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## **National REDD+ processes:**

a compilation of case studies to  
inform negotiations at COP 18

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## **Accra Caucus**

The Accra Caucus on Forests and Climate Change is a network of southern and northern NGOs representing around 100 civil society and Indigenous Peoples' organizations 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 emission reductions in industrialised countries.



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# Introduction

This document provides updated information from REDD+ processes in Guyana, Nepal, Indonesia, Brazil and the Democratic Republic of Congo. The report presents country case studies, gathered by members of the Accra Caucus on Forests and Climate Change. The Accra Caucus has followed the international REDD+ negotiations since 2008, and its members are heavily involved in REDD+ development at the national level. The cases describe key elements of the REDD+ readiness phase in each of the countries. In particular the focus is on information relevant for the implementation of REDD+ safeguards, from the perspective of civil society, indigenous peoples and forest based communities.

Due to the realization that REDD+ may have far reaching social and environmental consequences, the 2010 Conference of Parties (CoP) of UNFCCC in Cancún agreed on a set of social, environmental and governance safeguards. There was also agreement on the need to develop “Safeguard Information Systems” (SIS) to monitor the implementation of the safeguards, but the actual content and function of the SIS’ at the national and international level has still not been established.

The cases in this report focus particularly on the need for functioning social safeguards, and illustrate why international guidance related to consultation, participation and human rights, including indigenous peoples’ rights, is so crucial for achieving good national REDD+ readiness processes that may lead to lasting forest protection. A process towards respecting and implementing safeguards also needs to be linked to robust Safeguard Information Systems, both at the national and international levels.

The Guyana case documents the failures of national consultation processes with indigenous communities and show the gap between current practice and the established standards

on full and effective participation, consultation and compliance with the principles of Free Prior Informed Consent (FPIC). The case underpins not only that what goes under the name of participation and consultation may be of little use, but also that if not well-conducted, these processes can manipulate communities that have little prior information on climate change and REDD+. The case also reveals that the rights of indigenous peoples are too often poorly respected and can in fact be undermined. Furthermore, existing laws and policies relevant for indigenous peoples in Guyana are not in line with international standards and Guyana’s commitments. This leaves little hope that REDD+ will contribute to improvements, unless international attention and demand for safeguard implementation enforce them.

The case from Nepal highlights the need for awareness raising and capacity building on REDD+ in indigenous communities that are likely to be involved in and affected by REDD+. They need to understand REDD+ and be prepared for REDD+ consultations. 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, in spite of being a recent party to the ILO Convention no 169 (See Appendix 2). The in general unsecure land rights of the indigenous peoples of Nepal make them fear that REDD+ may in fact undermine their livelihoods and rights, and drive them deeper into poverty.

The Democratic Republic of Congo (DRC) is perceived to have good civil society and indigenous peoples’ involvement in the REDD+ preparatory work, but there is still a long way to go before they participate in a meaningful way and have real influence. Their participation has not always been easy, due to insufficient resources, lack of progress and capacity in the

REDD+ bodies of governance, and lack of commitment by the government to assume the overarching responsibility for consultations on REDD+. In practice, consultations have been left in the hands of civil society.

The very full case from Indonesia illustrates well how important strong safeguards and authoritative safeguard information systems (SIS) are for REDD+ to function according to the intentions. A SIS should provide guidance and monitor the national developments. The authors warn that the notion that 'national circumstances' need to be respected, is setting REDD+ up for failure, and will make it hard to implement safeguards. When existing laws and policies are in conflict with the intent of the safeguards, the safeguards will be weakened. 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 of REDD+.

The Brazilian case provides an interesting example of how a system for safeguards for REDD+ may be built from the bottom up, through a civil society led multi-stakeholder initiative.

Through good guidelines for safeguards implementation and Safeguard Information Systems nationally, but also internationally, REDD+ may become a tool for improved participation and consultation processes, the establishment of land rights and increased respect for human rights.

Also on a positive note, in the ongoing REDD+ readiness phase, it is interesting to see that the international attention to safeguards have in fact become a vehicle for dialogue between governments and forest based communities, including indigenous peoples. The focus on REDD+ safeguards has brought new attention to old problems, like poor forest gov-

ernance; 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 has brought attention to human right standards and concepts like 'free prior and informed consent'.

The country studies reveal a lack of understanding at the country level of what it takes to implement the Cancún safeguards and the lack of common standards open up for diverging views and practices. This means that while some countries may do a solid job and spend significant resources on the implementation of safeguards, others may take shortcuts. The consequence of these shortcuts will be that the safeguards are violated, that REDD+ leads to unintentional negative effects, fail to deliver robust forest protection and as a consequence also risk delegitimizing REDD+.

**To prevent this, UNFCCC and other international REDD+ institutions must ensure a deeper understanding of the safeguards and develop further guidance on what the safeguards imply and how they can be implemented. A key component of this would be to develop further guidance on the safeguards information systems, which will provide information to the national and international level on how the safeguards are addressed and respected.**

The experiences presented here provide important inputs on why and how states should design appropriate and well-functioning national SIS systems. The implementation of strong safeguards should not be seen as burden, but rather as a prerequisite for the success of REDD+ as a climate solution in the coming years, and for the protection of the rights and livelihoods of forest peoples, biodiversity and the ecosystem services of natural forests.



# Guyana- Indigenous Peoples and Inadequate Consultation on REDD+

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

*This case study centers on the issue of lack of proper consultation with indigenous peoples on several issues related to REDD+ in Guyana. Two examples of lack of proper consultation will be used: 1) lack of proper consultation on the Government's Low Carbon Development Strategy (LCDS) and 2) lack of a consultation process for a land demarcation proposal. The way the consultations were conducted, or lack of it, has raised many questions about the government's treatment of indigenous concerns related to REDD+ in Guyana.*

## Background and Context

With nearly 80% of its lands covered in tropical rainforest, Guyana is an important testing ground for REDD+ programs. It was one of the first countries in South America to be included

in the Forest Carbon Partnership Facility (FCPF), World Bank's REDD+ scheme. Simultaneously the government has aggressively

pursued its Low Carbon Development Strategy (LCDS), supported by Norway. The first tranches of funding, around US\$70 million, are already at the World Bank, trustee of the Norwegian funds. The funds will be used for projects identified in the LCDS, including the construction of a hydroelectric dam (in itself problematic), as well as for the demarcation of indigenous lands – a safeguard the Norwegians insisted on, but which has not been discussed with communities or indigenous organizations. To date, the government's demarcation process has been rife with problems, including granting titles to areas that do not correspond to the reality on the ground.

Since 2009, the government of Guyana has pushed the Low Carbon Development Strategy

(LCDS) and its various initiatives with little to no consultation with indigenous peoples or regard for indigenous rights. As a major indigenous representative organization in Guyana, the Amerindian Peoples Association (APA) has expressed its concerns regarding the process. In response, the Government repeatedly acted to undermine the legitimacy of the APA in representing 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 lack of proper consultation with indigenous groups and civil society in general; a 100% increase in deforestation rates in comparison with the mean annual level for the previous decade, and lack of transparency in the structuring and implementation of LCDS projects. This money was deposited in the Guyana REDD+ Investment Fund (GRIF) at the World Bank, which acts as a trustee for these funds.

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 near future. The GRIF is intended to be a model for REDD+ payments to countries with low deforestation rates and high forest cover, so ensuring that this mechanism works properly is very relevant worldwide.

### **1) Lack of proper consultation process on the LCDS**

The government of Guyana first introduced its LCDS to the Guyanese public during May 2009 when it released its draft Low Carbon Development Strategy paper at a launching ceremony in Georgetown. Prior to this, the average Guyanese did not know that the government was looking to cash in on payment for keeping its forest standing though some indigenous leaders had very early on been encouraged to signal their support for the government's plan even though the idea was very vague and not much information had been forthcoming.

Throughout June and July 2009 the government

took its draft LCDS strategy paper to the larger Guyanese public including indigenous communities in the country's interior. On coastal Guyana where the majority of the population lives, this activity saw a blitz of infomercials and advertisements on television and on the radio, some capitalizing on snippets of footage with Amerindians saying that they were in agreement with the draft LCDS strategy. The newspapers also had their fair share of advertisement reflecting positive comments on the draft Strategy. However despite all the media coverage and advertisements, it appears that the average non-indigenous Guyanese could not carry out a proper conversation on the LCDS or knew what it was.

With regards to the indigenous communities, that the leadership of these communities was reached was important to the government as the strategy had implications for indigenous lands, both titled and untitled. It also meant therefore that the people had to buy into the government's plan that would include their lands, especially their traditional untitled lands. Therefore through a series of "consultations" indigenous leaders were brought together at various central locations within their regions to meet with teams who then told them about the LCDS. These "consultations" were rushed and were carried out within a very short space of time, often during 2- 3 hours at any given time. Communities were not provided with much information beforehand, but when they did receive the 57 page draft LCDS paper in advance, very often they did not understand what it meant. Most communities received one copy for the entire community, perhaps a few days or a week or two in advance but most indigenous leaders received their copy of the LCDS document on the day of the "consultation".

At the time of the visits to the communities Guyana had three indigenous female ministers of the government and very often these three women would be part of the very high powered teams that would take the LCDS message to the indigenous communities. Others on the teams usually included representatives of the agencies, NGO's and indigenous representatives. The "consultations" turned out to be very propagandistic in nature with the government representatives, especially the ministers, singing the praises of the LCDS and focusing on the financial benefits



that could be accrued. Not once did they speak about potential challenges and possible 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 pretty much voiceless until much later in the process, and this was very limited.

For the indigenous communities, they did not quite understand what the LCDS was all about but they understood very early that their land was at stake, because indigenous lands remain the most heavily forested in Guyana. They spoke about concerns they had and 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 remain ignored when the government later began moving ahead in signing agreements and in developing project proposals. No return visits were made to the communities as promised and only a few leaders saw the amended Strategy paper which did not offer much improvement from the first draft. To date the majority 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 unquestioningly and 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 report on. There is a lot of intimidation involved in getting the leaders to sign on to documents and those who dare to express opinions different from what the government likes are labeled as anti-government and anti-development, are publicly vilified and threatened with non-receipt of LCDS funding, and are visited by the Minister of Amerindian Affairs in an open show of power wielding. There is also the situation where some indigenous “leaders” have been taken on government sponsored trips to New York, Washington, London and Norway, among others, professing solidarity with the government’s plan. Some of these people do not have any constituency, and in the case of the head of the National Toshias Council, no mandate to represent personal views as those of the indig-



enous community in Guyana.

The entire process towards building consensus for acceptance of Guyana's Low Carbon Development Strategy has been faulty from the beginning. It has almost completely ignored the indigenous peoples' right to free, prior and informed consent, the "consultations" have been mere media publicity trips and the indigenous community still does not have any real commitment that their issues will be dealt with in any 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 Developments Strategy (LCDS) Amerindian Development Fund: Village Economy Development Under GRIF Phase 1" – both submitted jointly by the United Nations Development Programme (UNDP) and the Ministry of Amerindian Affairs. These two

proposals directly relate to indigenous issues and rights and 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 are seriously lacking in input from the indigenous communities, do not take into account 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 there was 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 certain 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 numerous and very serious shortcomings and gaps starting with the lack of participation of indigenous groups in the design and structuring of this proposal.

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the demarcation and titling of Amerindian lands. 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 organizations, including the Committee on the Elimination of Racial Discrimination (CERD), have expressed concerns regarding the shortcomings of this Act, including that it fails to live up to 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 up to the Minister’s discretion. The Act also does not contain any objective criteria for titling and it does not take into account customary tenure and patterns of traditional occupation and use. In the recent past 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 involved. 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. Additionally 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 rife with problems as proven 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 project proposal does not address these fundamental issues. In two very recent cases which underline the need for legislative and policy reform, miners 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 implications of the decision in favor of the miners are that the communities stand to face negative social and environmental consequences over the occupation of these lands by the mining interest. The waterways could be destroyed which means the destruction of the source of water supply as well as their fishing grounds. Their farmlands hunting ground, gathering areas and sacred sites are also at risk.

Resolution of these problems is vital so as to bring protections in line with international standards to include customary tenure and patterns of traditional occupation and use, among other things. If these are not addressed and the project is pushed ahead without due process to ensure effective Amerindian participation in its design and full compliance with relevant standards, it could risk a failure in delivering 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 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 could have been easily pointed out by the people and/or their representatives and relevant recommendations would have been made. Instead it was left for those who could access the internet and whose networks could post alerts to find out that there was some limited time for comments. Indigenous leaders in the interior were completely left out of direct input while others who were in a position to comment had been compromised.

It is important that much more efforts are made to ensure that mechanisms are in place to enable the participatory design of projects with intended beneficiaries and their organizations, before project proposals are finalized 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 necessarily 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 related to the lack of full and effective participation of indigenous peoples and the lack of good consultation processes and compliance with their right to FPIC (Free Prior Informed Consent- see Appendix 1) are concrete examples of the lack of full and effective participation of indigenous peoples in the projects and proposals related to 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 rather as a starting point for any REDD+ initiative to be feasible or successful.

#### **Notes:**

- 1) Guyana is divided into ten administrative regions
- 2) 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.

# Democratic Republic of Congo (DRC)- Civil society problems related to participation and consultations on REDD+

**Author: Joëlle Mukungu, study and research manager; Concerted Congolese Organization of Ecologists and Friends of Nature (OCEAN NGO)**

Civil society and indigenous peoples' organisations in DRC have been given a significant role in the preparation for REDD+. In practice their commitment to participate has been difficult to fulfil, due to lack of resources, lack of progress and capacity in the REDD+ planning bodies, and lack of commitment by the government to assume the overarching responsibility for consultations on REDD+ with local communities. In practice, consultations have been left in the hands of civil society. This article outlines how NGOs have been involved in the different REDD+ bodies, and briefly discuss the problems faced.

## 1. Background

The Democratic Republic of Congo (DRC) has been preparing for REDD+ for almost 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 is preparing its national REDD strategy. DRC's REDD+ strategy is based on a Readiness Preparation Proposal (R-PP) adopted in March 2010 by the UN-REDD's policy board and the participants committee to the FCPF. The R-PP includes an ambitious road map for the process that should be developed over a period of three years (2009-2012) to enable the country to be ready for REDD+ by the end of 2012.

This process requires the involvement of all stakeholders, in order to build a national strategy that can genuinely lead to the reduction of emissions from deforestation and forest degradation. The stakeholders involved in the readiness process for REDD+ in DRC include local communities and Indigenous Peoples, government, private sector, research institutions, and civil society organiza-

tions represented through the network Climate and REDD Working Group (GTCR).

## 2. Civil Society participation in REDD+ bodies

Civil society organizations are participating in the REDD+ process with the ambition of influencing the REDD+ mechanism towards recognizing and protecting 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 (CO<sub>2</sub>) 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. We were strongly involved in the development of the forest management law (Code Forestier de 2002) where we worked to increase the protection of local communities and to secure their rights, in addition to bringing up environmental concerns like sustainability.

The Climate and REDD Working Group (GTCR), a platform of about 200 organizations, 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 R-PP, the CSOs have assessed their role in the process and noted that there is progress as well as remaining obstacles to be overcome.

To ensure the participation of civil society within the REDD governance bodies, civil society organizations are represented through their representatives. This is an opportunity given to civil society to raise their voice and views. This is particularly important when decision making processes don't live up to local communities and indigenous people aspirations or needs, or fail to protect their rights. The experience so far is that this has been far from easy.



## REDD+ National Committee level

A REDD National Committee was established by a ministerial decree, and aims at giving REDD+ direction and guidance as well as to determine REDD+ actions. Civil society is represented by three members, including an Indigenous Peoples representative. This representation is an opportunity for civil society to make its voice heard and to point out its underlying concerns. Unfortunately, this is not happening, as so far the committee has not worked properly. It faces different challenges: The Committee members lack necessary capacity and understanding of the REDD+ process. On the civil society side, the presence of its delegates didn't result in real influence on the process. This was partly due to the lack of information sharing between delegates and other members of the group (civil society), and also due to their small representation compared to other interest groups.

## The Task Force negotiations

Two NGO delegates participated as members of 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 people rights and interests. However, on the other hand this may also be a drawback, as civil society's delegates that were part of the government delegation were no longer free to take an independent position.

## The Thematic Coordination's (TC) work

Originally called Thematic Coordination Group (TCG), the TC was not part of the roadmap in the readiness plan (R-PP) referred to above. The group was created as a framework for the broad involvement of technical members from ministries, Congolese civil society and the private sector. According to the CN-REDD (National Coordination on REDD), these TC have experienced difficulties because of lack of resources. After an internal evaluation of REDD process the civil society organisations, represented by GTCR decided to suspend its participation in the TC. In an assessment meeting held on the 22nd of June 2012, the GTCR members made a quite negative assessment regarding the TC operation and especially in regard to the technical capacity of TC members to contribute

effectively to the national strategy development. Following discussions with the CN-REDD and their clarifications, also after discussions with the sixtieth UN-REDD/FCPF joint mission, GTCR removed its suspension measure in September 2012. This was after the CN-REDD had accepted recommendations to improve the TC working conditions, especially methodology.

### 3. Civil society participation in REDD+ activities

#### a. Consultation missions in the provinces for the national FIP plan

The Forest Investment Program (FIP) is a component of the Strategic Climate Fund created by the multilateral development banks. It aims at preparing 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 a local level, and improve the investment plan by taking into account different stakeholders opinions and considerations. Civil society hopes to keep participating in this program, also at the project implementation stage.

#### 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 Program (UNEP), under the supervision of the Natural Resources Network (RRN) in 2011. This was mainly macro standards development: Principles, Criteria and Indicators (PCI). The standards will be further developed through two other phases: The establishment of a National Information System, that is now under development within the UN-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 UN-REDD lead. Without satisfactory answers to these questions, civil society considers this situation as both a participation problem, and a way to disturb ongoing work in which organisations are deeply involved.

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

By the end of 2012, six geographically integrated REDD projects are expected to feed into the national REDD strategy, with funding from the

### 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. In some studies, it appears that at the national level, shifting cultivation is the most important direct driver of deforestation, followed by char-coal and firewood needs.

In the study industrial logging comes far behind other direct causes, and seems to be a negligible driver of deforestation and forest degradation. These results are still subject to controversy at national, regional and international levels. At the national level, indigenous peoples, that are well known forest protectors, disagree with these results and claim that they need to be clearly differentiated from local communities. This led to reflection among civil society's members, in order to determine whether they should participate in such studies or rather not get involved and be free to criticize the results.

We argue that local communities must not be scapegoats, in particular if they are not provided with other means than forest resources to survive. We expect to see our government and its partners deal with this challenge, in their efforts of reducing emissions from deforestation and forest degradation.

Congo Basin Forest Fund (CBFF). One project is implemented by WCS, an international NGO, another by OCEAN, a national NGO in Province Orientale (Mambasa and Isangi). These projects aim to test hypotheses and provide information to the national REDD strategy development. All REDD+ pilot projects funded by CBFF are experiencing delays due to the ADB cumbersome procedures on funding. It is feared that the activities become out of step with the process of developing a national strategy for which the deadline was initially set to the 31st of December 2012. The risk is that important information and experiences will not be ready in time, and civil society loses credibility due to causes outside of its control.

## 4. Challenges

The many opportunities granted to civil society to participate to the country's REDD+ readiness may seem to imply well functioning and effective participation processes. Indeed, the REDD+ process in DRC keeps on being presented 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 more advanced than in other countries of the region. But important challenges need to be overcome before civil society through its participation will be able to contribute to defend the interests of the communities for whom it works. Among the challenges are:

- The non-participation of civil society stakeholders in priority setting

After 3 years, the REDD+ process is still taking place in Kinshasa, while forests, local communities and indigenous peoples are in the provinces. Civil society prioritizes consultation, while Government priorities seem to be elsewhere.

- Lack of time and financial resources

During the FIP missions and the study on drivers of deforestation, the time and resources allocated to civil society didn't allow thorough and adequate consultations. A clear strategy by civil society stakeholders would help them achieve better participation in the future. Such a strategy should help answer the following questions: when, how, where and why do we participate?

A good strategy for participation could help improve the situation and reduce the feeling that civil society participation is just a way to facilitate government access to donor funding.

The implementation of a good participation policy would help civil society professionalize its involvement, and increase its credibility and influence. As the government now have employed provincial focal points who will play the role of National Coordinator REDD+ in provinces, civil society must make use of the experiences from its participation at the national level.

Civil society should remain in a watchdog role to rectify the situation when things do not seem to work, as was the case with TC. Civil society participation should be seen as an opportunity to get involved in the design, implementation and evaluation of projects, plans and processes. We are still not there, but we work towards our goal of defending the local communities and indigenous people's rights.

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Different terms of reference of the FIP program in DRC

## Notes

[1] Forest Carbon Partnership Facility

# Nepal: Issues and Challenges related to the rights and livelihoods of indigenous peoples' in REDD+

**Author: Pasang Dolma Sherpa, National Coordinator, NEFIN**

Out of the estimated 370 million indigenous people in the world, 8.32 million live in Nepal, according to the 2001 Nepalese census (Central Bureau of Statistics, 2001). They would then constitute around 37 percent of the 22.38 million inhabitants of the country. However, indigenous peoples in Nepal believe they are actually more than 50% of the population.

Within the process of developing national REDD+ strategies in Nepal and in the implementation of NEFIN's Climate Change and REDD Program (began 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 (MoFSC, 2010) has been responsible for the implementation of the 'Readiness Preparation Proposal' (RPP) since its approval by the World Bank's Forest Carbon Partnership Facility (FCPF) in April 2010. The REDD+ Cell has been involved in the readiness and consultation processes, REDD+ strategy preparation, determining reference level emissions, 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 the poor 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 Program 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 objectives of raising awareness and building the capacity of indigenous peoples on REDD+. The program 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, trainings, advocacy and lobbying, livelihood programs, school programs, community radio programs and also mapping and delineation of forests and communities. NEFIN's work includes coordination with more than 61 district chapters out of 75 districts in Nepal. These in turn 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



Traditional occupation of carpet weaving among Gurung indigenous women, Photo: NEFIN

engaging meaningfully with 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 itself to develop social and environmental safeguard indicators that are suitable in the context of Nepal by trying to incorporate feedback received from relevant stakeholders, including indigenous peoples. But it is unclear how and whether those safeguard indicators will be incorporated in the Strategic Environmental and Social Assessment (SESA) process part of the RPP implementation. This has been one of the greatest concerns of indigenous peoples and local communities in Nepal.

Although Nepal ratified ILO 169 in 2007 (see attachment 2 for some key provisions of ILO 169) and voted for UNDRIP (UN declaration on the rights of indigenous peoples) (see attachment 2) the same year, there is absolutely 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 its international obligations. It is crucial that indigenous peoples depending 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 acknowledge and is

informed by indigenous peoples' rights as recognized 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 an uphill and challenging battle 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 NGO/INGO, Civil Society Organizations 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 civil society organizations and donor agencies. This working group advises the REDD implementation process in Nepal. NEFIN is one out of 13 members of the REDD Working Group. In this context, NEFIN finds that its voice unfortunately becomes too

weak. Decisions tend to be based on the interest 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 fund based on forest carbon status and enhancement, ethnic diversity, and gender ratio of the population based in the project area. Although these may be some promising signals, like the above, NEFIN fears that the way REDD+ play out in general will bring changes that undermine indigenous peoples' traditional livelihoods, and thereby restrict their rights as indigenous peoples under the 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 practices in the plains region (Sherpa et al., 2010).

Information coming from REDD+ pilot projects currently being implemented has also given reason for concern. One example is the experience from the Chepang communities in Shaktikhor, one of the most marginalized 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 is considered to be a model that the Government can draw experiences from for the future.

## Recommendations

Indigenous peoples represent a distinct stakeholder group in the ongoing process of developing the Nepalese REDD+ strategy. First of all,

### 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. On the contrary, their traditional occupation does in fact seem to be undermined under 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 ICIMOD- The International Center for Integrated Mountain Nepal; FECOFUN- Federation of Community Forestry Users, Nepal; and ANSAB-Asia Network for Sustainable Agriculture and Bio-resources) provided the Chepang communities with a seed grant of Rs. 100000 (around US \$ 1176). They were encouraged to use the seed grant to plant Chiuri (Butter tree, *Bassia Buteracea*) on the land that they normally used for shifting cultivation. Chepang communities have taken the decision to plant Chiuri in their land, having limited options for alternatives to the seed grant provided by the project. The offered money is a huge amount to them. Now, they are worried because the

continuity of the project is not guaranteed, and if the project does not continue providing money, they will not be able to build alternative livelihood options. As Chiuri takes at least 15 to 20 years to bear fruit, the communities are really worried about the imminent risk that this project poses to their food security and continuous traditional livelihoods. So far, the project has not provided them with any alternative livelihood options. While they wait for the Chiuri plant to bear fruit, they ask themselves how they will survive if they cannot continue practicing shifting cultivation on the land where the Chiuri plants are slowly maturing.

Indigenous peoples in Nepal claim that *Khodiya* is a sustainable way of using forest land. This was later substantiated by research conducted by NEFIN, in a study on the role of indigenous peoples' traditional livelihood practices in sustainable management of the forest (Sherpa et al., 2012). 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.

they are in a very special position because they depend on forest land for their survival. Secondly, they are also rights-holders. As indigenous peoples they have specific rights, among others those related to guaranteeing that their cultures, ancestral lands, territories and resources, are respected and protected by the State.

Awareness about REDD+ on the community level is very low among indigenous peoples and local communities in Nepal. This has been one of the main challenges for their meaningful participation in the preparatory phase of REDD+. At present, before the onset of the REDD+ consultation processes, it is crucial to put national level awareness and capacity building programs for indigenous peoples in place 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 programs. The government does not seem prepared to initiate awareness raising and capacity building, and even if NEFIN does its utmost, it has no possibility to meet the needs on its own, due to limited human resources and available 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 an overarching 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 pro-poor forest management; 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 have. 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 rights 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.

Socioeconomic indicators show that indigenous peoples are disadvantaged in comparison with the main population (Bhattachan, 2001). They are generally considered to be illiterate and unable to understand theories and issues concerning climate change and REDD. However, with regard to skills related to sustainable forest and resource management, indigenous peoples are far ahead of modern conservation thinking. There is a need for the State to recognize their knowledge, and not undermine the role, knowledge and collective strength of indigenous peoples nationally. As stakeholders and as rights holders, indigenous peoples should be consulted and participate in the development of policies and programs that could affect their traditional occupation and knowledge systems. They should be rightfully recognized to have not only a special status, but also specific rights related to full and effective participation; meaningful consultation processes according to the principle of Free Prior and Informed Consent (FPIC); and a right to decide what should happen to their ancestral lands in the ongoing REDD+ process (See Appendix 1 for description of FPIC).

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## Nepal

Nepal is a multicultural, multilingual and multi-religious country, with 59 indigenous nationalities recognized 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 marginalized from the mainstream of development throughout the history of Nepal. Social and political developments, particularly the indigenous movement of the 1990's, 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 organization of 56 indigenous peoples' organizations. NEFIN has 71 District Coordination Councils (DCCs) and more than 2500 Village Development Councils (VCCs), 7 affiliated national-level organizations, and 13 international affiliated organizations, making NEFIN one of the largest networks of indigenous peoples' organizations in Nepal.

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# Only A Little Time Left: The Urgent need for a Safeguards Information System in Indonesia

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In Indonesia, REDD+ preparations and pilot projects have been running for the last five years, and have led to some positive developments with regard to forest governance. However, the lack of international common standards and guidance on safeguards for REDD+ threatens to undermine these positive developments. Indeed, indigenous peoples fear an intensification of violence and violation of rights if the development and monitoring of safeguards for REDD+ is left to regional and national politicians in Indonesia.

This article will deal briefly with the development of safeguards and a safeguards information system (SIS) in Indonesia after COP-16 and 17. Our main argument is as follows: 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 favor 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 transparency, consistency, comprehensiveness and effectiveness, 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, whenever possible, verifiable safeguards information system is required.

In Indonesia REDD+ readiness activities have been taking place for the five years since COP-13 in Bali. Many preparatory activities have been initiated, including formulation and enactment of enabling policies, development of REDD+ institutions and implementation of demonstration activities or pilot projects. The COP-16 in 2010 resulted in the framework of safeguard principles known as the Cancun Safeguards; which would later affect REDD+ policies and institutions in Indonesia.

The discussions on safeguards under REDD+ in Indonesia have shown a marked progress, especially in terms of linking the Cancun Agreement with national policies. However, this is a long process which must be closely watched so that REDD+ safeguards do not end up a toothless policy proposal. For REDD+ to work and result in the desired reduction in deforestation rates and corresponding greenhouse gas emissions, the safeguards must ensure that the primary root cause of forestry problems in Indonesia is addressed: unequal control of natural resources. Forest destruction therefore causes a proliferation of conflicts over resources.

## Indonesian forest policy; biased against local communities

Indonesia has 136.88 million hectares of forest (Ministry of Forestry Strategic Plan, 2010-2014) and 22 million hectares of peat land. Until 2010, the annual deforestation rate in Indonesia was above one million hectares. The Ministry of Forestry adopts a moderate figure of 1.125 million hectares/year (BPK 2010). At this rate, it is predicted that Indonesia will lose all of its forests within the next 50 years (CIFOR, 2010). At the same time, control of forests regulated by the framework of state law is heavily biased in favor of large corporations at the expense of communities that live within and in the areas surrounding forests. Currently, there are approximately 31,957 villages that are entirely or partially located inside forest areas or intersecting with them. The Ministry of Forestry itself records that at least 48.8 million people are living in villages in or around forest areas, 10.2 million of which are categorized as poor or 'backward.' Many have been living here for generations, but they have no formal recognition of their rights to forest land from the state and face the constant threat of criminalization and accusations of being "illegal dwellers." There are many examples of villagers who are put in jail for cutting one or two trees that they needed to build a house or for firewood. The Ministry of Forestry claims authority over 70% of Indonesia's total land, defined<sup>1</sup> as state forest. However, 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 gray area. As a result, conflicts over land abound.<sup>2</sup>

## Development of safeguards discussion in Indonesia

In general, the development of REDD+ safeguards in Indonesia has been run in parallel by two government agencies: the Ministry of Forestry, and the REDD+ Task Force under the Presidential Delivery Unit for Development Monitoring and Oversight (UKP4), that 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 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 a '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 inputs from a series of public consultations at the national and regional levels, called PRISAI (literally the "shield"), consisting of 10 social and environmental safeguards (see Box 1).

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 contain the description of financial plans and their implementation.

While the Task Force develops the content of the safeguards, the Ministry of Forestry is charged with developing the safeguards information system (SIS) to report to the public how Indonesia is carrying out 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 by a focal point at the national level, which will report it to the international level through the channels that will be agreed upon under UNFCCC (it is currently still limited to the national communication system every four years).

## The problem of national interpretation

There are several fundamental problems with national interpretation of safeguards. The first problem relates to national design of safeguards and SIS procedures. In the Cancun Agreement, reinforced in the Durban Platform, there are several terms that are open to interpretation by governments and other actors that are hesitant to use strong safeguard language.<sup>2</sup> By making safe-

guards 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 massive forest destruction and human rights abuses in forest countries – all in the name of ‘national circumstances’.

National circumstances” can mean virtually anything. In the context of Indonesia, national circumstances may allow, in line with the national Forestry Law, the violation of the constitutional rights of citizens of almost 32 thousand villages located in forest areas, and perpetuate or even worsen the deforestation rate that goes beyond one million hectares per year . National legislation has not adequately recognized and even tends to deny the rights of communities that live within forests and in surrounding areas.<sup>3</sup>

A similarly problematic picture of “national circumstances” emerges with regard to forest destruction. Most recently, when the two-year suspension (the so-called moratorium imposed by civil society) on the issuing of new licenses for developing primary forests and peat lands was launched by the government, important forest areas were excluded from the plan. 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.<sup>4</sup>

## **Safeguard information system (SIS) development**

With regard to development of a SIS in Indonesia, there are several fundamental problems related to coordination between government agencies at the national level, and between the central and regional governments.

At the national level there are conflicting policies between the Ministry of Forestry and other land-

based sectors, for example plantation and mining interests. The last two sectors have expanded greatly over the past ten years in Indonesia. Under the umbrella of MP3EI (Master Plan for the Acceleration and Expansion of the Indonesian Economy) which has become the main agenda of the the current government, large forest areas have been and will be sacrificed to accelerate economic growth. One example is the MIFEE (Merauke Integrated Food and Energy Estate) project in Merauke, Papua. At least two million hectares of forest will be allocated for this project, including 400,000 hectares of peat land, which according to the Presidential Instruction regarding the moratorium should not be cleared<sup>5</sup>. If the big picture of forest management is not addressed, REDD+ activities will be only small islands under the tight grip of the plantation and mining sectors and REDD+ will not have much effect on the overall deforestation rate.

### **Box 1. Ten Social and Environmental Safeguard Principles of PRISAI**

- Clarifying the rights to land and territory
- Complementing or consistent with national emissions reduction target
- Improving governance in the forestry sector
- Respecting and empowering the knowledge and rights of indigenous peoples and local communities
- Effective and full participation of multi stakeholders and paying attention to gender justice
- Strengthening forest conservation, biodiversity, and ecosystem services
- Addressing reversals
- Reducing replacement of emissions
- Equitable benefit-sharing
- Guarantying transparent, accountable, and institutionalized information

In the current administrative structure of Indonesia, regional governments (Districts and Provinces) have a high degree of autonomy vis-à-vis the central government and in many cases often show significant disobedience towards regulations of the central government. Due to the relationships between central and regional governments, important problems have not been adequately addressed in the development of SIS. This gap may also hamper the implementation of safeguards.

With regard to SIS the most fundamental problem is that there is not enough references on how to develop a system itself and what to report on through it. It is as if the Government of Indonesia was given *carte blanche* to develop SIS based only on national initiatives, which often undermine the safeguards themselves.

Although the safeguards in the Cancun Agreement were a huge achievement, the language on 'national circumstances' and 'national sovereignty' can undermine the safeguards. To ensure that developments at the national level will reach the main goals of REDD+, it is imperative to have more systematic guidance on the international level.

### **Varying experiences from REDD pilot project**

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 (2011) in Central Kalimantan regarding the KFCP (Kalimantan Forests and Climate Partnership), for example, various parties claimed that they have been implementing (FPIC: see Appendix 2), including the Head of District (Kapuas). However, communities living inside and around the project location testified that they had never been engaged in an adequate FPIC process.<sup>6</sup> This cannot be claimed to be a violation however, as there is not yet a law, policy, or standard that has been officially adopted as a national reference.

### **Why there must be a robust SIS guidance at the international level**

Currently Indonesia has a final draft of its REDD+ national strategy that will guide all

REDD+ project developments. Safeguards have come to be an integral part of the REDD+ national strategy. Although this can be called a product of international political negotiations, it is also rooted in national needs and challenges, like forest communities' rights, ongoing conflicts and deforestation. Still, Indonesia needs more robust international guidance, in order to guarantee accountability related to safeguards formulation, implementation, and reporting at the national level, for at least two important reasons.

First, projects with a REDD+ readiness label are now proliferating in Indonesia. More than 40 projects have been developed with their own models of implementation.<sup>7</sup> Many projects claim that they have already conducted a social assessment, are following the principle of FPIC, and recognize rights. But there is not one single standard that is officially recognized at the national level to ensure that such models are in line with the pillars of the National REDD+ Strategy, including with regards to the fulfillment of social and environmental safeguards. Many projects refer to standards and instruments of safeguards provided by non-government institutions, for example the Voluntary Carbon Standard (VCS), The Climate, Community and Biodiversity Alliance (CCBA), REDD+ Social and Environmental Safeguards (REDD+-SES), etc. Other projects refer to legislation claimed to be in the spirit of the safeguards.<sup>8</sup> There is not yet one credible report at the national level that can show positive effects of these projects with regard to safeguard implementation, however. This is partly due to the absence of any institutional structure at the national level with 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).

Second, a systematic and informative SIS at the global level can make the processes at the national level more accountable. 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 implement and enforce them, good principles, criteria, and indicators will only be a paper tiger. They will have no possibility to improve the situation of the communities that have for too long been marginalized 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 empower the strongest laws to provide the basis for national level safeguards implementation.

ASIS may not be the ideal mechanism to enforce

safeguards, nationally or internationally. However, in the absence of an MRV system on safeguards, it becomes the only mechanism that can encourage governments to honor their obligations regarding safeguards development and implementation. To make REDD+ work, there is a need for a more detailed SIS in Indonesia. Both a common template and a review mechanism at the national level are needed to make the provision of safeguards information easier to do in an effective, comprehensive, and transparent manner.

Given the high deforestation rates in Indonesia, there is indeed only a little time left to make fundamental changes and reverse the trend before it gets too late.



Photo: Alain Compost/WARSI



Cartoon Illustration NEFIN

## Violence in Forest Areas

In Bukit Baka Bukit Raya National Park, West Kalimantan District, the Forest Police conduct monthly patrols. They seek information about activities inside and around forest areas, and are equipped with standard equipment that includes a wide range of firearms, and anesthetic weapons. Also SPORF (Fast Response Forest Policy Unit) conduct routine patrols, even if their mandate is to address illegal logging.

From 2009-2012, there has been an escalation of violence in two forest villages, Arma and Watmuri in Maluku Tenggara Barat, in which 76 villagers were arrested in a conflict between a timber logging company and communities. Communities in the two villages rejected the issuance of logging licenses in their area and resorted to protest, resulting in damaged company property in the base camp, and arrests. They have been detained without charge for more than 3 months, which is a violation of Indonesian formal penal code.

In Battang Barat Village, South Sulawesi, a villager was arrested and detained for more than 3 months without proper legal procedure and then sentenced for 5 months for entering a conservation zone without license. The Govern-

ment extended the area of the conservation zone in 2004 without consulting the communities, resulting in more than 230 household's settlement and plantations being incorporated into the conservation zone, criminalizing their livelihood activities.

There is ample evidence that companies log inside the National Park, while thousands of communities are imprisoned and fined for sustaining their livelihoods. In 2007, two villagers from Sungkup hamlet that had managed their plantations in the area for generations, long before the National Park was formed in 1992, were arrested and prosecuted. Both of them were convicted and had to spend 7 months in prison and pay a fine of Rp 50,000,000 (fifty million rupiah – about 5 000 US\$). The sanction was similar to the fines levied against a corrupt official who has stolen billions. They were convicted of having cleared land against the law in a conservation area. Their traditional areas have still not been officially recognized. Meanwhile, they see with their own eyes tens or hundreds of logging trucks carrying logs taken from the National Park every day. (Source: Setyasiswanto and Agus, 2010:80-91).

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7. *Beyond Carbon: Safeguards Principles Based on National and International Law*, Jakarta: HuMa, 2010.
8. Antara, Selasa, 23 Maret 2010, *Greenomics Minta Pemerintah Transparan Laksanakan MIFEE*;

## Notes

- 1)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.
- 2) 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, Oktober 2011.
- 3) Some officials of the Ministry of Forestry called safeguards a burden. In one forum attended by many stakeholders, an official said that safeguards are "fancy" multilat-

eral products, foreign imitation...see the Bernadinus Steni and Nadia Hadad, *REDD+ Safeguards in Indonesia*, <http://www.bicusa.org/en/Article.12621.aspx>.

4) 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 a permission from authorized officials. This article is often used to puts people from communities that have had a long tradition of carrying knives to cultivate their land in jail.

5)Daniel Murdiyarso, Sonya Dewi, Deborah Lawrence and Frances Seymour, 2011, *Indonesia's Forest Moratorium, A Stepping Stone for Better Forest Governance ?*, Bogor Indonesia: CIFOR)See Antara, Selasa, 23 Maret 2010, *Greenomics Minta Pemerintah Transparan Laksanakan MIFEE*

6) See Bernadinus Steni and Sentot Setyasiswanto, *No Reason to Delay: The Portrait of FPIC in REDD+ Demonstration Activities Projects in Central Kalimantan and Central Sulawesi*, Jakarta: HuMa, pg 23-38

7) See Antara, Selasa, 23 Maret 2010, *Greenomics Minta Pemerintah Transparan Laksanakan MIFEE*

8) See Bernadinus Steni and Sentot Setyasiswanto, *No Reason to Delay: The Portrait of FPIC in REDD+ Demonstration Activities Projects in Central Kalimantan and Central Sulawesi*, Jakarta: HuMa, pg 23-38

# Brazil- Participatory construction of REDD+ safeguards

**Authors: REDD Observatory, Brazil**

## Introduction

The mechanisms for Reducing Emissions from Deforestation and forest Degradation (REDD+) have gained a central place in the international debate on climate change. This has opened up many opportunities for actions to combat deforestation, both at the government level (federal and state), as well as in smaller-scale demonstration projects.

Governance mechanisms necessary to translate these opportunities into effective reductions in deforestation, biodiversity conservation benefits, social benefits and respect for the rights of indigenous peoples, small landowners and local communities are not yet in place, however. This creates a risky situation where carbon projects, as well as government programs, may negatively impact traditional populations and biodiversity, or simply not result in reduced deforestation.

In this context, during the Katoomba Group Workshop (Cuiabá, Mato Grosso, Brazil 1-4 April 2009), various civil society organizations - including NGOs, rural producers and social movements - came together and decided to start a process of developing social and environmental safeguards for REDD+ programs and projects in the Brazilian Amazon. In order to create a document widely recognized by society in general, it was decided that developing the safeguards should involve all stakeholders and sectors affected by REDD+, and should be transparent and inclusive of public participation. The result of these discussions – and the participatory process that evolved from them – is the “REDD+ Social and Environmental Principles and Criteria”. The following pages describe briefly the process we went through to develop the document, as well as the safeguards themselves.

## A Participatory Process

In developing the REDD+ Social and Environmental Principles and Criteria, the first step was

to form a steering committee. This committee was composed of people with knowledge of the subject and who were representatives of different sectors, such as: social movements, family based-agriculture, private sector, environmental NGOs and research institutions. This committee had the task of preparing the first version of the principles and criteria, which was then subjected to a full public consultation.

This public consultation was held over five months, between December 1, 2009 and April 31, 2010. In addition to the public consultation via internet, there were four workshops for discussion and consultation on the document with leaders of indigenous peoples, traditional communities and smallholders covering the entire Brazilian Amazon, as well as one with the private sector.

After these public consultations, the Steering Committee met again to discuss the comments received, revise and respond to suggestions and prepare a second and final version of the document.

## Objective

The REDD+ Social and Environmental Principles and Criteria constructed during the process outlined above are meant to be used as a reference for the development and implementation of forest carbon projects and REDD+ government programs; to guide the use of national and international financial resources; and for the evaluation and validation of private REDD+ projects in Brazil.

The document was not intended to become the basis of a national certification mechanism for market-based carbon projects, but rather to complement other international carbon certification schemes already in place, or others yet to be created.

The main objective of the initiative was to contribute to strengthening forest governance, informa-

tion transparency, and public participation in decision-making processes; to promote active coordination among different stakeholders; and to promote the respect and recognition of the rights of indigenous peoples and traditional populations. Those involved believed that by following the principles and criteria contained in the document, the governance of REDD + initiatives would be improved.

### How the process worked

- Creation of a multi-stakeholder steering committee to draft and revise the standards;
- Development of a version 1.0 of the Principles and Criteria by this committee;
- Submission of version 1.0 to public consultation (via internet) for a period of 150 days (from December 1st, 2009 to April 31st, 2010), open to all segments of society involved with the issue;
- Regional meetings in the Amazon with representatives of traditional communities and indigenous peoples to present the document and register their contributions;
- Meetings with various stakeholders involved in or affected by REDD in Brazil to present the document and register their contributions;
- Development of the final version of the Principles and Criteria by the steering committee, incorporating all comments received during the public consultations.

### Scope

The use of the Principles and Criteria was also not supposed to be restricted to a specific group or sector of society; rather they were meant to be applicable to REDD+ activities conducted by (or in partnership with) indigenous peoples, traditional populations, small landowners, private landowners and governments.

### REDD+ Social and Environmental Principles and Criteria

Below is a brief description of the Social and Environmental Principles and Criteria for REDD+ that resulted from the process described above.

**1. LEGAL COMPLIANCE:** conformance to legal requirements and relevant international agreements.

1.1. REDD+ actions shall respect Brazilian labor legislation, including requirements regarding health and safety, 'no acceptance' of any form of slave and child labor, while respecting the distinctiveness of the various ways that indigenous populations, small landowners and local communities organize labor.

1.2. REDD+ actions shall respect Brazilian environmental legislation.

1.3. REDD+ actions shall respect all international social, environmental, cultural, labor and commercial agreements ratified by Brazil.

**2. RECOGNITION AND GUARANTEE OF RIGHTS:** recognition and respect for the rights to land, territories and natural resources.

2.1. All REDD+ actions shall recognize and respect the constitutional, statutory and customary rights associated with land ownership, official designation, and the use of natural resources of indigenous peoples and small landowners, including being in complete compliance with the UN Declaration on the Rights of Indigenous Peoples, the FAO Treaty on Agriculture and Food, and ILO Convention 169. (See attachment 2)

2.2. REDD+ actions shall recognize and value the socio-cultural systems and traditional knowledge of indigenous peoples, small landowners and local communities.

2.3. REDD+ actions shall respect the rights to self-determination of indigenous peoples and local communities.

2.4. In the areas where REDD+ actions are implemented, rights to lands traditionally used and occupied shall be respected, as well as those rights associated with the use of land and natural resources.

2.5. All REDD+ actions shall incorporate formal mechanisms for conflict resolution which guarantee the effective participation of all involved stakeholders.

**3. BENEFIT SHARING:** fair, transparent and equitable sharing of the benefits generated by REDD+ actions.

3.1. Benefits generated by REDD+ actions shall be accessed in a fair, transparent and equitable manner by those who hold the rights to the use of land and/or natural resources, and promote activities related to conservation, sustainable use and forest restoration.

**4. ECONOMIC SUSTAINABILITY, IMPROVEMENT IN QUALITY OF LIFE AND POVERTY ALLEVIATION:** REDD+ contributions to economic and sustainable diversification of the use of natural resources.

4.1. REDD+ actions shall promote economic alternatives based on valuing standing forests and on the sustainable use of natural resources and deforested areas.

4.2. REDD+ actions shall contribute to poverty alleviation, social inclusion and improvement of livelihoods for people who live in REDD+ implementation areas and in areas affected by them.

4.3. REDD+ actions shall contribute to the empowerment and autonomy of populations involved, based on participatory planning and local development tools.

4.4. REDD+ actions shall consider adaptation measures to minimize the negative impact of climate change on indigenous peoples, small landowners and local communities.

**5. ENVIRONMENTAL CONSERVATION AND RECOVERY:** REDD+ contributions to conservation and recovery of natural ecosystems, biodiversity and environmental services.

5.1 REDD+ actions shall contribute to the conservation and recovery of natural ecosystems, and avoid causing significant negative impacts to biodiversity and ecosystem services.

5.2 Species or ecosystems that are rare, endemic or threatened with extinction, or have a high conservation value, shall be previously identified,

protected and monitored.

5.3 In case of restoration activities in degraded areas, REDD+ actions shall use native species.

**6. PARTICIPATION:** participation in the development and implementation of REDD+ actions and in decision making processes.

6.1. Conditions for the participation of the beneficiaries shall be ensured in all phases of REDD+ actions and in decision making processes, including the identification, negotiation and distribution of benefits.

6.2. Decision making processes relating to REDD+ actions shall effectively ensure the right to free, prior and informed consent, considering local representation and respecting the traditional forms of choosing representatives by indigenous peoples, small landowners and local communities.

6.3. Populations living in areas affected by REDD+ actions shall be informed about them.

**7. MONITORING AND TRANSPARENCY:** complete availability of information related to REDD+ actions.

7.1. Beneficiaries shall have free access to information relating to REDD+ actions, in simple language, so they can participate in the decision making process in a previously informed and responsible manner.

7.2. Transparency of information about REDD+ actions shall be guaranteed, including at least all information related to the methodology, location and size of the area, definition and participation of involved and affected stakeholders, activities to be executed, time-line of the project and conflict resolution mechanisms.

7.3. In public lands, protected areas and in other areas that involve indigenous peoples, small landowners and local communities, and in REDD+ actions supported by public funds, transparency of information shall be ensured regarding the accrual, use and distribution of benefits generated by REDD+, as well as periodic financial reporting.

7.4. There shall be periodic monitoring of the socio-environmental, economic and climate related impacts and benefits of REDD+ actions, respecting the traditional ways of life and practices

of indigenous peoples, small landowners and local communities; results of the monitoring shall be made publicly available.

**8. GOVERNANCE:** fostering better governance, coordination and alignment with national, regional and local policies and guidelines.

8.1. REDD+ actions shall be coordinated and be consistent with national, state, regional and municipal policies and programs on climate change, conservation, sustainable development and prevention of deforestation.

8.2. REDD+ actions shall meet the requirements of state or national REDD+ policies.

8.3. Emissions reduction and carbon sequestration generated by REDD+ actions shall be quantified and registered in ways that avoid double counting.

8.4 REDD+ government actions shall contribute to strengthening public instruments and processes for forestry and territorial management.

## Conclusions and Next Steps

The bottom-up process for creating the REDD+ Social and Environmental Principles and Criteria as described above had positive impacts on REDD+ discussions in Brazil, both in terms of the process itself and the standards developed. Because the process was spearheaded by Brazilian civil society, it helped engage indigenous and grassroots leaders, at both the national level and in their states. The resulting document is also being actively used as a basis to push for strong safeguards within public policies related to REDD+ and climate change.

By actively participating in the process of developing the Criteria, several indigenous and other grassroots leaders learned about REDD+ and were able to use their knowledge, as well as the document itself to influence state-level REDD+ policies and programs. The document may be used as a reference by the Brazilian Ministry of the Environment, which is currently developing the National REDD+ Strategy.

The experience led to the creation of a platform called the REDD Observatory (in Portuguese, Observatório do REDD). The Observatory serves as a tool for participation and monitoring by civil society, with a focus on the formulation

and implementation of public policies related to REDD+. As a consequence the Observatory aims to collect and analyze data on REDD projects, disseminate information, train local communities and indigenous peoples and organize the advocacy necessary to push for transparency and good governance. In addition to serving as a locus for discussions about REDD+, the REDD+ Observatory created an online portal to strengthen forest governance, transparency, participation of civil society and social movements, and to guarantee that the rights of all stakeholders involved are respected.

The REDD Observatory platform has already registered various voluntary REDD+ projects. The public sharing of information has proven to be a great tool in improving transparency around REDD+ initiatives in Brazil. Members of the Observatory can thereby stay up to date on current information about REDD+ and can interact with project proponents, beneficiary communities and civil society. The REDD Observatory has the support of the Ford Foundation and the Avina Foundation and has a Multi-stakeholder Committee comprised of 30 civil society organizations and social movements, and is currently housed at the Amazon Working Group - GTA.

The whole process of mobilizing and coordinating the development of the safeguards was summarized in a document that can be used as a guide by civil society and governments outside Brazil in constructing similar processes of establishing participatory consultation with the various sectors of civil society in their country.

activities that will have sustainable effects in the long run, and that do not contribute to harm.

Who invests, and why, may determine the success of REDD+. Firstly, the Accra caucus is wary that REDD+ will turn into an offset mechanism based in a carbon market. Such a model will, according to our analysis, be inefficient, very costly, and also unlikely to attract investors. The establishment of “carbon inventories” of a level of detail needed for the market to invest is very costly, and so is the actual validation. Investors may reap profit, but to effect on the climate and on forests, biodiversity and forest based communities is questioned.

The report suggests that instead of spending lim-

ited REDD+ funds for costly carbon counting, the REDD+ funds are used as direct incentives for good national processes guided by safeguards, and for policy and legal measures, incentives and regulations that, for instance in the example of Brazil has been shown to work. Furthermore, systems are already in place for forest surveillance and reporting on forest loss, degradation and transformation which serve the purpose when the main users are policy makers.

REDD+ payments may be the incentive that states and forest owners need in order to change the logic and the mechanisms that drive forest destruction. If successful, REDD+ may change the dynamics of forest loss. But the conditions that need to be in place for this to succeed are many and multifaceted, and REDD+ is far from being at a stage where it may unlock its full potential.

Achieving support in the forest regions and among all those depending on forests will take time and resources, but is crucial for long term and sustainable results. For the population to support it, there need to be trust that the REDD+ plan is sound, that their interests are taken care of and that their wellbeing or livelihoods are not at stake. Strong safeguards will help build this trust.

#### **Notes:**

12) Organizations members of the Steering Committee for the Elaboration and Review of the Social and Environmental Principles and Criteria of REDD+ included: CNS – Conselho Nacional dos Seringueiros; CONTAG – Confederação Nacional dos Trabalhadores da Agricultura; GTA – Grupo de Trabalho Amazônico; COIAB – Coordenação das Organizações Indígenas da Amazônia Brasileira; REDE POVOS DA FLORESTA; BIOFLICA; CNA – Confederação Nacional da Agricultura; PFCA – Grupo de Produtores Florestais Certificados da Amazônia; ICV – Instituto Centro de Vida; ISA – Instituto Socioambiental; GREENPEACE; WWF; Avina Foundation; ICRAF – World Agroforestry Center; IMAZON – Instituto do Homem e Meio Ambiente

da Amazônia; IPAM – Instituto de Pesquisa Ambiental da Amazônia; FUNBIO - Fundo Brasileiro para a Biodiversidade; CI – Conservation International; TNC – The Nature Conservancy; FAS – Fundação Amazonas Sustentável.

13) Note about the geographic scope: These Principles and Criteria were developed with a main focus on REDD+ actions taking place in the Brazilian Amazon. Members of the Steering Committee had more experience with issues relating to this biome, and the public consultations were also more focused on actions that will take place in the Brazilian Amazon. Therefore, the Committee decided not to consider these Principles and Criteria as having a national scope and being more widely applicable, in recognition of the fact that the remaining biomes have distinct social and environmental issues that need to be discussed more in depth before being incorporated in this document.

14) Several documents were used as reference for the elaboration of drafting document for consultation. These were: Katoomba conference letter (April, 2009, signed by various civil society organizations, including environmental organizations, social movements, rural producers, etc.); Letter of the Indigenous Peoples of the Brazilian Amazon about Climate Change (Brazilian Indigenous Federation or Coordenação das Organizações Indígenas da Amazônia Brasileira – COIAB , September, 2009); Letter of principles for REDD – Sustainable Amazon Forum; Key Messages from Accra Caucus, Bangkok, October, 2009; Criterios e Indicadores para Proyectos REDD – Universidades de LEEDS y Bangor (Reino Unido); Manaus Declaration – April, 2008; Draft REDD+ Social & Environmental Standards – Climate, Community & Biodiversity Alliance - CCBA, October, 2009.

15) To access the full text, see: <http://www.observatoriodoredd.org.br/site/pdf/DevelopingREDD.pdf>

16) The term “shall” is used in the sense of being mandatory, i.e. it means that the action must be performed in order to fulfill the criterion.

17) <http://www.observatoriodoredd.org.br>

<http://www.observatoriodoredd.org.br/porta>

# APPENDIX 1

## The content of 'Free Prior Informed Consent'

The content of 'Free Prior Informed Consent' as stated in the UN Declaration on the rights of indigenous peoples (UN 2007) can be understood as follows:

Free should imply no coercion, intimidation or manipulation;

Prior should imply consent has been sought sufficiently in advance of any authorization or commencement of activities and respect 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.

### Consent

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 participation of children and youth as appropriate. This process may include the option of withholding consent. Consent to any agreement should be interpreted as indigenous peoples have reasonably understood it.

### When?

FPIC should be sought sufficiently in advance of commencement or authorization of activities, taking into account indigenous peoples' own decision-making processes, in 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.

# APPENDIX 2

## Relevant provisions under the international human rights

### Some key provisions under Indigenous and Tribal Peoples Convention, 1989 (C169)

#### Article 6

1. In applying the provisions of this Convention, **governments shall: (a) consult** the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;

(b) **establish means by which these peoples can freely participate**, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;...

2. The **consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.**

3. Governments shall ensure that, whenever appropriate, **studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.**

#### Part II. Land

Article 14. 1. **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. 1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

2. 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.

[http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_100897.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_100897.pdf)

#### Some 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, utilization 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 specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, 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 specialized 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 recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.



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