples) of Nepal to increase community-level awareness and build capacity on the REDD+ processes. The majority of indigenous peoples in Nepal are unaware of climate change and REDD+. This hinders them from engaging meaningfully with the relevant stakeholders, including government agencies, in the REDD+ decision-making processes.

The REDD+ Cell, under the Ministry of Forest and Soil Conservation, has taken on the task of developing appropriate social and environmental safeguard indicators, by trying to incorporate feedback received from relevant stakeholders, including indigenous peoples. But it is unclear how and whether these safeguard indicators will be incorporated in the Strategic Environmental and Social Assessment (SESA) element of RPP implementation. This has been one of the greatest concerns among indigenous peoples and local communities in Nepal.

Although in 2007 Nepal ratified ILO 169 and voted for the UN Declaration on the Rights of Indigenous Peoples (UNDRIP, see Appendix), there is no guarantee that indigenous peoples' rights will be given weight in the national REDD+ strategy. So far the government has not taken the necessary measures to revise any of its policies to reflect international obligations. It is crucial that indigenous peoples depending on forests are invited to participate in a meaningful manner in the revision of forest and land tenure policies, and to influence their content.

On behalf of indigenous peoples in Nepal, NEFIN has therefore demanded that the process of planning, developing and implementing the national REDD+ strategy acknowledges and is informed by indigenous peoples' rights as recognised by ILO 169 and UNDRIP. The REDD+ process should contribute to ensuring, and not undermining, their access to their ancestral lands, territories and resources, and should not impose any restrictive rules and regulations. Indigenous peoples' traditional knowledge and customary practices should be acknowledged as an integral part of the national REDD+ strategy.

It is difficult for indigenous peoples to convince the various non-indigenous stakeholders to take indigenous peoples' rights seriously in Nepal. In spite of the clear obligations that international treaties and conventions entail, the mainstream national and international NGOs, civil society organisations (CSOs) and government agencies are not speaking up for the concerns, interests and rights of indigenous peoples.

The REDD+ Working Group (RWG) under the REDD+ Cell is a government body with additional representation from CSOs and donor agencies. This working group advises the REDD+ implementation process in Nepal. NEFIN is one of thirteen members of the REDD+ Working Group. In this context, NEFIN finds that its voice is unfortunately relatively weak. Decisions tend to be based on the interests of the majority members, represented by the different ministries of the government of Nepal.

A REDD+ pilot project in Nepal has now developed carbon trust fund guidelines. These guidelines include payment criteria based on forest carbon status and enhancement, ethnic diversity, and gender ratio of the population based in the project area. Although these may be promising signs, NEFIN fears that in practice REDD+ will bring changes that undermine indigenous peoples' traditional livelihoods, and thereby restrict their rights as indigenous peoples under ILO 169.

Rules and regulations under the Nepalese National Park policies force indigenous peoples to give up their traditional livelihood practices, and forcefully encourage them to change the practices that are the basis for their livelihoods, including sheep-herding, yak-rearing in the mountain region, and fishing and boating in the plains region. [19]

Some current REDD+ pilot projects have also given cause for concern, e.g. the Chepang pilot project (see Box 3). The Chepang communities in Shaktikhor are among the most marginalised indigenous groups of Nepal, whose traditional livelihoods have been based on 'Khodiya', or shifting cultivation. The Nepalese government is not involved in the Chepang pilot project, but the project is seen as a model that the government can draw experiences from for the future.

Indigenous peoples in Nepal claim that 'Khodiya' is a sustainable way of using forest land. This has been confirmed by research conducted by NEFIN, in a study on the role of indigenous peoples' traditional livelihood practices in sustainable management of the forest. [20] Depending on further developments, this REDD+ project may force the Chepang communities to discontinue their traditional livelihood. As the Chiuri project does not provide an immediate income, it is likely that the project will increase food insecurity and poverty in the communities.

Recommendations

Indigenous peoples represent a distinct stakeholder group in the process of developing the Nepalese REDD+ strategy. First of all, they are in a special position because they depend on forest land for their survival. Secondly, as indigenous peoples they have specific rights, including guarantees that their cultures, ancestral lands, territories and resources are respected and protected by the state.

Awareness of REDD+ at the community level is very low among Nepal's indigenous peoples and local communities. This has been one of the main challenges for their meaningful participation in the preparatory phase of REDD+. In advance of the REDD+ consultation processes, it is crucial to implement national awareness and capacity-building programmes for indigenous peoples at the community level. This is particularly important in communities whose livelihoods and customary practices are going to be affected by national REDD+ strategies, policies and programmes.

19 Sherpa PD, Sherpa P, Ghale KP, Rai Y (2010) Land, forest and indigenous peoples' rights in relation to climate change and REDD: policy and program analysis. Kathmandu: NEFIN.

20 Sherpa PD, Sherpa G, Ghale K, Lama K, Sunuwar B, Yakha BJ (2012) Role of indigenous peoples for sustainable forest management and conservation. Kathmandu: NEFIN.

Box 3
The Chepang REDD+ pilot project

The Chepang communities have a strong symbiotic relationship to forests and forest resources, and have been dependent on them for their livelihoods for centuries. Yet their rights over their land are not acknowledged by the government of Nepal. In fact their traditional occupation is being undermined by government policies established for community forest users groups, which do not uphold indigenous peoples' rights to continue their traditional livelihoods.
In 2011 a joint REDD+ pilot project between the International Center for Integrated Mountain Nepal (ICIMOD), the Federation of Community Forestry Users, Nepal (FECOFUN) and the Asia Network for Sustainable Agriculture and Bioresources (ANSAB) provided the Chepang communities with a seed grant of Rs 100000 in total (around US $1176). They were encouraged to use this to plant Chiuri (Butter tree – *Bassia Buteracea*) on the land that they normally used for shifting cultivation. Chepang communities decided to do this. The money on offer is a huge amount for them: but now they are worried because the continuity of the project is not guaranteed. As Chiuri takes at least 15–20 years to bear fruit, the communities are worried about the risk that this project poses to their food security and continuous traditional livelihoods. So far the project has not provided them with any alternatives for making a livelihood: and it is hard to know how they can survive, if they cannot continue practising shifting cultivation on the land where the Chiuri plants are maturing.

The photo shows an area in the background which was completely deforested having been rehabilitated using community forest management.

Photo: CARE international

The government does not seem prepared to initiate awareness-raising and capacity-building, and NEFIN cannot meet the needs on its own, due to limited human resources and funds.

NEFIN challenges all the relevant stakeholders, and particularly government agencies, to take the rights of indigenous peoples and forest-dependent communities into account in national REDD+ strategies. A rights-based approach would include taking overall responsibility for awareness-raising and capacity-building, consultations, and for inclusive and participatory processes among indigenous peoples that will be affected by REDD+. This would imply that the government ensures that REDD+, and forest management in general, is based in forest management that favours the poor; is sensitive to the cultures and adaptations of local communities and indigenous peoples; and does not in any way undermine the livelihood security and coping strategies among the poor.

The relevant government agencies in Nepal should genuinely seek solutions to the challenges that indigenous peoples face. They should acknowledge indigenous peoples' rights to uphold and further their traditional knowledge and customary practices. They should also acknowledge indigenous peoples' land tenure and their right to self-determination on their ancestral forest land under the REDD+ strategy.

In order to achieve sustainable results, it is crucial that indigenous peoples are invited to participate in a more meaningful manner in the revision of forest and land tenure policies, which is now taking place under RPP implementation. This will allow them to contribute to sustainable forest management, as well as to the development of policies that find constructive ways to secure their livelihoods, knowledge, skills and customary practices.

Box 4
Nepal

Women patrol their community forest in the Nepalese Terai

Photo: CARE International

Nepal is a multicultural, multilingual and multi-religious country, with 59 indigenous nationalities recognised by the government of Nepal under the National Foundation for Development of Indigenous Nationalities (NFDIN) Act of 2001. The NFDIN Act defines indigenous nationalities (Adivasi Janajati) as communities that have their own mother tongue, distinct traditions and cultures, written and oral history, traditional homelands and territories, and egalitarian social structures.

Indigenous nationalities in Nepal have been socially, culturally, politically and economically marginalised from the mainstream of development throughout the history of Nepal. Social and political developments, particularly the indigenous movement of the 1990s, gave birth to the Nepal Federation of Indigenous Nationalities (NEFIN). Its objective is to ensure indigenous peoples' social, cultural, linguistic and economic rights in Nepal. NEFIN has been working to ensure the rights of indigenous peoples in Nepal since 1990. The focus has in particular been on indigenous peoples' traditional knowledge, customary practices and access to the forest.

NEFIN is an umbrella organisation of 56 indigenous peoples' organisations. NEFIN has 71 District Coordination Councils (DCCs) and more than 2500 Village Development Councils (VDCs), seven affiliated national-level organisations, and thirteen international affiliated organisations, making NEFIN one of the largest networks of indigenous peoples' organisations in Nepal.

Cameroon: exploring benefit sharing: lessons for REDD+

Author: Eric Parfait Essomba, Climate Change and Forests Project Manager, Centre for Environment and Development (CED)

Since 2005, Cameroon – like most Congo Basin countries – has been involved in the development of REDD+ activities, in the hope of receiving financial benefits for forest management and conservation, within the framework of the fight against climate change. As part of this effort Cameroon is participating in the World Bank's Forest Carbon Partnership Facility readiness phase.

After the development of the Readiness Plan Idea Note (R-PIN) in 2008, Cameroon recently had its Readiness Preparation Proposal (RPP) approved. The implementation of this preparation plan should lead, over the next three years, to a REDD+ national strategy. Among other things, the preparation plan deals with the development of a system of REDD+ benefit-sharing, and refers to plans to draw on existing experience in the distribution of benefits from the exploitation of natural resources in Cameroon.

The 1994 Forest Law and the 2001 Mining Code introduced various schemes for benefit-sharing from forest resources, wildlife and mining. These plans provide a share for communities dependent on areas of exploitation. But the results of the redistribution of such benefits on local development and poverty reduction have been mixed, at best. Given that the effectiveness of the implementation of REDD+ depends heavily on equitable benefit-sharing, it is necessary to learn lessons from the past management and distribution of benefits from natural resource use.

This case study analyses some notable experiences of benefit-sharing, including those relating to forestry, wildlife and mining royalties, in order to inform the development of REDD+ benefit-sharing systems, and to develop recommendations for a reliable, robust, fair and transparent consensus in Cameroon.

Benefit-sharing systems for forest, wildlife and mining in Cameroon

In the early 1990s the government of Cameroon adopted a forest policy which was supposed to improve the integration of forest resources in rural development, to help raise the standard of living of the population and let them participate in the conservation of resources. This was the context in which a new forestry law was adopted in 1994.[21] It provided mechanisms to help the access of local communities to the benefits of forest resources, notably through community forest management. The key mechanism was the establishment of a decentralised tax: the annual forestry

21 Law No. 94/01.

Photo: Rainforest Foundation UK

royalty (AFR), which allowed the allocation of a portion of the revenue from the sale of forest products to go to local forest communities.

This is a forest area-based tax paid by logging companies in the context of operating a concession. The amount of the AFR is calculated from the number of hectares of forest concession awarded, multiplied by an amount that the logging company agrees to pay per hectare during the bidding process. When this system was estalbished, 50% of the revenue generated by AFR went to the central treasury, while the remaining 50% was shared between the municipality and the communities affected by the forestry operations (40% for the municipality and 10% for the communities). In 2009 this system of revenue-sharing was changed to promote solidarity between national and non-timber forest communities through a system of equalisation. The new benefit-sharing system gives 50% to the treasury, 20% to the Inter-Communal Equipment Fund[22] (FEICOM), 20% to the municipality and 10% to local communities.

For sustainable and participatory management of wildlife, the 1994 Forestry Law and its Application Decree of 1995 on wildlife allows for increased involvement of local communities in the management of large wildlife resources. These provisions introduce the concepts of special-interest areas for hunting (ZIC) and community-managed hunting (ZICGC), which are in fact areas where commercial and sport hunting may be undertaken. The areas for community-managed hunting are partly the responsibility of wildlife resources valuation committees (COVAREF), which are partly funded through a 10% levy on hunting for sport.

Guided by the forestry sector, the 2001 Mining Code, through its Application Decree of 2002, also provides for the collection of mining taxes to benefit local communities. An extraction tax (levied on mines and quarries) and an Ad Valorem tax (levied on the sale of metals and precious stones from craft, industrial, mining and water sources). The level of taxes depends on the material extracted. The code provides a breakdown as follows: 25% for the affected population (15% for the municipality and 10% for local communities); 25% for the Ministry of Mines, which monitors the project; and 50% for the Public Treasury. Even though only two or three mining licences have been issued to date by the

22 Aid funds to municipalities, which in this case help to equalise the AFR. Thus even non-forest communities may receive dividends from logging.

government of Cameroon, there are some quarrying and artisanal mining operations which already generate revenue, which should be distributed according to the legal provisions regarding the distribution of extraction and Ad Valorem taxes. But it is clear that this is not always the case.

An inequitable distribution of benefits

One observation which immediately emerges from the mechanisms and taxes for sharing of revenues from natural resources in Cameroon is the lack of equity between those devolved to the central government and municipalities, and those devolved to local communities. Indeed, the share reserved for communities, which in principle should correspond to losses (restricted rights) caused by the implementation of the logging or mining activity, unfortunately rarely exceeds 10%. This seems a paltry amount compared to the aspirations for development in local communities. Unfortunately this is often due to either the finance law or joint orders of the technical administration (forestry, mining) and financial administration that set quotas for different stakeholders. Communities are effectively excluded when they do not participate at any time in the development and definition of benefit-sharing, so each system develops on an inequitable distribution base and does not guarantee fairness for forest-dependent communities. In addition, communities are in many cases associated with the management of the quota reserved for municipalities, and in principle they should also benefit from this share.

Because of lack of information, payments are often made either to the head of the community or to elites who receive benefits on behalf of the community. The result is a confiscation of profits by elites at the expense of the community as a whole.

One of the most important aspects regarding the fairness of benefit-sharing in Cameroon is that relating to indigenous peoples. Because they do not have clearly recognised territories, they often do not benefit directly from the income redistribution. Even when they are included in benefit-sharing mechanisms, as in the case of benefits from wildlife resources, they receive very marginal quotas and benefits from projects that do not always correspond to their real concerns. This is particularly worrying – which is why REDD+ benefit sharing should be preceded by a clarification of the land tenure system. If the tenure rights of indigenous peoples remain precarious, it will be impossible for them to claim benefits from REDD+. For generations, indigenous peoples have managed and protected forest areas in a sustainable way. Therefore they should be the first beneficiaries of any potential compensation from REDD+.

Lack of transparency in the management of royalties

The governance of the distribution of royalties for natural resources in Cameroon is characterised by a lack of transparency about the information shared and the management of funds; the inaccountability of managers; and instability around legislation governing the issue.

In the case of the AFR, amounts paid by logging companies at the level of the central government do not always correspond to the amounts received by municipalities. Municipalities in turn do not ensure the entire transfer of the already very low percentage (10%) allocated to communities. A study carried out by CIFOR in three municipalities located in south-eastern Cameroon reveals that communities receive only 43% of the shares allocated to them.[23] Greater transparency was achieved in the past through official presentations at public meetings in the presence of the media. Thus communities were able to know the exact amount of the royalty, and could pressurise leaders for the effective implementation of development activities. Unfortunately this was withdrawn in 2005 as it was politically embarrassing. Sometimes communities do not even know that they have a right to a royalty. This is often the case with mining royalties. A report from the Extractive Industries Transparency Initiative (EITI) describes payments under the extraction tax for the period 2006–08 by companies to the central government for the exploitation of quarry and marble mines.[24] Nowhere does the report mention the return of these payments at the community level.

The management of benefits from natural resource royalties in Cameroon remains a major preoccupation, limiting the efficient and equitable distribution of benefits to communities. A core problem is the embezzlement of funds allocated to municipalities and communities. In some cases the shares received by the municipality, and which should serve for local development of inhabitants, are used either for running costs for the council (which has nothing to do with the well-being of communities), or are misappropriated by third parties. For example, in the case of wildlife royalties, the embezzlement of funds by COVAREF authorities takes the form of overbilling, payment of amounts that are not due to third parties (service

23 Cerutti PO, Lescuyer G, Assembe S, Tacconi S (2010) The challenges of redistributing forest-related monetary benefits to local government: a decade of logging area fees in Cameroon. International Forestry Review 12 (2).

24 Republic of Cameroon, Ministry of Finance, monitoring and implementation committee of the Extractive Industries Transparency Initiative (EITI) in Cameroon (2010) Conciliation report of figures and volumes within the framework of EITI in Cameroon during the 2006, 2007, and 2008 financial years.

providers, state agents, etc.) and the use of funds for personal purposes. The level of loss of funds from such practices is estimated at nearly 20%, despite the financial management procedures that are in place. The complicity and impunity of state officials, and the extreme weakness of social sanctions amplify these malpractices. Without tackling such corrupt practices, long-term sustainable management of forests and other natural resources will not be achieved.

Exacerbating this mismanagement is the fact that council leaders and officials from the management committee are not adequately accountable at the community level. Due to their power and political stature, they often do not feel obliged to give account to the community about the use and sharing of funds. Unfortunately sanctions for poor management are almost non-existent, so the situation persists and continues to deprive thousands of forest-dependent communities of what is rightly theirs.

Conclusions for local development

If there is one thing that the government, regional and local authorities and civil society can agree on, it is that the distribution of royalties from natural resources has not improved the lives of local communities and indigenous peoples. Municipalities which have the largest area of forest, wildlife and mining resources, and should be benefiting from royalties, are paradoxically among the poorest and in some cases have serious problems with infrastructure (hospitals, schools, etc.), electricity and drinking water. This is explained by the elite capture of benefits, lack of representation within communities, and corruption among local officials.

Instead of stimulating local development, the sharing of benefits from natural resources in Cameroon has led to conflicts and tensions within communities, and between communities and council representatives.

Lessons for the sharing of REDD+ benefits in Cameroon

For a REDD+ benefit-sharing mechanism in Cameroon to succeed, it is essential first to clarify tenure rights, resulting in full legal recognition of ownership rights of community land. Without this, communities are unlikely to feel motivated to contribute to the reduction of deforestation and forest degradation. For indigenous communities, the situation is even more delicate because they cannot claim REDD+ benefits, because they do not have recognised administrative territories. This would be a serious injustice for indigenous peoples who have managed forest areas sustainably for generations.

Second, the definition of shares and management mechanisms of benefits should be done in a concerted and consensual manner with forest communities and must be addressed with the full respect for the right to FPIC for local communities and indigenous peoples.

Third, participation and effective and direct inclusion of indigenous peoples and local communities in the management of revenues is a prerequisite to ensure transparency and efficiency of the use of funds. Mechanisms should be established to ensure that there is a fair balance between community representatives and the different levels of government.

Finally, monitoring mechanisms and strict control should be established to minimise the risk of embezzlement of funds. Sanctions should be established to prevent the lack of accountability currently observed. The REDD+ mechanism should include issues of profit-sharing. Communities should be able to monitor the effective management of their income, and to complain if mismanagement is observed.

Conclusion

Unlike other countries in the Congo Basin, Cameroon has a lot of experience of benefit-sharing arising from the exploitation of its natural resources. These differences bring lessons which the government should draw on to build a credible REDD+ process. It is important that the rules of distribution of REDD+ benefits are based on transparent, consensual, legitimate and fair principles and criteria, to prevent elite capture at the expense of collective interests.

Indigenous People in Cameroon sharing their experience on forest benefit sharing.

Photo: Centre for Environment and Development, Cameroon

Democratic Republic of Congo (DRC): problems relating to civil society participation in REDD+

Author: Joëlle Mukungu, Technical Assistant, Forest Peoples Programme, Democratic Repuplic of Congo

Civil society and indigenous peoples' organisations in DRC are committed to playing a significant role in the preparation of REDD+. But they have been hampered by a lack of resources, lack of progress and capacity in the REDD+ planning bodies, and most of all by lack of commitment by the government to assume overall responsibility for consultations on REDD+ with local communities. In practice it has been left up to civil society to organise consultations, while most of the activity in the process has been taking place in Kinshasa, away from the provinces where the forests, local communities and indigenous peoples live. This case study outlines how civil society in DRC has organized itself to participate in the REDD+ process, and briefly discuss the problems faced.

Background

The Democratic Republic of Congo (DRC) has been preparing for REDD+ for around three years. With financial support mainly from the United Nations REDD+ (UN-REDD), and from the Forest Carbon Partnership Facility (FCPF) of the World Bank, the DRC spent three years preparing its national REDD+ strategy. The development of the strategy was based on the DRC's Readiness Preparation Proposal (RPP) adopted in March 2010 by the UN-REDD's policy board and the participants' committee to the FCPF. The RPP included an ambitious road map for a three year period (2009–2012) to enable the country to be ready to commence 'results-based' REDD+ by the start of 2013.

In mid 2013, the DRC has not yet completed its national REDD+ strategy, but rather a framework strategy focusing on seven pillars. Three pillars are sector-based: Agriculture; Energy; and Forest; and four are enablers: Demographics; Governance; National planning and Development; and Land Securing.

This strategy framework was presented in Doha in December 2012 at the International Conference of the Parties on Climate Change (COP18), and marked the country entrance into the second phase of REDD+ (the investment phase). Although it is only a framework strategy, the government and some of its partners now consider that they have a national strategy in hand. They claim there is no need to dwell on the accuracy of the content of this document. The preoccupation is to progress at all costs. Others show the imperfections of the preparation phase to justify a speedy entry in an investment phase, which would, according to them, fill gaps and finalise the national strategy. Civil society, however, does not see the need for undue haste, and believes that policy-makers are unwilling to further inform the content of the framework strategy.

To improve this situation will require the involvement of all stakeholders, in order to build a national strategy to genuinely lead to the reduction of emissions from deforestation and forest degradation. Stakeholders involved in the readiness process for REDD+ in DRC include local communities and indigenous peoples, the government, private sector, research institutions, and

civil society organisations represented by the Climate and REDD+ Working Group (GTCR).

Civil society participation in REDD+ bodies

Civil society organisations are participating in REDD+ with the aim to influence the process to recognise and protect the rights of local communities and indigenous peoples who depend on forests for their livelihood, and to contribute to broader recognition of the multiple benefits of the Congolese forests, other than carbon sequestration.

Civil society involvement in REDD+ is based in a history of participation in different processes dealing with forest and natural resource governance in DRC. While civil society were not genuinely involved in the development of the forest management law (Code Forestier de 2002), they engaged in activities to raise awareness of local and indigenous communities regarding the new law.

The GTCR, a platform of about two hundred organisations, was established during the DRC's REDD+ process launched in 2009, with the first UN-REDD and FCPF joint mission. Since the adoption of the RPP, CSOs have assessed their role in the process and noted that progress has been made, although there are still obstacles to overcome. Civil society participates in the current REDD+ governance bodies in DRC via nominated representatives. This representation is a channel for civil society to raise their voice and views. This is particularly important when decision-making processes do not live up to local communities' and indigenous peoples' aspirations or needs, or fail to protect their rights. The experience so far has not been easy.

REDD+ National Committee level

A REDD+ National Committee (CN-REDD+) was established through ministerial decree, and aims to give direction and guidance to REDD+ implementation. Civil society is represented on this committee by three members, including an indigenous peoples' representative. Unfortunately the committee so far is facing several challenges and has not operated effectively. One of the most important challenges faced

The rights of communities to forest resources must be recognised in the DRC

by the committee is the lack of necessary technical and logistical capacity, as well as lack of proper understanding from members of the REDD+ process. Disappointingly, the presence of civil society delegates has not resulted in real influence over the process. This has been due partly to the lack of information-sharing between delegates and civil society representatives, and due also to the fact that they are under-represented compared to other stakeholders.

The Task Force negotiations

In previous years, two NGO delegates were included in the official Congolese government delegation to international conferences and negotiations on climate change. This was an opportunity for civil society to be more deeply involved in international discussions, especially on the issues of local communities and indigenous peoples' rights and interests. The drawback was that civil society delegates who were part of the government delegation were no longer free to take an independent position.

The Thematic Coordination (CT)

The Thematic Coordination groups (CT) have been working as a multi-stakeholder platform in charge of conducting studies on issues relating to a specific topic in order to inform the development of the national REDD+ strategy. These "groups" were supposed to facilitate wide involvement of technical ministries and Congolese and international civil society.

Growing weaknesses in the participation of civil society in the work of the CT, and persistent failures in the governance structure of REDD+ in DRC, led civil society organisations to suspend their participation in the CT in June 2012. Despite assurances given by the CN-REDD, no commitment to address these deficiencies has been met by May 2013.

In order to efficiently conduct the second phase of the process, CN-REDD is preparing to relaunch these groups, reducing participating groups from 16 down to 7, in accordance with the seven pillars of the national framework strategy. According to the CN-REDD, the reduction of CT groups is the best way to make the groups operational and effective. In its program, supported by Rainforest Foundation Norway, the GTCR came together to discuss this and a letter was sent to request the outcome of the restructuring of the CT, for which no reply has been received at the time of writing (May 2013).

The CT appears to have been nothing but an empty shell, formed to create the illusion of a multi-stakeholder consultation platform, which is intended only to legitimize the adoption of a national framework strategy.

Civil society participation in REDD+ activities

According to the DRC's RPP, the construction of the national strategy should rest on three pillars: 1) the lessons from REDD+ pilot projects; 2) the results of various studies commissioned as part of the readiness process (identification of drivers of deforestation, benefit sharing mechanisms, the economics of REDD+ in DRC, the risks of corruptions in the process and so on); and 3) the work of thematic coordination groups.

The GTCR has been participating in different activities that contribute to these three pillars, including:

a. **Consultation missions in the provinces for the national FIP Investment Strategy**
   The Forest Investment Programme (FIP) is a component of the Strategic Climate Fund created by the multilateral development banks. It aims to prepare the countries for the carbon finance mechanisms (REDD+). DRC was selected in June 2010 as one of eight pilot countries. Civil society actively participated in preparing DRC's FIP plan, and conducted field consultations in provinces with World Bank funding. The purpose of these consultations was to hold discussions at the local level, and improve the investment plan by taking into account the opinions and considerations of the different stakeholders.
b. **Development of national standards**
   The first phase of the national social and environmental standards development for REDD+ in DRC was entrusted to civil society, with funding from the United Nations Environment Programme (UNEP), under the supervision of the Natural Resources Network in 2011. This focused mainly on developing standards: Principles, Criteria and Indicators (PCI). The standards will be further developed through two other phases: the establishment of a National Information System, which is now under development within the CN-REDD, and a field-testing phase. For civil society stakeholders, the most urgent question is to what extent civil society will continue to participate in the process and how its previous work will be considered since the process is now under CN-REDD lead. Without satisfactory answers to these questions, civil society considers that the process is flawed, not just because of inadequate participation - it may be used as a way of disrupting ongoing work that civil society organisations are involved in. There is still very little information or discussions around the development of national standards.

Civil society as a key actor carrying out environmental REDD+ pilot projects

By the end of 2012, six geographically integrated REDD+ projects were expected to feed into the national REDD+

strategy, with funding from the Congo Basin Forest Fund (CBFF). Two geographically integrated REDD+ pilot projects of the DRC government, in province Orientale are implemented by NGOs: one in the Isangi territory by the national NGO, Organization Concertée des Ecologistes et Amis de la Nature (OCEAN); and the other in Mambasa by the international NGO, Wildlife Conservation Society (WCS). These projects aim to pilot REDD+ activities and provide information to the national REDD+ strategy development. The delay experienced in the implementation of these projects, mainly due to the funding procedures of the African Development Bank (ADB), did not allow the integration of feedback from the projects, as expected, in the construction of the national framework strategy in 2012. Other REDD+ private projects are developed by private actors and conservation organizations including: a project conducted by Jadora International LLC in the territory of Isangi; the Ecosystem Restoration Associates (ERA) project in the territory of Inongo (Bandundu); the REDD project in the Luki Reserve in Bas-Congo; the Eco-Makala project (North Kivu) implemented by World Wildlife Fund (WWF-DRC). While the country has asked for additional money from FCPF to continue with activities that have not been finished in the preparation phase, we hope that results from these projects will be taken into account when the DRC produces its National strategy in 2015.

The decree on the approval process of REDD+ projects, signed by the Minister of the Environment, excludes civil society and communities as holders of REDD+ projects. This privilege has been granted to the private sector. This is all the more serious because this decree was signed by the minister after skipping the last phase of consultation with civil society and the private sector. After several unsuccessful attempts to see the text revised or cancelled by the minister, civil society lodged an administrative appeal, and finally asked for the cancellation of the decree by the Supreme Court. At the time of writing there has been no response to this appeal.

Regression of consultation and participation in the investment phase

REDD+ in DRC is currently in the hands of consultancies and law firms in Kinshasa and abroad, and this has created an information gap. It reflects the scramble for new opportunities in the investment phase. The declining role of civil society and local communities and indigenous peoples is evident in the implementation of what should be the major project of Information, Education and Communication (IEC). For three years, this project has not progressed, despite the expectation that it is through the IEC that the community consultation at the grassroots level will materialise.

Box 5
Study on drivers of deforestation and forest degradation

Identifying the drivers of deforestation and forest degradation in DRC has always been a contentious issue. Civil society has also taken part in this work. Controversially, the results of recent studies on drivers of deforestation in DRC have identified shifting cultivation as the first driver of deforestation at national level, followed by charcoal and firewood needs.
Industrial logging comes far behind other direct causes, and is presented as a negligible driver of deforestation and forest degradation. At the national level, this is true as industrial logging occurs in only three out of eleven provinces in DRC, with more than 70 percent of the Congolese population dependent on natural resources for their survival. These results are a matter of controversy at the national, regional and international levels. Industrial logging is being excluded as a driver in DRC, while the country is facing increasing illegal logging that contributes not only to destroying forest, but also to increased poverty in forest dependent communities.
Civil society argue that indigenous peoples and local communities who are dependent on the forest for their subsistence needs, must not be made scapegoats, particularly if they are not provided with alternative livelihoods. We believe that our government and its partners have a responsibility to deal with this challenge, in their efforts to reduce emissions from deforestation and forest degradation.

Consultations with civil society have been carried out under the FIP in pilot project areas. Today civil society has the feeling that the sole purpose of these consultations was to provide the Congolese government with a way to ensure that the programme was adopted. Since the FIP was adopted, civil society and forest communities have been kept in the dark about ongoing developments.

The decline of the consultation process is also evident in the development of REDD+ standards. If this process started well, with the support of UNEP and civil society, its status is now not known or understood by civil society. Delegates from civil society who are on the committee monitoring environmental and social assessment do not seem to understand their role. A draft of the Strategic Environmental and Social Assessment (SESA) has recently been produced by an international firm, AGRECO, without input from civil society committee members. CSOs sent their comments later after reading

the draft and are waiting to see the final version will include their suggestions.

Persistent and emerging challenges

The many opportunities granted to civil society to participate in the country's REDD+ readiness process may seem to imply a functioning and effective participation process. Indeed, the REDD+ process in DRC is frequently held up as a model in terms of stakeholder participation, especially with regard to civil society involvement. It is used as a source of inspiration in the Congo Basin sub-region, as the REDD+ process in DRC is considered more advanced than in other countries in the region. But important challenges still need to be overcome if civil society is to be in a position to defend the interests of the communities for whom it works through its participation.

- The biggest challenge remains how to bring awareness of REDD+ to the community level, with very little work being done on this during the preparation phase. As DRC has now entered the investment phase, the priority for action seems to focus on elements of the R-Package that would put the DRC in a position to sign the Emission Reduction Purchase Agreement (ERPA) with the World Bank by the end of 2014.

- The inclusion of FPIC in the national legislation and its implementation on the ground remains to be seen. Furthermore, various REDD+ initiatives are already and will continue to emerge during this second (investment) phase, while there is no clear mechanism for benefit-sharing in place, and the signing of the decree on local community forests continues to be ignored. The fact that the Government doesn't want to sign the decree on the local community forests can be interpreted as a lack of interest and importance given to the role that communities can play in the management of forests in the country.

- It is not clear how civil society will be engaged during this second phase, the investment phase. CSOs will have to redouble their efforts to revive and maintain the momentum of interest as the process moves to a higher level and is increasingly characterised by highly technical aspects.

- An improved strategy from the DRC Government on civil society participation would help to improve the situation and reduce the feeling that civil society participation is just a way to facilitate government access to donor funding.

- A challenge for civil society members is the internal cohesion of civil society involved in REDD+ to defend the interests of local and indigenous communities. Divisions between civil society organizations could weaken collective actions.

Not only are the initial hopes of seeing the CT play a leading role in the construction of the national strategy no longer valid: the full participation of civil society in the governance bodies is also in doubt. Such participation should be a key factor in making the voices of indigenous peoples and local communities heard, and enabling them to participate in decision-making. Unfortunately the structure of the national REDD+ committee appears to be flawed, preventing it from playing a strong role as a governing body.

Discussions are now under way on the establishment of reinforced REDD+ bodies. The question for civil society is whether it is still worth participating in structures which may serve to legitimise a process whose outcome is subject to grave concerns.

Recognition of the rights of local peoples is a pre-requisite for any effective REDD agreement.

Appendix: Relevant provisions under international human rights instruments

The International Labour Organisation Convention No.169 (ILO 169) is a legally binding international instrument open to ratification, which deals specifically with **the rights of indigenous and tribal peoples**, which has been ratified by 20 countries. The fundamental principle of the Convention is non-discrimination, and the spirit of consultation and participation constitutes the cornerstone of Convention No. 169 on which all its provisions are based. Once a country ratifies the Convention, it has one year to align legislation, policies and programmes to the Convention before it becomes legally binding. The Convention does not define who are indigenous and tribal peoples. It takes a practical approach and only provides criteria for describing the peoples it aims to protect. Self-identification is considered as a fundamental criterion for the identification of indigenous and tribal peoples, along with criteria such as traditional lifestyles; specific culture with regards to livelihoods, language, customs, etc.; and own social organisation and traditional customs and laws.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is an international instrument adopted by the United Nations on 13 September 2007 to enshrine (according to Article 43) the rights that 'constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world'. The UNDRIP protects collective rights that may not be addressed in other human rights charters that emphasise individual rights, and it also safeguards the individual rights of indigenous peoples.

The provisions of Convention No. 169 are compatible with the provisions of the UNDRIP, and the adoption of the Declaration illustrates the broader acceptance of the principles of Convention No. 169 well beyond the number of ratifications. Significantly, the UNDRIP crystallised the concept of free, prior and informed *consent,* conferring specific legal rights to indigenous peoples in decisions related to their lands and territories, as explained in Box 1.

Key provisions under C169 – Indigenous and Tribal Peoples Convention, 1989 (ILO 169)

Article 4 of the Convention calls for special measures to be adopted to safeguard the persons, institutions, property, labour, cultures and environment of these peoples. In addition, the Convention stipulates that these special measures should not go against the free wishes of indigenous peoples.

In Article 6, the Convention provides a guideline as to how consultation with indigenous and tribal peoples should be conducted, stating that in applying the provisions of this Convention, *governments shall* consult through *appropriate procedures*, in *good faith,* and through the *representative institutions* of these peoples. The peoples involved should have the opportunity to *participate freely at all levels* in the formulation, implementation and evaluation of measures and programmes that affect them directly.

Another important component of the concept of consultation is that of *representativity*. If an appropriate consultation process is not developed with the indigenous and tribal institutions or organisations that are truly representative of the peoples in question, then the resulting consultations would not comply with the requirements of the Convention.

The Convention also specifies individual circumstances in which consultation with indigenous and tribal peoples is an obligation.

Consultation should be undertaken in good faith, with the objective of achieving agreement. The parties involved should seek to establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect and full participation. Effective consultation is consultation in which those concerned have an opportunity to influence the decision taken. This means real and timely consultation. For example, a simple information meeting does not constitute real consultation, nor does a meeting that is conducted in a language that the indigenous peoples present do not understand.

Article 14 states the rights of ownership and possession of the peoples concerned *over the lands which they traditionally occupy shall be recognised.* In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.

Article 15 *safeguards* the rights of the peoples concerned to the natural resources pertaining to their lands. *These rights include the right of these peoples to participate in the use, management and conservation of these resources.* In cases in which the state retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

Photo: Rainforest Foundation UK

http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm
http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C169

Key provisions under the United Nations Declaration on the Rights of Indigenous Peoples

Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 32:

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to *obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources,* particularly in connection with the development, utilisation or exploitation of mineral, water or other resources.
3. *States shall provide effective mechanisms for just and fair redress for any such activities,* and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 41: The organs and specialised agencies of the United Nations system and other intergovernmental organisations shall contribute to the full realisation of the provisions of this Declaration through the mobilisation, inter alia, of financial cooperation and technical assistance. *Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.*

Article 42: The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialised agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43: The rights recognised herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.
www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

This is the third volume of case study reports from the Accra Caucus on Forests and Climate Change, reporting on the implementation of REDD+ in a number of tropical forest countries. The Accra Caucus has followed the international REDD+ negotiations since 2008, and its members are heavily involved in advocating for a rights-based approach, to ensure that the rights of forest peoples are respected and form an integral part of efforts to tackle forest loss. Indigenous peoples and other forest-dependent communities have generally been the main defenders of tropical forests. To be effective and ensure lasting forest protections, REDD+ must be constructed in a way that supports their struggle.

The first set of case studies from the Accra Caucus, published in 2010, outlined the risks of implementing REDD+ in countries with a poor forest governance record; the second volume, in 2011, confirmed that the REDD+ readiness process had done little if anything to address these concerns. The present volume provides updated information from national REDD+ processes in Guyana, Nepal, Indonesia, Cameroon and the Democratic Republic of Congo.

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