

# Realising rights, protecting forests:

## An Alternative Vision for Reducing Deforestation

Case studies from the  
Accra Caucus

June 2010



The Accra Caucus on Forests and Climate Change is a network of southern and northern NGOs representing around 100 civil society and Indigenous Peoples' organizations from 38 countries, formed at the United Nations Framework Convention on Climate Change (UNFCCC) meeting in Accra, Ghana in 2008.

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

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Members of the Accra Caucus are located in the following countries:

- |                          |                  |
|--------------------------|------------------|
| Australia                | Nepal            |
| Belgium                  | Netherlands      |
| Bolivia                  | New Zealand      |
| Brazil                   | Nicaragua        |
| Cameroon                 | Norway           |
| Central African Republic | Paraguay         |
| Congo Brazzaville        | Peru             |
| Denmark                  | Philippines      |
| DR Congo                 | Papua New Guinea |
| Ecuador                  | South Africa     |
| Gabon                    | Sweden           |
| Germany                  | Tanzania         |
| Ghana                    | Thailand         |
| Guyana                   | Togo             |
| Indonesia                | Uganda           |
| Italy                    | UK               |
| Kenya                    | USA              |
| Liberia                  | Vietnam          |
| Malaysia                 |                  |



# 1 Introduction

The Accra Caucus for Forests and Climate Change is a coalition of NGOs from the Global North and South,<sup>1</sup> which have followed the negotiations at the UNFCCC since 2008. In this report the Caucus proposes an alternative vision for achieving the objective of reducing deforestation, arguing for policies and actions that would tackle the drivers of deforestation, rather than focusing exclusively on carbon. Drawing on case studies from organisations with experience of working with forest communities, the report highlights problems linked to the implementation of REDD and suggests ways in which policies to reduce deforestation can actually work on the ground. Through case studies from selected countries the report highlights three critical components: **full and effective participation** (Indonesia, Ecuador, Democratic Republic of Congo); **secured and equitable land rights** (Brazil, Cameroon, Papua New Guinea) and **community-based forest management** (Tanzania, Nepal).

This report is intended primarily for opinion-formers and decision-makers with a role in making and influencing national policy and legislation on REDD. The case studies show that respecting the rights and realities of indigenous peoples and forest-dependent communities is the only way to ensure that the forests remain standing.

Reducing Emissions from Deforestation and Forest Degradation (REDD) was broadly welcomed into the United Nations Framework Convention on Climate Change (UNFCCC), on the basis of the double urgency to halt deforestation and address climate change. In many sectors, REDD is seen as a quick, feasible, cost-effective and economically viable mechanism for tackling global warming. Developed countries have signalled their willingness to provide incentives for keeping tropical forests standing, in order to reduce emissions of carbon<sup>2</sup> into the atmosphere. These incentives are intended to provide sufficient income for tropical forest countries to pursue alternative models of development.

Properly managed, a programme to reduce deforestation and degradation could benefit not only the global climate but also biodiversity and the livelihoods and rights of forest-dwellers. However, there are concerns that REDD may allow polluters in the North to continue 'business as usual' while removing land and resource rights from forest-dependent peoples in the global South. Furthermore, depending on the definition of 'forest' adopted, REDD may perversely favour logging activities and tree plantations over the protection and restoration of natural forests.

Therefore REDD is a double-edged sword which could have serious negative consequences, environmentally and socially, while doing little to reduce carbon emissions. Climate negotiators must understand that in addition to the global climate, biodiversity and the livelihoods of forest-dependent communities and indigenous peoples are also at stake.

The influential Stern Review (2007) and Eliasch Review (2008) argued that forest protection is economically viable, and that it is cheaper and more cost-effective for industrialised countries to reduce greenhouse gas emissions through REDD payments than to transform their unsustainable fossil fuel-dependent economies and production systems.<sup>3</sup> The Stern Review deals briefly with the multiple functions of forests and the importance of land rights, but these messages tend to be ignored by policy-makers and market actors for whom forests are 'carbon' equivalents to be bought and sold.

Ultimately the UNFCCC is a climate convention, not a carbon convention. While forests play a crucial role in carbon sequestration, they also affect climate in other ways. They play an important role in regulating ground water and rainfall, and thereby influence the climate in areas far beyond the forests themselves. Forests also lessen the impact of natural disasters, for instance by functioning as physical barriers against heavy winds and landslides. Intact natural forests sequester more carbon than other forest



The fruits of community forests in Tanzania  
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types, and are more resilient against fires than logged forests. In order to counteract climate change and keep the forests standing in the long term, therefore, the key objective must be the protection of forests, not the preservation of carbon stocks.

Forests also provide critical resources for communities adapting to the impacts of climate change. 60 million indigenous peoples live in the rainforests of South America, South-East Asia and Central Africa, where their ancestors have been custodians of forests for thousands of years. A further 350 million people live in, or next to, dense forests and rely on them for subsistence or income.<sup>4</sup> To protect the forests effectively, the rights and interests of forest-dependent peoples must be ensured.

When forest-dependent communities gain control over forest resources, they can protect them against destruction by others. A recent World Bank study found that the areas with the most effective protection against deforestation were those under indigenous self-governance.<sup>5</sup> Yet the voices and concerns of indigenous peoples and local communities have been largely absent from the climate debate. Not until recently, through mobilisation within the indigenous movement and other networks, has civil society<sup>6</sup> managed to raise the issues of the rights and interests of indigenous peoples and local communities in REDD. But the role of local ownership and land rights in reducing deforestation is now on the negotiating table: and this has increased the attention given to critical issues such as land tenure and territorial rights, forest governance, community management, meaningful participation, and the right of indigenous peoples to freely give or withhold their consent.

These issues need to be respected by powerful stakeholders in negotiations on forests and climate change.

A human rights-based approach provides overarching frameworks for national laws and regulations,<sup>7</sup> and it should be applied to all policy sectors and development planning, including agriculture, forests, and REDD. According to the International Labour Organization's Convention 169 on the Rights of Indigenous and Tribal Peoples (ILO 169) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), indigenous peoples have a collective right to the territories they depend on for their livelihoods. They also have the right, as peoples, to make their own development strategies within these areas. UNDRIP was adopted at the UN General Assembly in September 2007, with only four countries voting against.<sup>8</sup>

According to Article 32 of the UNDRIP, 'States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their free, prior, and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of water, mineral or other resources.'

The 'other resources' mentioned here would also include REDD compensations. Free, prior and informed consent<sup>9</sup> implies a right to a good process, and provides an opportunity for real influence and equal dialogue between potential partners (see Box 1).

Three of the countries featured in this report – Brazil, Ecuador and Nepal – have ratified ILO Convention 169. The convention provides that states have an obligation to consult indigenous peoples, through their representative institutions, prior to the consideration of any legislative or administrative measures that are likely to affect them.

Indigenous peoples have a collective right to lands and territories under ILO 169, as well as to resources on their lands. Non-indigenous forest-dependent groups do not necessarily enjoy the same collective rights to land, self-determination and free, prior and informed consent<sup>10</sup>, but their land rights can be protected directly and indirectly by a number of different national and international legal instruments, and governments have a responsibility to ensure that they are participate fully in national REDD processes.

REDD comes in many shapes and forms, and national 'REDD readiness' plans are being developed under the World Bank's Forest Carbon Partnership Facility (FCPF) and the REDD programme. Other REDD initiatives are

implemented through bilateral agreements and – worryingly – driven by international organisations and various market actors, without adequate civil society participation, transparency or accountability. Since REDD has so far been characterised by poor consultation processes, it should come as no surprise that indigenous peoples tend to be sceptical. This may be based on a general mistrust of governments due to former negative experiences, but also on a distrust of market-based solutions to the climate problem.<sup>11</sup> Market-based REDD was rejected as a 'predatory policy' by civil society at the Bolivian World peoples summit in Cochabamba in April 2010.<sup>12</sup>

<sup>1</sup> A full list of members of the Accra Caucus is available on request

<sup>2</sup> Throughout this report the term "carbon" is used as shorthand for greenhouse gas emissions and their carbon dioxide equivalents

<sup>3</sup> Stern, N (2007) *The Economics of Climate Change: Stern Review*. Cambridge, Cambridge University Press and Eliasch (2008) *Climate Change: Financing Global Forests (Eliasch Review)* UK Office of Climate Change.

<sup>4</sup> Mayers J, Vermeulen S (2002) *Power from the Trees: How Good Forest Governance Can Help Reduce Poverty*. WSSD Opinion Series. London: International Institute for Economic Development. According to World Bank estimates, forest resources directly contribute to the livelihood of about 90% of the 1.2 billion people living in extreme poverty (see *A Revised Forest Strategy for the World Bank Group*; World Bank, October 2002).

<sup>5</sup> Nelson A, Chomitz KM (2009) *Protected area effectiveness in reducing tropical deforestation*. World Bank Independent Evaluation Group; Evaluation Brief.

<sup>6</sup> In this report "civil society" is used to include indigenous peoples, NGOs and local communities.

<sup>7</sup> UN (2003) *The Human Rights-Based Approach to Development Cooperation. Towards a Common Understanding Among UN Agencies*.

<sup>8</sup> United States of America, Canada, Australia and New Zealand. Australia subsequently reversed their position in 2009, and at the UN Permanent Forum on Indigenous Issues (UNPFII) in 2010, New Zealand declared its support for UNDRIP, at the same event the United States pledged to re-examine its position

<sup>9</sup> In contemporary international law, indigenous peoples have the right to participate in decision making and to give or withhold their consent to activities affecting their lands, territories and resources or rights in general. Consent must be freely given, obtained prior to implementation of activities and be founded upon an understanding of the full range of issues implicated by the activity or decision in question; hence the formulation: free, prior and informed consent. From: Colchester, M. and MacKay, F. (2004) *In Search of Middle Ground: Indigenous Peoples, Collective Representation and the Right to Free, Prior and Informed Consent*. Forest Peoples Program. Pp.8-14.

<sup>10</sup> This is because historical precedence is not the only criterion used to identify which groups can be covered by ILO 169. Other factors to be taken into consideration include the existence of cultural, social and economic conditions, and of special customary laws and traditional for their internal regulation.

<sup>11</sup> ICP (2010) *Declaration of the Latin American Indigenous Forum on Climate Change*. Indigenous Climate Portal.

<sup>12</sup> Final conclusion working group 14 on Forests: <http://pwccc.wordpress.com/2010/04/29/final-conclusions-working-group-14-forests/#more-1811>

## Box 1: What do we mean by free, prior and informed consent (FPIC)?

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

- Free should imply no coercion, intimidation or manipulation;
- Prior should imply consent has been sought sufficiently in advance of any authorization or commencement of activities and respect time requirements of indigenous consultation/consensus processes;
- Informed should imply that information is provided that covers (at least) the following aspects:
  - a. The nature, size, pace, reversibility and scope of any proposed project or activity;
  - b. The reason/s or purpose of the project and /or activity;
  - c. The duration of the above;
  - d. The locality of areas that will be affected;
  - e. A preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle;
  - f. Personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others)
  - g. Procedures that the project may entail.

### Consent

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

### When?

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

### Who?

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

### How?

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

### ILO 169

Through ILO 169, indigenous peoples have the right to, "Decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development."

Under ILO 169, consultation should be undertaken in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

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

## 2 Participation

In discussions on reducing deforestation and forest degradation, there tends to be much talk about participation and consultation of rights-holders and stakeholders. This chapter outlines what effective participation really means, why it is a fundamental part of establishing any policy to tackle deforestation which will actually work on the ground, and what happens when the process is rushed or ignored. Case studies from Indonesia, Ecuador and the Democratic Republic of Congo (DRC) illustrate these points.

### Marginalisation of indigenous and forest peoples

There has been a long history of marginalisation and alienation of indigenous and forest peoples from lands, resources and territories, and there is evidence that REDD could further weaken their position in some countries. In Indonesia there were 500 cases of social conflict related to oil palm in 2008 alone, while in DRC local subsistence farming is often blamed for deforestation.<sup>13</sup> Hence, as many communities are dependent on the forest for their livelihoods, it is essential that indigenous peoples and other forest-dwellers are involved in every aspect of the protection of forests, from the design of any programme right up to its monitoring and evaluation. This participation extends to the right to give (or withhold) consent, to receive an equitable share of the benefits, and to play an active role in the implementation of activities, some examples of which can be seen in the Ecuador case study. The case study from Indonesia shows how central government policy can continue to undermine the participation of rights-holders, and highlights the need for fundamental transformations in forest governance to prevent REDD from adding to the historical conflict and inequity.

No initiative to reduce deforestation can work without the confidence of local people, who must be given a proper voice. Civil society plays an essential role in raising awareness, working with forest-dependent communities and holding authorities to account. Experience from the European Union's Forest Law Enforcement Governance and Trade (FLEGT) programme has shown that getting all rights-holders and stakeholders around the table builds trust and results in outcomes acceptable to civil society.<sup>14</sup> This process takes time – time to ensure that all rights-holders and stakeholders are involved, time to accurately identify the drivers to deforestation, and time to clarify land tenure and benefit-sharing processes.<sup>15</sup>

### Requirements for effective consultation

Two basic minimum requirements must be in place for a consultation process to ensure

legitimacy and a meaningful contribution from indigenous peoples and civil society. The first is that effective platforms exist, which allows for dissemination of information from the national level to the provinces and to local communities. In countries where this is not already in place, this process can take several years. A platform for discussions on how to tackle deforestation effectively and equitably is essential to build trust between government, industry, rights-holders and civil society; without one, any intended policies are likely to fail on implementation.

The DRC case study outlines the engagement of the Groupe de Travail Climat REDD (GTCR) in the national REDD process, and shows how this platform for indigenous peoples and civil society can bring local issues and concerns to the national decision-making level. It is essential that rights-holders are sufficiently well informed, and the PNG case study (Chapter 3) shows what can happen when REDD projects are imposed on communities who have no understanding of what REDD is or how it will affect them.

The second requirement to achieve adequate participation is political will on all sides for a proper consultation process. Without this, consultation is often used to legitimise a process, the outcome of which has already been determined. Participation should give scope for real dialogue, and governments should recognise that good consultation can serve a dual purpose by helping to improve the quality of the policy outcome, while also enhancing the involvement of those who will be directly affected. Consultation helps to ensure that proposals are rooted in the local context and therefore socially and technically viable and practically workable.<sup>16</sup> The DRC case study illustrates the importance of this, where civil society has challenged the government's preference to engage international experts who are not familiar with the geography of the regions. In Ecuador, meanwhile, the constitution has raised important expectations around participation and citizen involvement in decision-making on the national REDD strategy which is to be constructed. It may provide the political and legal framework needed to guarantee equitable participation in this process.

### Barriers to effective consultation

The main barriers to effective consultation include: uneven bargaining power between interest groups; insufficient sharing of knowledge; poorly planned processes and token efforts that fail to give genuine power in decision-making to forest-dependent communities and rights-holders; inadequate lead times to meetings; or rushed and arbitrary deadlines which do not allow for effective consultation.

**“No initiative to reduce deforestation can work without the confidence of local people, who must be given a proper voice.”**

The Indonesia case study shows how bureaucracy and unfair rules act as a barrier to the involvement of indigenous peoples. New policies on REDD have been enacted without proper consultation, favouring existing concession-holders and failing to recognise the rights of indigenous peoples. In the DRC it can be seen that rushed processes, for example to finalise a REDD Preparation Plan in time for a World Bank deadline, compromises the ability for effective participation, with far-reaching consequences. In Ecuador, on the other hand, the government's incentive programme for forest conservation, Socio Bosque, offers important lessons for the national REDD strategy, especially with regard to the need for active participation of indigenous organisations, respecting their internal structures and allowing for autonomy over their territories.

REDD has the potential to bring about the administrative, legal and institutional reforms needed to tackle deforestation. The case studies from Indonesia and DRC show that rushed processes do not allow for adequate consultation. Proper consultation processes take time. Creating a false sense of urgency will undermine the quality of analysis, planning and outcomes. Policies implemented under the rushed and arbitrary deadlines of external actors fail to address the concerns and rights of indigenous peoples and local forest-dwellers – essential to building lasting policies which will work on the ground and avoid conflict.<sup>17</sup> Participation is a key step, and attempts to reduce deforestation and forest degradation will not succeed without it.

<sup>13</sup> A 2010 report from the Rights and Resources Initiative (The End of the Hinterland: Forests, Conflict and Climate Change) notes the unprecedented pressure on the world's forests, and asks the question: 'Who will drive the agenda and who will make the decisions? ... On whose terms will the hinterland be integrated into global ... politics?'

<sup>14</sup> Ozinga S, Leal R (2010) Forest Watch Special Report – Update Report on FLEGT Voluntary Partnership Agreements. <http://www.fern.org/sites/fern.org/files/VPA%20update.pdf>

<sup>15</sup> Leal R (2009) Is REDD Undermining FLEGT? FERN, UK.

<sup>16</sup> Consultation Requirements Under FLEGT. Logging Off. Briefing Note 1, March 2008.

<sup>17</sup> The Forest Peoples Programme advises against target dates and schedules for national REDD policies, as they may create incentives for rushed proposals and inadequate consultation. See their 2009 publication Moving the Goal Posts? Accountability Failures of the World Bank's Forest Carbon Partnership Facility (FCPP). Rights, Forests and Climate Change Briefing Series.



## Better governance in the forestry sector, or business as usual?

By Bernad Steni, HuMa (Association for Community and Ecologically Based Law Reform), Indonesia

Following the Bali Conference of the Parties (COP) in 2007, Indonesia was quick to change its national forest policy to accommodate REDD. Yet depending on how the Indonesian government approaches the design of the REDD process, and the initial policy decisions made, REDD may either reinforce the existing problems of poor governance in the forestry sector, or trigger an improvement towards greater democracy and participatory decision-making. Without good governance a national REDD plan in Indonesia is unlikely to have a positive effect on forests, indigenous peoples and other forest communities, or on the climate.

This case study gives a summary of forest sector reform in Indonesia since 1967, and then critically evaluates current REDD policies and pilot programmes.

### Legacy of forestry policies

Since the first forestry law was promulgated in 1967, Indonesia has been promoting forest exploitation as a major source of income. The government has continued with the legal framework of the Dutch colonial era, retaining many colonial legal concepts and doing little to redefine policy to accommodate the new political realities of the independent state.

### State forest

The most crucial concept in the Basic Forestry Law is state forest, whereby the state had exclusive authority over all aspects of human activity within any territories classified as state forest zone (*kawasan hutan*). To strengthen state control over the vast area of forest, and to facilitate the allocation of concessions, the government embarked on a series of mapping exercises. These culminated in 1980, when each provincial governor prepared a Consensus Forest Land Use Plan (Tata Guna Hutan Kesepakatan or TGHK). The TGHK classified 143.8 million hectares (approximately 75% of the nation's land area) as 'forest land' which subsequently came under the jurisdiction of the Ministry of Forestry, and divided into a number of management



Making way for development? Bulldozers clear forested land, Indonesia

categories: protected forest (27%), conserved forest (16%) and various categories of production forest (57%).<sup>18</sup>

The political process in 1998, which led to the New Order regime stepping down, was built on the promise of fundamental reform. A key reform was decentralisation of power to the provincial and district levels for some control over natural resources. In 1999 a new TGHK reduced the area classified as state forest to about 120 million hectares. The data suggest that the status quo has prevailed since then, with some 72 million hectares (60%) of forest defined as 'limited and permanent production forest' since converted, and 33 million hectares (28%) of protected forest to be converted to production forest to meet economic needs.

The management of state forest has been a failure in many respects. First, there has been a contradiction between the principle of sustainable forest management, which is the foundation of national forestry law,<sup>19</sup> and the reality of massive exploitation of the forests. The government is playing a dual role: protecting forest and destroying it. Second, there was no participation of forest peoples at any stage of the Consensus Forest Land Use Plan. Even when provincial governments were involved, forest peoples were not included in the process, and the current forest policy process is still tightly controlled by government agencies.

### Cartels controlling forest

In a regime where natural resources are fully controlled by government agencies, the opportunity to obtain a share of the earnings from forest production is determined by the degree of political connection to the centre of power. Until the 1990s, just ten companies held 228 logging concessions, covering 27 million hectares of natural forest: equal to 45% of the 60 million hectares of forest that is allocated for logging concessions.<sup>20</sup>

Today the main players in forest concessions are still companies owned by these conglomerates. In the past they operated like a cartel in which the military, politicians or bureaucrats (the 'silent partners') received equity of 20%–25% for ensuring the security and political protection of the concessions.<sup>21</sup> It seems that nothing has changed since the fall of the New Order, and in 2004 the Financial Transaction Report Analysis Center found millions of rupiah in fifteen bank accounts belonging to police officers, allegedly from illegal transactions including illegal logging.<sup>22</sup>

### Indigenous rights

State control over forest areas prevails over indigenous peoples' traditional control of their own forest. Customary forest ownership is not recognised as a land right. Whatever concessions are made to communities through limited management licences, the state continues to claim the final authority to control forests.

Some legal opportunities for indigenous peoples to increase access to forests do exist. Almost all laws relating to natural resources provide a legal framework defining a phased approach to recognition of indigenous rights, along these lines: (1) the existence of indigenous peoples should be recognised by the provincial government; (2) the area of customary forest should be decided by the forest minister; and (3) the minister/governor/head of district may give a concession to exploit forest products. In reality these phases are complicated by long administrative procedures, high costs, and a formalistic approach which is difficult for non-specialists to follow.

Meanwhile, intact natural forest that is maintained traditionally by indigenous peoples is in danger. The oil palm industry, together with the pulp and paper industry, are expanding rapidly and have been aggressively applying for concessions in natural forest and peat land, areas with the largest stores of carbon. By 2008, Indonesia – which has 83% of South-East Asian peat lands – had converted 19.8 million hectares of intact natural forest into oil palm and 27.71 million



Indigenous peoples must be allowed to participate in the development of REDD activities

hectares into pulp and paper plantations, with devastating environmental and social impacts. Oil Palm Watch Indonesia noted that during 2008 there were more than 500 cases of conflict related to oil palm plantations. Since 1998, Indonesia has lost 126 species due to habitat loss as a result of such plantations, in places where indigenous peoples have lived as forest stewards for centuries.

### REDD policies

Indonesia has issued three policies on REDD: (1) a policy on demonstration activities, (2) guidelines for REDD, and (3) permit procedures for Carbon Sequestration and Carbon Sinks. All three policies are based on the standard approach to granting forest concessions used by the forestry department. In short they continue the legacy of colonial forestry law, in a number of respects.

First, indigenous peoples are denied the right to be involved in the development of REDD activities. The entire process is controlled by ministerial or other government decisions.

Second, indigenous peoples are not recognised as forest-owners but are classified as ordinary residents entitled to some benefits.

Third, the law decrees that to undertake a REDD programme, a party should have an existing forest-concession licence. The REDD licence is not a new type of concession, but overlays REDD rights on to an existing licence, such as a licence for logging, environmental services or social forestry. Hence indigenous peoples and local communities are required to follow the complex procedures for obtaining a standard forest licence, and then have to apply for an additional REDD licence.

## Pilot projects

Pilot projects are running in Indonesia at both the provincial and the district level, with funding coming from a range of sources. Two examples are outlined below.

1. Fauna & Flora International (FFI) operates a REDD project in the Ulumasen ecosystem with the aim of protecting 558,382 hectares (74%) of intact natural forest, and 192,146 hectares (26%) of degraded forest. The developer of this project has estimated that the forest here holds an average of 188 tons of carbon per hectare, of which 20% was assumed to be underground.<sup>23</sup>

The Ulumasen project has been formalised in a contract signed by the Aceh Provincial Government which authorises Carbon Conservation Pty Ltd to invite Merrill Lynch as a buyer on the voluntary market at a carbon price of US\$4 per credit during 2008-11, rising to US\$7 in 2012-13.<sup>24</sup>

2. The KFCP (Kalimantan Forest and Climate Partnership) operates under a bilateral agreement signed in 2008 between Indonesia and Australia, called the Indonesia-Australia Forest Carbon Partnership. The intention is to rehabilitate part of a former peat land development project in Central Kalimantan, implemented in the era of President Soeharto. Australia will provide US\$30 million for the programme, encompassing:

- policy development and capacity-building
- technical support for Indonesia on national forest carbon accounting and monitoring
- demonstration activities and trial approaches to REDD.<sup>25</sup>

Initial work aims to save 50,000 hectares of peat swamp forest and rehabilitate an additional 50,000 hectares of degraded peat land as a buffer zone, to be extended as other funding becomes available.<sup>26</sup>

## 12 The problem of pilot projects: premium for rights and participation

Experience with the REDD pilot projects highlights the challenges of getting local people involved. Tenure is a continuing problem, as these REDD schemes come under a licensing system, subject to formal legal procedures which are difficult for indigenous peoples to follow. At the same time the basic need of indigenous peoples to secure tenure over ancestral land is disregarded by policy-makers. In some areas the situation is made worse because the indigenous territory overlaps with government-authorized concessions. Project staff admit that dealing with tenure in project negotiations requires much more time (and energy) than the current rush

towards REDD policy implementation has allowed.<sup>27</sup>

In addition to tenure, FFI has also found barriers related to participation in benefit-sharing. Local government in Aceh has proposed at least three options, all of which put the exclusive control of benefit-sharing under government authority: putting all benefits in the local expenditure budget; distributing funds through the lower units of government; or investing in the improvement of infrastructure such as water pipes and health services.<sup>28</sup> Without the participation of local stakeholders in the design of benefit-sharing structures, none of these is perceived as a just distribution of resources.

The Australian agreement with Indonesia does not guarantee indigenous peoples' rights, which breaches the UN Declaration on the Rights of Indigenous Peoples. According to a recent investigative report, the real purpose of the Australia-Indonesia REDD project is not to rehabilitate peat land, but to secure cheap carbon credits from Central Kalimantan to offset Australian emissions.<sup>29</sup>

HuMa (Association for Community and Ecologically Based Law Reform) is based in Jakarta, and works for incorporating indigenous rights into national law in Indonesia. <http://huma.or.id>

<sup>18</sup> Hardjosoemantri K (1993) *Hukum Perlindungan Lingkungan: Konservasi Sumber Daya Alam Hayati dan Ekosistemnya*. Gajah Mada University Press, Jogjakarta, hal. 4.

<sup>19</sup> See point (c) of the consideration of the establishment of forestry law no 41/1999.

<sup>20</sup> Kartodiharjo H, Jhamtani H, eds (2006) *Environmental Politics and Power in Indonesia*. Jakarta: Equinox, pp 27-8.

<sup>21</sup> Op cit, p. 26.

<sup>22</sup> Gatra Magazine, 6 August 2005, cited by Riza Suarga (2005) *Pemberantasan Illegal Logging: Optimisme di Tengah Praktek Premanisme Global*. Tangerang: Wana Aksara, pp 130-2.

<sup>23</sup> Reducing Carbon Emissions from Deforestation in the Ulumasen Ecosystem, Aceh, Indonesia - A Triple-Benefit Project. Design Note for CCBA Audit, submitted by the Provincial Government of Nanggroe Aceh Darussalam (Aceh) in collaboration with Fauna & Flora International and Carbon Conservation Pty Ltd. Resubmitted December 2007, pp 4-5, 10. (150 tC is on the surface and 38 tC is underground.)

<sup>24</sup> See Ulumasen Ecosystem Project Sales and Marketing Agreement, June 2008, which also details dispute resolution.

<sup>25</sup> Kalimantan Forest and Climate Partnership, see [www.climatechange.gov.au](http://www.climatechange.gov.au)

<sup>26</sup> Ibid.

<sup>27</sup> Interview with Dewi Rizki from FFI Indonesia, Hotel Haris, Jakarta, 21 October 2009.

<sup>28</sup> Interview with Hilarius Wibisono, initiator of Aceh Green, Jakarta, 11 November 2009.

<sup>29</sup> Investigation report by Friends of the Earth Australia, AidWatch, WALHI and Serikat Petani, published November 2009, notes that the project proposal favours the complete marketisation of forest credits to help Australia offset its responsibility to reduce greenhouse gas emissions. Australia's REDD Offsets for Copenhagen, Friends of the Earth Australia, AidWatch, WALHI and Serikat Petani, November 2009.





## Building REDD+: the need for social participation and the inclusion of indigenous and other forest-dependent peoples

By Lourdes Barragán, Centro de Planificación y Estudios Sociales, (CEPLAES), Ecuador

In Ecuador the issues of social participation, indigenous peoples' rights and nature conservation are gaining momentum. The 2008 Constitution, approved by a large majority of Ecuadorians, put an emphasis on equity and solidarity, recognising nature as subject to rights, and hailing important concepts such as pluri-nationality and the rights of indigenous peoples in voluntary isolation.<sup>30</sup> The political and legal framework given by the Constitution can strengthen the application of a sustainable approach to development, and has raised expectations around participation and citizen involvement in decision-making processes.

These constitutional changes set forth a new model enshrining important socio-economic and environmental rights, and natural resource management. After three years of President Correa's government, this transition has not been without conflicts and challenges. In spite of governmental efforts to implement these changes, participation from the civil society is still inadequate. This is particularly the case with the indigenous movement, one of the strongest social stakeholders in Ecuador and Latin America as a whole.

Decision-making related to the national REDD+ strategy has been similarly difficult to implement. To date, representatives from indigenous peoples' organisations, as well as from other stakeholders, have not been sufficiently included in the design of REDD and forest laws, plans and policies, though fortunately design and implementation are still in the initial stages. Moreover, government representatives have expressed their willingness to include civil society in the policy-making process.

### National REDD+ strategy

Although there is still high forest cover in Ecuador, it has one of the highest deforestation rates in the world, at 1.47% (198,000 ha/year). This has a major impact on biodiversity and people's livelihoods, and produces around 55



Sunset in Curaray:  
Amazon region, Ecuador © Carolina Zambrano-Barragán

million tons of CO<sub>2</sub>eq emissions per year,<sup>31</sup> more than 80% of all CO<sub>2</sub> emissions in 2006. Most of the best-preserved forests lie within indigenous territories and protected areas, with the largest forest cover located in the Central and Southern Amazon.

The government – and particularly the Ministry of Environment – has responded to the threat with a series of measures. The National Development Plan (Plan Nacional del Buen Vivir) aims to reduce the rate of deforestation by 30% by 2013, and has designed a new forest governance model. The scale, scope and sustainability of these initiatives require significant financial and technical resources; and a global REDD+ initiative may help build the institutional changes required, especially if it successfully attracts funds that complement those of the Ecuadorian government.

Ahead of other tropical forest countries, Ecuador is a pioneer in many areas of REDD+ readiness. It has a state programme of incentives for forest conservation without market mechanisms. Various components of the proposed national REDD+ strategy, which follows the new forest governance model, are at an advanced stage: (1) the Socio Bosque Programme (an incentive mechanism for conservation that has been in place since 2008); (2) a Forest Information System; (3) a Monitoring, Reporting and Verification (MRV) System; and (4) the Afforestation and Reforestation programme. Other elements of this strategy still need significant work, namely the legal framework for environmental services, the sustainable management of forests, regularisation of land tenure, and forest control. Whilst Ecuador's national REDD+ strategy goes beyond carbon emissions and addresses poverty and the conservation of the environment, it is essential that local rights-holders are properly consulted to ensure that policy design is rooted in the local context and needs.

### Information, participation and inclusion

The national REDD+ strategy could make important contributions to forest protection and the fight against climate change. However, for the strategy to bring social and environmental benefits, it must clearly define the rights-holders and stakeholders involved; the type of participatory processes needed for implementation; and the effects that power relations may have on the final outcome. The design and implementation of the Socio Bosque Programme, one of the components of the REDD+ strategy focused on benefit-sharing, could generate critical lessons applicable to other areas.

Socio Bosque is the government's flagship programme for conservation. It provides economic incentives for forest preservation and seeks not only to reduce emissions of greenhouse gases, but also to alleviate poverty and promote the conservation of biodiversity and environmental services. The programme is currently contributing to the conservation of more than 400,000 hectares of forests – 10% of its overall target. It did not include a consultation process for its design, even though it was based on the experience of an incentive project with a Chachi indigenous community. Socio Bosque involves a variety of beneficiaries ranging from private landowners to indigenous peoples and local communities. Land titles are a basic requirement for entering the programme, as is the definition of a social investment plan for the income received by communities. Participation is essentially restricted to the monitoring of conservation and investment plans.

Leaders of indigenous peoples' organisations have criticised key areas of its implementation, including the procedures defining the relationship with the communities, which do not respect their different representative structures; the lack of contractual guarantees capable of preventing further exploitation of non-renewable resources; and the potential loss of autonomy and control over indigenous territories. Socio Bosque has been criticised – as has a future REDD mechanism – even though several indigenous communities and peoples are the beneficiaries of the program; and a major concern relates to the potential use of carbon markets in REDD, and the historical mistrust that has characterised the relationship between the state and the indigenous movement.

The experience with Socio Bosque and other government policies indicates the need for more effective participation from stakeholders. This requires not just better dissemination of information about the policies adopted, but also the analysis of proposals and demands from the indigenous movement and civil society and



Woman preparing chonta palm for lunch:  
Esmeraldas, Coastal region, Ecuador ©Nils Hermann Ranum

their incorporation into the decision-making process. Given the importance of forests and environmental services for human life and well-being, channels and mechanisms must be created to guarantee the legitimacy of participation in defining an equitable and fair REDD+ process.

The Ecuadorian Constitution states that environmental services are not subject to appropriation, and that their production, provision and use will be regulated by the state. This has significant implications for forest carbon ownership and management, since the owners of forests are therefore not necessarily the owners of forest carbon. In the light of this, it must be a priority for the country's REDD+ readiness to define a secondary legal framework for environmental services that clarify rights over land, forest resources and carbon, and establishes solid mechanisms for participation; monitoring of social impacts, benefits and costs; and equitable benefit sharing.<sup>32</sup> The legal framework for REDD will have to guarantee real participation in the design and all phases of development and implementation of REDD, and clear procedures for the fulfilment of communities' and indigenous peoples' right to prior informed consultation,<sup>33</sup> as determined by the Constitution.

Ecuador, is one of the countries currently piloting the application of REDD+ Social and Environmental Standards<sup>34</sup>. This process could represent an important opportunity to strengthen citizen participation in REDD decision-making and implementation if these standards are applied in Ecuador. The inclusion of compliance with provisions of the UNDRIP and ILO 169, which Ecuador has ratified, especially that of free, prior and informed consent, could set a precedent for the implementation of the national REDD+ strategy.





**Kichwa Children of Curaray:**  
Amazon region, Ecuador © Carolina Zambrano-Barragán

**“Ultimately, participation implies the right that indigenous peoples and forest-dwellers have to decide, in an informed manner and on their own terms, whether or not to participate in REDD+.”**

While REDD+ calls for critical scientific expertise that can help the country comply with international requirements, a technical approach cannot become the basis for exclusion of other forms of knowledge, such as traditional knowledge, values and rights. It is necessary to facilitate informed and critical participation from indigenous peoples in a fair and open process that takes their proposals and demands into account. Capacity-building, education, and awareness of the issues of forestry, REDD and climate change, need to be promoted by both the state and civil society. Similarly, technical experts need to learn about the rights, values, practices and knowledge systems of their civil society counterparts and forest communities, and avoid creating a technical elite disconnected from the people affected by the decisions they make.<sup>35</sup>

One of the greatest challenges facing a sustainable and fair REDD mechanism in Ecuador is the priority that public and private institutions have historically given to short-term economic growth, based on natural resource extraction, in preference to sustainable long-term development. If conservation continues to take second place behind the drivers of deforestation, such as oil extraction, mining, and industrial monoculture, it will be difficult to guarantee the long-term preservation of forests. The power relations that define these sectors will influence the dynamics of participatory processes and decision-making in natural resource management, and so special efforts are needed to ensure that participation is equitable.

#### Other considerations

The promotion of equitable and effective participation in REDD+ decision-making in Ecuador, as well as respect for collective rights,

knowledge and practices of forest stakeholders, especially those of indigenous peoples, are all issues currently facing significant challenges. The coming months will be crucial in defining effective REDD strategy and policies for the country. The social and environmental benefits resulting from the preservation of forests can only materialise if a comprehensive legal, political and technical framework is in place. All of the policies and initiatives designed to combat the drivers of deforestation must be coherent and complementary with one another. Much work remains to be done to ensure effective participation in the design of REDD+ policies, defining benefit-sharing mechanisms, and monitoring social and environmental indicators.

Ultimately, participation implies the right that indigenous peoples and forest-dwellers have to decide, in an informed manner, whether or not to participate in REDD+, and on what terms.

CEPLAES' mission is to help overcome economic, social, environmental, gender, and ethnic inequities. Over the last 30 years, its work has focused on knowledge management and policy advocacy in these areas. [www.ceplaes.org.ec](http://www.ceplaes.org.ec)

<sup>30</sup> Articles 56–60 (Rights of communities, peoples and nationalities), articles 71–74 (Rights of nature), and article 85 (participation), among others. The full 2008 constitution can be found at [www.asambleanacional.gov.ec/documentos/constitucion\\_de\\_bolsillo.pdf](http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf)

<sup>31</sup> Ministerio del Ambiente: Programa Socio Bosque. 2010. Socio Bosque: Primer Año de Implementación 2008–09.

<sup>32</sup> Costenbader J, ed. (2009) Legal Frameworks for REDD: Design and Implementation at the National Level. IUCN, Gland, Switzerland.

<sup>33</sup> The 2008 Constitution establishes the right to free, prior and informed consultation, instead of consent, which was demanded by the indigenous peoples.

<sup>34</sup> Currently under development by Climate Community and Biodiversity Alliance (CCBA) and CARE: <http://www.climate-standards.org/REDD%2B/>

<sup>35</sup> Blomquist W, Schlager E (2005) Political pitfalls of integrated watershed management. *Society and Natural Resources* 18: 101–17.

## Democratic Republic of Congo



### Indigenous peoples and local communities participation in REDD Preparation

*By Roger Muchuba, Réseau Ressources Naturelles (RRN) and Dynamique des Groupes des Peuples Autochtones (DGPA), DRC*

The Democratic Republic of Congo (DRC) is an important test case for REDD. It contains 60% of the forests in the Congo Basin, the second largest continuous humid tropical forest in the world. Despite the relatively low historical rates of deforestation, this richly biodiverse forest is under threat from new sources following the end of conflict.<sup>36</sup>

This case study does not treat the important issue of the relation of REDD to existing forest sector reforms in the DRC<sup>37</sup>, but focuses on the process of REDD preparation from 2008 to the present.

#### Beginnings of a national REDD plan in the DRC

The DRC is a member of both UN-REDD and the World Bank's Forest Carbon Partnership Facility (FCPF), and the national REDD process to date has involved close collaboration between the two processes. The first stage of the FCPF process, the drafting of a REDD Preparation Idea Note (R-PIN) which was submitted for funding to the FCPF in May 2008 and approved later that year - involved no consultation with NGOs or other groups representing local communities or indigenous peoples in the DRC.

Following this UN-REDD and FCPF have carried out four 'joint missions' to Kinshasa to discuss and consult on the preparation of REDD. These took place in January, May and October 2009, and February 2010.

In January 2009 a delegation of civil society and local communities' representatives participated in the first joint mission of UN-REDD and FCPF, with the presence of partners from the Norway Climate and Forests Initiative, and Rainforest Foundation Norway. Civil society organisations (CSOs) in DRC took the opportunity in June 2009 to create a REDD Climate Working Group (Groupe de Travail Climat REDD), bringing together the major thematic civil society networks working in areas related to climate change.

REDD in the DRC was piloted in 2009 by a National Coordination, a small team made up of government representatives and international consultants. The January 2009 UN-REDD/PCPF mission decided on the creation of a National Committee on REDD, which would assume the executive role in regards to REDD. The committee would have fourteen members, including two from civil society and one member representing indigenous peoples. However, in reality this participation is likely to be largely symbolic due to the small number of civil society representatives and their weak position in DRC generally. Moreover, despite a decree issued by the prime minister establishing the National Committee in November 2009, it has yet to hold its first meeting due to lack of finalisation of its members. Therefore the National Coordination continues to play the de facto executive role.

The participation of representatives from civil society and indigenous peoples' organisations based in Kinshasa was a constructive step forward in the January 2009 mission. After the mission in May 2009, however, local NGOs issued a statement criticising the process. Participation improved again in the UN-REDD/FPCPF missions of October 2009 and February 2010.

However, all four missions took place in Kinshasa, and there will need to be genuine consultation across the country including, importantly, in the capitals of the forested provinces. The National Coordination has so far shown willingness to carry out consultations in the provinces, but here have been consultation workshops in only four of these, so it cannot be claimed that there has been engagement with local communities or indigenous peoples as a whole.

#### Challenges and opportunities for civil society participation

The DRC Government has made recent statements in favour of forestry reform, and REDD could be an opportunity to change to a management model based on the rights of local communities. There is an opportunity to make deeper reforms in the area of land and resource rights, and a participatory zoning process could allocate forest areas for multiple uses.

The Government has the opportunity to develop a forest policy with greater transparency after taking major decisions like the moratorium on the allocation of new concessions and the cancellation of illegal titles following a judicial review. However, the provisional inclusion of 10 million hectares of new logging concessions in the DRC REDD Preparation Proposal (RPP), brings into question the Government's continued commitment to the moratorium.

The demand for the participation of civil society in the process of reform of the forestry sector is provided for within the legal framework, as well as being the result of the effective involvement of civil society in this area to date.

#### Groupe de Travail Climat REDD and benefits of civil society participation

The involvement of local NGOs, local community and indigenous peoples' groups in REDD is essential in the DRC for a number of reasons:

- the immense size of the DRC means that decentralised civil society often plays a crucial role in services
- due to the well-known governance problems in the DRC,[1] and the experience of bad financial management, the incorporation of civil society brings transparency to REDD
- local NGOs and CSOs have years of experience working with local communities on alternative livelihoods, participatory mapping and other areas crucial for REDD
- as shown in the case of the promulgation of the Forest Code (2002) in the DRC, civil society plays an essential role in awareness-raising and consultations with local communities and indigenous peoples.

The REDD Climate Working Group (GTCR) has been an effective route for participation in the process so far. While an effort was made in the RPP to develop some guidelines for participation in activities and even financial aspects, civil society needs a guarantee that future consultations will be reflected in the outcomes.

Member organisations of the GTCR have demonstrated an ability to work with local communities, and have expertise in the field, which are assets to its participation in the REDD process. However, as seen in the study on the drivers of deforestation – carried out as part of the REDD process in DRC by the UN Food and Agriculture Organisation (FAO) – the primary focus of the official process to date has been on remote sensing using satellites, instead of fieldwork, thus limiting participation. It is true that the material is new and complex, hence the efforts of GTCR to build the capacity of its members for meaningful participation. However there is an enormous difference in outcome between a vibrant civil society that is informed and actively engaged, and one that lacks the capacity to analyse decisions and merely validates processes by signing attendance lists.

#### Finalisation of the RPP in early 2010

When the first draft of the Readiness Preparation Proposal (RPP) was published, there was



Man collecting edible caterpillars (chenilles), DR Congo

insufficient time and resources for adequate consultation outside Kinshasa. The document was 150 pages long, in French, and often highly technical (there was no version in Lingala, the lingua franca of DRC), and it was impossible to provide useful feedback on it in the space of just one or two weeks. Despite the efforts of civil society and indigenous peoples' organisations belonging to the Groupe de Travail Climat REDD to send the RPP out to member organisations in the provinces, those outside Kinshasa have, on the whole, very little knowledge or experience of the international REDD debates or the policies under discussion, this was not an effective consultation.

The joint mission which took place in February 2010 was designed to finalise the RPP for submission to UN-REDD and FCPF. Some of the main issues raised by local community representatives during these meetings were:

- the need for participatory zoning as a prerequisite for REDD
- the need to join up REDD policy with existing forest sector reforms, and recognition of customary land rights
- the need for a fair and balanced assessment of the drivers of deforestation, which does not over-exaggerate the role of communities in deforestation and minimise that of industrial logging, mining and agribusinesses due to simplistic finance-based analysis.

The RPP suggests REDD strategic options could include expanding logging, palm oil plantations and cattle ranches – all of which would have a devastating impact on the forest the role of civil society in the delivery of REDD.

**“Organisations outside Kinshasa have, on the whole, very little knowledge or experience of the international REDD debates or the policies under discussion.”**

The DRC RPP was passed in March 2010<sup>39</sup> for funding from UN-REDD and FCPF, with certain conditions on the funding, such as the integration of civil society in monitoring, reporting and verification (MRV). The GTCR are closely following plans for participatory zoning, studies on the drivers of deforestation and on the legal reform necessary for REDD.

#### Conclusion

The participation of civil society in the DRC on REDD processes has shown that coordinated civil society networks, such as the GTCR, can make their mark in an effective manner and work for change. Despite the obstacles, GTCR's participation in discussions on the RPP produced some positive changes, though the ultimate impact on decisions is limited by the limited nature of participation permitted in this process.

Our hope is that as the RPP evolves in the next two years into a genuinely participative REDD strategy, that civil society becomes a recognised actor in the decision-making process, in studies and in validation on the ground. The government and its partners must recognise that without a genuinely participatory decision-making process, which involves all rights-holders and stakeholders, any attempts to reduce deforestation will fail.

Réseau Ressources Naturelles (RRN) is a platform of NGOs in DRC created in 2002, which has as mission to monitor forest exploitation in the DRC and campaign for the respect of local community rights and good governance in the development of forest legislation. [www.rnrndc.org](http://www.rnrndc.org)

The Dynamique des groupes des Peuples Autochtones (DGPA) is the national platform for indigenous peoples in the DRC created in 2008.

<sup>36</sup> <http://www.greenpeace.org.uk/media/reports/carving-up-the-congo>

<sup>37</sup> See Rainforest Foundation Norway and UK (2009), *Avoidable Deforestation: Forest Sector Reforms and REDD in the Democratic Republic of Congo*, [http://www.rainforestfoundationuk.org/Avoidable\\_Deforestation-DRC](http://www.rainforestfoundationuk.org/Avoidable_Deforestation-DRC)

<sup>38</sup> Counsell S (2006) *Forest Governance in the DRC: Recommendations for a VPA*, FERN



# 3

## Land and Resource Rights

Any mechanism for reducing deforestation and degradation must be built on a clear land tenure system and equitable, transparent governance. Unclear and inequitable land tenure systems, and the lack of recognition of the rights of indigenous peoples and local communities to their lands, resources and territories, are key drivers of deforestation. Equally there is compelling evidence that deforestation rates are lower – and that forest restoration improves – where indigenous peoples and local communities have secure rights and are able to protect and manage their lands and forests.

This chapter illustrates some of these arguments with case studies from Brazil, Cameroon and Papua New Guinea.

### Local control of forests

A large proportion of the world's tropical forests are traditional indigenous territories. With a few exceptions, the traditional inhabitants of these forests have over the centuries been expelled from their lands and territories, or threatened with expulsion, by external actors. Often this pressure has resulted from potential economic gains from valuable resources such as oil, gold, copper, timber, rubber and palm oil. Without strong safeguards, there is a real risk of history repeating itself with the creation of a new resource in forest carbon.

Steps have been taken to redress the historical alienation of indigenous peoples and local communities from the formal or statutory rights to their land in some countries, and it is estimated that currently some 11% of the world's forests are devolved to local communities.<sup>40</sup> However, experience varies between regions. In South America, 24.6% of forest land is owned by local communities and indigenous peoples<sup>41</sup>. In the Brazilian Amazon, the experience of Indigenous Territories, created since the 1980s, has shown that recognition of rights can slow the rates of deforestation. The situation in Africa is much less progressive, with only 1.6% of forest land designated for the use of indigenous peoples and local communities, and 97.9% administered by the government.<sup>42</sup> Due to the virtual absence of the state from many forested areas, much of this land is effectively managed according to customary rights, with a complex, overlapping and slowly evolving framework of land tenure; however, customary rights are not recognised in many legal systems, which makes them vulnerable, as in the case of Cameroon.

The situation is different again in Papua New Guinea, where 97% of the land is owned by indigenous peoples according to the constitution. However, even when there is a strong land rights regime, the case study below shows that local

landowners are being subjected to pressure to sign away their rights to speculators, while national systems designed to regulate REDD have broken down.

### Legal and governance reforms are core readiness activities with numerous benefits

Clarifying and strengthening the rights of local communities and indigenous peoples to their lands, territories and resources has a number of benefits for a mechanism designed to reduce deforestation. First, there are many examples where the securing of local communities and indigenous peoples' land rights has been shown to reduce deforestation.<sup>43</sup> Secondly, security of tenure is more likely to make any reduction of deforestation and degradation permanent. This is especially important in the context of a mechanism under the UNFCCC, as emissions reductions must be permanent so as not to contribute to harmful climate change. Thirdly, determining ownership of the forest and associated carbon is essential for benefit-sharing and disbursal of payments to stakeholders and rights-holders. And finally, it has been shown that societies built upon inequitable land tenure systems are more likely to breed conflict.<sup>44</sup>

### Perverse incentives: no land rights if you leave the forest standing?

REDD has been described as a mechanism 'to make forests worth more alive than dead'. But this is often only seen from an economic perspective, and fails to take into account the social and political value of standing forests compared to cleared lands. Here again, reform of land tenure systems can be a positive tool for reducing deforestation.

Productive land use clauses<sup>45</sup> are found in some form in legislation governing land in most countries in Africa and South America. Put simply, it means that occupants' land rights are recognised when they show they use an area 'productively'. This term is defined to mean activities such as the permanent conversion of forests to agriculture and other uses, and excludes activities that do not destroy the forest, which are traditionally practised by semi-nomadic hunter-gatherers. Therefore these productive land use clauses have the effect of rewarding – with the granting of secure rights to the land – activities that lead to the destruction of the forest, while failing to protect communities' livelihoods that help its preservation. This clearly needs to be reformed<sup>46</sup>.

### REDD: threat or opportunity?

REDD brings threats as well as opportunities for

indigenous peoples and local communities. The stakes are high, and there is growing concern that REDD is leading to the eviction or exclusion of people from their traditional lands and restricting their access to natural resources, while perversely allowing activities that are highly destructive of the forest – logging, large-scale agriculture and mining – to continue, and even be subsidised by REDD payments.

For policies to reduce deforestation effectively, they must identify the underlying drivers of deforestation as a starting point for action, and ensure respect for the rights of indigenous peoples and local communities, including the clarification of land tenure.

<sup>39</sup> For a critical assessment of the DRC RPP see "A joint statement from Global Witness, Greenpeace, FERN, Rainforest Foundation Norway and Rainforest Foundation UK on

<sup>40</sup> Bray DB, Duran E, Ramos VH et al. (2008) Tropical deforestation, Community Forests, and Protected Areas in the Maya forest. *Ecology and Society* 13: 56.

<sup>41</sup> Rights and Resources (2010) The end of the hinterland: forest, conflict, and climate change. Available at [www.rightsandresources.org/documents/files/doc\\_1400.pdf](http://www.rightsandresources.org/documents/files/doc_1400.pdf)

<sup>42</sup> Rights and Resources (2010) The end of the hinterland: forest, conflict, and climate change. Available at [www.rightsandresources.org/documents/files/doc\\_1400.pdf](http://www.rightsandresources.org/documents/files/doc_1400.pdf)

<sup>43</sup> See Nepstad D, Schwartzman S, Bamberger B et al. (2006) Inhibition of Amazon deforestation and fire by parks and indigenous lands. *Conservation Biology* 20: 65-73; Stocks A (2007) Indigenous, colonist, and government impacts on Nicaragua's Bosawas Reserve. *Conservation Biology* 21: 1495-505; Chhatre A, Agrawal A (2009) Trade-offs and synergies between carbon storage and livelihood benefits from forest commons. *Proceedings of the Academy of Sciences of the USA* 106: 17667-70.

<sup>44</sup> Rights and Resources (2010), op cit.

<sup>45</sup> Called *mise en valeur* in countries influenced by the French legal system, such as in the Congo Basin

<sup>46</sup> In a landmark judgement in 2009 in Malaysia, courts recognised customary rights in Sarawak beyond cultivation – see : <http://www.survival-international.org/news/4533>

## Brazil



### Maintaining the resilience of indigenous territories

By Natalie Unterstell and Erika Yamada, Instituto Socioambiental (ISA), Brazil

In the past two decades, most countries in the Amazon Basin have recognised and demarcated Indigenous Territories (ITs) and Protected Natural Areas (PNAs). This is the result of national processes which, despite being patchy and incomplete, have secured important protected forest corridors in Amazonia. According to official statistics, ITs and PNAs cover 41.2% of the region's total surface area.<sup>47</sup>

In the same period, however, the rate of deforestation in the Amazon basin has soared, with 17% of total cover lost in Brazil alone. Maps<sup>48</sup> show that demarcated ITs and PNAs have played a significant role as a barrier to deforestation, without which the loss would have been even greater.

This case study describes the main drivers of deforestation in the Brazilian Amazon, and highlights the role indigenous territories play in reducing deforestation and degradation.

#### REDD, deforestation and Indigenous Territories

The pressure for deforestation in the Brazilian Amazon region is particularly high, and is the direct cause of 75% of greenhouse gas emissions in the country. Government policy is a significant factor influencing the dynamics of deforestation, but it is somewhat erratic. While in the past decade some efforts have been made to control deforestation, and there has been some success in the last five years as result of the Action Plan to Prevent and Control Deforestation in the Amazon (PPCDAM), the government also finances – through institutions such as the National Bank for Economic and Social Development (BNDES) – infrastructure and agricultural activities which are destroying the Amazon.<sup>49</sup>

The principal drivers of deforestation are broadly the same throughout the Amazon: farming and ranching, timber extraction, land-grabbing, and infrastructure projects. The devastation follows a well-known pattern: (1) timber companies clear roads branching off highways toward locations with valuable trees, often in protected areas or riparian communities; (2) these companies exhaust the supply of prime timber species and move toward new fronts; (3) using the newly opened roads, land-grabbers and ranchers



Demini village, Yanomami people in Amazonas  
© Marcos Wesley/ISA

provide funds for conversion of forest into pastures, selling any remaining wood and producing charcoal from the least valuable trees; (4) extensive, low-production cattle raising is established.

The initial economic benefits of deforestation, such as income and employment, are restricted to a few sectors of society and last no longer than fifteen years. The legacy is economic stagnation, poverty, land-tenure conflicts, and the devastation of forests and land, in a classic cycle of boom and bust.

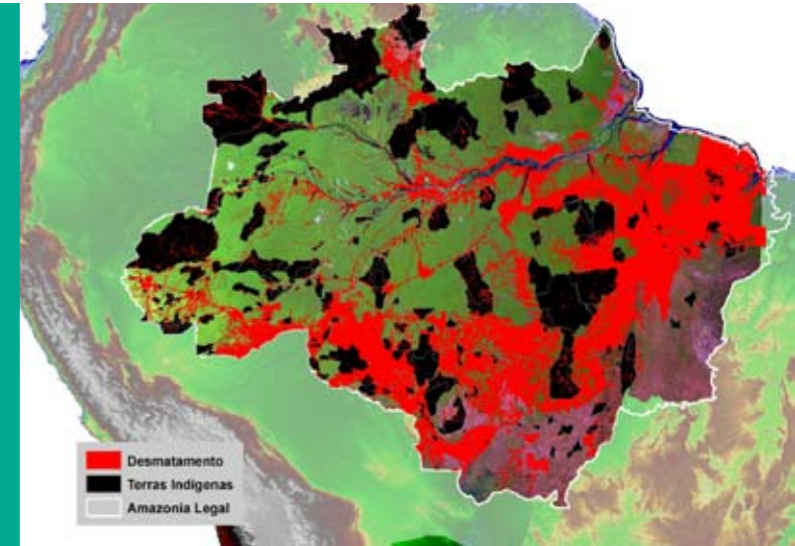
Land concentration remains one of the main characteristics of Brazil, and in the Amazon region 1% of the landowners hold 57% of the area. This is despite the fact that the Amazon has been used as a pressure-release valve for land conflicts elsewhere, with two thirds of the lots granted by the land reform agency across the country between 2003 and 2008 being in the Amazon. Land concentration is associated with poor social indicators: in 2004, only 21% of the economically active population in the Amazon had a formal job, and the municipalities with greatest deforestation also have a higher-than-average murder rate.

#### The role of Indigenous Territories

There has been great progress in official recognition of indigenous lands in the past twenty years in Brazil, especially in the Amazon, despite unresolved historic issues. The region's geography has been transformed by demarcation of extensive territories, and a mosaic of protected areas and biodiversity corridors.

Under an unprecedented legal formula, the 1988 Brazilian constitution recognised the original rights of indigenous peoples over land and

“Demarcation of and respect for indigenous lands has been shown to be an effective instrument for protecting forests.”



Holding out against deforestation: map of the Legal Amazon showing deforestation in red and indigenous territories in black  
© ISA (2009) Atlas de Pressões e Ameaças as Terras Indigenas na Amazonia Brasileira, CARNEIRO & SOUZA

natural resources traditionally used by them. The majority of the country's indigenous lands are concentrated in 405 areas, totalling over 1 million km<sup>2</sup>, and representing just over 20% of the legal Amazon.

Indigenous lands have played a fundamental role in conservation: 98.4% of their total area in the Amazon is preserved, unlike other forms of occupation. Deforestation in these territories corresponds to only 1.3% of all Amazon deforestation. Estimates show that, in parts of Mato Grosso and Rondônia, deforestation may be up to ten times higher outside legally protected areas, up to twenty times higher in the state of Pará.

In addition to ITs, a further 1 million km<sup>2</sup> of forests are in Conservation Units (CUs). The level of forest protection in these areas varies greatly. Although enshrined in law, many are not monitored and lack sufficient infrastructure and employees. Therefore the figure of 43% of the Amazon under protection (split more or less equally between CUs and ITs) covers up a less favourable reality. Furthermore, the distribution is uneven and critical regions are in need of greater protection.

The management and protection of these vast areas poses a significant challenge. They have no structure for institutional governance or political representation at the national level, nor any economic or tax collection instruments capable of meeting their diverse demands. In many areas, the indigenous lands, though extensive, are surrounded by deforested areas cleared for large farms and ranches, as in the case of the Xingu basin region. The future of indigenous communities – as well as the integrity of their forests and natural resources – will depend

increasingly on their capacity to manage their relations with mainstream Brazilian society.

#### Protected forests and peoples – until when?

While generally the very existence of demarcated Indigenous Territories helps prevent deforestation, with consequent reduction of greenhouse gas emissions, those bordering areas of agricultural expansion are especially vulnerable. The wall of containment against deforestation, which is made up of ITs and CUs in locations which have so far been well preserved, may start to crumble if there are no measures to protect them and slow down the pace of devastation outside these areas. Over 93% of deforestation identified in ITs is of external origin and not related to the traditional occupation of the lands.

Thus it is clear that demarcation of indigenous lands alone, while critical, is not sufficient to ensure the protection of forests in the Amazon. Forest conservation projects in indigenous forested lands must be combined with measures to contain illegal logging and control forest fires. Such projects must strengthen control by indigenous peoples of their territories, and be compatible with their land tenure systems and the spiritual relationship they maintain with their natural resources.

#### Where does REDD fit in?

The right to territories is perhaps the lynch-pin for all other rights uniquely recognised for indigenous peoples, as an attempt to ensure their survival as culturally distinct communities. In Brazil this right is enshrined in the constitution, and indigenous peoples have the exclusive right to use their lands and natural resources on a permanent basis, despite the fact that the state holds the formal title to the land.

Although there still is no specific regulation regarding REDD+ in indigenous lands in Brazil, existing national and international legislation on indigenous territorial rights already affords the necessary protections. The Government cannot intervene unilaterally on indigenous lands or natural resources, but only in accordance with the decision and in the interest of indigenous peoples.<sup>50</sup> It is not for the Government to decide on the relevance of projects of reforestation or avoided deforestation in indigenous lands, much less does it hold title to the benefits generated by such projects.<sup>51</sup>

Furthermore, indigenous peoples cannot be contractually obliged to refrain from traditional activities (hunting, fishing, forest clearing to farm, construction of villages or houses, etc.), because the Brazilian constitution gives them the right to perform these freely in their territories. Should any contract threaten this right, the clause in question can be considered void. According to the constitution, indigenous lands and forest resources are inalienable, and unavailable for third-party use; accordingly, under no circumstances can they be offered as security under contractual terms.

Indigenous peoples should be the principal beneficiaries of any REDD programme in the country, both because of the carbon stocks they manage and because of the role they play in inhibiting deforestation effectively. Mechanisms for compensating them adequately for this environmental service can include the range of activities that indigenous peoples might undertake such as surveillance, fire control and planned clearing of subsistence plots, as well as monitoring of forests across different indigenous lands to prevent displacement of deforestation ('leakage'). Those activities would combine the sustainability of the traditional indigenous maintenance of forest with the protection of their lands from illegal deforestation by third parties.

Such an approach would support indigenous peoples' ways of life and the special relationship to their lands, and prevent interference with their lifestyle and the subdivision of indigenous territories based on externally imposed restrictions on land use. Culturally adapted forms of benefit-sharing can also be developed with the peoples concerned.

### Conclusions

Demarcation of and respect for indigenous lands has been shown to be an effective instrument for protecting forests. It is not sufficient on its own, however, and REDD will not be sufficient either, if implemented as a set of externally planned and imposed forest-protection measures. Efforts to reduce deforestation only make sense if they form

part of the long-term vision of the populations involved. As such they should be designed and implemented by indigenous peoples, and not merely proposed to them. Indigenous peoples and other forest peoples have the right to build or reject REDD, according to their own understanding and interests and according to specific conditions for recognition of their rights in each country. It is thus necessary, and possible, that policies to reduce deforestation attend to the already existing protection of indigenous peoples' rights in national and international law, including the fundamental principle of free, prior and informed consent regarding the use of indigenous territories and lands.

Instituto Socioambiental (ISA) is a Brazilian not-for-profit institution established in 1994 to advance integrated solutions to social and environmental issues, with a view to defending the collective rights of traditional populations and promoting environmental rights. [www.socioambiental.org](http://www.socioambiental.org)

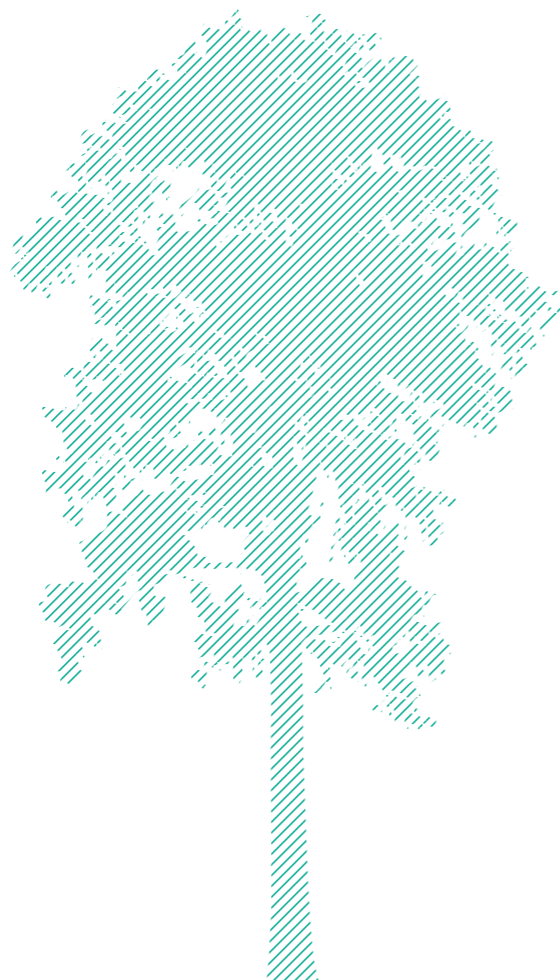
<sup>47</sup> REDE AMAZONICA DE INFORMAÇÃO SOCIOAMBIENTAL GEORREFERENCIADA (2009) Amazonia 2009 Áreas Protegidas Territórios Indígenas. Rede Amazônica de Informação Socioambiental Georreferenciada (Raisg), 1ST edition. Sao Paulo.

<sup>48</sup> ISA (April 2006) Trends in Deforestation in the Xingu River Basin Brazil. Instituto Socio-Ambiental, Brazil. Graphics: Philippe Rekacewicz assisted by Cecile Marin, Agnes Stienne, Guilio Frigieri, Riccardo Pravettoni, Laura Margueritte and Marion Lecoquierre. <http://maps.grida.no/go/graphic/trends-in-deforestation-in-the-xingu-river-basin-brazil>

<sup>49</sup> Carneiro Filho, A., and Souza Braga, O. (2009) Atlas das Pressões e Ameaças às Terras Indígenas na Amazônia Brasileira. São Paulo: Instituto Socioambiental.

<sup>50</sup> The only exception to this rule is the possibility of mining and hydroelectric use on indigenous lands, both activities foreseen in the constitution.

<sup>51</sup> Rojas, B. (2009) REDD em Territórios Indígenas a Cuenca Amazônica. Brasília: Instituto Socioambiental.



## Cameroon

### Challenges for REDD within current land and forest tenure legislation

By Samuel Nnah Ndobe, Centre for Environment and Development (CED), Cameroon

In Cameroon, forests cover approximately 19.6 million hectares, representing 11% of Congo Basin forests and 41% of the national territory. The forest-dwelling communities include one of the world's specific indigenous forest peoples, commonly known as the 'pygmies', and other local communities whose well-being and livelihoods depend on the forest.

Local communities and indigenous groups own or have rights to use less than 2% of Africa's forests. In 2009, a study by RRI and the ITTO found that the slow rate of land rights reform hinders efforts to halt deforestation and alleviate poverty. At the current rate, it will take 260 years for countries in the Congo Basin – which contains more than 70% of Africa's remaining tropical forest – to reach the level of reform achieved in the Amazon.<sup>52</sup>

This case study briefly sketches the evolution of the land tenure system in Cameroon through the colonial and post-colonial periods, and its relationship to customary land rights, especially of indigenous peoples, and the implications for potential REDD activities in Cameroon.

#### Land and forest tenure and forest peoples

Present day land legislation in Cameroon is based on that set down in the period of colonisation by Germany, Britain and France. This has spawned a dual land tenure model under which customary rights and colonial or statutory legislation overlap and coexist.

The three colonial regimes considered 'unoccupied' uncultivated lands as having no owner. On this principle, the French proceeded to expropriate land on a large scale, while the English and Germans claimed them for the Crown. The concept of national estate, which has replaced the former notions of 'vacant land with no owner' or 'national collective estate', has only one objective: to give control of Cameroon's land to the state.

The forest-dwelling communities in Cameroon include the Bantus or semi Bantus, who are mainly traditional swidden agriculturists, and the indigenous forest peoples often referred to as



Another trip to the supermarket: women gathering non-timber forest products in Cameroon

'pygmies', who are hunter-gatherer communities and considered as the first inhabitants of the forest. Customary land rights are not legally recognised. Those using land when the 1974 Land Tenure Ordinances came into force can only continue to do so if they can show productive use.

In the forest policy of the early 1990s a zoning plan (*plan de zonage*) was introduced, based on ecological and commercial criteria that completely ignore customary land law. The zoning plan recognises Bantu traditional land use over that of the 'pygmies'. It also allocates huge areas of forest as concessions or forest management units for logging. Most of the logging concessions have been given out, largely to foreign timber merchants.

Forest sector reforms in the 1990s have led to contradictions in land and resource rights. The 1994 Forest Law vests all forest resources in the state, and enables the creation of private ownership rights over trees, but only if a group or individual plants the trees (i.e. private ownership of naturally growing trees is ruled out), and the state still owns the land on which the trees are planted. This creates two problems: (1) the limited extent of private land ownership dramatically reduces the scope for private forestry, and (2) no one has the incentive to protect forest on 'public' land. Furthermore, the land and forest legislation show some contradictions. For example, a land title is a prerequisite for the planting of privately owned trees under the 1994 Forest Law; but under the 1974 Land Ordinance productive land use (e.g. tree planting) is a precondition for acquiring land ownership.<sup>53</sup>

## Land grabbing and poorly secured customary rights

All land not privately registered is owned by the state. Post-colonial land legislation in Cameroon resulted in the development of private land tenure, to the detriment of the customary communal systems. Private ownership can be acquired through productive use and land registration, but in practice only 3% of the land has been registered, mainly by medium and large-scale investors. The costly and cumbersome process of land registration has led to a huge land-grabbing situation in the forest regions where currently elites are acquiring and registering large areas of community lands for their personal ownership. There is also currently a growing pressure on land, which often results in conflict due to demand for concessions for mining, timber, agriculture and plantations. For example, the Bakweri people have organised themselves under the Bakweri Lands Committee to defend their rights; and communities in Akom II and Niete areas have been left with very little land to carry out their traditional livelihood activities due to the continued expansion of Socapalm and Hevecam and the creation of the Campo Ma'an National Park.

### Box 2: Community Forests

The experience of Cameroon highlights some problems with poor national legislation on Community Forests (CFs). CFs are usually allocated in highly degraded forests along roadsides and settlements, limited to 5000 hectares, and attributed for a limited period of 25 years. The procedures and costs of allocating CFs are an insurmountable barrier for most communities, and the effective implementation of Community Forests in Cameroon has been undermined by, inter alia, lack of legal ownership of land by local population; vested interests of local elites; and the absence of accountability mechanisms at community level in the distribution of proceeds from the forests.

Most forest people gain access to state-held land through local or customary systems of resource tenure. These systems vary considerably along the different ecological and socio-economic contexts of the country. In the forest zones of Cameroon, the two main groups, agriculturists and hunter-gatherers, have different perceptions of ownership. For the Bantus or agriculturists, land belongs to a lineage, and individuals within the lineage have rights to clear and cultivate the land. In general, agricultural land ownership for the Bantu in southern Cameroon is based on the 'right of the axe', or *droit d'hache*,<sup>54</sup> that is the acquisition of land through the cutting or clearing of an area in the forest. The space cleared is then defined as belonging to the individual or group that did the clearing, and their descendants.



What benefits will we see? Insecure rights mean an uncertain future

Hunter-gatherers in Cameroon see all the forest as belonging to them. The Baka 'pygmy' peoples believe that it was given to them by a supreme deity called Komba. According to them, everyone has the right to the resources of the forest (game, wild fruits and tubers, medicines etc.) on condition that they do not destroy the forest. Unfortunately this customary way of using the forest does not leave any visible evidence of valorisation and occupation: so their land is considered 'vacant land' and classed as permanent state forest.

Forced by policies encouraging sedentarisation, the 'pygmies' were obliged to leave the forest and become squatters in roadside villages and lands claimed as belonging to the Bantus. Their customary lands are now mostly allocated to protected areas and logging concessions.

Much of the remaining forest in Cameroon is located in the ancestral and customary lands of Indigenous Forest Peoples. The Ngoila-Mintom concession in Cameroon, now earmarked for REDD, is found in the ancestral land of the Baka 'pygmy' people. This corridor links the Baka in Djoum Mintom with those of Lomie, the south-east Boumba Bek and Nki, as well as with other 'pygmies' in Congo, Central African Republic and Gabon. Thus a REDD project in this area would threaten to rupture this historical and a spiritual relationship with the forests.

### Box 3: Poor experience of benefit-sharing

Existing benefit-sharing mechanisms that exist in Cameroon, such as Annual forest royalties (AFRs) paid by logging companies, have been marred by dysfunctional accountability mechanisms and embezzlement at different levels by local and national elites. It has also excluded 'pygmy' communities or villages that are not recognised as

village communities in the order which sets out the terms of use of logging revenues. This is especially worrying as some institutions in Cameroon are suggesting the AFR model as a potential benefit-sharing mechanism for future REDD schemes.

### Implication for REDD programmes in Cameroon

Land conversion for agriculture and logging has been identified as the main driver of deforestation and degradation in Cameroon. Expectations of REDD are high, in terms of what it can provide financially, but the same cannot be said for expectations that it will be implemented in an inclusive manner.

Cameroon is one of the countries involved in the World Bank's Forest Carbon Facility Programme (FCFP), and is currently preparing a Readiness Preparation Proposal (RPP), which up to the time of writing has excluded civil society and local communities. The government is also piloting a REDD project aimed at assessing carbon stocks, and large conservation organisations and logging companies are developing REDD projects within the protected areas or concessions they are managing. It is hard to see how indigenous forest peoples and local communities can benefit from REDD within an institutional environment which has some acceptable policies on paper but limited enforcement in practice.

Forest tenure reform is a priority for any efforts to reduce deforestation in Cameroon. Addressing land and resource disputes and creating tenure security for all stakeholders can resolve violent conflicts, create incentives for stable and predictable investment by the government, and contribute to economic growth. Resolving ambiguity in forest property rights is a key step towards protecting and increasing the capacity of the forest estate to sequester carbon and provide other essential ecosystem, social and cultural functions. It is important to clarify not only property rights to land and resources, but also the rights to ecosystem services provided by forest lands: watersheds, biodiversity, ecotourism and carbon sequestration.

Reforms must also include capacity-building within communities to ensure that they understand the new legislation and can assert their right to full participation in the control of land and resources.

### Conclusion

The rights of indigenous forest peoples and local communities as owners of the land and forest, which they have lived on and nurtured for generations, are not recognised in Cameroon's legislation. The customary rights of hunter-

gatherers are not taken into account in current or proposed benefit-sharing mechanisms.

Cameroon has expressed its support for UNDRIP and other human rights agreements which recognise Indigenous Peoples' rights to their land and territories, to determine their own future and development, and thus be part of any decision-making affecting their lands, resources and communities. As stated by the Convention on Biological Diversity's Ad Hoc Technical Expert Group on biodiversity and climate change: 'Indigenous People are unlikely to benefit from REDD where they do not own their lands, if there is no principle of free, prior and informed consent, and if their identities are not recognised or they have no space to participate in policy-making processes.'

The emergence of climate change as a major global issue underscores the importance of clarifying property rights: both locally and on a national scale. These systems must be defined in a participatory process that recognises customary systems of ownership and management rights to ecosystem services.

The Centre for Environment and Development was created in 1994 in response to the need for grassroots and independent voices to the policy reforms in the forest and environment sector in Cameroon and the Congo basin at that time. CED's overall goal articulates around the slogan "making sustainability a reality" - that is to ensure that interventions in forests are ecologically, socially and economically sustainable. Most of our work is based on people-centred conservation. [www.cedcameroun.org](http://www.cedcameroun.org)

<sup>52</sup> Rights and Resources Initiative and International Tropical Timber Organization (2009) Tropical Forest Tenure Assessment: Trends, Challenges and Opportunities, May, [http://www.rightsandresources.org/documents/files/doc\\_1075.pdf](http://www.rightsandresources.org/documents/files/doc_1075.pdf)

<sup>53</sup> Egbe ES (2001) The concept of community forestry under Cameroonian law. *Journal of African Law* 45: 25-50.

<sup>54</sup> Diaw C (1998) *Si, nda bot and ayong. Shifting cultivation, land uses and property rights in Southern Cameroon.* [www.odi.org.uk/resources/download/751.pdf](http://www.odi.org.uk/resources/download/751.pdf)

## Papua New Guinea



### Dreaming of 'sky money': how carbon-trading schemes are undermining indigenous peoples' rights

By Thomas Paka, PNG Ecoforestry Forum, Papua New Guinea and Grant Rosoman Greenpeace Australia Pacific

In Papua New Guinea (PNG), 94% of annual greenhouse gas emissions originate from deforestation and degradation, the highest proportion of any country in the world.<sup>55</sup>

55% of PNG's forests are in large blocks (over 500 km<sup>2</sup>) of minimally disturbed forest ecosystems known as Intact Forest Landscapes (IFLs). However, continued illegal and destructive logging and the conversion of forest areas into plantations could see much of PNG's commercially accessible tropical forests cleared or degraded by 2021. Customary ownership by local communities represents 97% of the total land area (46 million hectares), including all these forest areas.

The opportunities provided by REDD have gained international attention, and have instigated a gold rush<sup>56</sup> on projects aimed at trading savings in carbon emissions from forest protection. Commonly called 'sky money' in PNG, as it consists of payments for a part of the air, the promise of large payments has landowners dreaming of being rich and rushing to sign agreements they do not understand. A proliferation of agreements are being rushed through by so-called 'carbon cowboys' (the consultant brokers) in a race to lock in large forest areas.

PNG's constitution has one of the world's strongest customary rights frameworks, under its National Goals and Directive Principles, which reads: 'We declare our fourth goal to be for Papua New Guinea's natural resources and environment to be conserved and used for the collective benefit of us all, and be replenished for the benefit of future generations.'<sup>57</sup> Customary ownership is recognised in laws such as the Forestry Act 1991, Mining Act 1992, Lands Act 1996 and the Oil and Gas Act 1998, emphasising the importance of free, prior and informed consent from landowners. However, the speed and manner in which the new agreements are being forged tell a different story.

The government, while showing leadership on the international stage regarding REDD and climate change policy, has been in disarray domestically for the last two years, with flawed draft policies, the establishment and disestablishment of a Climate Change Office (and its CEO being sacked and investigated for corruption), in-fighting between government departments, simultaneous collusion with and opposition to the 'carbon cowboys', and generally poor leadership on behalf of the landowners and the forests.

#### Carbon-trading projects are undermining customary land rights

With REDD financing mechanisms being established around the world, there is an opportunity for the people of PNG to gain dramatically more by keeping their remaining forests intact, compared with the revenues the government and landowners currently receive, for example from industrial logging (the major forest degradation activity in PNG, affecting 16 million hectares).<sup>58</sup>

However, there is confusion as to what these payments would be for, and how carbon trading works. The concept of trading something that cannot be seen or touched without any actual physical exchange of goods is hard for local people to grasp. Many cannot believe that outsiders are willing to pay large sums for something they are told is inside the trees, without expecting anything in return other than that the trees remain standing. There are reports of village people believing that they must first convert the trees to CO<sup>2</sup> by burning them and bagging up the charcoal, and that they will be paid for the carbon they produce. Another version is that the CO<sup>2</sup> has to be put into bottles before it can be sold. Landowners commonly say they do not know what carbon is. 'We don't feel the carbon, we don't even see the carbon,' landowners in Lower Ramu told a TV crew. 'Carbon is just wind or air or something like this.'<sup>59</sup>

Therefore any 'informed'<sup>60</sup> decisions by indigenous landowners must be preceded by a considerable amount of awareness, information sharing, and participatory learning on a number of issues: the nature of climate change, greenhouse gases, the role of forests in providing environmental services including climate change mitigation, options for managing and gaining benefit from different forest values, carbon finance and carbon trading. Apart from a handful of 'elite' landowner representatives who live in the major cities and have had considerable interaction with government agencies, the carbon-brokers or NGOs, there has not been sufficient awareness and education provided to village-based landowners to meet an 'informed' test. On this issue alone, none of the forest carbon-



A PNG landowner making a statement at a meeting on carbon trading. © Thomas Paka/EFF

**“The promise of large payments has landowners dreaming of being rich and rushing to sign agreements they do not understand.”**

trading projects so far would be deemed to be respecting customary land-holder rights.

Secondly, given the lack of awareness, the only way these projects can proceed is with levels of coercion and 'incentives'. These practices are well known in PNG, as they are the same as those used by the logging industry. They use landowner 'elites' – who are usually not based in the village – to pressurise other landowners to give their support.

Then there are 'sitting fees and allowances', public payments for those who attend meetings and sign their clan lands<sup>61</sup> on to the carbon trade project.<sup>62</sup> In many cases landowner representatives are taken to the city, put up in luxurious hotels, and given alcohol, food, cash and goods to 'facilitate' the signing-on process. 'They are taking care of us and feeding us,' said a tribal leader from April Salome, Willie Maru. But when asked how much and when would they be paid for their forest carbon, leaders frequently did not know.

Sometimes there are claims that genuine landowners have been cheated into signing project agreements, as alleged by representatives from East Pangia: 'We the landowners question that there have been some suspicious and fishy deals in the carbon trade.'<sup>63</sup>

In more extreme cases landowners are threatened and forced to sign. In the largest area of remaining intact forest in PNG – the Kamula Doso area of Western PNG – a tribal leader was forced at gunpoint to sign away his lands to a REDD project. 'They came and got me in the night,' said Abilie Wape. 'Police came with a gun. They threatened me. They forced me to get in the vehicle. Then we came in the night to the hotel. ...

If I sign, then I am selling my birthright. But they told me, "You sign. ... Otherwise I'll get a police and lock you up."<sup>64</sup>

This is despite the Kamula Doso area being subject to a court injunction preventing carbon trade project development, and also being at the centre of a land dispute in process in the PNG courts.

These tactics create considerable tension and conflict within communities. Land conflicts due to logging are numerous and well documented, and the courts have a backlog of more than 700 such disputes that may take a decade to resolve. NGOs are aware that income-generating activities need to be halted when land disputes arise to avoid an escalation of conflict in a community. However, this has not deterred the carbon-brokers from pursuing these projects and promising landowners vast riches if they sign up.

**In addition to the awareness work that needs to be carried out with communities, there should be:**

- full genealogy processes to identify landowners as well as use rights-holders
- the establishment or strengthening of representative institutions in the community that can carry out the processes for free, prior and informed consent, and manage the benefits
- full participatory land-use planning that includes mapping lands, and setting out current and future uses and intentions
- clear information on what signing an agreement over carbon rights means for rights and future use
- a decision-making process based on traditional lines that requires more than 75% support before an agreement can be approved.

Normally this process would take at least two years, but the current processes are being completed in a matter of months.

### What benefits will there be for the customary landowners?

Leaked documents from the PNG Office of Climate Change (OCC) show that indigenous landowners may get very little from these carbon-trading deals. In the controversial April Salome case, the Executive Director of the OCC highlighted a benefit-sharing arrangement that has landowners getting 35% and the OCC 20%.<sup>65</sup> For the Kamula Doso area the OCC issued a certificate for 1 million tonnes of 'voluntary carbon credits' but without any indication of how the income would be shared.<sup>66</sup> The PNG government's policy approach has been to recognise customary land rights, but then to claim that all trade and management of carbon in relation to those rights will be controlled by the government.<sup>67</sup> This effectively nullifies the indigenous landowners' rights to manage the benefits from carbon traded from their forests. In the words of Adelbert Gagai, a landowner representative from the Oro province: 'This is not their forest and they cannot take it away from us. It belongs to us.'<sup>68</sup>

Most of the carbon trade projects are claiming they will meet the Voluntary Carbon Standards (VCS),<sup>69</sup> including a new standard developed for Improved Forest Management (IFM).<sup>70</sup> Unfortunately IFM is effectively a cover for logging and so-called Sustainable Forest Management (SFM),<sup>71</sup> where logging is carried out less destructively than by "business as usual" (BAU), and the carbon 'saved' is then sold. It is not known if landowners are aware of this, as the general understanding is that the forest will be protected in exchange for payments as well as benefit-sharing.

### Conclusion: the need for local solutions

So far, PNG's experience of REDD has demonstrated that strong land rights and legal protections on paper are not enough to ensure that forests are protected, nor that communities are able to benefit. Secure tenure rights are a necessary condition for communities to benefit from REDD, but are not sufficient on their own. Further safeguards are clearly needed, such as mandatory consultation processes and capacity-building of communities to understand and manage their carbon assets.

Other local arrangements for protecting forests have been also been proposed. One is a national scheme for Payments for Environmental Services (PES),<sup>72</sup> based on respecting customary rights, participation of communities and transparent

processes. Another is the proposed PNG Forest Fund,<sup>73</sup> modelled partly on Brazil's 'Amazon Fund', which would provide the financial incentives to prevent deforestation and promote the protection of biodiversity and the rights and livelihoods of forest-dependent communities. Both alternatives use a multi-stakeholder governance approach to provide an equitable benefit-sharing arrangement with a key focus on indigenous community rights and participation.

The Papua New Guinea Eco-forestry Forum is a not-for-profit non government organization. It is an umbrella organization that has a membership of more than 20 national and international organisations. The organization was formed in 1999 to represent the views of its members at the national policy making level and to disseminate useful information to build and enhance local capacity to help local communities and resource owners make informed decision. The overall goal of the Forum is to promote genuinely sustainable management of forests and good governance in the forestry sector. [www.ecoforestry.org.pg](http://www.ecoforestry.org.pg)

<sup>65</sup> 146 MtCO<sub>2</sub> eq in 2000, WRI (2008). Climate Analysis Indicators Tool (CAIT) Version 5.0 (Washington, DC: World Resources Institute (WRI). <http://cait.wri.org> .

<sup>66</sup> The numbers being promised by the 'carbon cowboys' and from rough estimates of carbon in PNG forests, multiplied by a carbon price, amount to billions of US dollars. Australian investment company Carbon Planet said it had carbon credits worth over A\$1 billion from 25 REDD projects already contracted in PNG (Carbon Planet powerpoint presentation, July 2009). The April Salome project was estimated to generate credits worth US\$50 million per month (April Salome, Sustainable Forest Management - Project Design Document. Voluntary Carbon Standard report, December 2008).

<sup>67</sup> Section 53 of the PNG Constitution calls for 'protection of unjust deprivation of property', which in this case includes land. Subsection 53(1) calls for just compensation to be made on just terms by the state, where it takes possession of land and not ownership.

<sup>68</sup> Greenpeace's 2008 document, Preserving Paradise - The Value of Protecting Papua New Guinea's Forest for Climate (p. 16), provides an analysis of income from logging compared with forest carbon losses.

<sup>69</sup> Al Jazeera documentary, 9 December 2009.

<sup>70</sup> As part of free, prior and informed consent.

<sup>71</sup> In PNG land is generally owned by the clan, and the legal process for establishing this is called Incorporated Land Groups (ILGs).

<sup>72</sup> See for example PNG Post Courier, 26 January 2010, 'Landowners paid sitting fees' (p. 3).

<sup>73</sup> Quote from real landowners of East Pangia (PNG Post Courier, 17 February 2010).

<sup>74</sup> Quote from SBS documentary 'PNG Climate Woes Continue', December 2009.

<sup>75</sup> Letter from Dr Theo Yasause, ED of OCC to PNG Prime Minister, 12 June 2008 (copy posted on [www.redd-monitor.org](http://www.redd-monitor.org)). The remainder of the benefits goes to the promoter (5%), a bond to cover forest degradation (20%), and a 20% 'Future Generation Tax'.

<sup>76</sup> Certificate - Series Number B1, dated 3 November 2008 (copy posted on [www.redd-monitor.org](http://www.redd-monitor.org))

<sup>77</sup> National Climate Change Policy Framework. PNG OCC, May 2009.

<sup>78</sup> Statement to the PNG Ecoforestry Forum Climate Change and REDD conference, November 2009, Port Moresby, PNG.

<sup>79</sup> [www.v-c-s.org](http://www.v-c-s.org)

<sup>80</sup> [www.v-c-s.org/docs/Guidance%20for%20AFOLU%20Projects.pdf](http://www.v-c-s.org/docs/Guidance%20for%20AFOLU%20Projects.pdf)

<sup>81</sup> Global Witness (2009) Vested Interests - Industrial Logging and Carbon in Tropical Forests, June; Rosoman G, Cotter J, Marahrens M (2009) Why Logging will not Save the Climate - the Fallacy of GHG Emission Reductions from So-Called SFM or RIL of Natural Forests. Greenpeace Research Laboratories Technical Note 07/2009, October.

<sup>82</sup> Trines E, Skutsch M, Dam P, eds (2008) Payments for Environmental Services in Papua New Guinea. Policy paper no. 3, November. (unpublished report)

<sup>83</sup> PNG National Forest Fund Proposal (2009). [www.greenpeace.org/australia/issues/deforestation/resource](http://www.greenpeace.org/australia/issues/deforestation/resource)

## 4 Community Management of Forests

Communities were managing their forests long before community forest management became the subject of formal study and policy-making in the late 1970s in South-East Asia and Africa. Since then, the inability of the state to control the degradation of forests has been widely recognised, resulting in numerous initiatives across the world to transfer forest areas to local communities. Known variously as Participatory Forest Management (PFM) or Community Forest Management (CFM), it devolves the control and management of forests from central government to community-level institutions. In some cases this involves the formal legal rights to the land; in others the land remains state property, with communities making use of forest products under agreed management plans. In most cases communities organise and regulate themselves.

The experience of community forestry is largely positive, with a growing body of evidence that the best way to combat deforestation is to give the responsibility for forest management to local communities. A recent analysis of 80 forest commons across ten countries shows that rule-making autonomy at the local level is associated with greater forest carbon storage and higher livelihood benefits.<sup>74</sup> Successful experiences with this approach, and the challenges of applying it under a REDD regime, are highlighted in these case studies presented by Accra Caucus members in Tanzania and Nepal.

The detail of how community forest management operates will vary depending on the type of forest and the drivers of deforestation. In some cases, it will require mechanisms to halt commercial and illegal logging by outsiders (through community patrols) and community members (through peer pressure and local accountability). In others, it will also reduce the impact of timber extraction for subsistence use through sustainable harvesting, agroforestry and promoting alternative livelihoods. Flexibility is key.

### Five benefits of community management of forests

There are many reasons why a community-based approach to forest management is the best way to successfully tackle the drivers to deforestation. First, Community Forest Management does effectively reduce deforestation and degradation. Communities have a vested interest in maintaining their forests and making sustainable use of products ranging from timber and fuelwood to foods, medicines and services such as watershed protection and, more recently, ecotourism. They also have local and ancestral knowledge which allows them to adopt specific practices for particular locations that are more effective than blanket 'scientific' approaches. Given the right support and incentives, communities can keep



forests standing, maintaining and enhancing the carbon stocks of forests, not to mention the many other benefits that forests provide.

Second, Community Forest Management can be far-reaching. Forest-dependent communities exist everywhere, and community management methodologies can be replicated across a wide area without the need to set up a large public-sector infrastructure. It is estimated that the proportion of forest under community management in developing countries is around 25% – <sup>75</sup> a figure that could be doubled or tripled with the right mix of policies and incentives, particularly in Africa where state control of forests predominates.

Third, Community Forest Management contributes to sustainable development and poverty reduction. It provides sources of income to community members both in the form of direct monetary returns and opportunities to diversify sources of livelihood based on forest products and services. Through protecting the environment, it brings ecological benefits such as safeguarding watersheds and biodiversity. Thus CFM strengthens the three pillars of sustainability: economic, social and environmental.

Fourth, community forestry fosters good governance, accountability and gender equity. Generally, local communities practise participatory decision-making and operate benefit-sharing and accountability mechanisms. Village forest management committees are elected by the village assembly and are responsible for ensuring that the forest is managed for the benefit of the whole community. Where committee members abuse their powers, they are removed from the committee, fined, and even jailed (as in the case study from Tanzania). As the case of Nepal indicates, gender equality can be promoted by ensuring participation of women at all levels and in all activities.

Finally, Community Forest Management is just. Forest communities have traditionally been custodians of the forest. Many indigenous communities have deep spiritual and cultural links with, and respect for, the forest. Their role in protecting the forest for the common good should be recognised and rewarded through formalising their rights to the forest.

#### Successful community management of forests requires a supporting policy environment

CFM will not happen in isolation, however. It needs to be supported through appropriate guarantees, incentives and regulation, as the case studies below highlight. Although there have been timid efforts to promote community involvement in REDD,<sup>76</sup> funding and requirements

for REDD may in fact undermine the very decentralisation that encourages community forest management. There is a critical need for clarification of land rights, which are often ambiguous at best and leave open the possibility of manipulation and capture of the benefits by elites. It is also crucial for an enabling state administration to support rather than hinder decentralised community forestry. As policies to reduce deforestation need to apply to a whole nation's forest and be administered nationally, efficient systems are needed to ensure that benefits reach the local level. This includes developing a coherent and coordinated approach between different areas of government. It needs to combine both top-down and bottom-up approaches, striking the right balance between the needs of administering a national system and empowering communities to organise themselves using their own institutions.

Community Forest Management is recognised as the best way to protect forests, and as such has a significant role to play. However, the challenges of controlling deforestation are also extremely complex, and there is potential for much confusion, exploitation and forest destruction. It is not simply a case of handing over power to local communities and telling them to 'get on with it', leaving them vulnerable to profiteering project developers and poorly informed local officials. Cooperation between local communities and the state will be the hallmark of successful efforts to reduce deforestation through CFM.

<sup>74</sup> Chazdon RL (2008) Beyond deforestation: restoring forests and ecosystem services on degraded lands. *Science* 320: 1458–60.

<sup>75</sup> Larson AM, Barry D, Dahal GR, Pierce Colfer CJ, eds (2010) *Forests for People: Community Rights and Forest Tenure Reform*. Earthscan.

<sup>76</sup> Wertz-Kanounnikoff S, Kongphan-Apirak MK (2009) Emerging REDD+: A Preliminary Survey of Demonstration and Readiness Activities. Working Paper 46, Center for International Forestry, Bogor, Indonesia; [www.cifor.cgiar.org/publications/pdf\\_files/WPapers/WP46Wertz-Kanounnikoff.pdf](http://www.cifor.cgiar.org/publications/pdf_files/WPapers/WP46Wertz-Kanounnikoff.pdf)

## Tanzania



### Making REDD work for people and forests - lessons from participatory forest management

By Charles Meshack, Tom Blomley and Nike Doggart of Tanzania Forest Conservation Group (TFCG), and Rahima Njaidi for the Tanzanian Network of Community Forest Associations/Shirikisho la Mtandao wa Jamii wa Usimamizi Misitū, (MJUMITA)

The growth in Tanzania's population has contributed to the expansion of smallholder agriculture and increased demand for forest products such as charcoal. Forests provide over 90% of the national energy supply through fuelwood and charcoal, and 75% of construction materials; but the forests are threatened by illegal logging, fire, and insecure land tenure systems.

Tanzania is widely considered to have one of Africa's most advanced and progressive legal frameworks for participatory forestry. The Forest Act 2002 provided a clear legal basis for communities, groups and individuals across mainland Tanzania to own, manage or co-manage forests.

There are two forms of participatory forest management (PFM). Community-Based Forest Management (CBFM) is the most widespread, both in terms of the number of participating villages and in the total area covered. Under CBFM, villagers are both owners and managers of their forests. While they have to bear all the costs, all benefits from harvesting and using the forests are retained and shared at the village level. This contrasts with Joint Forest Management (JFM) where communities manage forests, but are not the owners, and their rights and benefits are often uncertain or insecure.

Supported strongly by national and local government, and assisted by a number of bilateral and multilateral development partners, by October 2008 the estimated total area of forest covered by Participatory Forest Management (PFM) arrangements was 4.1 million hectares (around 13% of the total forest area), involving over 2300 villages in 63 districts.

The deforestation rate is approximately 1.2 % per year, with Tanzania losing approximately 412,000 hectares of forest annually, mostly from forests on village land. Annual rates of deforestation in some



Communities protecting forests, Tanzania  
© Charles Leonard Meshack

of Tanzania's high-biodiversity coastal forests can be as much 5%.

#### Participatory management reduces deforestation and forest degradation

Independent studies have confirmed that PFM offers improvements in forest management when compared with areas under direct state management. A study carried out in the forests in the region of the Uluguru Mountains of Eastern Tanzania compared six forests under Joint Forest Management (JFM) and six forests under exclusive state management. It found that the JFM forests had higher numbers of live trees and naturally dead trees. There were 68% fewer instances of timber trees being freshly cut, and 34% more timber trees standing than state-managed forests. The incidence of fire was six times higher in the latter.<sup>77</sup>

Other studies have shown that the greater the devolution of forest management responsibilities from the state to local levels, the greater the benefits. A study carried out in the forests of the West Usambara Mountains of north-eastern Tanzania compared indicators of forest structure and disturbance between similar forests under communal management (CBFM), joint management (JFM) and exclusive state management. Greater tenure security and institutional autonomy of the CBFM forest contributed to more effective management and less illegal logging, while overall levels of forest disturbance were higher in the JFM and state-managed forests.<sup>78</sup>

### Community forests benefits livelihoods

The introduction of PFM at community level has produced tangible benefits such as income from the sale of forest products (e.g. timber, firewood, charcoal and honey), sustainable supplies of household products (firewood and building poles), the conservation and maintenance of water sources, and in some cases additional benefits from ecotourism.

Despite this, communities face significant costs when embarking on PFM. Many of the forests that were handed over to communities were in a very poor state, so the primary focus of many communities has been to gain control over their forest (through patrolling and protection) and to restore forests to a manageable condition. This takes time, during which opportunities for benefiting directly from harvesting of timber products are limited. Furthermore, the high conservation status of many forests being managed under PFM means that extractive use options are very limited. Also many communities in Tanzania have encountered increased costs over time, as populations of wild animals (such as monkeys, baboons and antelopes) benefit from the increased habitat protection, and raid or damage crops planted near the forest boundary.

In such cases, management costs may exceed benefits. REDD incentives could provide valuable income directly to community level managers to support long-term forest management and protection.

### Participatory Forest Management improves local governance and accountability

CBFM provides a legally recognised framework for village governments to gain secure tenure over forests on their land. Once the village assembly (made up of all adult residents within the village) approves the bylaws, forest boundary, management plan and the membership of the village forest management committee, the village forest is 'declared' and becomes a legally recognised entity. A further benefit is improved local governance and accountability. Village forest management committees are elected by the village assembly and are responsible for ensuring that the village forest is managed for the benefit of all members of the community. Where powers have been abused (for example by committee members stealing money from the forest account), they can be removed from the committee, fined, and/or jailed (see Box 4).

PFM processes work best when forest users are able to take part in decisions regarding how their forests will be managed and by whom. Ensuring that the elected management committee is accountable to forest users (for example

**“Studies have shown that the greater the devolution of forest management responsibilities from the state to local levels, the greater the benefits.”**

through public meetings, information-sharing and publication of accounts) is another crucial element for ensuring that the benefits of PFM are shared fairly.

#### Box 4: Villagers convict their leaders of local-level forest crime

While undertaking routine patrols in Suledo Forest, village guards discovered a local businessman harvesting timber. When challenged, the businessman presented a 'letter of permission' that had been issued (illegally) by the Village Executive Officer (VEO), authorising the harvesting. At this time, all villages had agreed a total ban on harvesting to allow the forest to recover from heavy harvesting. The timber and harvesting equipment were impounded by the villagers and sold at auction; the VEO was arrested, dismissed from his job and sentenced to six months in prison.

#### Lessons from PFM for REDD

Because of the positive impacts that are now being seen both on livelihoods as well as reducing emissions of greenhouse gases caused by deforestation, there is growing interest in using PFM as an institutional framework for REDD in Tanzania. This is a great opportunity for communities, as long as a number of potential threats are addressed, as detailed below.

#### Safeguarding multiple benefits

Natural forests provide multiple benefits and services to communities including food, energy, soil conservation, medicinal plants, non-timber and timber forest products and water quality protection. Given the definition of forests currently used by the UNFCCC, there is a risk that REDD may lead to the replacement of natural forests with exotic plantations that might

nominally have a higher carbon stock. This would affect the multiple services that forests provide to rural communities as well as threatening Tanzania's forest biodiversity. It is essential that any international agreement on REDD includes safeguards that recognise and protect biodiversity and the multi-purpose function of forests to local people.

#### Ensuring equity

When PFM processes are well facilitated, they can result in improvements in village-level governance and accountability. However, there are many examples where the process has been rushed and the general public are not informed or consulted. In such cases it is easy for a village management committee to capture the benefits of forest management at the expense of the other villagers. As the committee often consists of the wealthier and more literate members of the community, the rich tend to become richer, the poor poorer.

Time and resources must be invested in ensuring that community members understand the proposals behind potential REDD payments, the problems if these payments are based on offsetting emissions in industrialised countries, and the benefits if payments can equitably build community-managed forests.

#### Reducing transaction costs

Forests managed under PFM tend to be of very different sizes in many cases are in inaccessible areas. This means that if each forest were to be included in a REDD programme individually, the transaction costs of ensuring that REDD payments reach the poor could exceed the payment value. If REDD funds are to benefit communities under PFM arrangements, it will be necessary to reduce costs through aggregating individual forest areas and collective promotion. One option currently being explored by the Tanzania Forest Conservation Group and MJUMITA is the establishment of a 'carbon cooperative', owned and managed on behalf of its members, the village-level forest managers, as a way to ensure equitable distribution of benefits.

#### Conclusion

Tanzania's experience has shown that community-level forest managers provide an invaluable global service by maintaining forests which reduce emissions of greenhouse gases from deforestation, along with all the other multiple benefits that forests provide. In recognition of this they have the right to be compensated for maintaining and restoring forests. The case of Tanzania shows that if this is through the sale of forest carbon, the risk of recentralisation of

power over forest use decisions increases. Hence strengthening and expanding policy changes that give communities control over decisions affecting forest use is an essential precondition for reducing deforestation and degradation.

It also requires transparent and accountable systems to be established at village level, allowing the benefits from REDD to be shared, and preventing the problem of richer members of the community benefiting from PFM at the expense of poorer ones.

TFCG, the Tanzania Forest Conservation Group, is the largest Tanzanian non-governmental organisation focusing on the conservation of natural forests, in ways that are sustainable and foster participation, co-operation and partnership. [www.tfcg.org](http://www.tfcg.org)

Mjumita, the Federation of Community Forest Conservation Networks in Tanzania, works with women, men and children who live adjacent to forest reserves on the management and conservation of forests for the benefit of the present and future generations. [www.mjumita.org](http://www.mjumita.org)

<sup>77</sup> Blomley T, Pflieger K, Isango J, Zahabu E, Ahrends A, Burgess N (2008) Seeing the wood for the trees: an assessment of the impact of participatory forest management on forest condition in Tanzania. *Fauna & Flora International, Oryx* 42: 380-391.

<sup>78</sup> Persha L, Blomley T (2009) Management decentralization and montane forest condition in Tanzania. *Conservation Biology* 23: 1485-96.



## Is Community Forest Management the most viable option for implementing REDD+?

By Bhola Bhattarai, Nabaraj Dahal and Rijan Tamraka from the Federation of Community Forestry Users Nepal (FECOFUN) and Practical Solution, Nepal

### Background

Some 21% of Nepal's forests are managed by communities, and another 15% are managed by the state as protected areas. The remainder are legally owned by the state but with no effective institutional arrangements to regulate their use, protect the forest and exclude the non-users. Hence they are de facto open-access resources, and are the primary areas of deforestation and degradation.

The 1.2 million hectares under the community forest regime are managed by over 14,000 community forest user groups (CFUGs), providing benefits to more than 1.6 million households. This programme has resulted in rural communities gaining increased access to forest resources, together with improvements in biodiversity and landscape values and improved livelihoods.

### The drivers of deforestation and forest degradation

The rate of forest degradation in Nepal is reported to be about five times higher than the rate of deforestation (8% and 1.6% respectively between 1979 and 1994).

The drivers of deforestation and forest degradation are complex and in most cases operate together, making them difficult to control. They include high demand for forest products (including wood for fuel and construction); illegal logging, especially in border regions; encroachment and settlement for agricultural purposes; and forest fires, many of which are caused intentionally for the purposes of hunting, regeneration of grass and extraction of forest products.

While there is some direct action against all these drivers, a wider approach needs to tackle the underlying causes, with more action in the areas of:

- economic policy: to address the opportunity cost of forest, public investment, pricing of forest products and agricultural crops, and tackling poverty
- governance: including corruption, land reform, institutional vacuum of forest management, law enforcement and judicial delays and confusions, property rights
- social education: to confront factors such as rent-seeking behaviour and cultural attitudes towards public property.

### The impact of Community Forest Management

Community Forest Management (CFM) has proved to be effective in addressing the drivers of deforestation and degradation in Nepal, and enhancing the carbon stock.<sup>79</sup>

#### Box 5: How CFM helps the forests

A study assessing the management and condition of community forests in four eastern hill districts in Nepal from 1994 to 1997 showed improvements in a number of key productivity indicators. There was a lower level of grazing in Community Forest than in National Forest, and incidence of fire and illicit felling is also lower. The proportion of 'active' forest management increased from 3% to 19% and 'no forest management' decreased from 97% to 43%. Regarding forest product utilisation, 43% of CFUGs are harvesting more timber and 14% are harvesting less than before the formation of CFUGs. Similarly, 87% of CFUGs are harvesting fuelwood and 47% are harvesting timber at levels lower than the productive capacity of the forest.

Along with the improvement of forest stock, CFM improves the livelihood of local communities and indigenous communities involved. Using data extrapolated from twelve hill and Terai districts in 2002, it is estimated that community forestry yields an annual income of NRs 747 million (US\$ 10 million). This income was mostly used for community development, forest management, CFUG operation, and pro-poor livelihood programme. CFM has contributed to infrastructure development, promoting alternative sources of income and developing forest-based enterprises.

#### Box 6: How communities benefit from CFM

With the introduction of CFM in Dolakha districts since 1990, CFUGs have involved themselves in building community development infrastructure where they spend amounts ranging from NRs 500 to 200,000 (US\$7–2800). They have also promoted alternative income-generating

activities like goat-rearing, bee-farming, vermicompost preparation, and cultivation of non-timber forest products; allocated land to poor users for sustenance; initiated micro-finance programmes; supported schools and provision of scholarships to poor students; established forest enterprises; and developed links with other organisations.

Community forestry has also been able to drive social mobilisation and the practice of good governance in local communities. In general CFUGs practise participatory decision-making and operate benefit-sharing mechanisms. Gender equality is promoted by ensuring compulsory participation of women in all the activities of CFUGs, including representation in the executive committee and other sub-committees; indeed some 5% of CFUGs committees are all-female.

Thus the multiple benefits of CFM include improving the economic status of the community, local environmental conditions, and the social status and livelihoods of the people.

For countries like Nepal (which already has an effective mechanism for involving local communities, women, marginalised groups and disadvantaged people) the REDD+ policy of awarding credits for reducing emissions from deforestation and forest degradation and forest enhancement should be directed towards Community Forest Management. This needs to be backed up by other policies and strategies in order to ensure control of deforestation and forest degradation by communities.

### Major issues to be addressed for the implementation of REDD+ in community forestry

For Community Forest Management to be an effective way of reducing carbon emissions, several policy, governance and institutional issues need to be addressed. At the national level, payments to reduce deforestation may be hampered by policies relating to overlapping rights over forest products, overlapping rights over coordinating carbon payments, and unclear federal structure. Therefore national legislation ought to make it clear that ownership of carbon from community forests remains with the communities, and these rules must not contradict other Acts. There should also be clear provision of carbon management and ownership in each Operational Plan of each CFUG.

As Nepal is undergoing a state restructuring process, the new structure (most probably federal) should maintain and strengthen community forests. There must be clarification about the problems of carbon accounting and baseline construction in international policy discussions, which undermine the environmental

integrity of REDD; systems such as Payments for Environmental Services (PES) and community trust accounts, financed through international REDD funds, provide the best opportunity to reward communities for maintaining and restoring forests.

### Conclusions

Community forests are a vehicle for social change. CFM has not only helped to improve the condition of forests: it has also promoted social inclusion, gender equality, equitable benefit-sharing and good governance. National data show that national forests are more prone to deforestation and forest degradation as government suffers from corruption, the institutional vacuum of forest management, law enforcement and judicial delays. This is not to undermine the capacity and legitimacy of government, but to recognise the reality of the role that the civil society and local communities can play in reducing deforestation and forest degradation. Hence national forest areas handed over to communities with communal rights will be more successful in avoided deforestation and forest degradation, with reduced carbon emissions as a co-benefit.

CFM is a successful model for REDD implementation to follow. It can contribute to expanding sustainable forest management practices in areas with high rates of deforestation and forest degradation. Incentives to ensure that the forest communities are recognised as the rightful owners of the forests, and compensated accordingly through systems such as PES, would ensure the forest is managed sustainably, as already evident from the experience of CFM in Nepal.

FECOFUN and other civil society organisations in Nepal are actively campaigning for an increase in the forest area under community management from the current 21% to over 60%.

FECOFUN, the Federation of Community Forest Users, Nepal is a social movement organization dedicated to promoting and protecting forest users' rights. [www.fecofun.org](http://www.fecofun.org)

Practical Solution Nepal is a national level NGO working on environment, climate change and REDD issues from national to local level with rural communities in Nepal.

<sup>79</sup> Field survey data on biomass change over four years at three different sites in the mid-hills and high-hills of the Himalayan region showed the annual increment of carbon sequestration to be 7.04 tCO<sub>2</sub> per hectare per year, excluding increase in soil organic carbon.

# 5 Conclusion

There is little doubt that climate change will affect us all, and its effects are already being felt by many, widening the gap between the powerful and the disempowered. Our response must be guided by the knowledge that those who have contributed the least to climate change are those who will be affected the most.<sup>80</sup> Governments must show leadership and agree a fair, ambitious and binding global agreement to sharply reduce greenhouse gas emissions under the UNFCCC. Developed countries must not outsource the necessary emissions cuts to developing countries through the carbon market or other offset schemes. And schemes to reduce deforestation will not work if they are not based on addressing the underlying causes of deforestation – global demand for land and timber, poor forest governance in many tropical countries and lack of secure rights. If safeguards are not in place REDD will further marginalize those who depend on forests, and will neither benefit the climate nor humankind in the longer run.

Although negotiations about REDD are still ongoing in the UNFCCC, preparation for REDD is already getting under way in many countries. Governments must demonstrate genuine political will to combat the vested interests that are threatening to allow increased international attention on forests to do more harm than good. Initiatives to reduce deforestation must benefit the climate and global ecosystem, while ensuring the human rights of present and future generations are respected, particularly the rights of those depending on forests for their livelihoods.

The case studies from the Accra Caucus, gathered in this report, have shown what the elements of a rights-based approach to reducing deforestation would be and why such an approach is now long overdue. Analysis of the case studies shows that the full and effective participation of forest communities is a key condition for tackling the economic forces and institutional biases which lead to deforestation.

In order for full and effective participation to take place, there must be effective and functioning platforms which enable indigenous peoples, civil society and, specifically, local forest-dependent communities to bring their concerns to the attention of decision-makers at a national level. A proper consultation process will improve policy outcomes and enhance trust between governments and other stakeholders. Conversely, rushed processes and the use of arbitrary deadlines, will fail to address the concerns and rights of indigenous peoples and local forest-dwellers, lead to ineffective policies, and breed conflict.<sup>81</sup> National policies to tackle deforestation must be based on a genuine intention to establish consent, rather than to legitimise processes

with predetermined conclusions. As the case of Indonesia demonstrates, it is all too easy for REDD processes simply to replicate the inequities of the status quo.

Civil society organisations have a key role to play in ensuring that those directly affected by policy proposals can be involved in the decision making process. The case studies of DRC and Ecuador demonstrate that even well-intentioned government-led processes or constitutional frameworks may not achieve a high enough level of consultation and participation to ensure that proposals and plans are rooted in the local context. Respecting the principle of free, prior and informed consent involves ensuring that rights-holders have the information they need about what REDD is and how it will affect them. The PNG case study serves as a warning about what can happen when genuine consultation and information sharing does not occur.

As payments for avoided deforestation will be linked to forest ownership, a crucial step must be to formalise the rights of forest-dependent communities and indigenous peoples to their land, territories and natural resources. This is well illustrated in the contrasting case studies from Brazil and Cameroon. Furthermore, ensuring that the land rights of indigenous and forest-dependent communities are secure opens the way to effective community forest management, an approach that, when properly implemented, effectively reduces deforestation and shares the benefits equitably between forest custodians. The experience of Nepal and Tanzania are testimony to this.

Because of the variety of contexts and the differences between forest nations, there is no single recipe for successfully combating deforestation. As this report has sought to demonstrate, however, there are common ingredients that are necessary in all cases: a rights-based approach with **full participation** of forest-dependent communities, **security of land tenure**, and the **community management** of forests.

REDD started out as a historical opportunity to halt deforestation due to the unprecedented interest in protecting forests at a high political level. It has become clear that poorly managed and regulated, REDD also poses a threat that could undermine the rights of indigenous peoples.

Drawing from the real-life experiences of forest-dependent communities and other civil-society organisations concerned with rights and environmental issues, the Accra Caucus for Forests and Climate Change believes that an international agreement to protect forests

**“An international agreement to protect forests should address the drivers of deforestation, confront the forces that seek to destroy forests, and empower the communities who are best placed to protect, maintain and enhance them.”**

will only be effective if it focuses its attention beyond carbon and finance. It should concentrate on addressing the drivers of deforestation, confronting the forces that seek to destroy forests, and empowering the communities who are best placed to protect, maintain and enhance them.

<sup>80</sup> UNPFII (2008) Impact of Climate Change Mitigation Measures on Indigenous Peoples and on Their Territories and Lands. Submitted by Victoria Tauli-Corpus and Aqpaluk Lyng, Forum members. E/C.19/2008/1081 Forest Peoples Programme (2009) Moving the Goal Posts? Accountability Failures of the World Bank's Forest Carbon Partnership Facility (FCPF). Rights, Forests and Climate Briefing Series.

**The Accra Caucus on Forests and Climate Change is a network of southern and northern NGOs representing around 100 civil society and Indigenous Peoples' organizations from 38 countries, formed at the United Nations Framework Convention on Climate Change (UNFCCC) meeting in Accra, Ghana in 2008. The Caucus works to place the rights of indigenous and forest communities at the centre of negotiations on Reducing Emissions from Deforestation and Degradation (REDD), and to ensure that efforts to reduce deforestation promote good governance and are not a substitute for emission reductions in industrialised countries.**

In this report the Caucus proposes an alternative vision for achieving the objective of reducing deforestation, arguing for policies and actions that would tackle the drivers of deforestation, rather than focusing exclusively on carbon. Drawing on case studies from organisations with experience of working with forest communities, the report highlights problems linked to the implementation of REDD and suggests ways in which policies to reduce deforestation can actually work on the ground. Through case studies from selected countries the report highlights three critical components: full and effective participation (Indonesia, Ecuador, Democratic Republic of Congo); secured and equitable land rights (Brazil, Cameroon, Papua New Guinea) and community-based forest management (Tanzania, Nepal).

ISBN: 978-1-906131-09-8

