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Rights and REDD in Amazonian Countries and Paraguay

Systematization of regional workshop

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Systematization of Regional Workshop
Rainforest Foundation Norway and CEPLAES, 2011

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ACRONYMS

AIDSESP	Asociación Interétnica de Desarrollo de la Selva Peruana (Indigenous Peoples' Organization of the Peruvian Amazon)
APA	Amerindian Peoples Association (Indigenous Peoples' Organization of Guyana)
IDB	Inter-American Development Bank
CBD	Convention on Biological Diversity
CEPLAES	Centro de Planificación y Estudios Sociales (Ecuadorian NGO)
CEDEAL	Centro Ecuatoriano de Desarrollo y Estudios Alternativos (Ecuadorian NGO)
CCBA	Climate, Community and Biodiversity Alliance
CIDOB	Confederación de Pueblos Indígenas del Oriente Boliviano (Indigenous Peoples' Organization of Eastern Bolivia)
FPIC	Free, Prior and Informed Consent
UNFCCC	United Nations Framework Convention on Climate Change
CNS	Conselho Nacional dos Seringueiros (National Council of Rubbertappers in Brazil)
COIAB	Coordenação das Organizações Indígenas da Amazônia Brasileira (Indigenous Peoples' Organization in the Brazilian Amazon)
COICA	Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica (Coordinating Body of Indigenous Organizations of the Amazon Basin)
CONAICE	Confederación de Nacionalidades Indígenas de la Costa Ecuatoriana (Indigenous Peoples' Organization of the Ecuadorian Coast)
CONAIE	Confederación de las Nacionalidades Indígenas del Ecuador (Indigenous Peoples' Organization of Ecuador)
CONAMAQ	Consejo Nacional de Ayllus y Markas del Qullasuyu (Indigenous Peoples' Organization of Bolivia)
CONFENIAE	Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana (Indigenous Peoples' Organization of the Ecuadorian Amazon)
COP	Conference of Parties
CSUTCB	Confederación Sindical Única de Trabajadores Campesinos de Bolivia (Peasant Organization of Bolivia)
DAR	Derecho, Ambiente y Recursos Naturales (Environmental NGO of Peru)
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
FAN	Fundación Amigos de la Naturaleza (Environmental NGO of Bolivia)
FAPI	Federación por la Autodeterminación de los Indígenas peoples (Indigenous Peoples' Organization of Paraguay)
FCPF	Forest Carbon Partnership Facility
FIP	Forest Investment Program
GHG	Greenhouse Gases
GTA	Grupo de Trabalho Amazônico (Brazilian NGO platform)
IPAM	Instituto de Investigación Ambiental de la Amazonia (Brazilian NGO)
MAE	Ministerio del Ambiente de Ecuador (Ministry of the Environment of Ecuador)
PSB	Programa Socio Bosque (Forest conservation Program in Ecuador)
MCP	Ministerio Coordinador de Patrimonio de Ecuador (Coordinating Ministry of Heritage of Ecuador)
MRV	Monitoring, Reporting and Verification
ILO	International Labor Organization
NGO	Non-Governmental Organization
UN	United Nations
UN-REDD	United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
UNDP	United Nations Development Program
NJP	National Joint Program (UN-REDD Programme national strategy document)
REDD	Reducing Emissions from Deforestation and forest Degradation
RFN	Rainforest Foundation Norway
RPP	Readiness Preparation Proposal (FCPF national strategy document)



PHOTO: THOMAS MARENT

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1. INTRODUCTION

The *Regional Workshop on Rights and REDD in Amazonian countries and Paraguay*, organized by Rainforest Foundation Norway (RFN) and the Centro de Planificación y Estudios Sociales del Ecuador (CEPLAES) was held in Quito, Ecuador on May 30th to June 2nd, 2011. It convened representatives of indigenous organizations and civil society from six countries of South America: Bolivia, Brazil, Ecuador, Guyana, Paraguay and Peru. Officials of the Ecuadorian government, representatives from the UN-REDD programme and the Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica (Coordinating Body of Indigenous Organizations of the Amazon Basin) (COICA) also participated and contributed.

The objective of the workshop was to create a space for dialogue and information sharing on the processes which address Reducing Emissions from Deforestation and forest Degradation (REDD).^{1]} The emphasis was on the development of these processes in Amazonian countries and Paraguay, with vast tracts of tropical forests. The REDD process is advancing rapidly in the region, and it is important that the forest-dependent peoples are informed of this mechanism's opportunities, challenges and threats. Despite the significant differences in national contexts, the principal challenges are the same

throughout the region: protecting and strengthening human rights and Life Plans of indigenous peoples and other forest-dependent communities; the need to guarantee the full and effective participation of these peoples and communities; the importance of trying to ensure that REDD not be merely a question of carbon, but rather safeguard the forests as ancestral territories and sources of biological diversity and other environmental services. The workshop provided an opportunity for the participants to learn about experiences in other countries and debate openly issues of great importance. The intention was not to reach consensus, but rather to share and debate in order to deepen participants' understanding, strengthen local capacity and increase the possibilities of having an impact on national REDD processes.

This report tries to compile some of the key issues and discussions of the workshop. The hope is that it can be useful not only for the participants, but also for other actors who, in one way or another, are involved in the REDD process, such as indigenous peoples and other forest-dependent peoples, civil society organizations, academics, public servants and international bodies like the United Nations and multilateral development banks. We believe that it is very important to take into account the opinions expressed in the workshop since they reflect the diversity of experiences in the region of some of those who will be most affected by REDD: the indigenous peoples of the forests.

The document is organized in two parts: The first part presents the national experiences of the above-mentioned six countries. The summaries

are based on the presentations in the workshop on the development of the REDD processes in each country, the participation of indigenous peoples and other actors of civil society, and their concerns, recommendations and expectations. The second part compiles the key issues raised in the discussions on the three topics of the workshop, which were: 1. Rights to territories, property and natural resources, 2. Effective participation and the right to consultation and free, prior and informed consent, and 3. Environmental and social safeguards and systems for monitoring and reporting.

This systematization does not intend to reflect all the presentations, but rather to highlight the principal topics of debate that arose in the course of the workshop and the experiences that are unfolding in the countries of the region in relation to the REDD processes. This helps to process the material and arrive at conclusions and make recommendations. The information on the presenters and presentations are found in the annex, and the majority of the presentations are available on the internet: [http://derechosybosques.com/?page_id=2007]

About Rainforest Foundation Norway (RFN)

RFN is a non-governmental organization from Norway, which for over twenty years has supported indigenous peoples and other forest-dependent populations to protect their environment, consolidate their territories and defend their rights. RFN works in ten countries, three continents and have approximately 50 local partner organizations.

The framework of this workshop is RFN's program "REDD, Rights, and Results." The objective of this program is that the rights and full participation of the forest-dependent populations and indigenous peoples are included, respected, protected and implemented in all national and international policies and agreements related to REDD. An important component of the program is the creation of an international network of indigenous organizations and civil society, and the strengthening of the capacity of its members through workshops, publications and information and experience sharing.

About Centro de Planificación y Estudios Sociales (CEPLAES)

CEPLAES is the headquarters in Ecuador of the Program that RFN implements globally. It is an Ecuadorian NGO that seeks to contribute to overcoming economic, social, environmental, gender and ethnic inequities through research and advocacy on public policy. Since its founding in 1978, CEPLAES has implemented more than a hundred projects of research, capacity building, technical assistance and dissemination on issues related to sustainable human development. Currently CEPLAES works on five issues linked to the promotion and exercise of the rights of: women, indigenous peoples and Afro-Ecuadorians; migration and human mobility; and socio-economic, socio-political and socio-environmental issues.

1] In the Cancún Agreements, reached at the 16th Conference of Parties of the United Nations Framework Convention on Climate Change (UNFCCC) in December 2010, REDD is defined as "Reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries". Sometimes a distinction is made between the acronym "REDD", referring to the first two elements of the definition related to emissions reductions, and "REDD+" which also includes conservation, sustainable management and enhancement of forest carbon stocks. However, for the sake of simplicity this publication will use the term "REDD" to refer to all the elements of the definition used in the Cancun Agreements.



2. CLIMATE CHANGE INITIATIVES IN AMAZONIAN COUNTRIES AND PARAGUAY

2.1 Bolivia

The process related to climate change and REDD has gone through several phases. It started in 2006 with discussions at the international level, and during 2007 and 2008, Bolivia showed determined leadership. The government elaborated its National Program and was selected as a pilot country both for the World Bank's Forest Carbon Partnership Facility (FCPF) as well as for the UN-REDD Programme; a Technical Committee and a Political Committee for REDD were created, in which representatives from civil society and indigenous peoples like CIDOB participated actively; in these entities the technical aspects are discussed like the design of the systems for measuring biomass, baselines, development issues, and decisions are taken on the Bolivian position.

At the end of 2008, the President explicitly presented to the UNFCCC summit in Poznan his defense of the rights of Mother Earth and his rejection of the carbon market mechanisms. Since neither social movements nor civil organizations which were participating in the REDD process, were consulted on this position, some of them were surprised by it.

In 2009, in the context of the new Political Constitution and the reorganization of the State – and the ratification of the presidential position – a new discussion began on building an alternative strategy that would take into account the interest of the government in forests and climate change, and that, therefore, would go beyond the limited

conceptualization of REDD as a market mechanism. In this regard, the Estrategia Nacional de Bosque y Cambio Climático (National Strategy on Forests and Climate Change) was articulated^{2]} and published in July 2010. The UN-REDD programme approved the National Joint Programme (NJP) in March 2010, allowing Bolivia to receive funding to increase the capacity of the government and civil society to implement activities related to REDD.

An important milestone of this process was the Global Peoples' Conference on Climate Change and the Rights of Mother Earth (Cochabamba, 2010), in which REDD was explicitly rejected despite the participation of the representatives of COICA and the Confederación de Pueblos Indígenas del Oriente Boliviano (Indigenous Peoples' Organization of Eastern Bolivia) (CIDOB), whose position was to analyze the opportunities of this initiative. This illustrates how impossible it is for these organizations to impact the government's positions and the conclusions of the event.^{3]} These conclusions were further ratified by Bolivia's rejection of the Cancun Accord, which bothers the social movements which understand

2] The objective is "to reduce the socio-economic and ecological vulnerability of forest users and to the whole population of Bolivia to Climate Change by developing actions that help to diminish extreme poverty by providing incentives to the integral community and sustainable management of the forests in the framework of Living Well." Its "pillars" are: a) Reducing the threats to forests; b) Conserving and restoring degraded landscapes; c) Integral community management of the means of living; d) Education and capacity building; e) Reforming legislation and institutional structure; f) Monitoring and evaluation of reducing deforestation; g) Integral management of forests.

3] It is noteworthy that the process is headed by the Chancellor's office and not by the technical team that works on climate change issues.

the implications for the country of being left outside of the international process.

In this phase, there are invitations to workshops and meetings, the majority of whose participants are from the social and indigenous movements, and documents are signed as if they were adopted by civil organizations; however, in CIDOB's opinions, this does not constitute a process of informed consultation on the real meaning of the Strategy and the position of Bolivia in the climate change negotiations; in this regard, there is no evidence of the impact of the social sectors. The lack of participation of the NGOs and other civil society organizations in the process is noteworthy.

POSITION ON REDD

For indigenous peoples, REDD is a mechanism under construction. CIDOB has tried to take advantage of the opportunity to participate effectively in all phases of the national REDD process, from design to implementation. It is an opportunity to strengthen the activities of the indigenous peoples as the true guardians of the forests with economic incentives; to strengthen the internal discussion on indigenous autonomies; to consolidate the territories and support indigenous territorial management processes and the recognition of indigenous governance over natural resources; and to develop capacity in these areas. In this framework, in 2008, together with Central Indígena de la Región Amazónica Boliviana, CIDOB started the "Programa subnacional Indígena de REDD en la Amazonía Boliviana" (Subnational Indigenous REDD Program in the Bolivian Amazon), a pilot initiative that is being implemented despite what is occurring with the REDD process at the national level.

The project area is 3.8 million hectares of consolidated indigenous territories. An institutional framework in accordance and compatible with the National Strategy on Forests and Climate Change was established. It shows that indigenous peoples based on their traditional practices and knowledge can develop mechanisms that contribute to conservation and the reduction of deforestation and forest degradation. It includes the strengthening of chestnut and wood production chains, standards and best practices for reduced impact use, control systems and local surveillance. One of the most important elements is consultation; there is a document for this purpose that is being applied in the field; this experience is going to be one of the first

to document the process of prior consultation and Free, Prior and Informed Consent (FPIC). Moreover, given that the government has not decided on the financial structure to make the National Strategy operative, an internal discussion has initiated on how to design performance-based payments based on a discussion of indigenous equitable benefit sharing, and a payment proposal will be drawn up. CIDOB hopes that this model will be food for thought both at the national and international level.

There are outstanding issues that need be discussed, conceptualized and decided; among others, the market and the stock exchange; but CIDOB is against commodification and carbon offsets. CIDOB believes that the funding that could be made available could help to guard the territories and strengthen the organizations, but if such funding is not made available, indigenous peoples will continue to conserve the forests anyway, because this is their way of life.

THE ROLE OF CIVIL SOCIETY

To strengthen the participation of civil society, Free, Prior and Informed Consultation must be guaranteed, respecting the structures of each organization. Furthermore, it is important to take solid positions that are arrived at in participatory manner. Unfortunately, the Mesa Indígena de Bosque y Cambio Climático (Indigenous Roundtable on Forests and Climate Change) does not have the budget to comply with this demand. Pilot initiatives need to be implemented in other territories to address different realities and could serve as input for policy making. It is also necessary to participate in capacity building endeavors. For all these tasks, direct access to funding is required. In the REDD process, the funding that the government of Bolivia receives from the UN-REDD programme is not transferred to indigenous peoples.

CIDOB, whose leadership is recognized, has convened meetings with social organizations like CONAMAQ⁴⁾, Bartolina Sisa (Women's Organization in Bolivia) and CSUTCB⁵⁾ to present its position, its concerns and progress made in the pilot program and has, thus, deepened the understanding of these organizations on REDD; this could reinforce their impact on the government.

4) Consejo Nacional de Ayllus y Markas del Qullasuyu (CONAMAQ) (Indigenous Peoples' Organization of Bolivia)

5) Confederación Sindical Única de Trabajadores Campesinos de Bolivia (CSUTCB) (Peasant's Organization of Bolivia)

CONCERNS ABOUT REDD

Concerns arise due to the lack of information; the government has not made sufficient efforts to share information. Other concerns include: That the right to self-determination of indigenous peoples may be violated, in so far as others (NGOs, for example) are who decide what to do and what not to do with indigenous peoples' territories; that indigenous peoples' right to property could be taken away or violated and that the right to use the resources of the forest may be restricted; that others will control the territory based on satellite information (related to monitoring, verification and reporting). Similarly, there are concerns that a national process will be initiated without prior consultation nor consent being granted, and that decisions will be taken and that funding will be obtained in the name of indigenous peoples and that that funding will not be used to support their development. A related concern has to do with how payments will be made for conserving forests, reducing deforestation and degradation, and who will control these funds and how they will be managed.

RECOMMENDATIONS

According to CIDOB, REDD should: Strengthen the capacity to integrally manage territories (governance); promote models for local management; subnational programs should be articulated in accordance with the National Strategy on Forests and Climate Change; the resources from the payments should promote adaptation programs and local development; establish equitable benefit sharing designed in a collective and participatory fashion; promote direct administration and management of economic resources by indigenous peoples; and the monitoring systems should complement local control and monitoring schemes.

With regards to the climate change negotiations and other REDD processes: Effective participation is necessary at all levels. Even though some national strategies have been validated, up to now there has not been full participation nor a real, collective process, and an example of this is Bolivia's position of rejecting REDD. Moreover, there needs to be participation in the design of the safeguards and standards for the MRV of the safeguards. Lastly, the national focus needs to include the demands of the indigenous peoples and their right to self-determination.

2.2 Brazil

The position of the country in the UNFCCC has been to achieve a balanced agreement that includes adaptation, technology transfer, funding, emissions reduction targets and not just a decision on REDD. Since 2009, Brazil has the National Policy on Climate Change, which was presented at COP 15, and its Regulation which was presented in COP 16; furthermore, Brazil was the first developing nation to adapt a voluntary commitment to reduce greenhouse gases (GHG). In this context, the plans for reducing emissions from deforestation in the Amazon and the Cerrado (savannah) are being developed, in addition to other plans for reducing emissions in the agricultural, energetic and vegetal carbon production sectors. There is also a bill before congress to regulate the sale of REDD carbon credits.

In 2008, the Amazon Fund was created with donations from Norway (the principal donor up until now) and Germany; 20% of the resources can be used to fund monitoring and control of deforestation in other areas of Brazilian forests and other tropical countries.⁶⁾

The discussion on the National REDD Strategy in Brazil started in July 2010, when the Ministry of the Environment convened ministers, strategic sectors, representatives of civil society and indigenous peoples. Working groups were formed and documents drafted on safeguards, benefit sharing, institutional principles and financial resources, all of which are still under discussion.

POSITION ON REDD

The government of Brazil no longer opposes market mechanisms for REDD as it did initially. This position is shared by some organizations, like the Instituto de Investigación Ambiental de la Amazonia (IPAM) (Institute for Environmental Research of the Amazon), who maintain that it is necessary to have access to funding to change the current model of deforestation; they believe that the public funding for REDD will not be sufficient and that for this reason, one should not rule out potential investments from the carbon market. They are in favor of a national approach to avoid the problems that isolated projects can cause, and defend the rights of indigenous peoples and local communities.

6) So far, 9 projects have been approved and the majority are implemented by NGOs.

The indigenous peoples of Brazil have discussed the climate change issues and their position was presented to the government and the UN in 2008. They defend their vision that values the territory as a whole: its wealth, forests, biodiversity, water resources; they maintain that forests are not a monetary commodity, but a place to live⁷. In this regard, they have the same position on REDD as COICA.

THE ROLE OF CIVIL SOCIETY

A noteworthy process is the elaboration of the “Principles and Social and Environmental Criteria for REDD+,” which was done with the participation of representatives of the social movements, rural agricultural producers, indigenous peoples, the private sector and academics; it was done between 2009 and 2010, through regional meetings in different states and public consultations. The participating organizations created the Observatorio REDD (REDD Watch), which is currently coordinated by the NGO platform Grupo de Trabajo Amazónico (GTA); its principal objective is to disseminate the information to the public and, above all, to the sectors who are far from the capital (peasants, indigenous peoples, social movements) through bulletins and community radios, so that they can discuss the REDD process; currently a governance strategy is proposed and a lobbying strategy on REDD policies; a webpage is being created to disseminate the initiatives, safeguards, etc.

Civil society also participates in the Comité Coordinador del Fondo Amazonia (COFA) (Coordinating Committee of the Amazon Fund), a body that decides the guidelines and does the follow-up on the outcomes of the Fund; it is made up of: the federal government, state governments and civil society; each of these has a vote in the deliberations and each member in the block has a vote as well; the block of civil society includes indigenous peoples, represented by the Coordinadora de Organizaciones Indígenas de la Amazonía Brasileña (COIAB) (Coordinating Body of Indigenous Organizations of the Brazilian Amazon). In this regard, an interesting initiative is the webpage “De olho no Fundo Amazonia” managed by the Instituto Socioambiental (ISA).

⁷ The potential of the indigenous lands is particularly relevant in this regard: they are buffers against deforestation, they are considered conservation areas, they are buffers of the agricultural frontier, and they are areas where peoples live sustainably.

It is worth noting that not all of those involved have been able to participate in the discussion of the National Strategy on REDD, promoted by the Ministry of the Environment, because of a lack of resources to bring representatives from remote areas to the meetings which are only held in Brasília. However, efforts are being made to garner support from the government and other organizations to ensure an open discussion with all the organizations that are working on the issue, achieve the participation of the social movements, the representatives of the grassroots of the Amazon, as well as to share information on REDD. This is the objective of Observatorio de REDD+.

Indigenous peoples have organized their own discussion process and held meetings in several states of the Amazon, through networks like COIAB, GTA and CNS (Conselho Nacional dos Seringueiros) (National Council of Rubbertappers of Brazil).

CONCERNS ABOUT REDD

Specific national legislation is required. There is no definition from the government about land tenure and indigenous peoples. There is a lack of information in the communities and among indigenous peoples, and high expectations about potential funding have been created. Furthermore, there are no regulations about REDD projects and Payment for Environmental Services projects are being implemented in indigenous lands; the so-called “Carbon Cowboys” have appeared, who try and sign fake contracts with indigenous peoples. Similarly, there is a proliferation of disconnected, isolated projects in the Brazilian Amazon that are not part of any national policy or strategy. Furthermore, there are problems with the bureaucracy of the Amazon Fund because the project approval process is very complicated.

One must also mention the Programa de Aceleración al Crecimiento (PAC) (Rapid Growth Program) among the risks and challenges of REDD and forest conservation. PAC includes hydroelectric and infrastructure projects and plans to increase agricultural production by 50% to 250%, one of the key drivers of deforestation. The changes in the Código Forestal (Forest Code), (which is being debated in the National Congress,) that represents a huge threat to the forest of the country and a step backwards in forest policy, is attracting a lot of interest and causing a lot of concern among many social sectors.

RECOMMENDATIONS AND EXPECTATIONS

REDD offers some opportunities in Brazil. Among them: Changing the current economic model which favors deforestation. It offers an alternative source of income for communities and indigenous peoples that promote socially, environmentally and economically sustainable activities in the long term. In addition, it can be one of the financial mechanisms available to help producers respect the Forest Code. There is also an increased openness in the government to discuss the National REDD Strategy with civil society.

In this context, IPAM (at the request of the Secretary of Strategic Affairs of the Government) proposed several principles to guide the REDD process: It should be national in scope; sustained by effective and permanent forest legislation. It should incorporate state plans for reducing deforestation in the Amazonian states. The benefits should be part of both reducing emissions (flow) as well as forest conservation (stock). It should establish a system that documents, registers and communicates the reduction of carbon emissions. It should consider the potential of investments from carbon markets. It should previously establish the beneficiaries; the benefits should be shared in a just and equitable manner based on clear criteria. The rights of the peoples of the forest must be respected. The resources must be invested in integrated actions and policies for reducing deforestation, forest conservation and improvements in the REDD regime.

In order to “control and not be controlled”, indigenous peoples emphasize the need for: 1. An integral and strategic vision that is embodied in the Life Plans; 2. Harmonization of environmental protection with the quality of life of indigenous peoples; 3. Strengthening the technical and management capacity of indigenous peoples; 4. Compliance with existing public policies.

Therefore, recommendations include: Create a regulatory framework on REDD which is coherent with recognized rights, like the United Nations Declaration on the Rights of Indigenous Peoples. Evaluate and support participation in the national and international discussions. Prioritize a policy of supporting the indigenous initiatives of climate change; Finalize the policies on REDD and Adaptation and the National Policy

on the Management of Indigenous Territories (PNGATI), that are under discussion.

2.3 Ecuador

The political context of the REDD process is framed by the adoption of the new Constitution of Ecuador (2008), with great progress made in terms of recognition of rights (collective rights, rights of nature, the plurinational character of the country, civic participation and social control, among others) This has required the State to reorganize and establish new development guidelines and policies, set down in the Plan Nacional del Buen Vivir (National Plan for Living Well) (2009-2013), including policies for facing climate change and reducing deforestation (the target is a reduction of 30% by the year 2013).

In this context and with a new model of forest governance, the Ministerio del Ambiente (Ministry of the Environment) (MAE) launched the forest conservation program Programa Socio Bosque ((PSB) in 2008 which provides economic incentives for the conservation of forests⁸. This program is controversial and the indigenous movement has taken a variety of positions on it.

In 2009, the MAE articulated the National REDD Strategy (ENREDD+)⁹, in a process that was characterized by initiatives launched to get Ecuador accepted as a member of the UN-REDD programme. At the end of this year, the MAE organized a consultation on the draft National Joint Program (NJP) on its webpage, and in a meeting with civil society sectors. The Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana (Indigenous Peoples' Confederation of the Ecuadorian Amazon) (CONFENIAE) and representatives of civil society organizations (CSO) expressed their inconformity with the procedures and the reduced amount of time allotted for real public participation, which resulted in the decision to postpone the country's application to the UN-REDD Programme. Afterwards, workshops were held in different provinces and the Mesa de Seguimiento (Follow-Up Roundtable) was convened with representatives of NGOs, indigenous and peasant organizations, government and the UN to do the follow-up work on the NJP. The MAE organized

⁸ An interesting characteristic of Socio Bosque is that it does not only aim to reduce GHG emissions, but also to improve the living conditions of local communities and protect biodiversity and other environmental services.

⁹ Lately, the MAE changed the name of this strategy to National REDD Programme.

the demands and proposals in a matrix that was annexed to the new version of the document; however, some of the demands and proposals were not incorporated since, according to the MAE, they were beyond the scope of the NJP. In March 2011, the Policy Board of the UN-REDD Programme approved the NJP with recommendations mostly on ensuring the effective participation of indigenous peoples and CSO in its implementation.^{10]}

POSITION ON REDD

The government believes that REDD should be a national mechanism because that would help to avoid some of the dangers of implementing individual projects or premature initiatives, as well as the problems of leakage, double accounting, etc. A national scope would also be compatible with national legislation on the carbon market, environmental services and other issues that go beyond REDD. In the international arena, the government has also supported the adoption of the historic baseline because it establishes the deforestation tendency in Ecuador; with regards to the funding mechanism, the government's position is to work with public funds as well as markets.

Among the CSO, there are a variety of positions: some in favor, who see REDD as an opportunity for combining forest management and consolidating the exercise of rights; others, who oppose it because they see it solely as a market mechanism related to offsets, and because it could restrict rights without addressing the causes of deforestation. There are also positions that recognize the pros and cons depending how the mechanism is implemented.

The indigenous organizations are divided, but agree that the grassroots communities need to know more about the decisions that are being adopted by the government on this mechanism and its possible advantages and threats. They are aware that REDD does not by itself resolve the causes and consequences of climate change, and emphasize the need for concrete strategies at the national and international level to control the "vast emissions that endanger the planet". Nonetheless, they think their work on forest conservation, forest restoration, reducing deforestation

and resource management in their territory is important and some communities participate as partners in PSB.

Socio Bosque has met with different reactions and initially the leadership of CONFENIAE publically expressed their opposition to it. However, since several nationalities signed contracts with PSB, CONFENIAE has reconsidered its position and reevaluated the advantages and problems with input from the communities in question. Questioning and doubts persist^{11]}, while the number of communities that join the program continues to increase.^{12]}

CIVIL SOCIETY PARTICIPATION

The REDD process is also contextualized by the rupture in the political dialogue between the indigenous organizations of the country – the CONAIE^{13]} and its members- and the government. However, in general terms, the MAE has made efforts to get closer to the indigenous organizations and the sectors of civil society especially with regards to participation in UN-REDD. The establishment of formal mechanisms that guarantee transparency and participation, both in the implementation of the NJP, as well as in the process of building ENREDD+, is still pending.

The CONFENIAE aspires to have an impact by exercising indigenous peoples' rights, which goes hand in hand with concrete actions regarding nature, territoriality, the cultural potential of the nationalities, as well as generating and appropriating information. This organization with the support of COICA and some NGOs convened a workshop with MAE officials so that their member organizations can learn more about the NJP. The Confederación de Nacionalidades de la Costa Ecuatoriana (Indigenous Peoples' Organization of the Ecuadorian Coast) (CONAICE) also has participated in workshops and has criticized the government for not including the nationalities of the Coast, whose territories include important forests, in the construction of the NJP.

In this context, the Rights, Climate Change and

11] Too many obligations for the partners, inequity in the contracts, lack of guarantees against oil and mining, divisions between communities, among others.

12] More than 64 contracts signed with communities (April, 2011).

13] Confederación de Nacionalidades Indígenas del Ecuador (Indigenous Peoples' Organization of Ecuador)

Forests Programme of CEPLAES and RFN, has followed the REDD process and has carried out a series of capacity building events with indigenous, Afro-Ecuadorians, youth and women organizations, which have served as spaces for direct dialogue with the government. The central objective has been to provide forest-dependent populations with information and elements of analysis that foster autonomous decision-making and a rights-based approach. The programme has also shared information about the process, critiques and proposals with other representatives of OSC. Some concerns were raised with the board of the UN-REDD Programme.

CONCERNS ABOUT REDD

The lack of information and understanding about climate change in general and the REDD mechanism in particular raises questions and doubts. Indigenous peoples said that they do not know what the funding is for and whether it is an incentive, a compensation, the payment of the historic debt, or simply support for projects or Life Plans that are being developed in Ecuador in the process of demarcation and titling of Indigenous Territories. There are doubts about the distribution of resources and the economic interests that could come into play and it is uncertain about how the Socio Bosque program will be incorporated into ENREDD+.

There are concerns about the lack of an integral and inter-sectorial focus, which is apparent in the unwillingness to address issues such as the underlying drivers of deforestation and the lack of answers on extractive policies. Moreover, Article 74 of the Constitution, which states that environmental services are not subject to appropriation, has not been sufficiently discussed. Consequentially, it is not very clear how REDD will affect the rights to the carbon of the forests and to the forests themselves which are in indigenous, Afro-Ecuadorian or peasant territories.

With regards to the process, the participation has been called into question; it has been pointed out that women and the indigenous and Afro-Ecuadorian organizations from the coast have not been taken into account as key actors even though in their territories there are important forests, and that the convening of the meetings were not sufficiently transparent. A similar situation has occurred in the construction of new laws like the Environmental Code and the Forest

Law. The process of drafting this new legislation has been clouded by a total lack of information and environmental NGOs like CEDENMA and indigenous peoples have not been allowed to participate nor contribute which is disconcerting and has generated criticism.

RECOMMENDATIONS AND PERSPECTIVES

It is essential that all Ecuador's nationalities and peoples are incorporated in the design, implementation and monitoring of ENREDD+, so that they can contribute their experience and, most importantly, that the way the program is articulated is based on the political proposal of the Life Plans. The participation of women (given their fundamental role as "creators of the forests"), of youth and other relevant actors is important.

It is important to respect the amount of time indigenous peoples require to process information and make decisions and their dynamics, as well as to provide sufficient information, taking into account that the nationalities speak different languages. Furthermore, capacity building is required that allows peoples and communities to understand climate change, since so far the information sharing and discussion has been limited to REDD. In this regard, there is a proposal to build capacity of the youth and train promoters that can take information to the grassroots. In addition, environmental officials and authorities must learn about and be trained on rights and ways of life of the indigenous so there can be a more fluid dialogue.^{14]}

The implementation of the REDD mechanism must be conditioned by the significant reduction of GHG in the developed countries. Mitigation needs to be articulated with adaptation; the impact of climate change on the forests, indigenous peoples and the most disadvantaged sectors needs to be addressed, and thought needs to be given to how to administer REDD funding and how to channel and access other resources for climate change adaptation that are complementary to REDD funding.

Indigenous peoples also think it is necessary to agree on and articulate objectives in common on the conservation and sustainable use of natural

10] Ecuador is also one of the pilot countries for the implementation of the environmental and social standards for the REDD+ of the CCBA initiative, and for its monitoring, the MAE created a committee with representatives of organizations of civil society and indigenous peoples.

14] In this regard, it is necessary to find mechanisms for the monitoring committees to not exclude fundamental actors or interested parties in the issue, to ensure transparency and generate knowledge about the process.

resources, social and economic development, since they have differentiated criteria. They also point to the need to discuss with other sectors of society a common approach to “living well”, based on respect of indigenous peoples’ rights and in accordance with the philosophical diversity of the nationalities.

2.4. Guyana

Civil society actors began to learn about the climate change mitigation issue in 2008. The President convened indigenous leaders and declared his commitment to keep forests standing in exchange for international payments and convinced them to sign documents to support this initiative. In 2009, the Low Carbon Development Strategy (LCDS) prepared by the government was launched. In the following months, consultations were held at the national level on the Strategy, albeit in a rushed and inadequate process (brief meetings, distribution of documents with little or no anticipation, no prior knowledge of the topic of discussion). After these consultations, the recommendations proposed by indigenous peoples were not incorporated and the communities were not provided with the resulting document. The same thing happened with the second and third drafts of the Strategy which were prepared between December 2009 and May of 2010. Since then, indigenous leaders have been taken to several meetings in the capital and have been persuaded or pressured to sign a resolution in agreement and support of the LCDS that does not contemplate the previously mentioned concerns.

At the same time, Guyana started the FCPF pilot program. The World Bank held meetings with some indigenous communities where the community members heard about the REDD+ process for the first time. Given how rushed the process has been, indigenous peoples are confused and unclear about the REDD+ and FCPF initiatives funded by the World Bank and the LCDS funded by a bilateral agreement with the government of Norway.

The Role of Civil Society The Amerindian Peoples Association (APA) has organized information sharing and training for community leaders on REDD and LCDS. APA has also participated at the national level, presenting proposals and holding meetings with the government, delegations of the Norwegian government, UNDP, the World Bank and others. APA has participated and expressed

its opinion in international forums (Conferences of the Parties of the CBD and the UNFCCC, meetings on the FCPF, and the Permanent Forum on Indigenous Peoples’ Issues (UNPFII), and has reported back to the communities on the outcomes and negotiations of these bodies.

APA was invited to form part of the Multi-Stakeholder Steering Committee (MSSC) that the government created as the “spearhead” to promote the LCDS; however, APA decided not to participate since the terms of reference of the committee were not clear, the majority of the participants supported the positions of the government, and the concerns raised about the weaknesses of the document on land use by indigenous peoples were not addressed. APA decided that lobbying on the outside could be more effective for solving these problems.

It is necessary to highlight that in Guyana there is no space for criticism; whoever opposes the government even on technical rather than political grounds, is accused of being anti-government or anti-development. In these conditions, it is difficult to participate, let alone collaborate or articulate and table proposals. It is clear that some indigenous groups’ support the government on the LCDS because they lack balanced information; in other instances, they are afraid to express their opinion because they are threatened that they will not receive funding for projects if they do so. Because APA has dared to voice its concerns in the press and to international donors, the organization has been accused of being extremist and blamed for delays in the transfer of the funds from Norway.

CONCERNS ABOUT REDD AND THE LCDS

REDD+ can be an opportunity for indigenous peoples in Guyana to secure their rights to their traditional territories and to withstand pressures from loggers and miners that encroach on their lands.^{15]} However, that won’t happen unless the government will make a more serious effort to involve indigenous peoples in a meaningful manner. Since the round of consultations in 2009, which contributed to share some information but did not in any way fulfill requirements for proper consultations, indigenous peoples have participated little.

15] There are various unresolved land tenure problems: titling, demarcation, superimposed borders, which have even caused confrontations between communities. Another concern is that mining concessions are frequently superimposed on titled territories of indigenous communities.

Despite the government’s assurances to the contrary, the principle of Free, Prior, Informed Consent has not been applied. Even though the government “publicized” the 2009 consultations, many communities say they did not participate in them or do not understand the implications of the LCDS (the documents are very technical; they were been distributed with little or no anticipation and the issues are unfamiliar or unknown.) On top of this, several indigenous leaders have been coopted by the government, do not represent the interests of the communities and have signed documents and agreements without consulting or informing the grassroots.

The government has said that it will use the LCDS money from Norway to finish titling and demarcating indigenous territories, but the problem is that the legislation is not in compliance with international human rights law^{16]}. Reforming the Amerindian Act of 2006 is necessary to ensure that indigenous peoples’ rights are respected by the REDD/LCDS initiatives.

On the other hand, there is profound concern among indigenous communities about the fact that logging is continuing despite the government’s supposed defense of standing forests. Furthermore, there is an increase in the granting of mining concessions (gold, diamonds and other minerals) on the lands of indigenous communities.

RECOMMENDATIONS AND PROSPECTS

Reform the legislation on indigenous peoples to comply with Guyana’s human rights obligations. Request that the government of Norway review the decision to disburse the funding given the incompliance with human rights and indigenous participation and the systematic intimidation of indigenous leaders. This review should be done especially now since in this electoral period^{17]}, promises have been made based on the resources to be received for the REDD process.

Indigenous Peoples will continue building the capacity of their communities, so that they are prepared and feel confident in participating and having an impact in the negotiations with the World Bank and the UNDP. One of the challenges they face is the lack of access to the media

16] The UN Committee on the Elimination of All Forms of Racial Discrimination (CERD) has found that the Amerindian Act violates the CERD Convention.

17] Elections are scheduled for 28 November 2011

(press, radio, internet, mobile phone), and, hence, the information received is insufficient. The lack of resources as previously mentioned is another outstanding problem. Nonetheless, APA will continue to raise its voice and, even though it is accused of being an “extremist group,” will continue to do what it has to do to be heard. APA will continue to demand compliance with the right to Free, Prior, Informed Consent (specifically by drafting a community FPIC protocol that can be used as a model by indigenous communities to make their own) and the respect of indigenous peoples’ rights before any decision on plans and activities that could affect indigenous peoples is taken.

2.5 Paraguay

The UN-REDD process is underway in Paraguay. Given the rapid deforestation in Paraguay,^{18]} the possibility to, on one hand, build a joint process to conserve the last vestiges of continuous forests that are in indigenous territories (titled or in the process of being titled) and, on the other hand, to analyze and prepare a national plan for ensuring the recuperation and titling of the territories and lands, is a challenging yet rich experience.

The former government has elaborated a first draft of the National Joint Program (NJP); this document did not comply with the guidelines of the World Bank, and according to the Federación por la Autodeterminación de los Pueblos Indígenas (Indigenous Peoples’ Organization of Paraguay) (FAPI) lacks validity as long as it does not recognize and establish the rights of indigenous peoples; because of this it did not enter into effect in 2008. The current government has taken up the discussion again in regional and national workshops; the Secretaría del Ambiente (Ministry of Environment) (SEAM) and the Instituto Forestal Nacional (National Forest Institute) (INFONA), comprise the Equipo Técnico Nacional REDD (National Technical REDD Team) and the Comité Político de Alto Nivel (High Level Political Committee), with the UNDP. FAPI is invited to participate in these entities, and has managed to have an important political impact as a result.

FAPI decided to participate in this process in order to defend collective rights that indigenous peoples have historically and to prioritize the sub-

18] Deforestation occurs when forest land is converted to soy cultivation in the East and cattle ranches in the West. Soy cultivation and genetically modified corn are endangering the traditional corn varieties of indigenous peoples.

ject of territorial rights. FAPI organized its own workshops and based on serious and meticulous work presented a new document to the national government. Moreover, during 2009 and 2010, FAPI accompanied the government as part of the official delegation to UN Climate Change Convention COPs to pressure the Paraguayan State and other countries to respect indigenous peoples' collective rights in all decisions on forests and climate change; it should be noted that FAPI analyzes the government's proposals and reaches conclusions from the indigenous perspective.

In November 2010 the NJP was adopted, albeit with reservations. Currently, SEAM, INFONA and the UN-REDD Programme are trying to finalize the document and sign a donor agreement with the UN^{19]}. FAPI has proposed some points – explained later in its text – as a contribution and way of enriching the NJP.

POSITION ON REDD

Even though FAPI does not have a formal position in favor or against REDD, it contributes to the process with knowledge and expertise on issues related to fundamental rights; and has collaborated on proposals like the “Draft Protocol for a Process from Consultation to Free, Prior and Informed Consent”^{20]}, which the government has committed to complying with. FAPI will continue to participate in these spaces to monitor and seek out commitments from the government of Paraguay and UN representatives that the projects will not be implemented without FPIC in Indigenous Peoples' territories, which are consecrated by their collective rights, and that the benefits be determined equitably.

It is necessary to emphasize that FAPI has stayed on the sidelines of the economic negotiations conducted by the government. Informative workshops have been organized with independent funding from donors like Rainforest Foundation Norway (RFN) and other international allies. These workshops have served to brief national indigenous leaders, and make them aware of the challenges and impacts of REDD.

19] Editor's note: Paraguay's NJP was finally signed in mid-2011, after the RFN-CEPLAES workshop had taken place.

20] The “Propuesta de Protocolo para un proceso de Consulta al Consentimiento Libre Previo e Informado-CLPI-con los pueblos indígenas del Paraguay”, was drafted based on analysis and internal reflection; it has been taken up by the government and is included in the Annex of the NJP document.

ROLE OF CIVIL SOCIETY

Civil society should be allowed to participate in these processes. However, there are other positions and FAPI respects those who choose not to participate. Private institutions, NGOs and other indigenous organizations have been invited to workshops organized by governmental entities to present initial drafts.

FAPI clarifies that it only represents its members and does not speak on behalf of all the indigenous peoples of Paraguay. FAPI believes it has an important role to play and that it is having an impact and it is sharing information with other indigenous peoples' organizations and also creating a space to share with all Paraguayan civil society.

CONCERNS ABOUT REDD

REDD could be beneficial or have negative impacts; that will depend on the government's compliance with its commitments. The concerns center on: REDD's effect on the rights, freedoms and lifestyles of indigenous peoples; that REDD projects will decide what can and cannot happen in the forests of Paraguay (agriculture, hunting, fishing, gathering food and medicines from the forest, cutting firewood and wood for arts and crafts and construction.) Some analysts warn that REDD could be the last land grab of indigenous territories and forests by business.

Other impacts of a poorly designed REDD program could include: The imposition of these programs without the prior authorization of indigenous peoples; restrictions on the traditional practices affecting food security and culture; resulting in the loss of traditional knowledge; paltry local benefits and undermined livelihoods; indigenous communities would have to involuntarily bear the majority of the costs of REDD. In addition, there is potential for corruption and the influence of economic interests that comes from the exchange of political favors and manipulation, which could cause conflicts between and amongst indigenous peoples and communities; REDD could also promote industrial monoculture tree plantations causing evictions, pollution and even the destruction of native forests; abusive “forest carbon” contracts that exploit indigenous peoples; an increase in the number of private protected areas managed by conservation NGOs, whose interest is to conserve the forest without the presence of indigenous peoples.



PHOTO: BO MATHISEN

EXPECTED OUTCOMES AND RECOMMENDATIONS

FAPI gives priority to the following: to recuperate and sustain the collective way of living of the peoples, highlight the importance of the historic debt of the government to compensate and provide reparations for the damages caused to indigenous peoples; also title indigenous territories before starting any REDD programme, and full respect for the human rights of all the inhabitants of Paraguay.

For all these reasons, FAPI has participated and managed to improve the strategic objective of the preparation of the National Joint Program, including in the document, the obligation to apply the UN-REDD guidelines, the guidelines drafted by FAPI,^{21]} and international human rights standards; as well as the right to Free, Prior and Informed Consent.

In this process of finalizing the new NJP, there are very relevant pending criteria that need to be incorporated: a plan of evaluations of social, cultural and human rights impacts; establishing a complaint mechanism at the national level during the elaboration and implementation of the National Joint Program.

Lastly, the government needs to guarantee the NJP's concrete compliance with the proposals and Guidelines of FAPI. As for FAPI, it commits to defending the collective rights of indigenous peoples; oversee that all the contributions are included in the NJP document, and continue to

21] “FAPI guidelines for implementation of NJP in indigenous territories”, which establishes the minimal conditions for REDD activities that could affect indigenous peoples, especially their rights. It is noteworthy that in previous high-level gatherings and meetings, there was the intention to include these guidelines only in the annex, which FAPI opposed, threatening to withdraw from the process.

work for their true and responsible application in the REDD implementation process. Which is why FAPI's slogan is: “The forests cannot be conserved and sustained without the true owners and inhabitants who are Indigenous Peoples.”

2.6 Peru

Among the initiatives for implementing REDD, the Forest Carbon Partnership Facility (FCPF) is the process that has been the primary focus of the State and civil society. Its initial proposal was elaborated by the Fondo Ambiental (Environmental Fund) (FONAM) of the Ministry of the Environment (MINAM), without any civil society participation. In 2008, the National REDD Roundtable (Mesa REDD Nacional) was formed, a public-private initiative that brings together the majority of the actors involved and that became an important space for participating and incorporating contributions to the RPP document. This document (third version) was approved by FCPF in Vietnam in March 2011.

In Peru, the Forest Investment Program^{22]} is also moving forward with very little citizen participation. Indigenous organizations hope that the funding from the FIP could contribute directly to solving the problems of the legal and physical consolidation of their territories, as a prerequisite for the viability of the REDD mechanism. Lastly, the country has applied for admittance to the UN-REDD initiative.

The Programa de Conservación de Bosques (Forest Conservation Program) should also be mentioned, which gives an economic subsidy to

22] FIP could potentially provide up to USD 50 million to Peru as initial funding for: a) Norms, Institutionality and Forest Governance; b) Information, baselines for Measuring, Reporting and Verification and promotion of alternatives to deforestation; c) Promotion and funding of REDD Projects and Investments.

peasants and native communities who have land titles and commit to taking care of their forests. The mechanism has been criticized because it puts communities that are in the process of getting their land titled or who still have not gotten their land titled, at a disadvantage.

THE ROLE OF CIVIL SOCIETY

The participation in the Mesa REDD Nacional (National REDD Roundtable) has happened thanks to the initiative of the organizations that are part of it, more than thanks to an initiative of the government. Currently, more than 60 organizations (public entities, NGOs, indigenous organizations, cooperation agencies, research institutes, etc.) participate. The process has been participatory and ongoing, but it is worth noting that the government has not taken sufficient advantage of the existence of this group of interested stakeholders, and there have been difficulties in including local stakeholders. Subsequently, regional REDD Roundtables have been formed (especially in the Amazon), and, in some cases, these have been formalized by the regional governments themselves.

Important agreements have been reached with MINAM, that should be included in the new version of the RPP: 1. Harmonize REDD with the characteristics of Peru, in such a way that it includes: a multicultural, regional and decentralized approach; safeguards and concepts that respond to the national reality, and respect the rights of indigenous peoples. 2. The coordinating body of forests and REDD should be attached to the Presidencia del Consejo de Ministros (Presidency of the Council of Ministers) and include the Ministry of Culture; incorporate representatives of civil society and indigenous peoples as members with decision making power; and guarantee that their decisions are binding on relevant other sectors. 3. Guarantee specific consultation plans with local populations and indigenous peoples approved in accordance with the Ley Marco de Consulta Previa (The Framework Act on Prior Consultation).^{23]} 4. The compliance of the agreements reached between MINAM and the Asociación Interétnica de Desarrollo de la Selva Peruana (Indigenous Peoples' Umbrella Organization of the Peruvian Amazon) (AIDSESP).

AIDSESP has discussed and built capacity on

REDD with the grassroots; it has participated in international events, and presented critiques and proposals. Together with COICA, it has issued the Iquitos Declaration, and with its member organizations have developed a Regional Agreement on REDD Indígena (Indigenous REDD) (Waycu-San Martín).

POSITION ON REDD

The criticism from several sectors of Peru are based on the fact that REDD is being presented as a solution to climate change, and it should be clarified that global greenhouse gases need to be reduced. However, REDD as a carbon market mechanism is a danger for indigenous peoples because it creates competition for taking over the forests and lands.

The challenge for indigenous peoples is to not be against it nor be excluded from the process, but participate with autonomy, without subordination; work and try to transform this threat into an opportunity, by questioning the focus of the World Bank and presenting their own proposals like the alternative Indigenous REDD that adjusts REDD according to the worldview and rights of indigenous peoples and nature. Decisions will be taken in the course of the process in accordance with the achieved outcomes.

Indigenous REDD means: 1. Consolidating territoriality as Peoples, resolving the territorial social debt; requires recognition, collective land title, territorial reserves for indigenous peoples in voluntary isolation.^{24]} REDD will not be viable in any country, not even for the investors themselves, if the land tenure problem is not clarified. 2. Effective consultation and consent, in all phases including the elaboration of the RPP and during the implementation process. The framework law on consultation is necessary for avoiding the denaturalization of the process, as are consultations on logging, mining projects, etc. based on the same principles. Monitoring of the whole process by the Defensoría del Pueblo (Ombudsman) and the indigenous organizations. 3. Right to voice and vote in the decisions on REDD; for this purpose Mesas de REDD Indígena Regionales (Regional Indigenous REDD Roundtables) ("Pilots" in San Martín y Madre de Dios) and a Mesa REDD Indígena Nacional (National Indig-

^{24]} In negotiations with the government, AIDSESP managed to have the current legislation reformed to be in accordance with Convention 169, which refers to territories. The RPP was also modified and 1 million dollars allocated to solve the territorial problem in Loreto which is the biggest region (USD 200.000 from FCPF and 800.000 from FIP).

enous REDD Roundtable) are being formed, based on indigenous norms. In addition, participation by indigenous representatives on the civil society REDD Roundtable. 4. Changes in the legal framework; in the Forest Act, Environmental Services Act and the institutions of the State relevant to indigenous peoples; a moratorium on carbon contracts is being demanded until there are national and international regulations in place. Exclude plantations and agrofuels from REDD. 5. Redefine REDD contracts; there can be no agreements signed with communities before the State adequately regulates the "REDD bubble" in collective contracts; presence of the Ombudsman is needed; no confidentiality clauses must be allowed, since communities are public entities; contracts must be written in Spanish and subject to national laws; communities must not lose control over the forests, their products and services, nor knowledge through contractual trap. Establish shorter contract periods which can be renegotiated each year (if REDD still is not properly understood, it is absurd to commit to 40 or 50 years); include provisions from Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples, so that in the case of conflicts, these instruments can be applied; reduce the use of intermediaries. Simplify the mediation processes, using a holistic vision of forests and not carbon markets; if there is real interest in keeping the forests alive, then the methodologies can be simple.

CONCERNS ABOUT REDD

Risks include the lack of physical and legal consolidation of the Native Communities; there is no clarity about the rights holders, the content and scope of these rights.^{25]} Another potential risk is how the State is rushing the implementation of the mechanism, which could result in inadequate decisions and measures, without allowing civil society and indigenous organizations to duly reflect, study and receive the information prior to the decisions and measures being enacted. The political process of REDD has problems with ensuring participation and transparency in decision making; the Regional Governments have not been included, even though they are the forest authorities in almost all of the Amazon. The lack of capacity required to lead such a complicated process; which can even include changes in development models. Not considering the broader context of the REDD process, focusing only on and restricting the participation in the

^{25]} In Peru, the land titling of communities has been very difficult; currently its limits are still not duly established, and titling requests have not been addressed; which has generated conflicts.

RPP. Important issues have not been addressed directly, like whether or not it is in the best interest that the funding comes from the carbon market; only AIDSESP has expressed concern about this. Another problem is the high number of premature initiatives; projects and contracts are being signed directly with the native communities, many of which are harmful for them.^{26]}

RECOMMENDATIONS AND EXPECTATIONS

REDD is not a short term task that can be done in the course of one term of the national or sub-national government. Furthermore, deforestation needs to be addressed in an inter-institutional and inter-sectorial fashion; it is a challenge that involves both actors in charge of forest conservation, use and management, as well those who directly or indirectly cause deforestation.

REDD provides an opportunity to address the contradictions between the current development policies which deforest and degrade the forests and the need to reduce deforestation and forest degradation to address climate change; on the one hand the Peruvian State promotes extractive activities (mining, oil and gas), and infrastructure projects like highway construction, but, on the other hand, it is promoting REDD.

At the same time, REDD could allow for: The construction of public policies that guarantee the rights of indigenous peoples and that these policies be the outcome of a process with full and effective participation. The development of adequate consultation processes, before the adoption of the REDD Strategy and the incorporation of a Consultation Plan to be implemented before the approval of REDD projects in an indigenous territory.

As for UN-REDD, indigenous peoples believe that its intervention in Peru is important, since it allows for the possible inclusion of the United Nations Declaration on the Rights of Indigenous Peoples. Indigenous peoples will not accept that REDD be viewed only as business venture, but rather insist that forest conservation is prioritized for sustaining their existence as Peoples. They hope to construct their own REDD strategy – Indigenous REDD – at the national and international level based on the respect of their ancestral territories and their harmonic management in accordance with their cosmovision.

^{26]} Thanks to the work of AIDSESP and civil society on the resolution which approved the RPP, it was established as an obligation of the Peruvian State to implement a registry for such early REDD projects.

^{23]} Even though the Act was adopted by Congress in May 2010, it was not ratified by the President of the Republic and later suffered modifications. The Law was finally adopted by Congress in August 2011.

3. FUNDAMENTAL ISSUES IN THE PROCESS

3.1 On Rights: Territory, Property and Access to Resources

A summary and discussion of the REDD initiative that does not include the issue of rights to territory and natural resources is pointless. Furthermore, taking into account that the REDD activities will be done in indigenous territories, their territorial rights and exclusive and full user rights to forest resources in their territories merits analysis and special consideration, in order to ensure that these rights be respected and exercised.^{27]}

It should be emphasized that the vast majority of countries in Latin America share international norms that recognize and protect the rights of indigenous peoples, like Convention 169 of the ILO, the United Nations Declaration on the Rights of Indigenous Peoples and the American Convention on Human Rights (including the jurisprudence developed in the Inter-American System on Human Rights during the last ten years). It is important to highlight that the rights of indigenous peoples to property and use of their territories that are recognized in these instruments, imply the recognition of an inherent, pre-existing right; which is fundamental in the context of REDD, since the fact that an indigenous people does not have a formal land title does not mean that they do not have rights to their territory. This ancestral right is directly linked to the physical and cultural life of indigenous peoples, and makes them holders of fundamental collective rights including the right to self-determination.

Similarly, despite differences in the national laws, there is in these countries a legal framework in common, a solid body of territorial rights that must be respected and that must be adhered to whenever REDD is discussed or any other kind of mechanism that has to do with the use of natural resources in indigenous territories is addressed. At the same time, these laws are in many cases not articulated and made compatible with the norms on activities that cause or stimulate deforestation (mining, oil, logging, highway construction and dams) and that ignore the entry into effect and implementation of these laws on indigenous peoples. It is imperative to resolve this legal incoherence when discussing the corresponding national implementation of REDD and indigenous peoples.

One of the limitations of the exercise of indigenous peoples' rights is national sovereignty of States over the subsurface resources; even though the autonomy and competence of indigenous peoples to create their own development plans are recognized, several Constitutions include provisions that grant the State the power to declare that the exploitation of subsurface resources is in the national interest. For this reason, the rights to Consultation and Free, Prior, Informed Consent are important; the extent to which these rights are considered mandatory is indicative of the extent that indigenous peoples' rights in general are effectively recognized, in particular the extent of the coordination between national States and indigenous peoples on their respective development plans.

Therefore, there are a host of questions that arise in this regard: How may REDD affect indigenous peoples' rights? How may REDD affect

^{27]} On this issue, some elements have been used from an article by Bibiany Rojas; REDD in Indigenous Territories in the Amazon Basin. Will indigenous peoples be the direct beneficiaries? (Instituto Socioambiental, 2010)

the natural goods and the control of the territory? May environmental services be considered the property of communities or companies? What mechanisms can be used to ensure that REDD strategies respect indigenous peoples rights? The following summarizes some reflections and proposals on these issues.

UNCERTAINTY ABOUT AND DISTRUST OF REDD

There is limited information about the REDD initiative available to indigenous communities and peoples; they have received information from different sources, participated in the process in different ways, and there still are no assurances about how ultimately it will be implemented. The experiences in some countries cause people to distrust the REDD strategies that up until now have been designed by governments, because of corruption, bureaucracy, lack of respect of the legal framework, and the rules that can be imposed by those who control the process. At the same time, indigenous peoples reject the projects of companies and individuals who are out to make profit and who sign complicated and misleading contracts with communities, which limit the control of indigenous peoples over their territory.

ENVIRONMENTAL SERVICES AND CARBON RIGHTS

The environmental service concept is called into question because it is linked to markets, and because, for indigenous peoples, territory has an intrinsic value, their forests are priceless parts of nature, not a commodity that can be bought and sold. The controversy about environmental services continues and some forest-dependent communities and peoples have accepted and participated in PES projects, with varying ability to set the 'price' of the service. It is reiterated that indigenous peoples are not just stakeholders but holders of ancestral and collective rights, in contrast to companies. The right to their territories means that they are owners of the environmental services – including the carbon- of their territories.

In this regard, here are some ideas about "carbon rights". Carbon credits, whether they are voluntary or not, certified or not, could be derived from the implementation of activities contemplated in REDD (avoiding deforestation, restoring degraded areas, conservation) and these

activities can only be developed by the owners of the territories, who have the right to decide about their forests; therefore carbon credits generated from action related to forest resources in indigenous territories belong only and exclusively to indigenous peoples. However, the negotiations which are happening and some commercial REDD contracts show that there are a variety of interpretations of this issue.

SEEKING ALTERNATIVES: INDIGENOUS REDD AND IMPACT

In this context, the idea of building an Indigenous REDD proposal is tabled. Indigenous REDD would be implemented in accordance with the indigenous worldview, respond to indigenous peoples' interests and not the economic interests of governments and companies; it is an alternative for establishing a central indigenous agenda focusing on territoriality and governance. With this perspective and conditions, REDD could be supported, if it is constructed as a mechanism that can strengthen the control of the territories and protect forests and the lifestyles of indigenous peoples and local communities. The strategy of the indigenous organizations in several countries is, therefore, to participate in the REDD processes so as to have an impact on the inside and to exercise control, based on a platform of collective rights. It is emphasized that territorial consolidation is a prerequisite for REDD and that indigenous territories are inalienable, indivisible and immune from expropriation.

Participation in REDD includes taking the initiative to propose rules, before they are imposed from the outside or from above. It also includes proposing, analyzing and outlining safeguards, not as mere measures to avoid problems, but as a guarantee of the respect and exercise of rights. Safeguards should be based on our own principles and criteria that come from the grassroots. This leads one to demand that the governments change their focus; firstly, the sole focus cannot be carbon; and secondly, reducing national deforestation means attacking its causes, like mining, oil activities, etc., and a lack of attention to this problem would contradict governments' own policies and emissions reduction plans. It is important to advocate that all the drivers of deforestation and land use change at the national level be reduced.



PHOTO: BO MATHISEN

Participation also includes questioning the willingness of the governments to continue to allow the entry of companies, businessmen and rip off artists that may violate the rights of the peoples, corrupt leaders and weaken organizations, repeating the practices of oil exploitation in indigenous territories. Therefore, one must demand that the governments control these companies and request the intervention of the Ombudsman in these negotiations; remind the World Bank and other bodies that they comply with their responsibility to monitor and regulate to solve this problem. Also one must demand that governments create an official registry of all the companies or actors that try and sign REDD contracts and those entities that grant international certificates. Furthermore, one must demand a moratorium of the precipitately signed contracts between companies and communities, until there exists adequate national and international norms to regulate such practices.

Furthermore, having an effective impact in the REDD process, in addition to training and

capacity building, is going to need a feedback process of debating and defining indigenous peoples' own concept of economy and development, which would allow them to respond and question proposals and impositions from the outside. However, the Life Plan and its principles should be the platform for any negotiation.

THE INDIGENOUS AGENDA: LIFE PLANS

It is essential to strengthen the construction and development of Life Plans, based on the unity of indigenous territory, identity, justice and autonomy. The experiences presented in this field^{28]} illustrate the fundamental importance of integral management of territory and its resources, as well as governance of lands, not just as property but rather as an exercise of government. The Life Plan is for achieving real and effective recognition of indigenous peoples' autonomy to freely decide on their social,

28] The workshop included presentations of very interesting work in this area, presented by Rosa Vacacela, Instituto de Biotecnología Sacha Supai and by Raúl Petsain of the Shuar Arutam (Ecuador) and by Henderson Rengifo and Roberto Espinosa, AIDSESP (Peru).

economic and cultural development in their territories – effectively exercising the right to consultation and consent – versus conventional development plans. Life Plans have to be legally binding for indigenous territories, for indigenous peoples and State authorities.

EXERCISING AND DEMANDING RIGHTS

It is essential to demand the implementation of rights and guarantees enshrined in the Constitutions of the countries. Similarly, the implementation of national legislation in accordance with the constitutional precepts, or if these are lacking, the reforms of those policies and norms that contradict the rights recognized in international human rights instruments. In this regard, it should be noted that the extent of recognition and level of real implementation of the territorial rights is the crucial criteria when discussing REDD projects.

It is important, therefore, to empower oneself with the progress made in jurisprudence in the countries of the region. For this purpose, it is necessary to review the Constitutions, do comparative analysis to identify what each country recognizes or omits, to strengthen one's arguments for demanding respect and implementation of rights.

The United Nations Declaration on the Rights of Indigenous Peoples should be broadly disseminated and UN-REDD and other institutions that promote REDD initiatives should take up this task.^{29]} More capacity building and trainings are needed on collective rights, REDD and initiatives like Socio Bosque in Ecuador to give indigenous leaders a better understanding of the relevant issues, and thereby greater capacity and autonomy of decision-making.

It is fundamental to demand the implementation of the right to Free, Prior and Informed Consent. Prior consultation – in good faith, with procedures appropriate for each people or community with indigenous peoples' representative institutions - is needed for granting or denying consent.

It is also important to advocate the need for financial assistance to go to indigenous peoples without being a part of the carbon market; and

that there be funding allocated for Life Plans, which encompasses much more than reducing deforestation and forest degradation.

There is a proposal to request that the Inter-American Commission on Human Rights hold a thematic hearing on REDD and indigenous rights, which would give relevance and visibility to the international instruments like the United Nations Declaration on the Rights of Indigenous Peoples; this would be an opportunity to pressure and defend the proposal that REDD be consistent with policies on the rights of indigenous peoples. However, it is important to be aware that the power of the Inter-American Commission is limited to issuing political recommendations and precautionary measures. It is still useful to use the rulings of this body as a tool for pressuring the States politically; and building and coordinating alliances will be indispensable for launching campaigns, mobilizations or any kind of mechanism of advocacy.

3.2. On Participation and the Right to Consultation and Free, Prior and Informed Consent

The exercise of the right to Free, Prior and Informed Consent (FPIC) has different nuances and connotations in the different countries of the region. Some States have adopted international instruments in which these and other rights are enshrined, like Convention 169 of the ILO and the United Nations Declaration on the Rights of Indigenous Peoples, and have included them in different ways in their policies and national legislation. In other countries, there are still governments that are hesitant to recognize these rights and go to great lengths to deny their obligations and minimize the scope of these instruments (i.e. maintaining that the UNDRIP is not legally binding), ignore the rulings of the Inter-American Court on Human Rights, and deny or postpone the recognition of indigenous peoples' collective rights. On the other hand, the implementation of the right to FPIC is complex, given the great diversity of situations and cases (the diversity of indigenous peoples, decision making systems, political organization, kinds of consultation) and in various occasions the processes for granting FPIC have been called into question. The FPIC debate has been renewed by and is highly relevant to the REDD initiative.

Several questions arise and are outlined below.

Nonetheless, indigenous peoples' representatives clearly express one essential premise: the fundamental issue is the titling and consolidation of indigenous territories; and this is the priority and precondition for talking about Free, Prior and Informed Consent. Furthermore, one of the requisites for participating in REDD is that the land is titled. Similarly, FPIC is part of the right to self-determination, which includes the right to decide one's own development; therefore, it must be taken into account that indigenous peoples have the right to decide first, and once the decision is taken, the consultation with the State^{30]} may be pointless. "What does the right to one's own development mean?": 'Living Well' or 'A Fulfilled Life' means to decide and govern oneself as a people."

Let us review the recurrent causes of concern that have been addressed so far.

THE ISSUE OF INFORMATION AND KNOWLEDGE

"You cannot be consulted on an issue that you do not know about." Before embarking on any consultation process, one must ensure that the people in question are informed and that they are sufficiently versed on the issue to make decisions. The information must be adequate and timely, as well as balanced and independent (many times the information is controlled by the government, NGOs or companies). The production of and access to information during the consultation process is equally important; once the consultation has occurred, it is important to avoid that indigenous peoples are subsequently forced to sign documents that they did not draft or co-author.

It is a constant challenge to make funds and resources available to disseminate and share information with the communities. Even if the leaders are properly informed, the grassroots should also have the information and understand the processes underway so that they can make decisions.

FULL AND EFFECTIVE PARTICIPATION

It is necessary to distinguish between the right to participation and the right to consultation. The participation in the elaboration of national REDD strategies and programs and the plan of

^{30]} It is necessary to take into account that Art. 7 of Convention 169 deserves the same or more attention than Art. 6.

the international programs like UN-REDD and the FCPF must be guaranteed. For this purpose, there were proposals to create REDD Roundtables and Monitoring Committees (Comités de Seguimiento), whose members include representatives of indigenous peoples and other civil society sectors, who can table proposals and express their interests and concerns directly and shape the discussions and decision making. That is to say, that the participation process should not be reduced to workshops and sporadic meetings. However, the right to community consultation must be guaranteed when it is time for the approval or not of the strategies or plans through an administrative norm and measure, as well as any kind of regulation and national bills that are needed for REDD. This is where the issue of representativity of leaders and their relationship with the grassroots come into play, which is very difficult to resolve in small meetings like the committees. Furthermore, the consultation process with indigenous peoples is different from the consultation process with civil society.

REPRESENTATIVITY AND COMPETENCE

Representativity, competence and authority are key elements of the process and can determine the inclusive character of the process, and, even more importantly, the legitimacy of the consultation: Who has the necessary competence and authority for decision making, how and when? It has not always been apparent, and has even provoked discussion and conflict about which is the representative entity with sufficient competence and authority to commit on behalf of indigenous peoples; which government authority is charged with interfacing with indigenous peoples in a given process?; which are the competent authorities from the indigenous organizations? on what topics? and what kind of decisions can they make; who represents who and in what forum? One important question is how to ensure that the indigenous organizations have internal consultation mechanisms that include the grassroots. This issue has to do with the diversity of forms of internal organization, decision making processes and representativity. The topic of a consultation may influence its form; it is not always viable or necessary to specify consultation procedures in a legal norm. For example, when the decisions to be made are about national issues (laws, public policies), the internal consultation processes

^{29]} In this regard, there is a proposal that before the end of the Second International Decade on Indigenous Peoples in 2014, the United Nations and indigenous peoples can disseminate by all the means the fundamental rights of indigenous peoples..



should be regulated by law to allow communities to designate a legitimate representative, whose representativity will not be subsequently challenged and the agreements signed deemed unchallengeable. In the case of consultations on decisions that affect specific communities, the rules can be flexible in function of the various levels of representativity and the structure of each indigenous organization, and the competent authority or legitimate representative can be designated in a pre-consultation agreement.

The proposal of the indigenous peoples and organizations of Peru on holding self-consultations is an interesting one. The purpose of self-consultations is to define indigenous positions on actions or projects developed by the government and to avoid illegitimate consultation processes. The important experience of the Achuar People is relevant. The Achuar self-consulted all their communities on the integral recognition of their territory and the rejection of oil exploitation.^{31]}

CONSENT AND THE POWER OF VETO

Consent and the power of veto are controversial issues since they affect the final decisions of States. The Inter-American Court rules that it is an obligation of States to hold consultations with indigenous peoples on issues that affect their rights and interests,^{32]} and to obtain their consent in some cases. The connotations of the concept of “consent” are being developed in international law and there is yet to be a universally accepted definition, and many related terms of its implementation need to be clarified. Many allege that the right to FPIC is pointless if it is not possible to withhold consent. Others argue that FPIC does not imply a general power of veto, but rather an obligation of States to try, in good faith and in an appropriate manner, to reach a mutual agreement. In this interpretation, the power of veto in the strictest sense would only apply in those cases where the right to life is at stake. This is a huge restriction and the crux of the controversy:

31] There is an important internal process in Peru with the Ombudsman y Transparencia (an organization that participates in the electoral processes) on conducting a census of all the communities, discussing and defining a methodology for self-consultation, the participation of women and elders; this process reinforces and consolidates their position.

32] The legally binding character of a consultation refers to all the arguments in favor or against tabled by indigenous peoples, which should be considered for making a final decision, and should be reflected both to harmonize those arguments or to explain the reasons why the proposed points cannot be included in the decision.

what kind of decisions include the power of veto in a consultation; and if in those cases one is actually referring to the right to consultation or rather the right to life of indigenous peoples.

There are several interpretations of this and it is relevant to look to the jurisprudence of the Inter-American Court of Human Rights for guidance. The Saramaka case, which refers to the obligation to obtain consent on development projects, would be relevant for REDD if REDD is considered a development project. However, there will be discrepancies about whether REDD affects the right to life or not, depending on the conditions in each country; for example, in countries which do not recognize indigenous peoples’ land rights when they do not have land title, REDD can be a threat for the survival of those communities. If implementing a REDD project which requires land title, FPIC is demandable. But it is worth reiterating that if a REDD project does not contribute to strengthen indigenous peoples’ internal organization and control of the territory, or if it negatively affects the environmental and material conditions that are key to the survival of a people, it is pointless.

In this context, when a consultation should be held is also debatable. While it is true that consultation applies in all cases where indigenous peoples’ rights will be affected, it is also true that there are situations where it is not sufficiently clear if this is the case or criteria has yet to be defined. For example, in the event that indigenous peoples are the direct implementers of REDD in their territories, there would be no need for a consultation because the community itself would construct the project and there would be no threat to the land rights and ownership of the territory; however, if the projects are implemented by third parties, consultation is required. There is concern about what the procedure for granting or withholding consent would be in those cases where the State decides to build a highway or exploit oil in an area which is in the REDD project area, since such decisions would affect indigenous peoples’ control of their territories and resources, and how such a procedure might interface with the internal decision making processes of REDD projects. Similarly, there may be cases where a contract is signed directly between the company and the community; the State may argue that

is not competent to carry out a consultation since such cases are “private sector projects,” but it must remember that it has the obligation to guarantee rights and not allow companies to violate indigenous peoples’ rights.

There are also doubts about the relevance of the application of consultation to the articulation and approval of the Sistema Nacional de Monitoreo de Carbono (National Carbon Monitoring System) (a prerequisite for REDD that the States must fulfill); there are those who argue that it is relevant because REDD will be implemented in indigenous territories, it includes methodologies that may involve traditional knowledge, may be construed as an implicit agreement only valuing carbon and no other values of forests in REDD projects. Moreover, the legal framework or national instruments on environmental services, incentives for promoting sustainable management of forests, reforestation and tax regulations that will include indigenous territories as eventual beneficiaries must be consulted; that is to say, any kind of decision that rules on specific rights in indigenous territories must be consulted.^{33]} It is also necessary to guarantee that there is consultation on benefit sharing, given the local impacts it can have. Similarly, it is pointed out that consultation with indigenous peoples in voluntary isolation is absolutely not viable; it is fundamental to guarantee the undisturbed conditions of their territory and protect them from unwanted contacts, since what is at stake is the right to life.

COMPLAINT MECHANISM

UN-REDD is developing an internal complaint or redress mechanism so that timely appropriate measures can be taken in cases of in compliance or disagreement between parties with regards to the Program. The guidelines on FPIC will also include a complaint and challenge mechanism. In cases where mechanisms have already been established and indigenous peoples have their own, there is no need to create a new mechanism. Furthermore, and most importantly, the possibility of suing in national or international courts in defense of the right to consultation, or because of a lack of consultation, a rights violation or the State acting in bad faith, is not excluded.

33] If the law or instrument are general and are not applicable to indigenous peoples, the instrument should explicitly state the exception.

DIVERSITY, PRE-CONSULTATION AND PROTOCOLS

The pre-consultation is a mechanism that responds to the diversity of procedures for decision making of indigenous peoples. It provides the necessary flexibility to consultation processes, establishing, on a case by case basis; specific rules and methodologies to eliminate false expectations, avoid conflicts between parties (State, indigenous peoples, companies) and to ensure that the consultation is suitable. Therefore, the following must be defined: an information-sharing mechanism; decision making processes and spaces; who participates and takes responsibility for decisions; the necessary resources for implementing Consultation and who is responsible for providing said; the time allotted to the process (a key factor for certain indigenous peoples) and how the outcomes of the Consultation will be adopted or received in the final decision (criteria for considering if the Consultation process was adequate); also, who is responsible for monitoring the Consultation and the corresponding indicators.

The UN-REDD programme, in compliance with the mandate of the United Nations to respect indigenous peoples’ rights and the human rights-based approach to development, has stipulated that the participation and consultation with indigenous peoples and civil society sectors in its articulation and implementation, is a prerequisite for approving the National Joint Programs (NJP). In fact, respecting FPIC is a fundamental principle.^{34]} To ensure compliance, facilitate and verify the suitability of the process, UN-REDD has established operative guidelines or “best practices” that can be used by countries that do not have a consultation or consent mechanism, adapted to the specific indigenous peoples and national context in question.^{35]}

In some countries, guidelines and protocols are being prepared at the initiative of indigenous peoples and civil society organizations, as is

34] The emphasis in its application is on the implementation phase, since the government will already have funding for this purpose; however, the consultation and involvement of the actors should start with the formulation of a draft NJP document.

35] The NJP must have a specific component that outlines all the activities required for the implementation of FPIC, with its corresponding budget.

the case in Guyana and Paraguay (based on the work of the United Nations Special Rapporteur on Indigenous Peoples). In Peru, it was necessary to elaborate a legal framework on consultation and consent to avoid that there be “as many forms of consultation as issues, politicians and interests;” there exists the danger that there could be one consultation procedure for hydrocarbons, another for mining and, now, yet another for REDD.

RECOMMENDATIONS AND REQUESTS

That UN-REDD support the proposals and contributions of indigenous peoples on the exercise of the right to FPIC, to strengthen their position and unite efforts in the region;

Reiterate the need that the United Nations Declaration on the Rights of Indigenous Peoples must be much more disseminated by UN-REDD, especially among authorities; in this instrument, FPIC is explained better than in Convention 169. There is frustration since only indigenous peoples and some NGOs are disseminating the Declaration, and that the UN has done little to disseminate it.

The consultation processes must incorporate the human rights approach. While it is true that the United Nations Declaration on the Rights of Indigenous Peoples includes the obligation to comply with the rights and principles enshrined therein, it also obliges the United Nations agencies to incorporate and implement in their program activities, the rights of women, children and youth and gender parity.

3.3. Environmental and Social Safeguards and Monitoring, Reporting and Verification Systems

The so-called environmental and social safeguards related to the implementation of the REDD initiative have been discussed in several spaces and entities for more than two years. The FCPF, for example, has decided on applying the World Bank safeguards; however there is no clarity on the due process. The UN-REDD Programme includes in its safeguards: tools, guides and principles; the later have been elaborated in collaboration with the CCBA-CARE initiative and other allies. The Cancun Accord (COP

16) on safeguards for REDD is fundamentally important. In these safeguards, respect for the knowledge and rights of indigenous peoples and local communities is affirmed, taking into account national legislation and international agreements; transparency and efficiency in the forest governance structures, and the full and effective participation of indigenous peoples, local communities and other relevant actors. On the environmental issue: the conservation of natural forests, recognition and protection of multiple services, no conversion of natural forests to plantations.

However, even though there is still a lot of work to be done on their implementation and enforcement, the weakness of the Cancun Accord itself, the problems in various countries, the lack of consensus on the environmental and social standards, cause uncertainty and concern, especially on whether indigenous peoples' rights will be respected.

It is worrisome, for example, that there are various different implementing agencies of the FCPF projects (like the IDB), that have different safeguards systems and operational policies, and that the World Bank will not assume responsibility for those projects; this gap could mean that minimum standards will not be established and that governments will choose the agency with the lowest standards.

For indigenous organizations like COICA, it is key to develop safeguards with a special emphasis on international conventions, like the UNDRIP and ILO Convention 169, and COICA stresses the importance of continuing to press for improvements.

In this scenario, the establishment of a trustworthy mechanism of monitoring and evaluation of the application of the safeguards is absolutely necessary.

While it is true that monitoring and reporting systems have been included in the documents for preparing REDD that are being elaborated and approved in several countries, in several cases its components and operative modalities have yet to be defined. For this purpose, the Cancun Accords' decision on the REDD Safeguards Information System can be used to incorporate substantial elements in these systems and demand participation in development and



PHOTO: BO MATHISEN

management; and, thus, strengthen the protection of safeguards.

The issue prompts reflection on various issues, some of which follow.

PARTICIPATION AND ITS CHALLENGES

The most important issue, of course, is the participation of indigenous peoples and civil society sectors in the design, construction and implementation of the system. This requires taking certain steps and overcoming several challenges.

It seems that the starting point to actually achieve real involvement of the social actors, to structure and organize their participation, should be the creation of a civil society platform that fosters – in a proactive and coordinated manner – the dialogue with governments and, and at the same time, demands the compliance with this requirement. Obviously, weaknesses and conditions need to be overcome to make the entity functional. Among them, strengthening or creating a culture of cooperation, since different stakeholders (indigenous peoples, Afro-American communities, peas-

ants, NGOs, women, youth, private sector, academics) do not necessarily share criteria and even disagree on specific issues, but for REDD will have to establish a common platform. Therefore, being pro-active, well organized and willing to reach consensus are defining factors in building an effective civil society partnership related to REDD.

In some cases, the lack of involvement of certain stakeholders is because they are not or there is a supposition that they are not familiar with the topic; this is not surprising, since carbon monitoring^{36]} is swathed in technical and scientific complexity, as is the safeguards issue.^{37]} It is necessary, then, to start a process of dissemination of information— with a special focus on local communities and the grassroots of indigenous organizations – on not only everything that this system encompasses, but also the REDD initiative in its entirety, including the technical, political and operative aspects whose novelty is evident. This information is particularly essential for impacting the design of the system and its subsequent implementation, since it is useless to have the best information and verification system if people still are not familiar with its scope and use and are alienated from it.

In addition to sharing information, what is needed is to develop and do further local capacity building; the work should be based on the systematization of local monitoring. Specifically, a starting point is the systematization of local monitoring experiences from different countries, both of environmental impacts as well as social impacts. It is necessary to recognize and take into account the experience and capacity of local communities and inhabitants of forests to monitor activities that occur in their territories (logging, oil, mining incursions, etc.), in fact, they could monitor the REDD activities and how safeguards are addressed and complied with. There are also experiences on local monitoring of social impacts, evaluation of projects, accountability processes, verification of social safeguards; variables like equitable benefit sharing (that the resources effectively reach the communities and are shared in a fair

way), capacity building, participation and, above all, respect for rights, that is also going to require verification in the field. In this regard, there is a proposal that UN-REDD create a registry of these experiences, systematize them and make them available to governments and countries; gather the relevant experiences of reporting and monitoring, both by communities as well as by other civil society; even if they have been designed for other purposes, they are important for the construction and implementation of information systems on REDD+ safeguards.

The development of local capacities focuses on also ensuring the involvement and effective participation of indigenous peoples in monitoring, so that they themselves are “their own controllers” and principal actors of the process, as owners of the forests and rights holders. It is necessary, then, to prepare potential beneficiaries of REDD, creating trust and consolidating their knowledge of monitoring natural resources^{38]}, measuring the standards of compliance of the safeguards, evaluating the degrees of compliance of the agreements and other tools and issues based on the needs that are identified in each country.

There is a suggestion that international cooperation support these activities. Moreover, taking into account the resolutions of COP16 on promoting and supporting the safeguards, developed countries should provide technical and financial assistance to establish systems for monitoring safeguards.

CHARACTERISTICS OF THE SYSTEM

Many information systems have been characterized by unnecessary complexities, which has limited their use and participation. The safeguards monitoring system should be simple and easy to operate for different levels of civil society, so that it creates trust and acceptance of its components and processes. Therefore, there is a need to simplify the indicators, measurement methodologies and reporting procedures.

In this context, one must differentiate between monitoring and reporting on safeguards and

carbon monitoring. The latter, being directed towards a possible future emissions trading mechanism, requires scientific certainty and precision. However, if the focus of monitoring is that the forests are left standing, that they continue to provide their variety of services (not just carbon, but water, soil, diversity services, etc.), the methodologies are simple; it is necessary, therefore, to support indigenous peoples to be able to demonstrate with precise data that the forests managed under indigenous territorial management are the least degraded and; consequently contribute to mitigate global warming. This is why it is an urgent task to define standards for evaluating, and these should be determined based on input from the stakeholders of each country.

There are still pending issues to clarify, for example, there is discussion about if the same institution should be in charge of monitoring carbon and monitoring the safeguards, or if it will be necessary to create a new institution for monitoring the safeguards given the specific skills that this entails.

This discussion is related to issues such as the inclusion and exclusion of actors, the focus on monitoring and the use of information, which should be given the importance that they merit.

Given the concern about the possibility that governments control the process and provide biased information – hiding the weaknesses of the system or lack of implementation of the safeguards–, it is necessary that the monitoring be independent, and outside the public institution that receive the funds or that make REDD operative, to avoid any kind of pressure. Experiences that could be considered and adapted include Independent Forest Monitoring^{39]} and the Observatorio REDD (REDD Watch) in Brazil.

An independent national system needs operative capital. There are several cases of government information systems that have stopped working because of a lack of resources; the same has occurred with citizen oversight bodies that were created after difficult processes of negotiation with the government. This is why it is necessary to specifically include such funding in REDD projects; and to designate a percentage of the allocated funding to communities for monitor-

ing activities. In any event, this highlights the importance of people appropriating the system by allowing the grassroots to implement it with the purpose of diminishing the dependence on long term funding.

The description of the monitoring system in the Cancun Accords provide an opportunity to influence national systems. The information delivered by each country should be systematic, organized based on a pre-determined scheme, provided on a regular basis; moreover, reporting on the safeguards should not be about intentions, but rather about concrete practices and not just the positive aspects. The system should allow for the inclusion of all relevant elements – like an accounting mechanism and the structure of participation – and institutionalizes them, which ensures an approach that encompasses the different issues and indicators in a coherent, structured and integral manner.

To guarantee that incompliance of safeguards is reported, and allow for the establishment of the corresponding sanctions, the system should include a complaint mechanism; an entity to respond to the complaints and take the relevant action to make the necessary changes should be a part of this mechanism; the system should facilitate that the information that is garnered be channeled to superior entities, since it is important that the pressure is exercised by the grassroots and the outside, to get governments to comply with their commitments and offers. In this context, it is an interesting option that the entities that provide funding for these initiatives condition their support not only with regards to carbon emissions but also to compliance with safeguards.

36] Monitoring, Reporting and Verification (MRV)

37] In countries like Guyana, the technical level of the monitoring is very complex for indigenous peoples, who have not been provided with adequate information either; although the safeguards deal with issues of their daily life, the terminology is alien.

38] Complement with the use of maps and GPS, inventory of natural resources that are found in their territories, terminology and technology which may be foreign for them.

39] Independent Forest Monitoring has been focused on forest resources, related to the compliance with the laws and governance of the countries, identifying weaknesses, gaps, etc. and, therefore, can be useful in the verification of the safeguards.

4. BY WAY OF SUMMARY AND CONCLUSIONS

All the countries of the region are immersed and in different phases of preparation and adoption of their National Strategies related to the REDD initiative, be it in the framework of FCFP, FIP, UN-REDD, and, despite the specifics of each internal political context, there are common variables and tendencies.

VISIONS, CONCERNS AND EXPECTATIONS

The knowledge about the REDD initiative and mechanism and its implications are still limited among civil society actors. The same is true of the climate change issue and the negotiations and international decisions that frame REDD. In general, there is a lack of access to information and a lack of government's transparency on the issue. The authorities have not made the necessary efforts to provide information and facilitate understanding by social actors, let alone by indigenous peoples, even though they are the owners of the forests and, consequently, the most affected.

It is no surprise that the visions and positions on REDD vary, and that many perceive that the risks outweigh the potential benefits. However, there is considerable awareness that REDD by itself will not solve the impacts of climate change and that the emissions of GHG of developed countries should be significantly reduced.

The fundamental concern is that REDD could violate the rights of indigenous peoples, especially property rights to their territories and the rights to use their natural resources; that is to say that restrictions on their traditional practices could be imposed, which affect their way of life

and cultures; that their control over their territory may be weakened or lost; or that programs could be imposed which will stipulate what can or cannot be done in their forests; without prior consultation or consent, violating the right to self-determination.

There is great concern about the fact that governments continue supporting extractive industries and large-scale infrastructure projects, which are direct and indirect causes of deforestation. These concerns point to the absence of an integral and inter-sectorial approach to management of forest areas, and to obvious contradictions with climate change mitigation policies.

The history of the countries of the region with regard to governmental management (characterized by corruption, in compliance with laws and international conventions, lack of respect and implementation of indigenous rights, etc.) causes distrust and opposition to a process that has been conducted and controlled by States; evidence of incursions and implementation of so-called early REDD projects in indigenous territories – even though the rules have not been established yet – increase the concerns and opposition. So do the limited participation of civil society and indigenous peoples, the inappropriate consultation processes and the lack of incorporation of their recommendations and fundamental demands in the official RPP or NJP documents (which show the in compliance with the prerequisites stipulated by the promoters of the initiative, like the UN-REDD program).

For some actors, REDD offers certain opportunities; among them, the change in policies that pro-



more or cause deforestation and forest degradation; REDD could also possibly highlight the importance of reparations for the damage caused against indigenous peoples, title their territories and make public policies that guarantee their rights.

There are also doubts and expectations about the economic benefits; There are those who conceive of REDD as an alternative source of income for communities; there are others who are concerned about the mechanisms and criteria for distributing the resources and the impacts that these may have on communities, and about the funds being received on behalf of indigenous without the funds being invested in supporting their development.

Strategies of civil society actors and indigenous peoples have varied depending on the aperture of

the governments, degree of organization and the way the process has been set up. The indigenous organizations believe that it is not strategic to stay on the margins of a process that is being developed globally and that powerful economic interests are shaping; on the contrary, they believe that it is imperative to have an impact and propose alternatives to protect their rights and demand their implementation.

ALTERNATIVE: INDIGENOUS REDD AND LIFE PLANS

The construction of an indigenous REDD is gathering momentum and importance insofar as it could advance the principal indigenous agenda on territoriality and governance, which includes the elaboration of sustainable Life Plans based on

the unity of indigenous territory, identity, justice and autonomy.

The focus should be on developing Life Plans that are conceived in such a way that they promote indigenous peoples' autonomy to freely decide on the social, economic and cultural development of their territories, in accordance with their own worldview; reaffirming and practicing in concrete terms the right to self-determination. In this regard, the Life Plans and their principles are proposed as the platform for any negotiation.

REAFFIRMING RIGHTS: TERRITORY

For indigenous peoples, the titling and consolidation of territory are prerequisites for REDD; it is

even a precondition for talking about Free, Prior and Informed Consent.

Even though the majority of countries in the region have adopted the international norms that recognize and protect the rights of indigenous peoples (ILO Convention 169, the United Nations Declaration on the Rights of Indigenous Peoples and the American Convention on Human Rights), and have a constitutional legal framework that protects those rights, the extent of the respect and effective implementation varies from one State to another. At the same time, the laws that govern activities that cause deforestation contradict the legislation on indigenous rights. Therefore, it is essential to demand the compliance of constitutional rights and guarantees, and to reform those policies and norms that contra-

dict and fail to recognize indigenous peoples' rights recognized in international instruments.

REDD activities that are developed in indigenous territories should be framed in and respect the territorial rights of these peoples to their property, use and enjoyment of the natural resources in their territories, taking into account that this is a pre-existing right, which cannot be ignored because of a lack of titling. In this regard, any inconsistencies in norms need to be resolved before discussing and defining the national regulation of REDD implementation.

The promoters of REDD and the governments must keep in mind that indigenous peoples are not merely "actors" but holders of ancestral and collective rights, which distinguishes them from companies and other civil society actors. The right to their territories includes being the owners of the environmental services – including the carbon- of their forests.

SELF- DETERMINATION: THE RIGHT TO CONSULTATION AND CONSENT

It is fundamental to demand the exercise of the right to Free, Prior and Informed Consent. Prior consultation needs to be conducted- in good faith, with procedures appropriate for each people or community through indigenous peoples' representative institutions – to grant or deny consent.

The discrepancies that arise about the interpretation of this right by governments, and the complexity that its implementation entails given the diversity of situations and the particular characteristics of indigenous peoples, political organization and issues to be consulted on, means that it is necessary to establish norms and procedures that guarantee the legitimacy and suitability of the processes. The pre-consultation can be a mechanism for this purpose; agreements should be reached on a case by case basis and specify: the institutions and authorities with representativity and competence of the interested parties, the decision making processes and spaces, the relevant timeframe, the ways and means that guarantee the opportune transfer of information, the necessary resources and the responsibility of providing them, and the way in which the outcomes will be formalized and approved in the final decision. Some indigenous organizations and some organizations of civil society are drafting Protocols

for FPIC, and in some cases, the definition and adoption of a framework law on consultation and consent are considered fundamental.

PARTICIPATION AND IMPACT

The full and effective participation of indigenous peoples and local communities in all phases on the REDD process is fundamental to guaranteeing the respect and exercise of rights. This includes and entails:

- lobbying and taking initiative to propose the rules; analyze and outline the safeguards in accordance with international conventions like ILO Convention 169 and UNDRIP;
- demanding a change of focus compatible with the integral management of the forests and not only the carbon market, which could imply changes in policies and laws and, accordingly, demanding participation and consultation in their drafting and adoption;
- demanding a moratorium on agreements signed between companies and indigenous communities;
- participating actively in the design, construction and implementation of the Information System on REDD safeguards, to guarantee their effectiveness and trustworthiness.

It is also important in the advocacy work to demand that the United Nations Declaration on the Rights of Indigenous Peoples be widely circulated, a task that should be taken up by the institutions that are promoting REDD initiatives, especially the UN-REDD program, in view of the mandate of the United Nations to respect the rights of indigenous peoples and its human rights-based approach to development.

There is a proposal to request that the Inter-American Commission on Human Rights hold a hearing on REDD and indigenous rights to analyze the controversial issues, as well as pressure for the policies of States to be consistent with the United Nations Declaration on the Rights of Indigenous Peoples and other international instruments.

PARTICIPATION AND ITS CHALLENGES

Achieving full and effective participation of indigenous peoples and civil society actors faces several challenges; these are related to informa-

tion and knowledge, capacity building, organization and coordination. It is necessary to:

- Develop a process for information sharing and capacity building, with a special focus on local communities and the grassroots of indigenous organizations, on climate change and, in particular, the implications of the REDD initiative including the technical, political and operative aspects, as well as the monitoring systems. Systematize and consolidate their knowledge of monitoring natural resources, measuring standards of compliance of safeguards, valuing extent of compliance with agreements and other tools and issues based on the necessities of each country.
- Make available more capacity building on collective rights and knowledge of the legal framework of the countries of the region and the progress made on the recognition and exercise of indigenous peoples' rights.
- Ensure timely and independent access to information, prior and during any consultation process.
- Create a platform for civil society that fosters a proactive and articulate dialogue with the governments and serves to demand the compliance with commitments and the exercise of rights. This presupposes strengthening a culture of cooperation and willingness to reach consensus, so that a diversity of actors who do not necessarily share criteria, can interact productively.

Environmental officials and authorities also need to build their capacity on issues of rights and issues related to the dynamics, social and cultural organization of indigenous peoples and other forest-dependent people.

MONITORING AND EVALUATION

National information and monitoring systems should provide accurate information on respect for safeguards and compliance with commitments; as well as any corrective measures and sanctions for cases of incompliance. Therefore, the system should be independent (outside the national entity that receives the funds for and implements REDD) and the information should be public and accessible at the national and international level. All the components and

processes of the system should be easy to operate, and consequently, indicators, measuring methodologies and reporting procedures should not be unnecessarily complicated; the system must be designed and developed based on local monitoring experiences of environmental and socio-cultural impacts, recognizing the capacities and experiences of indigenous peoples in monitoring and control measures and mechanisms of their territories. Similarly, funding for operating experiences must be guaranteed, and should be a specific budget line on REDD programs; There is a proposal to demand that the developed countries provide technical and financial assistance to establish the monitoring systems with the participation of indigenous peoples.

The distinction has to be made between monitoring and reporting on safeguards, and monitoring, reporting and verification of carbon. The MRV of carbon has been addressed in a technical way that is difficult for indigenous peoples and other actors of civil society to understand and this limits their involvement. However, if the objective is to maintain forests standing and ensure their environmental services, there are simpler methods for monitoring and verification; consequently, it is necessary to support indigenous peoples so that they can demonstrate with precise data that the forests managed under indigenous territorial management are the least degraded and, therefore, contribute to mitigate global warming. In fact, it is an urgent task to define the evaluation standards, which must be drawn up with the participation of all stakeholders in each country.

It is indispensable to establish a complaint mechanism as part of the monitoring system, in order to ensure compliance with the safeguards, the exercise of the right of consultation and consent and the respect of the territorial rights of indigenous peoples. However, this mechanism must not substitute nor exclude the possibility of suing in the national legal system or ordinary international courts, in the case of a State's lack of recognition for or violation of a right.

There is also the option of pressuring that the entities and governments that provide funding for the REDD initiative, condition their support not only to demonstrated reduction of carbon emissions, but also to compliance with REDD safeguards.



ANNEXES

1. Participants

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Edwin Vásquez

Valentín Muiba

Juan Carlos Chacón

2. Presentations

Link to the presentations: http://derechosybosques.com/?page_id=2007

REDD + en el contexto de las Decisiones de Cancún y perspectivas hacia la COP 17

María Fernanda Espinosa, Ministra Coordinadora de Patrimonio

REDD + en el contexto de las Decisiones de Cancún
Marco Chiu, Subsecretario de Cambio Climático, Ministerio del Ambiente Ecuador

Procesos e iniciativas internacionales en REDD+.

Un balance global y retos al futuro

Vemund Olsen, RFN

Posicionamiento de COICA frente a REDD+. Perspectivas y pasos a seguir

Valentín Muiba y Juan Carlos Chacón, COICA

El involucramiento de la sociedad civil en el Programa ONU REDD

Mariana Christovam, IPAM

Informe de Bolivia sobre avances y problemas de los procesos REDD+ en los modelos de gobernanza forestal y su relación con los derechos indígenas

Aniceto Ayala, CIDOB y Natalia Calderón, FAN

Informe de Brasil sobre avances y problemas de los procesos REDD+ en los modelos de gobernanza forestal y su relación con los derechos indígenas

Marinete Cadete Da Silva, COIAB y Juliana Splendore, IPAM

Informe de Ecuador sobre avances y problemas de los procesos REDD+ en los modelos de gobernanza forestal y su relación con los derechos indígenas

Lourdes Barragán, CEPLAES-RFN

Progress and problems of REDD+ processes in forest governance models and their relation to indigenous rights

Jean La Rose, APA

Informe de Paraguay sobre avances y problemas de los procesos REDD+ en los modelos de gobernanza forestal y su relación con los derechos indígenas

Hipólito Acevei y Mirta Pereira, FAPI

Informe de Perú sobre avances y problemas de los procesos REDD+ en los modelos de gobernanza forestal y su relación con los derechos indígenas

Roberto Espinoza, Henderson Rengifo, AIDSESEP y Asunta Santillán, DAR

REDD+ y derechos indígenas a territorios y recursos:

Un balance regional

Biviany Rojas, ISA

ONU-REDD y Consentimiento Libre, Previo e Informado (CLPI)

Pierre-Yves Guedez, Programa ONU-REDD

Consultation protocols: a tool to achieve Free, Prior and Informed Consent (FPIC)

David James, Guyana

Monitoreo en el Programa Socio Bosque

Max Lascano, Ministry of Environment, Ecuador

Monitoreo Forestal Independiente

César Zelaya, COPRODI, Nicaragua

Conservación y desarrollo del Pueblo Shuar Arutam,

Raúl Petsain

REDD+ desde la Gobernanza, planes de vida y territorialidad indígenas

Henderson Rengifo, AIDSESEP

Gestión del Territorio, Ecosistemas y sus Recursos Naturales

Rosa Vacacela, IQBSS



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