

FPP E-Newsletter: December 2012



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Cover photo: Village representative showing map of customary lands within the Koh Kong concession in Cambodia from which local communities have been evicted © Sophie Chao

Dear Friends,

The importance of ensuring respect for the rights of forest peoples' to control their forests, lands and livelihoods, becomes ever clearer and yet more contested. As the articles in this edition of our newsletter starkly reveal, land and resource grabs are not just being imposed by commercial developers but are being actively promoted by governments, whose principle responsibility should be to protect the rights of citizens. Yet these same impositions are also being resisted, sometimes at great personal cost, by local communities and indigenous peoples.

In Peru, the government has given the green light to a new extension of oil and gas exploration into rainforest areas that the same government has set aside to protect the rights of uncontacted indigenous peoples, known to be extremely vulnerable to introduced diseases. The measure is not only being contested by indigenous peoples' organisations but has also been criticised by international human rights bodies. In other parts of Peru, social media are being mobilised by indigenous peoples to strengthen their protests against proposed road construction programmes that they fear will open up their forests to yet more land grabbing.

In Liberia, impacted communities from several parts of the country have issued a Declaration against the takeover of their land by palm oil developers, demanding that their rights to their lands and to free, prior and informed consent must be respected. Current contracts between the Government and the palm oil companies explicitly override such rights. In Cameroon, despite strong civil society pressure, the government continues to resist changing the Forest Code so that it would secure indigenous peoples' and communities rights in forests. In Guatemala, as a guest article recounts, while peasants and indigenous peoples struggle to regain their farmlands and forests expropriated in the colonial era, new mining and logging ventures are causing yet more land to be taken. Forced evictions, police repression and even killings of those who resist are reported.

Building resistance to violations and discrimination has to start from the ground up. While we continue our rights awareness work – including on the rights of indigenous women in Uganda - it is encouraging to report that the Human Rights Commissions in Southeast Asia have now called on the ASEAN Intergovernmental Commission on Human Rights and member states to secure people's rights in the face of land grabs by agribusiness.

Given the global consensus that exists that 'sustainable development' requires respect for rights it is particularly galling to note that both the African Development Bank and government parties to the Convention on Biological Diversity still lag far behind other intergovernmental agencies in their reluctance to recognise indigenous peoples' rights.

One way to interpret these continuing conflicts and backsliding is to conclude that we are doomed to an endless cycle of ignorance, backed by vested interest, and the repetition of abuse. Yet, the fact that such outrages are being made more and more visible and contested by those suffering the consequences is also a source of hope. Increasingly, land and resources grabs and the denial of forest peoples' rights are seen as unacceptable both in human rights law and in policy. Our global campaign for justice for forest peoples has to continue and States obliged to respect their rights. The words of St Augustine in his work 'City of God' come back to me: 'Justice being taken away, then, what are kingdoms but great robberies?'

Marcus Colchester, Director

1. Civil society raises serious concerns about Cameroon's draft revised Forest Code

Cameroon's 1994 Forest Code is being reformed and civil society has serious and urgent concerns about the process by which the reforms are taking place and the content of the draft reform proposals.

The Forest Code is the central legal instrument setting out rules regulating relations, rights, and obligations with respect to forests and wildlife. Contrary to Cameroon's international obligations, the 1994 Code does not recognise the rights of indigenous peoples to the lands, territories, and resources they have traditionally owned, occupied or otherwise used and acquired. It also fails to adequately protect the many interconnected social and economic rights relied on by the cultures and livelihoods of a range of forest-based communities and peoples, such as rights to food and protection from involuntary displacement. The reform of the Forest Code is an opportunity to redress these failures by recognising the rights of indigenous peoples, but the process by which the Code is being reviewed and the content of the draft reform proposals raise serious and urgent concerns as to the government's commitment to respecting the rights of indigenous peoples and other forest-based communities in respect of their lands and resources.

Process

National civil society groups are concerned that the timetable for these legal revisions, and the manner and process via which civil society and forest community are consulted, remains entirely unclear.

Civil society has at best only received informal reassurances that they will be consulted in due course. In the meantime, closed meetings in relation to the new Forest Code have taken place, to which national civil society were not invited. No open meetings have been advertised to which civil society would be invited to participate.

While it is good that stakeholders including civil society were given ample time to submit proposals for reform *before* any draft was produced, a first draft of the revised Forest Code has only recently been made public, and we now learn that the Ministry of Forestry and Wildlife (MINFOF) has completed a second, and now even a third version of the Forest Code, without communities or civil society being properly informed, consulted or otherwise involved.

The government's rapid, successive, and seemingly ad hoc, release of formal reform proposals have frustrated civil society's ability to analyse the draft provisions and

develop a collective response. It has also proceeded without consulting the rights-holders themselves: forest communities and indigenous peoples. Under current government plans (or the lack of them), very little time is being made available and no (or no apparent) resources or consultative process and structure are being put in place to ensure the adequate consultation of either communities or civil society, which is the legal duty of the government. It is deplorable that a third draft of the Forest Code was released before civil society even had the chance to provide comments on the first draft, let alone the second. As a result, forest communities and indigenous peoples are at risk of being further marginalised and discriminated against by the existing reform process.



Forest near Lomie, Eastern Cameroon © Justin Kenrick

Content

Despite the limited time and resources available, a preliminary analysis of a third draft of the Forest Code has identified serious shortcomings.

The underlying assumption of the draft reform proposals continues to be that communities have only usage rights over forest lands and resources, rather than meaningful control and property rights over customary forests and resources, which instead remain under the control and ownership of the state.

The law therefore remains inconsistent with international law, which attributes full property rights to indigenous and tribal peoples over the lands and resources that they have traditionally owned, occupied or otherwise used or acquired. While provisions for community forestry, hunting and protected areas have some benefit for communities with the capacity to satisfy the necessary administrative hurdles, they are clearly intended to cover a small minority of forest areas. They therefore wholly fail to mitigate the de jure dispossession of communities from customary forest lands and resources implied by this law, leaving the latest draft incompatible with international human rights law.

The law does contain some limited reference to

consultation and participation by communities, including the statement that vulnerable social groups 'are taken into account' in forest management. However this perpetuates the current model of forest management which fails to give real control and ownership to communities to set their own development priorities over customary forest lands and resources which for them are essential for food, homes, livelihoods and in many cases for maintaining their very physical and cultural survival. Moreover, the current draft lacks clear, accessible and participatory procedures (such as the right to free, prior and informed consent) to guarantee the procedural safeguards necessary to protect the rights of communities as required by international law.

Under Article 45 of the Cameroon Constitution, domestic laws must be revised so as to be consistent with international law. Of immediate relevance is the UN Committee on the Convention on the Elimination of all forms of Discrimination's (CERD's) 2010 concluding observations that it *'regrets that the land ownership legislation in force does not take into account the traditions, customs and land tenure systems of indigenous peoples, or their way of life'* and recommends that Cameroon *'take urgent and adequate measures to protect and strengthen the rights of indigenous peoples to land'*. These recommendations are reflected in recent concluding observations of the African Commission on Human & Peoples Rights (May 2010) and the UN Committee on Economic, Social and Cultural Rights (January 2012). Although the draft code is of course a law relating to forests rather than land per se, its implications for forest lands means that it must be consistent with relevant international laws and jurisprudence, such as mentioned above, on rights relating to forest land and resources.

The Voluntary Partnership Agreement (VPA) agreed between the EU and the Government of Cameroon under the FLEGT (Forest Law Enforcement, Governance and Trade) mechanism is currently in the process of being implemented by a series of institutional, legal and other governance reforms. Of the many reforms committed to by the government in the VPA is integration of international law into domestic legal framework relevant to forests. Since the Forest Code is the fundamental legislative back-bone relating to forests and forest governance, a failure to ensure that the reform process and content of the new forest code respects international law would undermine the legality and legitimacy of VPA implementation in Cameroon. It would also set a precedent for FLEGT-VPA processes in other countries negotiating or implementing VPAs in the African region and beyond.

Ultimately there is an urgent need to take the vital *process* steps outlined above to ensure meaningful participation of indigenous peoples in the law reform process going forward *before* it is finalised by the Prime Minister's office and the Parliament, so that the *substance* of the law reflects the rights and needs of those who will be most affected by it.

2. Indigenous organisations oppose Camisea expansion as Peru postpones decision to create new concession

On 2 November four Peruvian indigenous organisations issued a statement opposing recently-approved plans to expand operations in the Camisea gas fields¹ in the south-east of the country which would threaten the 'physical and cultural survival' of indigenous peoples in 'voluntary isolation' and initial contact. This expansion is scheduled to take place within the Kugapakori-Nahua-Nanti Reserve for isolated peoples which is supposed to be off-limits to extractive industries. However, earlier this year an Environmental Impact Assessment (EIA) for the first phase of expansion was approved by Peru's Ministry of Energy and Mines, despite being challenged by the government's indigenous affairs department, INDEPA, and questioned by indigenous organisations.

The [statement](#)², written by the indigenous organisations AIDSESEP, FENAMAD, ORAU and COMARU said that:

Promoting investments in energy projects does not have to violate the fundamental rights of indigenous peoples in isolation or initial contact, who, as has been made clear by the contact forced on them in recent years, are extremely vulnerable... Although it is necessary to meet the national demand for energy over the coming decades, this must be done in accordance with social and environmental obligations and respecting the rights of the most vulnerable indigenous peoples, as stipulated in our Constitution, the International Labour Organization's Convention 169, and the United Nations' Declaration on the Rights of Indigenous Peoples. We urge the government to establish policies protecting isolated peoples that are based on respect for indigenous Amazonians' view of the world rather than the extraction of natural resources.

Three days later, at a hearing at the Inter-American Commission on Human Rights in Washington D.C., the expansion of operations in Camisea was condemned by FENAMAD's president Jaime Corisepa. The hearing

¹ <http://www.forestpeoples.org/topics/extractive-industries/news/2012/07/peruvian-government-brink-expanding-oil-and-gas-development>

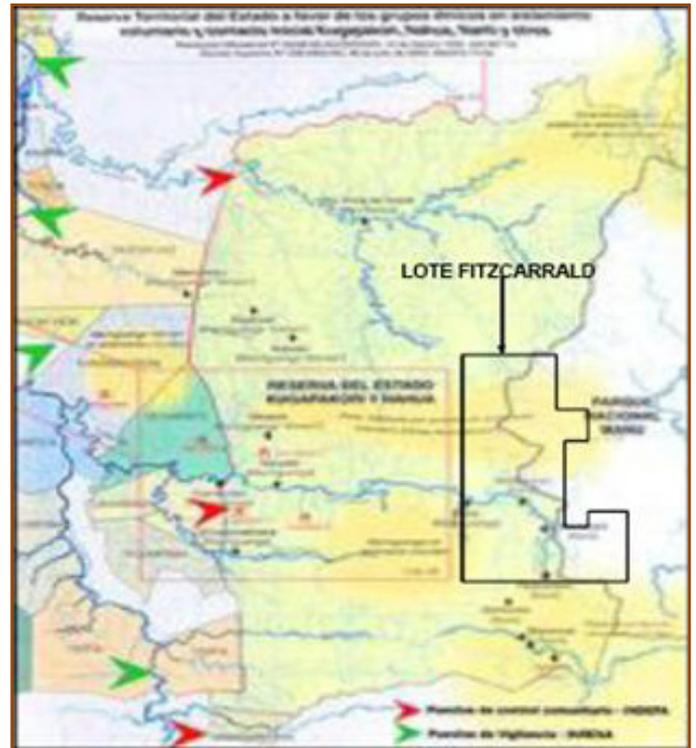
² <http://www.aideseep.org.pe/aideseep-and-regional-organizations-reject-perus-isolated-peoples-policy/>

was about 'isolated' peoples across the continent, but Corisepa placed special emphasis on his home country: 'I want to go into most detail about Peru,' he told the Commission. 'For example, there is the Kugapakori-Nahua-Nanti Territorial Reserve which has been given legal recognition by the state, but has been superimposed by oil and gas operations for more than twenty years.'

The 2 November statement follows [one in August](#)³ by the same four organisations voicing their opposition to the creation of an entirely new concession, Lot Fitzcarrald, to the east of Lot 88, and a [letter](#)⁴ concerning both lots to three United Nations Special Rapporteurs earlier the same month. Lot Fitzcarrald threatens to open up even more of the Reserve to gas exploitation as well as part of Manu National Park, a UNESCO World Heritage site, which prompted UNESCO to lobby Peru's government stressing that oil and gas exploration is not compatible with World Heritage sites⁵. In April, Peru's Energy Minister said Lot Fitzcarrald would be created before the end of this year, but Perupetro recently announced the postponement of its next oil and gas 'bidding round', when new lots are announced, until 2013⁶. Could it be that the concerns of indigenous organisations and international human rights organisations have influenced this decision? Time will tell.



An abandoned Mashco Piro campsite on a beach within the Nahua, Kugapakori, Nanti territorial reserve © Forest Peoples Programme



Probable location of Lote Fitzcarrald in relation to Nahua, Kugapakori, Nanti Reserve. Source: ECODESS, 2011

3. Community meeting on palm oil in Liberia leads to strong declaration on further palm oil development in Liberia

Community representatives from across Liberia assembled in Bopolu City in Gbarpolu County on 27 – 29 November, to discuss the impacts of palm oil agricultural concession developments taking place in Liberia on land already used and owned (customarily or otherwise) by communities. Over 150 community delegates from the counties of Grand Cape Mount, Bomi, Gbarpolu and Sinoe attended the meeting jointly organised by the Sustainable Development Institute (SDI), the Save My Future Foundation (SAMFU) and the Social Entrepreneurs for Sustainable Development (SESDev).

The outcome of the meeting was a strongly worded [declaration](#)⁷, drafted and agreed by the community representatives, demanding proper respect for the rights, lives and livelihoods of communities affected by existing

³ <http://www.aidesep.org.pe/aidesep-anuncia-inicio-de-campana-nacional-e-internacional-a-favor-de-pueblos-autonomos/>

⁴ <http://www.forestpeoples.org/sites/fpp/files/news/2012/09/AIDSESEP%20Letter%20to%20Special%20Rapporteurs%20-%20English.pdf>

⁵ <http://www.forestpeoples.org/topics/extractive-industries/news/2012/09/unesco-will-urge-peruvian-government-reconsider-camiseaga>

⁶ http://www.perupetro.com.pe/wps/wcm/connect/8a0124004d792c48849ecd1ac69b974a/PRESS+RELEASE+9+ENERGY+SUMMIT+MTO.pdf?MOD=AJPERES&_lmod=-180427908

⁷ http://www.forestpeoples.org/sites/fpp/files/news/2012/12/Declaration%20on%20Oil%20Palm%20Liberia_November%202012.pdf

and future oil palm developments in Liberia.



Delegates at community meeting on palm oil in Liberia © Ashoka Mukpo, Sustainable Development Institute (SDI) Liberia

Although expansion of existing operations is planned in Grand Cape Mount and Bomi (by Sime Darby) and Sinoe (by Golden Veroleum), development has yet to take place in Gbarpolu where Sime Darby plans to clear and plant up to 50,000 ha of land. The concession areas of both companies also extend into five other counties in Liberia. The companies have signed contracts for concession areas of 220,000 ha each, however complaints have been submitted to the Roundtable on Sustainable Palm Oil (RSPO) in respect of the current operations of both [Sime Darby](#)⁸ and [Golden Veroleum](#)⁹. By basing the meeting in Bopolu City, communities from the Gbarpolu area were able to hear first-hand the experiences of communities whose land has already been cleared and planted with oil palm without their free, prior and informed consent (FPIC). International delegates from Nigeria, Indonesia, Sierra Leone and The Gambia also shared their experiences of large scale oil palm development with communities and the advocacy strategies they had used in response.

Forest Peoples Programme have completed two recent studies on oil palm in Liberia: [one](#)¹⁰ documenting the degree to which the initial Sime Darby concession

⁸ Letter of complaint to RSPO from members and inhabitants of affected local communities within the proposed Sime Darby 220,000 ha oil palm concession in Liberia, October 2011: <http://www.forestpeoples.org/sites/fpp/files/publication/2011/10/sime-darby-complaint-liberia-affected-communities-oct-2011.pdf>

⁹ Letter of complaint to RSPO from indigenous Butaw Kru tribes and inhabitants from several local communities within the proposed Golden Veroleum 220,000 ha oil palm concession in Liberia, October 2012: [http://www.forestpeoples.org/sites/fpp/files/news/2012/10/Final%20complaint%20to%20RSPO%20on%20Golden%20Veroleum-%20Butaw-sinoe%20county%20\(2\).pdf](http://www.forestpeoples.org/sites/fpp/files/news/2012/10/Final%20complaint%20to%20RSPO%20on%20Golden%20Veroleum-%20Butaw-sinoe%20county%20(2).pdf)

¹⁰ *Free, Prior and Informed Consent in the Palm Oil Sector - Sime Darby oil palm and rubber plantation in Grand Cape Mount county, Liberia* by Tom Lomax, Justin Kenrick and Alfred Brownell: http://www.forestpeoples.org/sites/fpp/files/publication/2012/11/liberiasimedarbyfpic_0.pdf

development in Grand Cape Mount respected the right to free, prior and informed consent and a [second](#)¹¹ providing an in-depth human rights analysis of the concession contracts of both Sime Darby and Golden Veroleum. FPP were invited to the Bopolu meeting to give a presentation on its human rights analysis of the concession contracts and outline the international law implications.

Key rights issues in the contracts identified by FPP's study include the following:

1. The contracts create leases over large areas of land currently owned, occupied and used by communities, without the requirement for information sharing, consultation or the community's FPIC.
2. The companies have a contractual right to request resettlement of communities, *without* communities having a say or adequate safeguards to protect them from involuntary displacement/forced eviction. The Golden Veroleum contract states that resettlement is to be effected '*in such a manner that eliminates or minimises the existence of enclaves between Developed Areas*'.
3. The companies are contractually entitled to conduct a wide range of activities on community land without any prior community notification, consultation or consent. They can build infrastructure; control community access to roads; cut timber; use sand, stones, rock, clay and gravel; and drain wet-land and swamp areas important for seasonal cultivation by communities, gathering crayfish and other uses.
4. The contracts give both companies broad security powers without safeguards to prevent abuse. These include the powers to apprehend and detain, and to search and exclude/evict, on the vaguely defined grounds of '*economic, operational or security reasons*'.
5. The contracts contain little or no proper benefit-sharing for local communities, although communities are bearing all the cost and harm from loss of land and resources, and associated socio-economic and cultural impacts.
6. Finally, a number of contractual provisions such as the low rental price, numerous tax breaks and deductions, and value-added measures that can easily be kicked into the long grass by the companies if they so chose, suggest that the contracts are arguably a bad deal for all Liberians as well as local communities.

¹¹ *Human rights-based analysis of the agricultural concession agreements between Sime Darby and Golden Veroleum and the Government of Liberia*, Tom Lomax, Forest Peoples Programme: <http://www.forestpeoples.org/sites/fpp/files/publication/2012/12/liberiacontractanalysisfinal-dec2012.pdf>

In their final declaration the community delegates stated: “*We are the rightful owners of the land where our communities have made our farms, raised our children, and practiced our traditions*”. They also declared that “*Despite not having been given the opportunity to grant our consent to the contracts, it is we who will experience the effects of oil palm plantations in Liberia*”, and made a number of clear and comprehensive demands for all future palm oil development in Liberia. These included demands requiring respect for the right to free, prior and informed consent and control by the community over whether and how plantations proceed on their lands.



Forest in the vicinity of Bopolu City Gbarpolu County Liberia. Sime Darby currently plans to expand its palm oil concession operations to include up to 50,000ha in Gbarpolu County © Peter Gerhart of Gbarpolu Country



Sime Darby currently plans to expand its palm oil concession operations to include up to 50,000ha in Gbarpolu County © Tom Lomax

4. Making the Bali Declaration effective: The Phnom Penh Workshop on Human Rights and Agribusiness in Southeast Asia

On 9 – 11 October 2012, Forest Peoples Programme and Sawit Watch, with the support of Cambodian NGO Community Legal Education Center (CLEC) co-organised a workshop, ‘Making the Bali Declaration Effective: The Phnom Penh Workshop on Human Rights and Agribusiness’, as a follow-up event to the [Bali Workshop on Human Rights and Agribusiness](#)¹² of 2011. Hosted by the Indonesian National Human Rights Commission (Komnas HAM), the workshop was attended by National Human Rights Commissioners from Thailand, Malaysia, the Philippines, Myanmar, South Korea and Timor-Leste, the Indonesian representative to the ASEAN¹³ Intergovernmental Commission on Human Rights (AICHR), concerned Southeast Asian NGOs and the UN Special Rapporteurs on the Right to Food and on the Rights of Indigenous Peoples.

The purpose of the workshop was to consolidate the outcomes of the Bali Workshop and the [Bali Declaration on Human Rights and Agribusiness](#) by encouraging the AICHR to receive or (better) recognise the Bali Declaration and to encourage the AICHR to urge Members States to implement it nationally. Informative updates on the situation of agribusiness and human rights across the Southeast Asian region were shared by National Human Rights Commissioners, and the workshop participants gained important knowledge about the AICHR and the progress being made to establish an ASEAN human rights mechanism. A field visit to a sugarcane Economic Land Concession in Koh Kong, Southern Cambodia, provided firsthand insights for all participants on the realities of land grabbing, food and water insecurity and forced evictions by transnational corporations; in this case, a Thai and Taiwanese joint venture, where the Thai Human Rights Commission has found *prima facie* evidence of violations of human rights including the right to life and the right to self-determination.

¹² <http://www.forestpeoples.org/sites/fpp/files/news/2011/11/Press%20release%20-%20Bali%20workshop%20final%20Nov%2028%202011.pdf>

¹³ Association of South East Asian Nations



National Human Rights Commissioners of South Korea, Timor-Leste, Malaysia, the Philippines and Myanmar present country updates on human rights and agribusiness © Sophie Chao

The workshop resulted in a [Joint Statement](#) by all participants appealing to the Cambodian Government to resolve the long standing land conflict in Koh Kong Province, and to the European Union, the sugar importers Tate and Lyle and the American Sugar Refining Company to investigate the continuing human rights violations. Since the field visit on 9 October, negotiations have taken place between the community of one affected village, Trapang Kondo, and high level company representatives, who have offered increased compensation, which some families have accepted as satisfactory. At the international level, on 29 October 2012, the European Parliament called for a [moratorium](#)¹⁴ on forced evictions and recommended that the European Union suspend tariff-free imports of agricultural goods linked to human rights abuses in Cambodia, with specific reference to the sugarcane plantation industry.

In another related development, the *Bali Declaration on Human Rights and Agribusiness* and the Phnom Penh Joint Statement were endorsed and supported in a [Joint Statement](#) produced by participants of the 'South East Asia Consultation on Land Grabbing and Palm Oil Plantations: CSO and Academic Responses', held in Medan on 5 – 10 November 2012 and organised by NGO Lentera Rakyat. The Joint Statement calls on the governments of the ASEAN region to respect and uphold land rights for local communities and indigenous peoples, and to make the right to [Free, Prior and Informed Consent](#) a mandatory requirement in national laws pertaining to land tenure. It also calls on ASEAN to extend the mandate of AICHR as an effective and independent human rights mechanism to investigate the violation of farmers' and indigenous peoples' rights and to encourage Member States to domesticate the *Voluntary Guidelines on the Responsible Governance of*

Tenure of Land, Fisheries, and Forests in the Context of National Food Security, adopted by the Committee on World Food Security on 11 May 2012, into national legislation.



Village representative showing map of customary lands within the Koh Kong concession from which local communities have been evicted © Sophie Chao

Related sources:

- Chao S 2012 *Free, Prior and Informed Consent and oil palm expansion in Indonesia: Experiences in human rights advocacy with the palm oil sector*. Paper presented at the South East Asia Consultation on Land Grabbing and Oil Palm Plantations. Lentera and University of Darma Agung, 5 – 10 November. Medan, Indonesia : <http://www.forestpeoples.org/sites/fpp/files/publication/2012/11/fpicoilpalmexpansionmedanconferencepapersophie-chao.pdf>
- Chao S & M Colchester (eds) 2012 *Human rights and agribusiness: Plural legal approaches to conflict resolution, institutional strengthening and legal reform*. FPP & SawitWatch, Bogor: <http://www.forestpeoples.org/sites/fpp/files/publication/2012/09/bali-proceedings-2012.pdf>
- *Joint Statement of the participants of the 'South East Asia Consultation on Land Grabbing and Palm Oil Plantations: CSO and Academic Responses'*: <http://www.forestpeoples.org/sites/fpp/files/news/2012/11/Final%20Joint%20Statement%20of%20the%20Medan%20Conference%20on%20Landgrabbing%20and%20Palm%20Oil%20Plantations%20in%20Southeast%20Asia.pdf>
- *Statement of the Phnom Penh Workshop on Human Rights and Agribusiness in Southeast Asia: Making the Bali Declaration Effective*: <http://www.forestpeoples.org/sites/fpp/files/news/2012/10/Finalised%20Statement%20of%20the%20Phnom%20Penh%20Workshop.pdf>

¹⁴ <http://www.phnompenhpost.com/index.php/2012102959454/National-news/eu-may-halt-trade-agreement-with-cambodia.html>

5. GUEST ARTICLE from *Unión Verapacense de Organizaciones Campesinas (UVOG), Guatemala*

Land conflicts and the struggle for rights in Guatemala

In common with many other countries in Latin America, Guatemala suffers from a highly unequal “bimodal” distribution of land. More than half of the land in the country is covered by private land estates owned by either families and individuals or by mining, logging, agribusiness and plantation companies. In contrast, smallholdings amount to one fifth of the land area and are occupied by peasants and small farmers who make up 80% of the population. Indigenous peoples are the customary owners of land throughout the country, but in many cases do not have legal demarcation nor titles to their ancestral territories. Despite promises to recognise indigenous peoples’ and peasant farmers’ land rights, made in the 1996 Peace Accords and in stagnant proposals for agrarian reforms, little has been done to secure the land rights of indigenous peoples and local communities.¹⁵

History of land grabbing and dispossession

Many of the large private estates in the country today have their origins in State land policies of the nineteenth century under which the government sold vast swathes of forest and fertile land to foreign investors seeking land to grow and export coffee. Land sales were made over the heads of indigenous peoples and peasant farmers living off the land, who then found themselves obligated to give their labour to the new rural overlords for minimal or no pay in return for access to small plots of land for subsistence and housing.

In many cases families bonded to rural estates never received title to their lands and still endure insecure tenure and face the constant threat of eviction from their homes and farms. Families and communities struggling

¹⁵ Dolores Mino, M (2010) *Legal Obstacles for the Recognition and Titling of Indigenous Lands in Guatemala*. See also Viscidi L (2004) *A History of Land Conflict in Guatemala*

for legal recognition, trying to secure land to grow food, are often subjected to intimidation and human rights abuses at the hands of henchmen working for powerful landowners and companies. The lack of access to fertile land means that more than 6000 rural communities across Guatemala suffer from high levels of malnutrition and lack food security.¹⁶



Highlands of Cahabon, Alta Verapaz, Guatemala © Samuel Jones

National policies and land conflicts

As part of the peace agreements in 1996 the National Land Fund (*Fondo de Tierras*) was set up to resolve the land crisis by offering mortgages to communities to enable them to buy land. However, the Fund’s procedures are bureaucratic, it has limited financial resources and it has little land available due to the reluctance of private owners to sell. Furthermore, access to land for indigenous people is made even more difficult as the State continues to allow large multinational companies to buy up rural lands for mining, mega dam projects, logging and bio-fuel plantations.

Ineffective and unjust land policies and weak redistribution mechanisms have led to an increasing number of land disputes with over 1000 land conflicts affecting more than 20,000 rural families. As more and more land is sold off to companies, peasant communities and landless families are increasingly desperate and hungry. Faced with ineffective legal remedies, many rural communities have had no choice but to occupy private estate lands in order to survive.

The struggle of the 20th of October Community

One such case is that of 700 indigenous families of Qeqchi origin who, on 20th October 2011, began occupying a large plantation in Cahabon, Alta Verapaz (North East Guatemala) owned by the logging company

¹⁶ CCDA Presentation, February 2011

Interforest S.A. This commercial forestry site exports timber products to Asia and is certified to sell carbon credits, yet communities complain that their issues and grievances have not been properly recognised by the company or the state.¹⁷

Indigenous peoples' communities in the Cahabon region have historically been displaced by foreign land owners and armed conflict. Today, displacement is caused by international companies intent on exploiting natural resources. For instance, the Canadian-owned mining company CGN has licences to exploit nickel, copper and other metals in more than half the Cahabon area. At the same time, an estimated 50 per cent of the rural population living and working on smallholdings in Cahabon are still awaiting legal recognition to their lands.¹⁸

After a year of dialogue between the 20th of October Community and the government on ways to secure land ownership, on 14th November 2012 the community was forcefully and brutally evicted by the National Civil Police force using firearms and tear gas. Community leaders were arrested, crops and houses were burned and the evicted families were offered no temporary shelter. The community is now appealing to the government and the international community for justice and redress, including immediate release of the community leaders detained and for the government to respect the promises to buy land for the 700 families.¹⁹



Members of the 20th of October Community at 1am the day after they were evicted from their homes © Samuel Jones

¹⁷ Jones, S (2012) *Out of land and nowhere to go: Occupying land in Cahabon, Guatemala*: <http://www.getresilient.com/article/56>

¹⁸ *Social and Economic Diagnosis: productive potential and investment proposals* San Carlos University, 2006

¹⁹ *Eviction of the 20th October Community, Cahabon Municipality, Alta Verapaz*, La Unión Varapacense de Organizaciones Campesinas (UVOC), International statement, 15 November 2012 <http://www.uvocatemala.org/2012/11/desalojo-en-cahabon.html>



Make shift houses in the 20th of October Community © Samuel Jones

The case of *La Primavera* Community

The *La Primavera* Community in the Alta Verapaz highlands of San Cristobal have also been struggling for recognition of their land rights for over a century. The lands in question were first taken over by a German investor in 1821 who used the peasant families as unpaid labour to produce coffee for decades as the land was handed down through generations of a large landowning family. In 1979 the landlord promised the inhabitants that on his death the land would pass back to them in return for protecting the estate's forest, yet this promise remains unfulfilled. The National Land Fund has also refused to expedite the community application to buy the land, first made in 2001.

In November and December of 2011, *La Primavera* community members working for recognition of their land ownership rights were subjected to violence at the hands of a private security firm working for the landowner. Tragically, in January 2012 two community elders were found dead with their hands and feet tied and signs of torture on their bodies. These abuses drew attention from the international human rights community and visits from UN representatives²⁰. Even though *La Primavera* is high on the government's list of land conflicts needing resolution, three months ago the estate was inscribed into the National Property Register under the name of a company called Eco-Tierra. Despite the company's possible links with logging interests, members of the regional human rights ombudsman acted as witnesses of honour during the estate's legal inscription to the company. At the end of 2012 the situation remains tense and community members continue to receive threats and are under pressure to give up their land claim.

²⁰ <http://www.uvocatemala.org/2012/02/visita-de-la-oacnudh-la-finca-primavera.html>



Community meeting in front of the abandoned 'casa patronal' in La Primavera that a large land-owning family had once inhabited
© Samuel Jones

Measures needed for land justice:

UVOC recommends that urgent measures are taken to address the land tenure crisis in Guatemala and in relation to specific cases, including:

- Establishment of policies and actions to fully implement land rights agreements made in the 1996 Peace Accords alongside rights guaranteed for indigenous peoples and communities enshrined in the Constitution
- Setting up of local and national mechanisms to ensure full implementation of land rights standards and protections under International Labour Organisation (ILO) Convention 169 and the Inter-American System of Human Rights, including actions to ensure prior consultation and obtain the free, prior and informed consent of affected indigenous peoples' communities before the natural resources, which they have traditionally used and cared for, are exploited by international companies or other third party interests.
- Discussion of the law for Integral Rural Development that is currently awaiting approval in the Guatemalan Congress.
- A revision of the national protocol for resettlement and relocation to bring it fully into line with the obligations of Guatemala under international human rights treaties ratified by the country
- Good faith actions by the state to respect the agreement with the 20th of October Community, that it made before the eviction, to purchase alternative lands via the National Land Fund.
- An investigation into the sale of *La Primavera* estate to Eco-Tierra and how years of unpaid labour and care of the land and forests entitles the families

living there to full consultation prior to any sale of the property.

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This article was compiled by Samuel Jones who is working with UVOC. UVOC is a campesino (farmer) and indigenous organisation dedicated to securing land rights and reversing the history of oppression against indigenous and minority peoples in Guatemala. It embraces Mayan tradition and the diversity of the indigenous community and promotes respect for the many peoples and languages represented within it.

You can contact Samuel through the organisation's email address info.uvoc@gmail.com or personally through glassworks5@yahoo.com.

For further information see:

- UVOC's blog; www.uvocguatemala.org
- Congcoop, Coordinadora de Cooperativas y ONGs de Guatemala - www.congcoop.org.gt/. Has an interesting set of essays about rural development in Guatemala.
- Centro de Reportes y Investigaciones en Guatemala; <http://www.cerigua.org/>. Posts news about a variety of social topics in Guatemala.
- Prensa Libre; www.prensalibre.com. National Guatemalan newspaper.

We thank the author(s) for contributing this article to the FPP E-Newsletter. The views expressed in this article may not necessarily reflect the views of Forest Peoples Programme.

6. Parties to the Biodiversity Convention not ready to accept 'indigenous peoples'

A disappointing outcome for indigenous peoples at the 11th meeting of the Conference of the Parties (COP11) to the Convention on Biological Diversity (CBD) in Hyderabad, India, 8-19 October 2012: Parties failed to adopt a decision to update the CBD's terminology 'indigenous and local communities' to 'indigenous peoples and local communities', due to the resistance of a few Parties.

The term 'indigenous peoples' is significant because it recognises the collective nature of rights, for example to resources and to self-determination, in a way that 'indigenous' alone does not. Affirmation of the status of indigenous peoples as peoples, not just communities, is important in order to fully respect their identities and protect their human rights. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly in 2007, recognises this and thus uses the term 'indigenous peoples'. In fact, the COP of the CBD is the only decision-making body of an international convention to still use the term 'indigenous and local communities'. All other relevant and peer processes, including the Conferences to the Parties to the other Rio Conventions, have adopted the correct terminology of 'indigenous peoples and local communities' in their relevant decisions. For instance, Parties to the Ramsar Convention updated its terminology last summer, and 'indigenous peoples and local communities' was also used in the Rio+20 outcome document.

The International Indigenous Forum on Biodiversity (IIFB) at COP11 urged the CBD to update its terminology as recommended by the United Nations Permanent Forum on Indigenous Issues (UNPFII)²¹. Initially, support was spearheaded by Norway and Guatemala and followed by Colombia, Brazil, Bolivia, Peru, Argentina, and the Philippines.

Only Canada and, interestingly, host country India opposed the move, and proposed to postpone further discussions and decisions until COP12 in 2014. This compromise was supported by the EU, and was adopted as follows:

Noting the recommendations contained in

²¹ See [UNEP/CBD/WG8J/7/7/Rev.1](http://www.unep.org/cbd/wg8j/7/7/Rev.1): Recommendations Arising from 9th and 10th Sessions of the Permanent Forum on Indigenous Issues

paragraph 26 and 27 of the report on the tenth session of the United Nations Permanent Forum on Indigenous Issues (E/2011/43-E/C.19/2011/14), requests the ad-hoc open-ended inter-sessional WG8j and Related Provisions, taking into account submissions from Parties, other governments, relevant stakeholders, and Indigenous and Local Communities, to consider this matter and all its implications for the Convention and its parties at its next meeting, for further consideration by the Conference of Parties at its 12th meeting.²²

Indian NGOs at the COP expressed disappointment and pointed out that India's position was in violation of the Supreme Court's assertion that the Adivasis are the original inhabitants of India²³ and that India voted in favour of the UNDRIP in September 2007 accepting the term 'indigenous peoples'.

While it is a shame that this issue was not resolved at COP11, the IIFB and supportive NGOs in the CBD Alliance said that at least it will be dealt with in the next two years, and indigenous peoples' organisations and other organisations will be working together in the coming period to convince Canada, India and the EU to finally adopt the term 'indigenous peoples and local communities'.



FPP partners Louis Biswane (Suriname) and Messe Venant (Cameroon) in the ILC section of the COP11 Working Group © Caroline de Jong

²² See the Advance unedited copy of COP11 Decisions, Decision XI/14, Recommendations to the Convention on Biological Diversity arising from the ninth and tenth sessions of the United Nations Permanent Forum on Indigenous Issues, page 84: <http://www.cbd.int/cop/cop-11/doc/2012-10-24-advanced-unedited-cop-11-decisions-en.pdf>

²³ Criminal Appeal No. 11 of 2011, Special Leave Petition No. 10367 of 2010 in Kailas & Others versus State of Maharashtra TR. Taluka P.S. dated January 5, 2011

7. Batwa indigenous people gain more skills in gender

A gender workshop organised in Kisoro, south-western Uganda, from the 19-21 November 2012 that aimed to initiate indigenous people in general aspects of gender, has ended successfully.

The workshop was facilitated by the United Organisation for Batwa Development in Uganda (UOBDU) and Forest Peoples Programme and hosted fifty Batwa men and women from the districts of Kanungu, Mbarara, Kabale and Kisoro. Youngsters aged 14 - 20 also attended the workshop.



Gender workshop, November 2012, Kisoro, Uganda
© Stéphanie Vig

In the workshop various topics were covered. These included general aspects on gender (distinctions in gender roles, gender equality, and gender discrimination), the relationship between gender and culture, relevant international conventions like the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and its importance, plus other national legal instruments.

The workshop also used different methods of delivering messages on gender such as video clips and story books. Most touching was 'Meena's story' created by UNICEF, the story of a young girl who was being forced into marriage before the age of eighteen by her father. Many Batwa saw this as a real life experience among the different communities and promised to encourage others to change. They also realised that there is great value in educating girls, so girls should be educated.

The participants, who were very excited about the

interactive discussion, actively participated in the workshop by responding to various questions, sharing life experiences back in the community, advising their fellow Batwa and also asking questions. Nteziki Kedress, a Mutwa woman, remarked that, 'I request you all to clap for this teaching we have received, it has been so educative'.

The participants promised to Learn, Understand, Change and Educate others (LUCE), and to encourage change when they go back to their communities. Above all they promised to first be exemplary as leaders so that others can learn from them.

Written by Ms. Winfred Mukandinda, Land Rights Officer, United Organisation for Batwa Development in Uganda (UOBDU)



Participants during gender workshop, November 2012, Kisoro, Uganda © Stéphanie Vig

8. Indigenous Peoples call on the African Development Bank to develop a specific policy to protect their rights

In 2010 the African Development Bank (AfDB) committed to develop new 'safeguard standards'. These are policies which are intended to provide the Bank and its borrowers with a framework to assess and mitigate social and environmental risk. In so doing, the Bank is following the lead of other regional multilateral development banks (Asian, European, Inter-American) and the World Bank and International Finance Corporation.

In June this year, indigenous peoples' organisations (under the umbrella of the Civil Society Coalition on the AfDB) submitted a detailed and comprehensive [report](#)²⁴ to the African Development Bank. This report presents strong arguments in favour of the development of a specific policy designed to safeguard the interests and protect the rights of indigenous peoples in AfDB-financed projects. A [sign-on letter](#)²⁵ supported by indigenous organisations from throughout the continent was also submitted to the Bank in June.

Unfortunately, the African Development Bank has now released a draft [Integrated Safeguard Statement](#)²⁶ which does not contain any specific operational requirements to protect the interests or rights of indigenous peoples. If approved in its current form, AfDB will remain the only multilateral development bank without a specific policy that recognises and defends the rights of indigenous peoples. It is hoped that the Bank will extend the consultation period for this policy process and allow effective input by the region's indigenous peoples.

In the first quarter of 2013 Forest Peoples Programme will be publishing a special edition of this e-news bulletin focused exclusively on the safeguard policies of publicly funded development banks, including a broad look at the currently on-going World Bank review and update of its own set of safeguard policies.

²⁴ <http://www.forestpeoples.org/sites/fpp/files/publication/2012/11/why-standalone-ip-policy-afdb-s-iss.pdf>

²⁵ <http://www.forestpeoples.org/sites/fpp/files/publication/2012/11/sign-letter-afdb-english.pdf>

²⁶ <http://www.forestpeoples.org/sites/fpp/files/publication/2012/11/afdb-iss-english-26-sept-2012.pdf>

9. Regional Group for Monitoring Megaprojects in Ucayali, Peru (GRMMU) launches new blog

The Regional Group for Monitoring Megaprojects in Ucayali (*El Grupo Regional de Monitoreo de Megaproyectos de Ucayali, GRMMU*), based in Peru, have just announced the launch of their new blog: [*http://megaproyectosucayali.blogspot.com/](http://megaproyectosucayali.blogspot.com/)*

On this blog indigenous organisations, and others who work with them, can find the latest information about the Peruvian government's proposed highway project which will run from Pucallpa (in Peru) to Cruzeiro do Sul (in Brazil). This project threatens to have major and irreversible impacts on the area, that includes indigenous peoples' customary lands that remain unrecognised, the *Isconabua* reserve for isolated peoples and the *Sierra del Divisor* natural protected area.

Visit the blog (in Spanish only) here: <http://megaproyectosucayali.blogspot.com/>

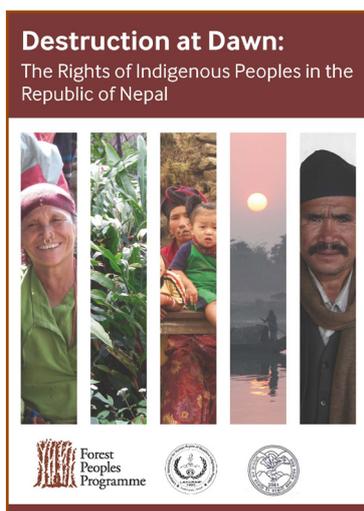
Further information

- *Amazon highway between Peru and Brazil rejected by indigenous peoples' organisations in Peru:* <http://www.forestpeoples.org/topics/other-private-sector/news/2012/11/amazon-highway-between-peru-and-brazil-rejected-indigenous->

10. Recent reports and submissions

1. Destruction at Dawn: The Rights of Indigenous Peoples in the Republic of Nepal

An in-depth report into the development of the Arun III hydropower project and the challenges it, and projects like it, pose to the Nepali government commitments to protect the rights and interests of indigenous peoples (LAHURNIP, NGO-FONIN and FPP).



To read the report (in English only) visit:

<http://www.forestpeoples.org/sites/fpp/files/publication/2012/12/destruction-dawnfinalnovember2012.pdf>

2. Submission: Violence Against Indigenous Women (VAIW)

An Asian regional submission into the 57th Session of the Commission on the Status of Women (CSW) on the priority theme of violence against women (AIPP and FPP).

To read the submission see: <http://www.forestpeoples.org/sites/fpp/files/publication/2012/12/csw-fpp-aipp-nov-15-2.pdf>

3. Submission: Violence Against Indigenous Women in Nepal

A national submission into the 57th Session of the Commission on the Status of Women (CSW) on the priority theme of violence against women, building on prior submissions into CEDAW (LAHURNIP and NCARD).

To read the submission visit: <http://www.forestpeoples.org/sites/fpp/files/publication/2012/12/csw-submission-final.pdf>
