

FPP E-Newsletter: October 2012



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Cover photo: Legal workshop on FPIC, gender and the REDD+ process with CAMV, July 2012, Bukavu, South Kivu, Democratic Republic of Congo © Stéphanie Vig

Dear Friends,

Building a global consensus on how to make the world a better place is hard work. That indigenous peoples now have a voice in global decision-making processes is largely due to their own efforts but we at the Forest Peoples Programme are honoured and enriched by our role supporting and advising this engagement. However, ensuring that the voice of forest peoples and other rural communities is heard globally is likely to get more difficult. The world has just passed a tipping point: more than half the global population now lives in cities, making it that much harder and all the more important to manage forests wisely in ways that secure local livelihoods and respect forest peoples' rights.

This week Governments and others overseeing the Convention on Biological Diversity (CBD) are meeting in India to review how to make their decisions more effective. It's an important opportunity for the CBD to affirm that achieving 'sustainable customary use', built on traditional wisdom about the environment, requires respect for local communities' and indigenous peoples' rights to their lands and resources. Officials of the UN agency charged with looking after the diversity of the world's culture, UNESCO, which also runs the World Heritage Convention, recently met with indigenous peoples to review how they should address their concerns. The meeting concluded that UNESCO's procedures must be changed to respect indigenous peoples' rights. Such policies must be inclusive and protect the rights of indigenous women, as a new policy adopted by the Asia Indigenous Peoples Pact affirms.

Hopes are rising that the new President of the World Bank can now adjust the World Bank's safeguard policies to properly respect such rights as an outcome of its current policy review. FPP and indigenous partners were also present at the opening meeting of the Green Climate Fund being set up as the funding mechanism to implement the UN Framework Convention on Climate Change. This fund too needs to secure respect for forest peoples' rights in its operations. Some progress in getting principles put into practice was achieved at the World Conservation Congress in South Korea where resolutions were passed affirming the need to respect the rights and role of indigenous peoples in conservation and where the [Whakatane Mechanism](#), which seeks to reconcile conservation with full respect for rights, gained further support. The urgent need for this revised approach is highlighted by news from Peru where 'fortress conservation', which excludes people from their own forests, intensifies. In Venezuela, the Yanomami people in the Upper Orinoco, nominally protected by being within a Biosphere Reserve and a National Park, continue to suffer invasions by illegal mining operations. The Yanomami demand a detailed investigation of alleged abuses and a role in patrolling their territories, so they can look after them effectively.

FPP and partners' expanding programme in the Democratic Republic of Congo, which is supported by the Swedish International Development Agency, continues its efforts to build local and national awareness of the need to secure land rights and community-based decision-making as a central plank in efforts to slow deforestation. The importance of this is made starkly evident by two new studies. A [report](#) sponsored by the Norwegian and British Governments shows that agricultural expansion is causing 80% of global deforestation and a key measure to check this is to secure community tenure. But FPP and its partners' own detailed research on palm oil in both Africa and South East Asia reveals that even where companies commit to respect these rights as members of the Roundtable on Sustainable Palm Oil, in practice land grabs continue. Voluntary or rhetorical standards are a start, but must be followed with binding requirements, vigilance and enforcement.

Marcus Colchester, Director

1. The return of fortress conservation: REDD and the green land grab in the Peruvian Amazon

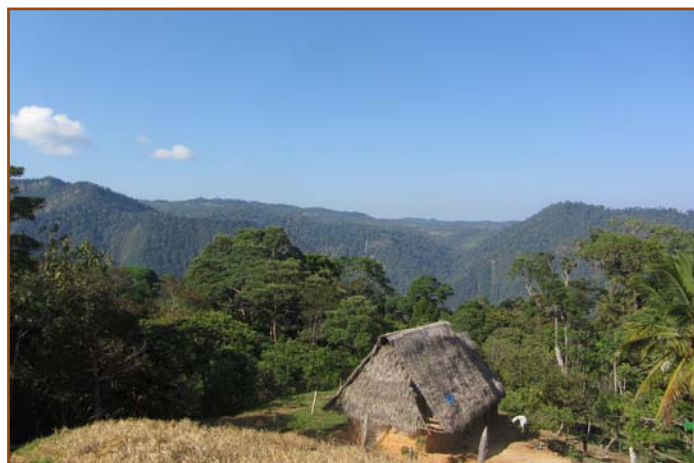
I remember when the park guards first came to our village. They called a meeting and said 'get your things together and pack your bags, don't make any new farms and we will see where you can be resettled'.

These are the words of Miguel Ishwiza Sangama, former headman of the village of Nuevo Lamas, a small Kichwa indigenous community in Northern Peru as he remembers the moment in 2007 when officials of the *Cerro Escalera Regional Conservation Area* first attempted to resettle his community. In the following years, Park authorities persisted with these efforts but when the community remained resistant the Park authorities resorted to restricting community access to the forest for hunting and gathering and prohibiting their traditional system of rotational agriculture. In 2010, charges were brought against three members of the community for practicing their rotational agriculture.

Nuevo Lamas is the only village located within the 132,000ha *Cerro Escalera Conservation Area* (created in 2005 by the Regional Government of San Martin) but several communities are dependent on the Reserve for vital forest resources. As Jaime Japulima, President of **CEPKA**¹, one of four indigenous federations representing the Kichwa people explains *'this entire area is our ancestral territory yet the Reserve was created without any consultation'*. As a result, many communities are affected. Most recently, charges were brought against 8 members of the community of Alto Pucalpillo for deforestation of 0.25ha in order to make a small campsite where they could grow bananas, maize and fruit trees to support them during hunting and gathering expeditions. One of the 8 members described his experience:

Our community has no land, our land title just includes our houses. This is our only forest, we have nowhere else to hunt and gather than the area they now call the Reserve. This is our land, we have always gone there to collect medicinal plants and hunt for community festivals, you can see it is full of the traces of our ancestors; there are old paths, palm trees planted for roofing, there is even a salt mine! Yet we were never consulted about this Park, the first we knew about it was when it was created. Today, if we want to go into our forest we first have to ask permission from the Government of San Martin!

¹ The ethnic council of the Kichwa peoples of the Amazon, <http://www.cepka.es.tl/Organizaci%F3n.htm>



The village of Nuevo Lamas © Forest Peoples Programme

Alto Pucalpillo is a typical case. While some Kichwa communities have had a small part of their traditional lands recognised with a formal land title many others like Alto Pucalpillo only have title to the area around their houses, and many other communities lack even this basic level of recognition. According to a recent survey in San Martin there are at least 32 communities like Alto Pucalpillo with land titles that only cover their houses and at least 13 that officially do not even exist².

While formal applications for indigenous land titles covering modest areas have been gathering dust for years on the desks of government officials the 132,000ha *Cerro Escalera Regional Conservation Area* has been created alongside hundreds of thousands of hectares for private conservation concessions granted to environmental NGOs and private companies. In San Martin alone this includes the largest conservation concession in Peru, the 143,928ha Alto Huayabamba conservation concession, and most recently three concessions covering over 313.687ha which are applying to the Climate, Community and Biodiversity Alliance (CCBA) for certification of a project for the voluntary REDD market³.

Unfortunately the case of the *Cerro Escalera* is not an isolated case. Last month **Forest Peoples Programme reported**⁴ from the Imiria lake region in Ucayali where Shipibo communities have rejected the *Imiria Regional Conservation Area* established by the Regional Government of Ucayali in 2010. The communities have demanded its suspension while a genuine process of free, prior and informed consent (FPIC) is initiated. As in *Cerro Escalera* the area was created without due

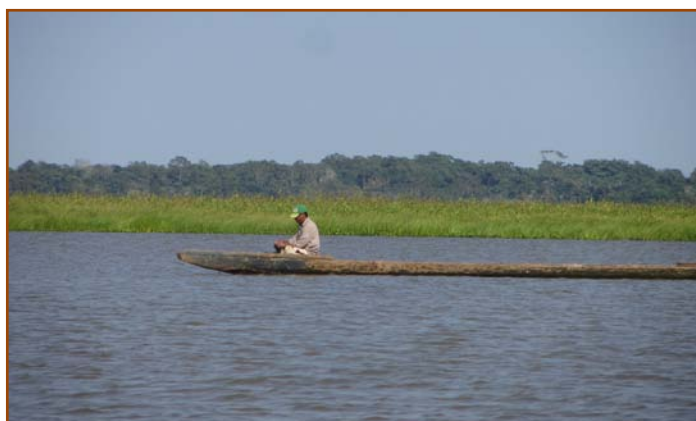
² This study is being undertaken by CIPTA, Aidesep Centre for Information and Planning and is due to be published in 2013. <http://www.aidesep.org.pe/cipta/>

³ Biocorridor Martin Sagrado REDD+ project, https://s3.amazonaws.com/CCBA/Projects/Biocorridor_Martin_Sagrado_REDD%2B_project/PDD_REDD_Martin_Sagrado_V3.0_-_PJ%5B1%5D.pdf

⁴ <http://www.forestpeoples.org/topics/rights-land-natural-resources/news/2012/09/shipibo-communities-peruvian-amazon-reject-impleme>

consultation with communities and not only covers Shipibo traditional lands but includes 7 legally titled communities. Just as in San Martin, the prospect of carbon credits appears to be a major incentive for the establishment of the Reserve.

These are but two of countless similar cases throughout Peru where indigenous peoples' traditional lands remain unrecognised while concessions for mining, oil, gas, timber, palm oil and now carbon are being handed out. According to latest surveys, over 800 communities remain without a land title while over 200 are not even recognised as existing. Hence AIDESEP, the National Indigenous Amazonian Organisation in Peru, have insisted that, until outstanding land and territory applications of indigenous peoples are respected, REDD⁵ remains a threat rather than an opportunity. Despite this, the **Peruvian government**⁶ has remained resistant to investing REDD funds in securing indigenous peoples' lands and territories. Recently however, the team of consultants hired to draft Peru's strategy for the World Bank's Forest Investment Programme (FIP) have earmarked \$7 million to kick-start this process. It remains unclear whether this will be endorsed by the Peruvian government.



Fishing on Lake Imiria © Forest Peoples Programme

Despite the pressure for resettlement, Miguel and the community of Nuevo Lamas remain defiant:

'We are not going anywhere' we said to the guards, then they told us we would need to buy food as farming would be restricted so I said to the Engineer, 'well you will have to give me your salary and then I can buy my food!'

Despite their defiance they are concerned that further legal cases will be brought against community members for using their forest, leaving Miguel asking:

We are not lawyers so who will defend us...?

⁵ Programmes and projects to reduce emissions from deforestation and forest degradation

⁶ <http://www.forestpeoples.org/topics/forest-investment-programme-fip/news/2012/08/world-bank-forest-investment-programme-challenge>



Sunrise over Lake Imiria © Forest Peoples Programme

2. World Bank Safeguards Update

The review and update of the World Bank safeguards currently underway is first and foremost an opportunity to modernise the Bank's policies and strengthen them to meet international human rights and environmental standards. A comprehensive and effective update process also holds the much-needed potential to fill gaps and rectify systemic weaknesses in the World Bank's safeguard framework, including shortcomings in safeguard implementation mechanisms. Forest Peoples Programme (FPP) and other bank-watchers are closely engaged in developing independent early inputs into the Bank review process, including into the design of the approach to the Bank's consultation process. Under the flagship of wider reforms being put into place by the World Bank's new President Dr. Jim Kim, this safeguard review has the potential to contribute significantly to defining a new direction for the Bank and reflect a new set of values.

Like many other social justice organisations, FPP maintains that as well as listening to borrower governments and donors, the World Bank must listen to the rights-holders and people impacted by its investments, as well as to civil society organisations familiar with Bank project and programme safeguard issues. In order to ensure upgrading of the Bank's framework for social and environmental performance, the safeguard review must involve a robust process for meaningful public consultations. Such consultations need to provide guarantees that public inputs will shape the final proposals for the reform of the safeguard system. If civil society and community concerns are taken on board,

then this safeguard review could contribute significantly to defining a new direction for the World Bank Group focused on improved implementation and greater public accountability for social and environmental results and impacts.

Indigenous peoples' organisations have submitted a set of specific [recommendations](#) to be taken into consideration in the review, update and reform of the Operational Policy / Bank Procedure 4.10 on Indigenous Peoples. The recommendations include compliance with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and call for both strengthened protections for rights on the one hand, and increased effectiveness in the application of safeguards on the other. The recommendations state that these should be specifically designed to address past flaws identified in the safeguard system, through both Bank evaluations and external evaluations.

A joint letter from a large number of civil society organisations highlights the need for improved protections for land acquisition, and for better incorporation of human rights and gender concerns, among other issues. Civil society organisations also emphasise that the safeguard review must consider and respond to every lending modality used by the Bank, not just project financing. This must include changes currently being considered under the Investment Lending Reform (ILR), and new lending modalities like the recently approved pilot Program-for-Results (PforR). This widened scope of the review would also include focused assessments of how to apply effective social and environmental standards to programmatic financing under 'development policy loans' (DPL) and to the country systems approach being piloted under the World Bank's Operational Policy 4.00.

In October 2012 the final Approach Paper for this review was approved by the Committee on Development Effectiveness (CODE) in the World Bank and thereby launching the review process. A comprehensive paper detailing the views of civil society organisations on the updating and review process will be forth-coming shortly.

The process from now (as provided in the World Bank Approach Paper):

- July 2012 – April 2013, the Global Review: “external consultations seeking input on opportunities, emerging directions, and options to inform drafting of an integrated framework”
- May 2013 – November 2013, the Initial Draft Integrated Framework: “external consultations seeking feedback on initial draft integrated framework for a period of three months”

- Dec 2013 – June 2014, Final Integrated Framework and Policy Recommendations: “external consultations seeking feedback on second draft integrated framework for a period of three months”.

Further information:

- Indigenous Peoples' Inputs to the World Bank Operational Policy/Bank Procedure 4.10: <http://www.forestpeoples.org/sites/fpp/files/publication/2012/09/response-world-bank-letter.pdf>
- Joint civil society open letter to the President of the World Bank, Dr. Kim Jim, regarding the on-going review of World Bank safeguard policies: <http://www.forestpeoples.org/topics/safeguard-accountability-issues/publication/2012/joint-civil-society-open-letter-president-w>
- Review and Update of the World Bank Safeguard Policies: Consultation Phase 1 - www.worldbankgroup.org/safeguardsconsultations

3. Venezuelan Yanomami in conflict with illegal miners

In August, [news](#) broke of an alleged massacre of Yanomami people in the remote Upper Ocamo river. The news had filtered down to mission stations among the Yanomami in the Parima grasslands further south and was then broadcast by the Yanomami organisation, Horonami, and other indigenous organisations in the Venezuelan State of Amazonas. The problem of illegal incursions by Brazilian miners into the territory of the Venezuelan Yanomami has been going on sporadically since the mid-1960s and has led to repeated epidemics and outbreaks of violence.⁷ In 1993, a massacre in the community of Haximu led to international investigations and the conviction of several miners in the Brazilian courts. There was alarm that something similar had just occurred in the Upper Ocamo.

An initial one-day investigation in early September by the Venezuelan Ministry for Indigenous Affairs while welcomed, was [criticised](#) for not actually reaching the site of the alleged incident. The Government was also criticised for overstating that ‘all was well’ in the region, when the presence of illegal miners in the area was widely known among the indigenous peoples.

⁷ *The Health and Survival of the Venezuelan Yanoama*, IWGIA, Survival International and Anthropology Resource Center, 1985, http://www.iwgia.org/publications/search-pubs?publication_id=169

In late September, the army and Ministry of Public Affairs carried out a further joint five-day visit to the Upper Ocamo with Horonami. Following the investigation, Horonami [released its own findings](#), noting that considerable numbers of miners are operating illegally in the area supplied through clandestine airstrips. In the view of Horonami, the stories of a massacre, while not confirmed, are evidence that there are conflicts between the miners and the local communities in the area. Horonami recognises that serious efforts have been made periodically by both the Brazilian and Venezuelan armed forces to clear the Yanomami's territory of miners, but issued a call for more systematic patrolling of the area, with Yanomami participation, to control illegal access to their territory and so prevent harm to the communities, health problems and the destruction of their forests. In the view of Horonami, a more detailed investigation on the ground in the Upper Ocamo is still urgently needed.

The whole issue became heated at the national and then international levels as the government interpreted the expressions of concern for the Yanomami as an electoral ploy to discredit the government while it faces a challenging national election. Just how touchy the government is about international scrutiny soon became apparent. When, the Inter-American Commission on Human Rights (IACHR) issued a [communiqué](#) reporting the allegations of a massacre and calling for an investigation, the Government responded by withdrawing from ('denouncing' is the legal term) the American Convention on Human Rights altogether. Regretting this withdrawal the [IACHR noted](#) that:

Such a denunciation shall not have the effect of releasing the State Party concerned from the obligations contained in this Convention with respect to any act that may constitute a violation of those obligations and that has been taken by that state prior to the effective date of denunciation.

4. Indigenous advocates at Convention on Biological Diversity COP11 meeting in India

This week indigenous peoples from around the world have joined international government leaders at the Convention on Biological Diversity's 11th Conference of the Parties (COP11) in Hyderabad, India. This important meeting involves crucial negotiations related

to indigenous peoples, who are advocating for the protection of their traditional lands and drawing attention to the social and cultural dimensions of conservation and respect for their rights as the Parties to the Convention assess the progress and effectiveness of the CBD's work to-date and devise new plans and solutions for the global biodiversity crisis.

Forest Peoples Programme is attending COP11 to support a delegation of indigenous and local leaders and local support organisations from Bangladesh, Cameroon, Guyana, Panama, Suriname and Thailand, together with the International Indigenous Forum on Biodiversity (IIFB).

Indigenous peoples, who have been guardians of biodiverse landscapes for centuries, have the most important role to play in addressing the ongoing loss and degradation of ecosystems. Their traditional knowledge and practices are extremely valuable in conserving and sustainably using important species and areas, as well as in contributing to biodiversity research, monitoring and management. The full and effective involvement of indigenous peoples and local communities in the work of the Convention, at all levels, is key to its overall short and long term success and this acknowledgement and intention must be reflected in the outcomes of the meeting.

Indigenous peoples and local communities, being an intrinsic part of biodiverse areas, are usually the first to suffer the grave and often irreversible impacts of biodiversity loss and climate change, made worse by inappropriate top-down measures devised to address these issues which lack real respect for indigenous peoples' territories, rights and full involvement in important decision making processes. Decisions taken by CBD Parties in Hyderabad, whether relating to biofuels, protected areas or climate change, must not harm indigenous peoples, their lands, or their livelihoods but should conversely be seeking to enhance the rights of indigenous peoples and in particular address issues of cost and benefit sharing.

A new action plan is being developed at COP11 to support and encourage indigenous peoples in their customary sustainable practices, which reflect their careful and protective interaction with the natural environment.

The development of the action plan on customary sustainable use is very important. Recent research shows many countries lack effective policies and practices to support and protect indigenous peoples' traditional sustainable use of natural resources, and as a

consequence customary practices worldwide are under serious threat. A sticking point in the CBD has always been governments' unwillingness to admit that securing sustainable use by communities and indigenous peoples requires recognition of their rights to own, control and manage their lands and resources. Without secure tenure it is hard for them to apply, generate, maintain, and transmit their customary sustainable practices and their associated knowledge. These linkages should be firmly acknowledged and supported by Parties in the new action plan and other decisions, in light of existing international commitments to uphold indigenous peoples' and local communities' land, resource and tenure rights, including the [United Nations Declaration on the Rights of Indigenous Peoples \(UNDRIP\)](#), the [FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security](#) and the [Rio+20 outcome document](#).

This week indigenous peoples are also pressing CBD Parties to rephrase the outdated terminology 'indigenous and local communities' to 'indigenous peoples and local communities' as an accurate reflection of their distinct identities and cosmovisions (how indigenous peoples' view and understand the world). Indigenous peoples have requested this since the adoption of the UNDRIP in 2007. Affirmation of the status of indigenous peoples as "peoples" is important in fully respecting and protecting their human rights.

Please visit the special [CBD COP11 page on the FPP website](#) for the latest updates direct from India, including background information, statements, interviews, presentations and opinions from indigenous peoples attending the meeting.

Further information:

- CBD COP11 page on FPP website: <http://www.forestpeoples.org/tags/convention-biological-diversity-cop11-meeting-india>
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP): http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
- FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security: <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>
- Rio+20 outcome document: <http://www.uncsd2012.org/thefuturewewant.html>

5. Free, Prior and Informed Consent and the Round Table on Sustainable Palm Oil: are the companies keeping their promises?

The right to Free, Prior and Informed Consent (FPIC) in the Round Table on Sustainable Palm Oil (RSPO) Principles and Criteria establishes how equitable agreements between local communities and companies (and governments) can be developed in ways that ensure the legal and customary rights of indigenous peoples and other local rights-holders are respected.⁸ From March to October 2012, timed to coincide with the RSPO Principles and Criteria Review⁹, Forest Peoples Programme and its local partners¹⁰ undertook a series of independent studies of oil palm plantations across Southeast Asia and Africa. The purpose of these studies is to provide detailed field information on how and whether rights to land and to FPIC are being adequately respected by companies, to expose any malpractice of palm oil companies, and to argue for a strengthening of the RSPO procedures and standards where necessary.

FPIC study locations and operating oil palm company

Cameroon (Ocean Department)	BioPalm Energy
DRC (Bas-Congo Province)	Congo Oil and Derivatives (COD)
Liberia (Grand Cape Mount County)	Sime Darby
Philippines (Palawan)	AGUMIL
Indonesia (West Kalimantan)	PT Agrowiratama (Musim Mas)
Indonesia (Central Kalimantan)	PT Mustika Sembuluh (Wilmar)
Indonesia (Central Kalimantan)	PT Surya Sawit Sejati

8 Colchester M 2010 *Free, Prior and Informed Consent: Making FPIC work for forests and people*. The Forests Dialogue, School of Forestry and Environmental Studies, Yale University. http://environment.yale.edu/tfd/uploads/TFD_FPIC_ResearchPaper_Colchester_lo-res.pdf

9 See http://www.rspo.org/en/principles_and_criteria_review

10 The partner organisations are: SawitWatch, HuMa, Gemawan Institute, Yayasan SETARA Jambi, Walhi Kalteng, Walhi Kaltim, Walhi Kalbar, Pusaka, Jaringan Orang Asal SeMalaysia (JOAS), Green Advocates, Centre pour l'Environnement et le Développement (CED), Association OKANI and Actions pour les Droits, l'Environnement et la Vie (ADEV).

Indonesia (East Kalimantan)	PT REA Kaltim Plantations (REA Holdings)
Indonesia (West Kalimantan)	PT Bangun Nusa Mandiri
Indonesia (West Sumatra)	PT Permata Hijau Pasaman (Wilmar)
Malaysia (Sarawak)	IOI Pelita Plantations
Malaysia (Sabah)	Tanjung Bahagia Sdn Bhd (Genting Plantations)

The findings of the case studies show that insufficient information is being provided to local communities regarding the social and environmental impacts of oil palm development on their livelihoods and their access and use of land. In many cases, information that the companies shared with local communities is partial and biased, with promised benefits and advantages of the development overriding potential negative aspects on local communities' livelihoods, environment and land rights.



Indigenous Dayak community members form a road-block in protest against pollution of their rivers and grabbing of their customary lands without their consent, PT Mustika Sembuluh (Wilmar) oil palm concession, Central Kalimantan © Sophie Chao

Effective participation in decision-making for local communities is hampered by lack of adequate information shared sufficiently in advance of developments on their lands. Companies and governments sometimes claim that respect for the right to FPIC is not applicable until the net land area is identified and before final permissions for land use have been obtained. This can be well after the initial concession agreement is concluded, thereby placing local communities in a position of considerable disadvantage. In such cases, communities' leverage in any subsequent negotiations is substantially weakened.

In many cases, the right to FPIC is equated by

companies with 'socialisation', or consultation with local communities, which tends to be limited to companies informing the communities of the developments that will take place on their land, rather than seeking their consent to these developments. Where carried out, consultations by the companies with local communities tend to be one-off meetings rather than an iterative process of dialogue, discussion and negotiation, meaning that communities are not given sufficient time to take in, reflect upon, and make decisions collectively regarding the companies' operations.



Community interviews in PT Agrowiratama (Musim Mas) oil palm concession, West Kalimantan © Sophie Chao

Lack of clarity over the role, jurisdiction and responsibilities of various governmental bodies leads to confusion over who is responsible for the supervision, monitoring and sanctioning of company activities. In some cases, this results in a situation where different State bodies and companies tend to 'throw the ball back' to each other in terms of their respective responsibilities, and a reluctance on the part of companies to challenge the authority of the State over land tenure and land rights under national laws. Where legal contradictions exist between and within national and international laws, companies and the government lack initiatives to identify and remedy these through legal reform or other means.

Interaction between companies and communities is often restricted to village representatives, such as village heads, without wider consultation with the broader community, or with all the affected communities. Elite co-optation is leading to decisions being made over the heads of communities, whereby they find themselves faced with a *fait accompli*. Land conflicts of varying degrees of gravity are ongoing, and while certain companies have developed mechanisms to resolve these conflicts, the focus on the establishment of conflict resolution processes, rather than on the actual practical efficiency and *outcomes* of conflict resolution, is resented by local communities, who want change on the ground not paper policies.

The findings reveal that the RSPO procedures are being flouted by companies that are not taking the requisite steps to recognise customary rights and are instead resorting to highly abbreviated processes to secure consents, which are far from being 'free', 'prior' and 'informed'. The proliferation of sometimes violent conflicts over land in numerous oil palm plantations across the globe is a vivid manifestation and outcome of the violations of local communities' rights. The ongoing expansion of oil palm across the Global South only strengthens the need for robust standards and ground-level monitoring, to ensure that the rights of indigenous peoples and local communities are respected and their needs met.

Even where companies seek to acquire lands in fair ways, current statutory laws and administrative procedures with respect to land rights, land acquisition, legal personality and representation, make it hard or even impossible for companies to comply. Widespread, effective and equitable compliance with the RSPO standard depends on good governance, transparency, accountability, rule of law and access to justice. If land allocations are made in ways contrary to these principles, there are bound to be serious obstacles to the RSPO approach.

Related materials:

- The case studies will be published as an edited volume during the course of 2012 (Colchester M & Chao S (eds) *Conflict or Consent? The Palm Oil Sector at a Crossroads*. FPP & SawitWatch, Bogor, Indonesia.)
- Key findings and recommendations will be published as a brochure in October 2012 for the 10th Annual Meeting of the RSPO.

6. Forest Peoples Programme, Thai and Kenyan partners report back on 5th IUCN World Conservation Congress

With generous assistance from the Rights and Resources Initiative (RRI) and IUCN's Commission on Environmental, Economic and Social Policy (CEESP), Forest Peoples Programme (FPP) supported Thai and Kenyan partners to attend the 5th IUCN World Conservation Congress (WCC5) from 6-15 September in Jeju, South Korea. Fred Kibelio Ngeyo

(Chepkitale Indigenous Peoples' Development Project, CIPDP, and from the Ogiek community at Mount Elgon, Kenya), Udom Charoenyomphrai (Inter Mountain Peoples Education and Culture in Thailand Association, IMPECT), Kittisak Rattanakrangsri (Indigenous Peoples' Foundation for Education and Environment in Thailand) and Michael Kipkeu (Kenya Wildlife Service) were involved in supporting key motions (reports below), and presenting the Whakatane Mechanism which seeks "to address and redress the effects of historic and current injustices against indigenous peoples in the name of conservation of nature and natural resources"¹¹. The FPP team also attended key workshops on the World Heritage Sites and a host of side events.

FPP sponsored IUCN Motion on the World Heritage Convention and the Implementation of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

This was passed with a strong text, which included an emphasis on the need for Kenya to rectify the situation of the Endorois. Also, FPP and partners were involved in ensuring that Motion 007 on *Establishing an Indigenous Peoples' Organisation (IPO) membership and voting category in IUCN* (the category itself needing to wait until WCC6), and Motion 128 on *IUCN's implementation of the UNDRIP*, (which recalled the WCC4 motion on UNDRIP and sought to ensure UNDRIP guides relevant action by IUCN) were passed. Motion 128 also welcomed 'the "Whakatane Mechanism" as a significant contribution to the Programme's "rights-based and equitable conservation" undertakings and One Programme approach'.

Side event on the Whakatane Mechanism: A multi-stakeholder approach to solving human rights conflicts in protected areas

The well-attended two-hour side event on the Whakatane Mechanism focused on "addressing equitable governance and management in protected areas". As this E-Newsletter has previously reported, the [Whakatane Mechanism](#) aims to support conflict resolution in protected areas by ensuring that conservation practices respect the rights of indigenous peoples/ local communities. It is not a legal recourse to national or regional courts, but an intermediary solution that aims to enable parties to avoid going to court in the first place. The Mechanism is potentially faster, much cheaper, more accessible than turning to the courts and more conducive to building something positive. The Mechanism is clearly not legally binding for those who take part (as a court ruling should be, in theory at least) and when it fails to make progress

11 Durban Accord and Action Plan and Resolution 4.052

the option of going to court is still available.

Participants at this side event heard reports on the outcome of two Whakatane Mechanism pilot Assessments that have been carried out since 2011: at Mount Elgon in Western Kenya and in [Ob Luang National Park](#) in northern Thailand. Participants heard how these pilot Assessments have contributed to practical positive changes in these protected areas and how the Assessments were conducive to policy changes at the national level.

Dr. Janis Bristol Alcorn (RRI Fellow and Co-Chair of IUCN CEESP TGER) and Stewart Maginnis (Global Director, IUCN Nature Based Solutions Group) gave powerful introductions that outlined the progress IUCN has made in relation to the Whakatane Mechanism, and also noted just how vital such processes are to ensuring a rights-based approach becomes the norm.

The presentation of the pilot Assessment at Ob Luang National Park in northern Thailand delved into the history behind the situation, outlined how conservation players on the ground recognised and worked with the rights of local people, but also how national level policy needed to change to enable – rather than obstruct - a rights-based and effective form of conservation. The presentation clearly showed how this pilot had helped bring key players together with the intention of working to make such a change.

In the presentations on the pilot Assessment at Mount Elgon, Kenya, Stewart Maginnis, Ali Kaka (Regional Director, IUCN East and Southern Africa) and Justin Kenrick (Africa Policy Advisor, FPP) all pointed out that it involved taking on a seemingly intractable and dangerous situation. Fred Kibelio Ngeywo's presentation highlighted that a key contribution to the success of the pilot Assessment in Kenya was the Ogiek's willingness to engage constructively with the very institutions that they had experienced as having expelled them from their ancestral lands at Chepkitale, Mount Elgon. What also became clear from the presentations was the key role of Ali Kaka, with his extraordinary ability to bring all the key players together and co-facilitate the Whakatane Mechanism process with Forest Peoples Programme. Meanwhile, Michael Kipkeu, of the Kenya Wildlife Service, opened his presentation with the unequivocal statement that "Chepkitale belongs to the Ogiek".

As a consequence of the FPP team participating in WCC5, the Whakatane Mechanism is now much more prominent within the work of IUCN and has benefited from useful feedback. The next step is to move into the second phase, which will involve seeking funding to undertake more Assessments and to improve and finalise the Mechanism so that it can be officially launched

at the World Parks Congress in Sydney, in 2014, as a major IUCN initiative. The Pilot Phase has developed a highly effective process and working framework for this Mechanism. This second phase will seek to secure much greater input and feedback from indigenous peoples and local communities (e.g. through presenting to indigenous peoples and local community representatives at the CBD COP11, currently taking place in Hyderabad, India) and from governmental, non-governmental and conservation organisations, as it undertakes work that can hopefully continue to make a real difference to peoples' lives.

To find out more about the Whakatane Mechanism, and the pilot Assessments in Kenya and Thailand, visit the website: <http://whakatane-mechanism.org/>

7. First Board meeting of the Green Climate Fund takes place

The Green Climate Fund, the body tasked to deliver climate funds under the United Nations Framework Convention on Climate Change (UNFCCC) has met for the first time. Indigenous Peoples challenged rules of participation and engagement and called for the recognition of indigenous peoples' rights.

The first Board meeting of the Green Climate Fund took place in Geneva in late August to discuss key issues such as the role of the Board, the identification of the host country, and more importantly for indigenous peoples, the definition of the rules of participation of observers. Forest Peoples Programme attended the meeting to provide support to an indigenous peoples' representative and will continue supporting indigenous peoples' participation and calls for full and effective engagement.

To coincide with the meeting, FPP, together with JOAS, published a collaborative technical briefing on the Green Climate Fund, which can be downloaded here: <http://www.forestpeoples.org/topics/other-climate-related-institutions/publication/2012/new-publication-indigenous-peoples-and-gr>

8. Democratic Republic of Congo: Legal workshops in Bukavu, Boma, and Kinshasa, on the better protection of forest communities' rights

In July and August 2012, three civil society organisations in the Democratic Republic of Congo (DRC) - [Actions pour les Droits, l'Environnement et la Vie \(ADEV\)](#), the [Centre d'Accompagnement des Autochtones Pygmées et Minoritaires Vulnérables \(CAMV\)](#), and [Cercle pour la défense de l'environnement \(CEDEN\)](#) - organised a series of legal workshops in collaboration with the Forest Peoples Programme and with financial assistance from the Swedish International Development Agency (SIDA). The workshops sought to reinforce the legal capacity of these organisations and to promote a better understanding of indigenous peoples' and local communities' rights to land and natural resources and of the mechanisms to advocate for and defend the rights of communities in the REDD+ process in the DRC.



Group exercise on community land rights case study, August 2012, Boma, Bas Congo, DRC © Stéphanie Vig

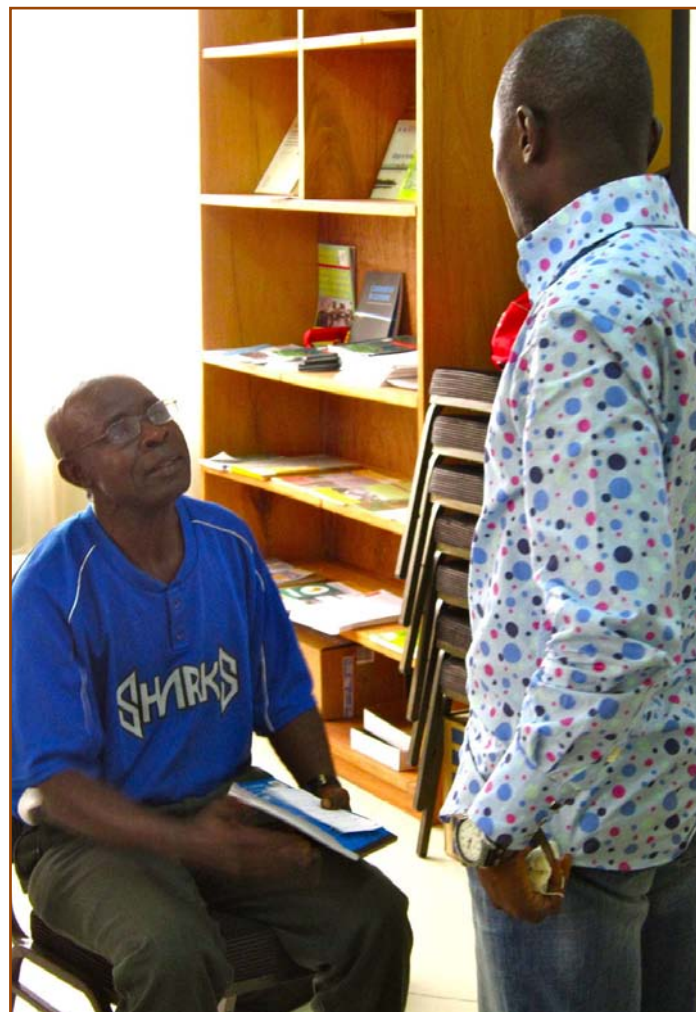
Free, prior and informed consent

"I now understand what free, prior and informed consent means. This right entails more than consulting communities; promoters have the obligation to obtain the consent of communities before going ahead with their projects".

- Jean-Claude Ikangamino, CAMV.

During the workshops, participants addressed the right

to free, prior and informed consent (FPIC), protected under international and regional law, and according to which indigenous peoples have the right to give or refuse their consent to any project which will likely impact their rights to land and natural resources. It was explained that this right has evolved in international law and is now increasingly recognised to extend beyond indigenous peoples to include local communities as well.



Group activity on human rights monitoring: how to interview witnesses, August 2012, Kinshasa, DRC © Stéphanie Vig

Discussions also focused on how the right to FPIC is not protected under national Congolese law, despite the fact that the government is party to several international conventions protecting this right. The *Arrêté Ministériel fixant la procédure d'homologation des projets REDD+* (Ministerial Order on the homologation procedure for REDD+ projects)¹² provides that upon signature of a partnership contract to value environmental services associated with REDD+ projects, project promoters have four years to obtain external validation of their projects. Validation is notably subjected to the consultation of

¹² Arrêté Ministériel No 004/CAB/MIN/ECN-T/012 of 15 February 2012, fixant la procédure d'homologation des projets REDD+.

relevant stakeholders, in accordance with the *Procédure d'enquête publique préalable à l'octroi d'une concession forestière* (Procedure of public enquiry prior to granting forest concessions).¹³ This procedure does not respect the international obligations of the DRC: it aims to inform and consult local communities and indigenous peoples regarding projects that may impact their land and resources, but it **does not allow them to oppose the implementation of projects if they believe that they will have negative impacts on their land, resources, or livelihoods**. This violates their right to free, prior and informed consent.



Group exercise on community land rights case study, July 2012, Bukavu, South Kivu, DRC © Stéphanie Vig

Gender and the REDD+ process

“For the first time, I understood that gender also concerns us men. In our country, men are rarely associated with gender activities. In the context of REDD+ projects, we must all be involved and ensure that women can benefit from REDD+.”

- Ronsard Boika, Environmental Education Officer, CEDEN

The importance of gender in the REDD+ process was another theme covered during the workshops. Participants noted that despite the strong interactions of women with their environment and their reliance on natural resources, women do not control their land or natural resources and are often subjected to discrimination in their access to both. Many expressed concerns that REDD+ could have negative consequences for women by further limiting their access to forest resources and thus exacerbating gender inequalities and poverty amongst women. It is therefore crucial to ensure the full and effective participation of women in the REDD+ process. As highlighted by Patricia Mayolongo, lawyer at ADEV, “this participation must be substantive

and effective; it must do far more than merely count the number of women in attendance”.

Participants from ADEV, CAMV, and CEDEN insisted on the importance of sharing their newly acquired knowledge with communities and to support them to advocate for their rights. CAMV Executive Director, Pacifique Mukumba, affirmed that “after this theoretical phase, we must put into practice the new concepts we learned. We intend to use the different regional and international avenues to protect and advocate for the rights of indigenous peoples.”

9. The World Heritage Convention and Indigenous Peoples

Indigenous peoples’ experiences of the inscription of their lands and resources as World Heritage Sites, under the 1972 World Heritage Convention, have been widely varied. In some cases the Convention has been a tool for indigenous peoples to use in protecting their lands – the case of the Mirarr people in Kakadu, Australia, using the World Heritage Convention to halt Uranium mining in their lands stands out. However, far too often the processes of the World Heritage Convention, and the Committee which oversees its implementation, are far removed from the realities of the indigenous peoples living in the lands concerned. Through the lack of involvement of indigenous peoples, the lack of their effective participation and lack of comprehensive consultation and consent procedures, inscription too often results in violation of the rights of indigenous peoples, as expressed in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

In order to examine these experiences more closely and draw out the lessons that need to be learnt by States, the World Heritage Committee and others, Forest Peoples Programme and the International Work Group on Indigenous Affairs (IWGIA) are drawing together a book detailing indigenous peoples’ experiences with this Convention. This joins other international efforts already undertaken aimed at highlighting the urgent need for reforms in the World Heritage Convention work processes, including the [IUCN Motion on the World Heritage Convention and the Implementation of the UN Declaration on the Rights of Indigenous Peoples](#) (see [Article 6](#) of this E-Newsletter for more information about this Motion) and previous [Joint Statements](#) made to the UN Permanent Forum on Indigenous Issues in 2011 and 2012.

¹³ Arrêté Ministériel No 24/CAB/MIN/ECN-T/15/JEB/08 of 7 August 2008, fixant la procédure d'enquête publique préalable à l'octroi d'une concession forestière.

In September, an International Expert Workshop on the World Heritage Convention and Indigenous Peoples was organised through a collaborative effort by the Danish Agency for Culture, the Greenland Government and the International Work Group for Indigenous Affairs (IWGIA). The Workshop took place in Copenhagen, Denmark, from 20-21 September 2012 as part of the 40th Anniversary of the World Heritage Convention, celebrated by UNESCO under the theme “World Heritage and Sustainable Development: The Role of Local Communities”.

The International Expert Workshop was attended by Indigenous experts and representatives from all continents, human rights experts, representatives of the UN mechanisms on Indigenous Peoples (including the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples), representatives of UNESCO, IUCN and the International Council on Monuments and Sites (ICOMOS) as well as some government representatives. Indigenous experts and representatives and other human rights experts presented the experiences of indigenous peoples of around twenty different World Heritage Sites, including sites already inscribed, sites in the process of nomination and those on the tentative list.



Victor Amougou presenting the Cameroonian experience with consultations about the establishment of the Tri-National de la Sangha (TNS) as a World Heritage Site © Helen Tugendhat

The ‘Call for Action’ (forthcoming, [here](#)) resulting from this Workshop highlights the need for the Operational Guidelines of the Convention to be reviewed and adapted – with the effective participation of indigenous peoples – to ensure that existing working practices can be changed to ensure violations do not continue. It also highlights the need for human rights considerations to be taken into account, not only by the World Heritage Committee and State Parties to the World Heritage Convention, but also in the work of the main advisory bodies to the Convention, IUCN and ICOMOS.

Further information:

- IUCN Motion on the World Heritage Convention and the Implementation of the UN Declaration on the Rights of Indigenous Peoples: <http://tinyurl.com/9dkvox4>
- Joint Statements made to the UN Permanent Forum on Indigenous Issues in 2011 and 2012: <http://www.forestpeoples.org/topics/world-heritage-convention/publication/2012/joint-statement-iposngos-unpfii-continuous-violati>
- Report by CEFAID on the consultations in Cameroon for the World Heritage Site nomination of the Tri-National de la Sangha (TNS) protected area: <http://www.forestpeoples.org/topics/environmental-governance/news/2012/04/report-cefaid-consultations-cameroon-world-heritage-sit>

10. Asia Indigenous Peoples’ Pact adopts a strong gender policy for work on indigenous issues

During the 4th General Assembly of members, the [Asia Indigenous Peoples’ Pact \(AIPP\)](#) has adopted a strong policy on how the organisation will support and encourage work on gender-related issues in all of its working programmes. The policy also addresses internal gender-related processes and possible concerns. The policy will sit alongside the newly adopted strategic plan on women’s rights and forms a coherent and strong commitment to advancing the interests and rights of indigenous women.

For further information please contact Shimreichon Luithui at chonchon@aippnet.org or visit: <http://www.aippnet.org/home/indigenous-women>

11. New FPP Publications

Forest Peoples Programme (alongside partner organisations) has published three new publications; 'Indigenous Peoples and the Green Climate Fund – A technical briefing for Indigenous Peoples, policymakers and support groups', the third edition of 'What is REDD+? A guide for indigenous communities' and the second edition of 'A Guide to Indigenous Women's Rights under the International Convention on the Elimination of All Forms of Discrimination Against Women'.

Read more about them below.

1. Indigenous Peoples and the Green Climate Fund – A technical briefing for Indigenous Peoples, policymakers and support groups

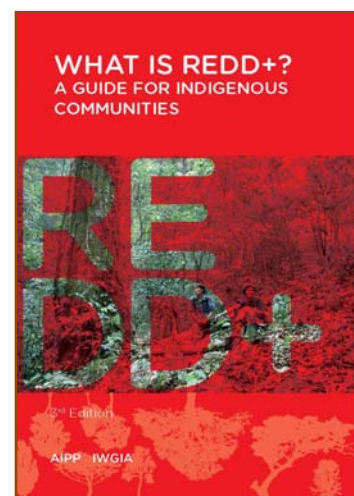
This report was published to coincide with the first Board meeting of the Green Climate Fund (GCF) which took place in August 2012. It summarises some key issues relevant for indigenous peoples, building on statements and policy platforms adopted by Indigenous Peoples' Caucuses. In particular the report draws attention to the need for the GCF to improve indigenous peoples' participation in governance, adopt stronger safeguards and facilitate direct access to financing for climate change response actions developed and implemented by indigenous peoples.



To read the report (in English only) visit: <http://www.forestpeoples.org/topics/other-climate-related-institutions/publication/2012/new-publication-indigenous-peoples-and-gr>

2. What is REDD+? A guide for indigenous communities - Third Edition

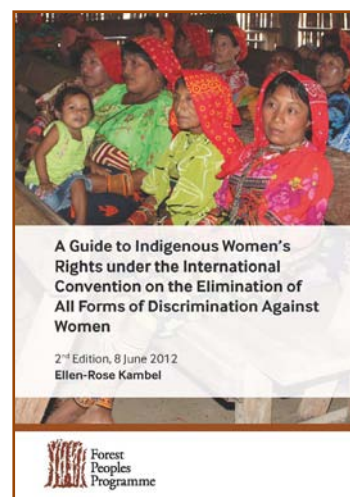
This book seeks to help indigenous communities and their organisations to provide their people with basic information on REDD+. It is intended as a guide in understanding climate change, REDD+ and how they relate to the recognition and exercise of the collective rights of indigenous peoples.



To read the guide visit: <http://www.forestpeoples.org/topics/redd-and-related-initiatives/publication/2012/what-redd-guide-indigenous-communities-new-edit>

3. A Guide to Indigenous Women's Rights under the International Convention on the Elimination of All Forms of Discrimination Against Women

Indigenous women around the world continue to suffer from systematic violations of their human rights. Not only as indigenous peoples but also as women. This updated Guide to Indigenous Women's Rights under the International Convention on the Elimination of All Forms of Discrimination Against Women is written to assist indigenous women in seeking recognition and protection of their human rights through the use of the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This Convention was adopted in 1979 and is one of the six core international human rights instruments. It is also one of the most widely ratified treaties with 187 member states as of May 2012.



This updated guide is available in [English](#), [French](#) and [Spanish](#) here: <http://www.forestpeoples.org/topics/gender-issues/publication/2012/guide-indigenous-women-s-rights-under-international-convention>