



The hottest REDD issues: Rights, Equity, Development, Deforestation and Governance by Indigenous Peoples and Local Communities¹

This discussion paper is a contribution to the debate about policies and incentives to reduce emissions from deforestation and forest degradation (REDD). It focuses on the potential of governance of forests by indigenous peoples and local communities, and discusses implications of envisaged REDD regimes for local rights. The note discusses why equity and community engagement should be a paramount consideration of REDD regime and highlights opportunities as well as potential complications and pitfalls. It argues that crucial links need to be drawn between effective REDD regimes, biodiversity conservation and human rights instruments like the UN Declaration on the Rights of Indigenous Peoples.

Introduction

The 1992 Framework Convention on Climate Change (FCCC) clearly recognized the role of forest conservation in climate mitigation by obliging Parties, as far as possible and as appropriate, to conserve forests and other carbon sinks and reservoirs. It also obliges industrialized countries to contribute financial resources for the implementation of the Convention. Overall, both commitments are far from being fulfilled. While some countries, and many Indigenous Peoples and local communities within those countries, have made significant progress in halting deforestation and forest degradation, other countries maintain dramatically high rates of deforestation and forest degradation, so much so that deforestation is today estimated to be responsible for an estimated 17 % of global greenhouse gas emissions.² In 2005, a group of countries formally reinitiated a debate on policies and incentives to reduce emissions from deforestation in developing countries (REDD), as a contribution to climate change mitigation in general. The 13th Conference of the Parties of the Framework Convention on Climate Change, which took place in December 2007 in Bali, formally included negotiations on REDD issue in the so-called Bali Roadmap, an intense negotiation process that is expected to lead to a firm intergovernmental agreement on future emission reductions by December 2009. Considering the multiple negative social and environmental impacts of deforestation and forest degradation,



Photo: Mina Susana Setra

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² Intergovernmental Panel on Climate Change AR 4, Technical Summary of Working Group III

About the REDD negotiations

Until now, the negotiations on REDD have focused on the technical aspects of how to measure reductions in emissions from deforestation and forest degradation, and on economic incentives to support such reductions.

The REDD financing proposals on the table include a the establishment of a public fund, and/or the inclusion of nation-wide emission reductions or project-based reductions in the global carbon market. Some have argued that the inclusion of projects or policies to reduce deforestation in the global carbon market could mobilize billions of dollars for forest conservation. Others caution that it would have many negative social and environmental impacts.

Measuring emission reductions requires the establishment of a baseline, to measure to what extent emissions are additional to what would have happened in a business-as-usual situation. Under current schemes to finance emission reductions in developing countries, only those additional efforts are counted.

As elaborated in this paper, this approach is problematic for Indigenous Peoples and local communities, as well as for a number of countries, which have successfully conserved forests and/or reduced deforestation. As there is currently little or no deforestation in these countries and communities, deforestation cannot be reduced. The concept of avoided deforestation has been developed to develop possible incentives for efforts to conserve forests even when these forests were not threatened, but if such incentives would be financed through carbon offsets, they would lead to de facto increased emissions and thus undermine the climate regime.

Despite such complications and potential pitfalls, several initiatives have already been taken to support developing countries to get "ready" for REDD. The World Bank has set up a Forest Carbon Partnership Facility, and is currently developing a Forest Investment Fund. The UN Environment Program, the UN Development Program and the Food and Agricultural Organization of the UN have established a joint UN-REDD initiative to support REDD-related initiatives. Several bilateral donors, including in particular the Norwegian Government, have freed up significant amounts of funding to support REDD-related activities. And a rapidly increasing number of forest conservation and tree plantation projects receive funding through what is called the "voluntary carbon market. Initiatives are underway to develop social and environmental standards for such "carbon offset projects". However, as long as these offsets are not connected to binding emission targets, these voluntary financial contributions are basically a form of philanthropy and/or green marketing.

many actors see the REDD negotiations as an opportunity to strive towards an agreement that would ensure more effective compliance with both forest-related commitments in the FCCC and related financial commitments. Indigenous Peoples' Organizations and Southern NGOs, however, have expressed serious concerns about the potential negative impacts of REDD regimes. These concerns have been echoed by international organizations and donor organizations, and several Parties to the FCCC.

There is increasing recognition that REDD policies might have important impacts on the rights and governance structures of Indigenous Peoples and other forest-dependent peoples, especially as an agreement on REDD might lead to significantly increased financial flows for forest policy. This briefing note tries to compile a number of important lessons learned on equity, community engagement in forest conservation and the rights of Indigenous Peoples and local communities in general, which are of utmost relevance to the REDD debate.

More than forests...

Grasslands cover 1.5 times more of the globe than forests and store "approximately 34 percent of the global terrestrial stock of CO₂. Although the standing carbon store of forests is much greater than the one of grasslands, some forests add only about 10 per cent to their total weight each year, whilst savannas can reproduce annually 150 per cent of their weight, and tropical savannas have a greater potential to store carbon below ground than any other ecosystem.¹ There is a concern that the REDD debate has ignored the importance of other carbon-rich ecosystems, and the contributions of countries and communities that actively conserve other carbon-rich ecosystems, such as tropical grasslands and peatlands (Davies, J. and Nori, M. "Managing and mitigating climate change through pastoralism", in Policy Matters no 16., IUCN CEESP, October 2008)

Few global problems faced by humankind involve equity issues as pervasively and powerfully as climate change. Climate change is a worldwide problem that has been and is being primarily created by the overconsumption of fossil fuels by the wealthiest individuals in the richest countries of this planet,³ yet it disproportionately affects the most vulnerable populations in the poorest countries.⁴ Regions like Oceania and Africa, and economically marginal social groups like Indigenous Peoples, women and small farmers, are suffering economic, social and environmental losses originating from the irresponsible consumption patterns of the wealthiest segment of mankind.

The Framework Convention on Climate Change (FCCC), which was signed in 1992 and has been ratified by over 192 States (including the USA), recognizes these inequities. It called on countries to adhere to the principle of common but differentiated responsibilities, even though it obliges all countries to contribute to mitigating climate change, including by conserving forests and other carbon sinks and reservoirs. The Convention obliges industrialized countries to provide the financial resources needed to enable developing countries to implement the Convention. The Kyoto Protocol deliberately excludes developing countries from the obligation to take up mandatory emission reduction targets, as it was felt that those countries that carried the main responsibility for causing the problem should take the lead in solving it.

Governance, Equity and the Engagement of Rightsholders and Stakeholders

Governance is about power, relationships, responsibility and accountability. It is about who has influence, who decides, and how decision-makers are held accountable.

Equity is related to a fair share of the relevant costs and benefits of conservation and to the opportunity of participating in decision-making on the basis of entitlements and rights.

Genuine and effective engagement of the rightsholders and stakeholders in the development and implementation of policies that affect them is at the heart of both governance and equity. It includes genuine engagement by Indigenous Peoples-- one of the rights enshrined in the UN Declaration on the Rights of Indigenous Peoples and other international human rights instruments, genuine engagement by women, genuine engagement by community representatives, and genuine engagement by the countries whose rights and interests are often overlooked in global regimes.

Article 7 of the Aarhus Convention sets the standards for public participation in environment related projects. Therein, the state is obliged to make appropriate and other provisions for community participation. Participation must start in the preparation of plans and programs, transparency and fairness must be evident and the state must have provided all the necessary information regarding the project.

It is critical that the information is in a language easily understood by the community and the community must have a right to access all the information. Discussions on the same must be in public, in the project area and in an environment in which freedom of speech is enabled. The dialogue sessions must have been communicate and in advance. The community must also be supported to have legal representation of their choice and any decisions reached must enjoy broad community support.

Participation and engagement by civil society or community leaders only is not sufficient unless nominated by the community in a transparent, broad and verifiable process that ensures constant feedback.

See also: Borrini-Feyerabend, G. et. al., "Governance as key for effective and equitable protected area systems", Ceesp briefing note 8, February 2008

The equity aspects of the FCCC are closely linked to the concept of "per capita emissions". Different policy proposals strive to equal per capita emission rights for all human beings within a common, global, limit that prevents "dangerous climate change". The "Contraction and

³http://earthtrends.wri.org/searchable_db/index.php?action=select_countries&theme=3&variable_ID=666

⁴ See, for instance, <http://www.countercurrents.org/cc-connor171105.htm>.

Conversion"⁵, and the "Greenhouse Development Rights"⁶ proposals are two specific and partly similar policy proposals that attempt to render concrete the concept of "equal per capita emission rights". Many social movements, especially in the South (e.g. Oilwatch and most members of the Climate Justice Now! network⁷) go a step further than "equal per capita emission rights" as they ask to take into account the responsibility for historical emissions and the "ecological debt" created by these emissions in proposals seeking an equitable solution to the climate crisis. In addition, discussions are heated about the concept of "dangerous climate change", as the limit temperature rise value of two Celsius degrees, which has been advanced by many groups, lacks a convincing scientific basis. Climate change is already having devastating impacts in many regions, and we might lose entire Nation States in the Pacific long before reaching the 2 degrees Celsius limit.

Few voices, however, appear to question the concept of "equal per capita emission rights" per se. This concept has an important human rights dimension; it is founded on the recognition that all human beings are equal, and born with equal rights regarding the earth' environment.

It is of utmost importance that policy proposals to reduce emissions from deforestation and forest degradation in developing countries are being analyzed within the framework of this equity dimension of the climate regime in general. Several developing countries have expressed concerns that REDD would impose binding emission reduction targets upon developing countries even before developed countries have taken the lead in reducing their own emissions. And who is speaking for the underprivileged people within each country in this debate?

Indigenous Territories, Community Conserved Areas and Equity

A main concern related to rights and equity is the risk that the benefits and costs of REDD-related initiatives will not be shared equitably with the Indigenous Peoples and local communities that have historically been responsible for the conservation and sustainable use of large tracks of forests and other carbon-rich ecosystems.

Territories and lands occupied or used by indigenous peoples and other traditional local communities (ICCAs) encompass a considerable proportion of areas important for biodiversity. Although poorly known and acknowledged, these areas are responsible for conserving an enormous part of the Earth's beleaguered biodiversity and ecological functions, supporting the livelihoods of millions of people and helping to maintain their culture and sense of identity. ICCAs are not static phenomena. Throughout the world, the governance systems of contemporary indigenous and local communities are syncretic constructions of old and new knowledge, practices, tools and values of different cultural origin.

Three main features define a ICCA:

- a strong relationship between a given ecosystem, area or species and a specific Indigenous People or local community concerned about it because of cultural, livelihood-related or other strongly felt reasons;
- the community possesses - *de facto* if not also *de jure* - the power to take and enforce the key management decisions regarding the territory and resources;
- the voluntary management decisions and efforts of the community have lead to (or are leading to) the conservation of biodiversity, ecological functions and associated cultural values, regardless of the objectives of management originally set out by the community. " (Borrini-Feyerabend, G. et al, "Recognising and supporting indigenous &community conservation - ideas & experiences from the grassroots", CEESP briefing note 9, September 2008)

It is difficult to quantify the total amount of forests and other ecosystems that can be considered as ICCAs, but the numbers should not be underestimated. Some 80% of the remaining forests

⁵ <http://www.gci.org.uk/briefings/ICE.pdf>

⁶ http://www.ecoequity.org/GDRs/GDRs_Nairobi.pdf

⁷ See for example http://www.oilwatch.org/index.php?option=com_content&task=view&id=598&Itemid=48

in Ecuador, for example, are found on Indigenous territories⁸. In Brazil, it has become crystal clear that "recognizing" Indigenous lands is by far the most effective policy to halt deforestation. Satellite images of Amazonian deforestation clearly show how deforestation rates are low to virtually non-existent in most of the recognized Indigenous territories,⁹ while the average deforestation rate in the Brazilian Amazon in general has gone up by 69% between August 2007 and August 2008 alone.¹⁰

Crucially, the need to clarify the role of ICCAs and ways to provide them with support is becoming essential in the face of global climate change and the possibility that adaptation and mitigation strategies can be lead by local communities, and that communities can receive "compensation" for those activities through a variety of mechanisms. Together with payments for environmental services, such "compensation" may present opportunities but may also have enormous impacts on ICCAs, for instance through embedded inequities, and by harming community structures and values, including those that preserved ICCAs so far.¹¹

Customary Institutions, ICCAs and the State

More often than not, the interface between state-based institutions and the customary institutions of indigenous peoples and local communities remains a complex arena. Indigenous peoples and local communities have few options to shape[0] policies and direct their own paths to well-being, development and conservation. More often, policies are adopted and enforced upon them, at times even squandering precious opportunities for mutual support and synergies.... Those [tensions] surface in initiatives aiming at "recognizing" ICCAs, fitting them within a state legislative frameworks and/or incorporating them as part of national protected areas systems.

Trying to "adapt" the governance institutions of traditional ICCAs to state requirements has ended up, in some cases, undermining their authority and stability, and lead to the demise of long standing successful conservation. [...] Often this happens in parallel to the setting up of decentralized government institutions, such as rural municipalities. In other cases, well intentioned financial support has proved socially and morally disruptive. [...]

Clarifying the role of ICCAs and ways to provide them with appropriate support has become crucially important in the face of global climate change and emerging adaptation and mitigation strategies. There is no doubt that ICCAs and other biodiversity-rich areas are severely threatened by the impacts of climate change, but there is also a growing awareness that they can contribute significantly to mitigation and to adaptation efforts.

Meanwhile, policies are being formulated and tested to compensate various actors for their efforts to conserve ecosystems - in particular forests and watersheds. Carbon trading mechanisms can have enormous impacts on ICCAs. While financial compensation for ecological services can provide needed recognition and support to ICCAs, they can also give the coup de grace to community based conservation. Indigenous peoples and local communities have voiced concerns over what they see as a commercialization of nature. And, even where communities are keen to benefit from funding schemes for ecosystem services, it remains to be explored what mechanisms are capable of transferring funds to the local level in equitable ways, without harming the governance structures and values that have preserved ICCAs so far. (Borrini-Feyerabend, G. et al, 2008)

The UN Declaration on the Rights of Indigenous Peoples has spelled out the right of Indigenous Peoples to participate in decision-making processes directly relevant for their lands and territories. So far, however, Indigenous Peoples' Organizations have not been allowed to participate effectively in the debate on REDD. As a matter of fact, Indigenous Peoples have felt so excluded from the negotiation process that they staged several large public protests during the 13th Conference of the Parties of the FCCC.¹² Non-indigenous local communities have been equally under-represented in the negotiations. Unless participation is made to improve significantly over the coming year, the current negotiations are likely to agree upon mechanisms negotiated by and for governments only. This would guarantee the seeding of enormous conflicts. The relationship between national governments and the customary governance

⁸ Asociación Limoncocha, Independent monitoring report on the implementation of the CBD expanded programme of work on forest biodiversity in Ecuador, GFC 2008

⁹ http://www.whrc.org/pressroom/press_releases/pr-2006-01-25-ind-res.htm

¹⁰ <http://www.iht.com/articles/2008/08/31/america/1brazil.php>

¹¹ Borrini-Feyerabend, G. et al, 2008

¹² <http://vh-gfc.dpi.nl/news/view/68>

structures of ICCAs is rarely smooth and positive. In this sense, it is crucially important that the lessons learned about ICCAs in general are applied to the REDD debate as well.

One specific complication with any local scheme providing compensation to avoid emissions from deforestation and land degradation is that governments are likely to demand that funds are channeled through clearly identified and legally recognized institutions. Customary governance institutions, however, rarely fit these requirements.

In Africa for example, customary governance institutions are increasingly under pressure. Many communities may wish the governments to recognize their customary governance institutions without trying to mould them into standardized blueprint forms, or diluting their authority. At times, this can mean avoiding the imposition of "democratic" practices such as "electing" local leaders to "run" ICCAs or having outside experts descend into an area to "help out" tracing the boundaries of the ICCA, doing the inventories, "improving" management practices and the like. These steps can be fraught with difficulties of their own (e.g. electoral corruption) and undermine ongoing processes based on community consensus. Of course, in serious cases of inequity and infringement of rights within a community, civil society or government are justified in intervening to achieve more equitable conditions. But the fast and dirty imposition of rules concocted with the best of intentions by far away players may usher more problems than solutions.¹³

The Risk of Elite Resource Appropriation

A related but more general concern about a sudden increase in financial support for activities to reduce deforestation is the risk of elite resource appropriation, both within countries, and within communities, coupled with the dumping of costs and sacrifices on the most disadvantaged. This risk is particularly high if REDD activities will be primarily financed through market-based mechanisms, although it should be emphasized that public funds might also lead to elite resource appropriation.

Resources appropriation by elites is one of the main drivers of deforestation and one of the main causes of persistent poverty. By assigning a substantial monetary value to forests, the REDD mechanism will encourage this resource appropriation. This could include rapid entitlement of forest land by elites, implementation of policies aimed at displacing smallholders peasants out of forest areas, repression of traditional modes of farming considered unsustainable, such as slash-and-burn cultivation etc., social marginalization, and displaced deforestation (by peasants moving from REDD project areas to other forest land). One possible solution might be to condition the REDD payment to the recognition of the use rights of people living in the concerned forests, and to the compensation of any possible loss of such use rights. A common answer given to the issue of resource appropriation and to the other consequences of ill designed projects is "community participation". But participation can be manipulative, and used to favor the adoption of externally designed agendas, while the communities involved in participatory approaches are often "imagined communities" that might end up competing or entering into conflict with real communities. This may lead to social disruptions and project failure, especially if these "imagined communities" are given a legal status and new forms of power, and receive financial assistance (such as through REDD payments).

All issues mentioned above can theoretically be fixed by employing appropriate governance approaches to the REDD funding schemes. But such approaches may imply escalating transaction costs and are not guaranteed to work out, due to the complexity of the issues and the difficulties of dealing with governance issues in many states where deforestation currently occurs. The unequal power between stakeholders is a fact that predates REDD and REDD schemes are unlikely to solve this. The patterns of international aid – currently characterized by high transaction costs and low impacts on the ground-- may need to be seriously re-hauled if REDD schemes are to have a chance to work.

Elite resource appropriation becomes an even more profound problem if REDD activities are financed through carbon markets. An analysis of the Global Forest Coalition of the impact of

¹³ Borrini-Feyerabend, G. et al, 2008

market-based conservation in five different communities revealed that "The use of market-based mechanisms inevitably means that the odds are stacked against those in a weaker initial negotiating position. This includes people with no legal land tenure and those unable to afford the considerable expense involved in the preparation of environmental impact assessments, the delivery of environmental services, the fulfillment of a range of quantifiable qualification criteria and the provision of upfront and operational finance, including insurance against project failure. This implies that market-based conservation mechanisms will inevitably lead to increased corporate governance over biodiversity conservation, and erode the governance systems of (monetary) poor communities and social groups including Indigenous Peoples and women."¹⁴ While carbon markets can, in theory, undoubtedly bring some economic benefits to local communities, it is important to analyze economic costs in terms of decreased food security and food sovereignty and the loss of alternative sources of jobs and income too. The most significant impact reported in the same analysis was the sense of disempowerment felt by many community members. In all cases under study, local residents reported that their control over their forests and livelihoods had decreased because "the main decisions were now taken by other actors". Thus, communities that had their own governance systems promoting collective sustainable management of biodiversity became, under the impact of market-based mechanisms, more likely to act individually (deliberately or otherwise) and pursue individual economic interests such as jobs, profits and financial rewards. Traditional biodiversity-related knowledge was less likely to be shared, communal lands were more at risk of being privatized and sold off, and biodiversity-friendly economic activities like bee-keeping were likely to be substituted by monoculture timber plantations. The position of women within the communities was also affected, as women interests are more likely to be over-looked in commercial transactions normally closed by men (even in communities where women previously had responsibility for matters related to forests and biodiversity). Women have a disadvantageous position in monetary economies in general, as they spend a significant part of their time on activities such as childcare, household management, procuring clean water and other goods for the family, which are not rewarded in monetary terms. Moreover, women are generally underpaid also in the formal labor market,¹⁵ The poorest of the poor, persons with disabilities (especially if they are disabled indigenous women) will suffer the most.

REDD, Equity and the Requirement of Additionality

There is another, environmental risk of REDD. By equating the value of primary forests to the value of the carbon they stock, the REDD mechanism will encourage the non recognition of other values, such as existence value, and option value of other resources such as the biodiversity itself. As a consequence, it could quickly become a perverse subsidy. Countries could receive REDD payments for converting primary forests into tree plantations, as the carbon stocked in the trees would be additional to the carbon stored in the annual crops that could have been grown in the same location, according to the baseline data. This risk will be more elevated if the baseline data are allowed to exaggerate future deforestations losses in absence of REDD mechanism.

A Disincentive to Good Forest Governance

Future deforestation rates depend on many variables and cannot be predicted. In this context, the definition of baseline deforestation data may quickly become an area of political battle, rather than of scientific debate. The adoption of a mechanism where REDD payments are based on baseline deforestation data [0] also raises the unsolved issue of how to avoid the REDD mechanism becoming a disincentive to good forest governance in countries where the deforestation rate is currently low.

Countries whose deforestation rates are currently higher would be more rewarded, which would create an incentive to deforestation during the pre-commitment period, unless the concept of early action credit was accepted. Conversely, countries that improved the governance of their forests before the commitment period, would not be rewarded, creating inequities that could become disincentives to good governance - unless a stabilisation fund was created. (Pollini, J., "Financing avoided deforestation through the Carbon Market - a Contribution to the debate" Policy Matters 16 IIUCN CEFESP October 2008)

¹⁴ Global Forest Coalition, "Life as Commerce, the impact of market-based conservation on Indigenous Peoples, local communities and women", GFC 2008

¹⁵ Global Forest Coalition, 2008, *ibid.*

It will also be more significant if the development of other land use changes, like agroforestry, are considered in the calculation of baseline emission data and gains in terms of reduced emissions. If such land use changes were considered, the development of second generation biofuels, for example, could lead to new deforestation waves that would be subsidized in the name of reducing emissions.

The fundamental tension between REDD effectiveness and equity is not a small issue, and could well become the main stumbling block in the REDD negotiations if the countries with low deforestation rates realize they will always lose out in a regime that works with (arbitrary) emission baselines and additionality scenarios. The same is true for local communities and Indigenous Peoples that have successfully conserved their areas and territories, and women, who are on average far less involved in activities causing large-scale deforestation. By definition, such efforts will not qualify for REDD credits as there is no additionality: in simple words: No emissions from deforestation implies that you cannot reduce those emissions, and thus you will not qualify for emission reduction credits. It has to be kept in mind that the current climate regime, as shaped by the 1997 Kyoto Protocol, is based on emission reduction targets and related emission reduction credits.

Several proposals have been developed¹⁶ to combine REDD credit schemes financed through a carbon market with a fund that would provide support to countries, Indigenous Peoples, communities and/or individuals that have implemented responsible policies to conserve their forests. But as the carbon market is expected to provide at least a tenfold more financial resources than any public fund, such a compromise will not solve the fundamental inequity that those countries, Peoples, communities and individuals that have conserved their forests will receive far less funding than those who are currently involved in activities that cause massive deforestation.

Within countries, this could be addressed by not allowing individual carbon offset projects, and by establishing a fund that provides equal financial support to every community or individual conserving a certain amount of forests. However, such a system can only be equitable if those use rights, and the often related land property, is equitably divided within a country. Regrettably, due to the aftermath of feudal or colonial history and/or dictatorial regimes, this is seldom the case. The inequitable division of land has been publicly recognized as one of the main social and political challenges in practically all countries in a continent like Latin America. In Latin America and many other continents, Indigenous Peoples are still struggling to obtain recognition for the overwhelming majority of their territorial rights.¹⁷

A good alternative might be to base any reward system on historical use rights instead of land property. This will be quite a challenge, but it might be worth the effort, as mapping such historical use rights might contribute to solving many current problems related to land property, including the important issue that women own far less land than men, yet rural women in developing countries often depend on free access to forests and other ecosystems for gathering fuelwood, fodder, medicinal plants and other essential livelihood resources for their families.

Random Additionality

Karsenty sees even bigger, inherent problems with the additionality [0] that would be required for any market-based solution. "Market instruments are very effective tools for achieving specific goals, such as improving efficiency of economic agents, but they will probably be unable to change the socio-political context underlying tropical deforestation. A successful market-based REDD mechanism would need a collective capacity to agree upon a baseline which would either take the form of a reference period in the past or a scenario which could be used as a convincing projection of the future trends of deforestation. Unfortunately, there is little chance that the future resembles the past; robust predictions of future deforestation seem unlikely given the complex interactions of factors commanding the pace of deforestation, especially as most of the lie[0] outside the forest sector. The unexpected and sharp increase in deforestation in Brazil

¹⁶ See for example <http://unfccc.int/resource/docs/2008/smsn/ngo/040.pdf>

¹⁷ See for example the Paraguayan case study "Biodiversity offsets in Paraguay in: Global Forest Coalition, "Life as Commerce, the impact of market-based conservation on Indigenous Peoples, local communities and women", GFC 2008

as a direct consequent of the worldwide sudden rise of food prices should remind us that scenario(s) should not be confused with predictions. Even if baselines are rejected in favor of agreed national quantitative targets of deforestation, disentangling the impact of genuine effort by governments from random events - needed to assess the additionality of reductions - will be often impossible. The various methodological refinements proposed to alternate those difficulties have failed to provide satisfactory ways of overcoming this fundamental stumbling block, and have introduced complexity within a scheme whose initial quality was simplicity."

Karsenty¹⁸ critically analyzes some of the proposals that are on the negotiating table to deal with this additionality problem: "The initial proposal presented by Papua New Guinea and Costa Rica in 2005 was to adopt a historical reference, i.e. the average of past deforestation converted into carbon emissions. However, such a proposal has serious weaknesses. Forest transition theory (Angelsen 2007), which often begins with massive deforestation, shows that it is unlikely that such high rates of deforestation are maintained over time....when remaining forests tend to concentrate in mountainous highlands, as is the case in several Asian countries including Borneo the decline in terms of annual deforested area is unavoidable: the only uncertainty is to determine when the inflexion point will be reached and what will be the pace of the slow-down. Countries having massively deforested in the past are likely to mechanically benefit from REDD-credits and could enjoy a high probability of being rewarded, without any adjustment of public policies vis-à-vis the forest. Such a historical baseline, despite Brazil's support, is not viewed favorably by countries with vast expenses of forest, relatively low deforestation rates and which are still waiting for a development wave which would extract them from widespread poverty. Typically is the case of Congo Basin countries, in which limited rates of deforestation have little to do with 'early efforts' of preserving forests: instead, low deforestation is linked to poor transport infrastructure, high timber extraction costs, low population densities in rural forested areas and limited attractiveness for large agricultural investments (due to unclear property rights and obstacles to 'smooth' business).

Setting 'business as usual' scenarios for a given 5 year period is therefore not only challenging: they are more likely to resemble "random scenario's" than anything else. It should be pointed out that these complexities are important to address if REDD activities are funded through new and additional financial resources, but they are essential to address if REDD activities would be funded through carbon offsets, as many have proposed. If no proper baselines are set, including REDD activities in the global carbon market will de facto lead to substantially increased emissions, which is something humankind simply cannot afford at this point in time. It is actually quite fascinating that in a debate that is so focused on incentives, the economic incentives for governments to manipulate their baselines and business-as-usual scenarios are often overlooked. Even though satellite images have enabled significantly improved monitoring of deforestation itself, they are not able to tell us what would have happened with a certain forest in the absence of REDD funding.

In fact, as REDD credits could provide cheap carbon offsets for industrialized countries that are struggling to meet their reduction targets, there is a strong economic incentive for them to accept invalid baselines and additionality scenario's as well. Needless to say, the climate regime itself, and its "integrity" as it is referred to in international negotiations, will be the main victim of such invalid baselines and additionality scenario's, especially if forest conservation would be financed through carbon offsets. This should be a major concern for any individual or organization that cares about forests, biodiversity and/or the rights and interests of Indigenous Peoples and local communities as climate change itself is the number one threat to forests and other ecosystems, and to Indigenous Peoples and other vulnerable sectors of society.

Can a Compliance Regime in the field of Forests and Climate Change play a Positive Role in Securing Rights and Equity?

Since 1992, many have dreamed about a system whereby effective compliance with the financial commitments of the UNCED summit (developed countries providing 0.1% of their BNP in new and additional financial support) is combined with effective compliance with the two main legally binding instruments that came forth from this summit, the FCCC and the CBD. REDD

¹⁸ Karsenty, A., 2008, *ibid.*

could tie compliance with article 4.1.(d) of the FCCC and the other forest-related UNCED agreements with a clearly agreed financial reward. In this way, it would be a highly effective compliance mechanism, and provide incentives to sustainable forest management as well.

Two major observations have to be made here. First, if the REDD regime would not demand mandatory coherence with human rights instruments like UNDRIPs and other forest-related agreements like the CBD, it would both be the biggest missed opportunity of the last 20 years and likely lead to devastating environmental and social impacts. A REDD regime that does not demand coherence would automatically lead to elite resources appropriation, increased marginalization of groups like Indigenous Peoples and women, and massive replacement of biologically diverse ecosystems by monocultures of fast-growing trees.

Second, demanding compliance is easier said than done. Once an International Financial Institution (IFI) or a country has invested a significant amount of funding in a certain developing country, it will be inclined to continue such support even when it finds out that it has not lead to concrete results yet. Withdrawing support would be seen as a failure, and a waste of the initial investments. Moreover, funding often comes with technical support staff and a certain institutional infrastructure that would like to prove themselves useful and successful. In general, IFIs like the World Bank have a major incentive not to admit failure, as they depend on success for future replenishments, whether those successes are real or not.

Are Countries Capable of Complying? The Dilemma of REDD and Governance

While the lack of policy coherence between environmental policies and agro-industrial policies has been identified as a main cause of deforestation in countries like Brazil and Indonesia¹⁹, it is undeniable that factors beyond the control of national governments play a major role in deforestation rates in most countries. This is particularly true for countries that have chosen economic instruments rather than policy instruments like deforestation bans as tools to reduce deforestation. Payment for Environmental Services schemes are particularly vulnerable in this respect, as a sudden increase in commodity prices can very easily overrule the economic incentive for not converting forest land into an agricultural monoculture, or an oilfield for that matter. As Karsenty points out "...a view of governments of developing countries as calculating 'car drivers' able to use the accelerator and the brakes of deforestation rate at their will is not very realistic."²⁰

A very important problem in this respect is that REDD will be an incentive for repression of fires, forest clearing and other agricultural practices that don't maximize carbon sequestration. If REDD payments are directed to governments, they will be an incentive to repression, and there is a risk such repression might even be accepted if it "works" in terms of reducing carbon emissions. This might have serious repercussions for the historical use rights of Indigenous Peoples, local communities, and women, and for their very livelihoods..

Having that said, countries have achieved remarkable successes with two types of instruments: the recognition of Indigenous peoples' and community conserved areas, and forest conversion moratoria and bans. As Karsenty points out "...some policies are known to be efficient against deforestation, such as applying existing stringent laws to prevent deforestation. Why are such laws not already applied? This is obviously a governance issue, with vested interests of government officials, fear of social and political costs, or simply incapacity to implement land use regulations. Are payments to governments likely to change this?"

Many scholars and international institutions, including such as the Poverty and Environment Partnership²¹ nowadays emphasize the need for good governance as a pre-condition for effective REDD policies. However, those countries that face high deforestation rates are, by definition, struggling with good governance over forests, whether this concerns outright

¹⁹ Global Forest Coalition, 2008, Independent Monitoring report on the Implementation of the Expanded Program of Work on Forest Biodiversity of the Convention on Biodiversity, Amsterdam 2008

²⁰ Karsenty, A., 2008, *ibid*.

²¹ Poverty and Environment Partnership (ODI, IUCN, UNDP, SIDA, IIED, ADB, DFID, the French Ministry of the environment and UNEP WCMC), "Making REDD work for the Poor", draft paper for review, October 2008 <http://www.povertyenvironment.net/?q=filestore2/download/1852/Making-REDD-work-for-the-poor-FINAL-DRAFT-0110.pdf> .

corruption, lack of national policy coherence or a failure to implement international commitments. It is important to keep in mind that there is virtually no country on this planet that has not committed itself, formally, to the Convention on Biological Diversity, which implies a legally binding commitment to conserve and sustainably use forests, and share the benefits of forest genetic resources equitably. So per definition, high deforestation rates imply a failure to implement an important international legally binding commitment.

Those countries that already implement good governance policies regarding their forests seldom have high deforestation rates. India, which has adopted an innovative policy that grants strong governance rights over forests to local communities and Indigenous peoples, is a good example in this respect. The sad reality is that these countries (/Indigenous Peoples/ communities/ individuals) will always lose out in a REDD-mechanism that is financed through carbon credits and/or directly linked to emission reductions, as such a mechanism will always provide more funding for those countries (/ Indigenous Peoples/communities/ individuals) that have failed to address deforestation until now.

It seems like the only solution to address the fundamental inequities and sustainability risks related to REDD is to de-link REDD from the FCCC as a emission reduction mechanism. As Karsenty suggests: "This requires linking financial terms to agreed conditionalities regarding reform contents and measures implemented rather than unconditional rewards to governments for reduced deforestation against a baseline. In other terms, it is necessary to move away from most current REDD proposals and focus instead on using more traditional and flexible instruments such as financial facilities."²²

As such, REDD could be reinvented as a coherent, cross-cutting policy to ensure compliance with the green social and environmental policy commitments of UNCED and related human rights agreements like UNDRIPs, through the implementation of a mechanism that, finally, ensures compliance with the financial commitments made in 1992

Putting Incentives in a Broader Perspective

More conventional flexible reward instruments would provide far more opportunities to strengthen ICCAs as a socially, culturally and environmentally beneficial strategy to conserve forests and other ecosystems. Subsidies and other forms of financial incentives could definitely play an important role in such strategies, provided they strengthen rather than undermine successful ICCAs. The term "Payment for Environmental Services" (PES) has become highly popular amongst policy-makers to describe such financial incentives. However, PES implies the precise definition of a service provided by the recipient, and the identification of the actors providing this service. The risk is that only services implying an active role would be considered (for example, patrolling in order to control forest clearing), and that specific stakeholders more capable of providing these services would be identified. Funding would thus drift toward the most powerful actors, those who can afford to dedicate time to the service, or those who can access information, organize and communicate their interest for providing the service. This would pave the way to resource appropriation. Subsidies, conversely, only implies the acceptance of a collective rule, and can be received by any members of the community that set up or accept this role.

Whether communities themselves should receive such subsidies, or the individuals within those communities, is a complex issue. It is often overlooked in the discussion about incentives that social control, traditions, and peer pressure form powerful incentives for conservation too. In many situations these social and cultural incentives have proven to be far more powerful than individual economic incentives. It is precisely for that reason that social disintegration and environmental degradation go often hand in hand. While economic incentives can often play a complementary, supporting role, they should be carefully targeted so as to strengthen and encourage existing social and cultural incentives for conservation.

That does not necessarily mean that the community as a whole should receive such economic incentives nor that the incentives should be distributed in a capillary way to each household or

²² Karsenty, A. 2008, *ibid.*

individuals in a given community . As mentioned above, governments tend to require their own type of organizations to define “communities” and enforcing pre-determined structures can cause major disruptions to customary ICCA governance. There are also serious risks of resource appropriation within communities, whereby socially or economically marginal groups like women and people of ethnic minorities are often left as losers. But it is also true that individual economic incentives provided through market-based approaches have caused a multitude of tensions within communities.²³ Whenever locally legitimate and effective governance structure exist, those could be empowered to deal with both natural resource management and the use of economic resources on behalf of the community.

Kanninen et al.²⁴ caution that the direct payments to individual forest users could lead to "conflict and the marginalization of less powerful claimants" as it "would require significant political will to overcome vested interests in current policies and plans". There are indeed many case studies showing that social exclusion seems to be the rule, rather than the exception, in carbon sequestration projects, and other approaches putting in place payments for environmental services.²⁵ One concrete proposal to address this is to ensure that payments are based on historically constituted use rights, not on property rights. Otherwise, the mechanism would create a strong incentive to resource appropriation, as the more educated or economically and politically powerful actors can more easily master land title or delivering processes. Also, if local stakeholders received the whole carbon rent, proportionally to the area under their authority or upon which they have use rights, the resulting cash flow could, in certain cases, significantly disturb their culture, their economy and their society. For this reason, payments should not excessively exceed the opportunity costs of abandoning activities that are not compatible with the avoided deforestation objective.

Supporting Social and Cultural Incentives for Conservation and ICCAs

Meanwhile, the possibility to focus support on social and cultural incentives should not be overlooked. Social communication and facilitated analyses of issues, problems and options for action can create very powerful social and cultural incentives for forest conservation. Many of the most successful conservation strategies, including deforestation bans, have been a direct result of successful awareness raising campaigns. Raising the awareness of key actors for their own responsibilities forms an important part of this.

Recognizing and strengthening ICCAs forms another, partly related, strategy to reduce deforestation and conserve forests in a socially just manner. Most indigenous peoples and local communities see some measure of formal recognition of their rights to land, water and other natural resources as a critical building block in securing their ICCA. Steps towards recognition of land and resource rights include a thorough understanding of features and boundaries, often by participatory mapping, as well as an understanding of local conservation values. Respect for the local institutions may include social recognition in the form of awards or public exposure (or willingness to leave the institution alone, if so desired). With that, often goes the recognition of the historical and cultural origins of the ICCAs and respect for the articulation of elements of religious and mystical nature. Community empowerment can be a powerful avenue to enhance conservation. Attention should be given to traditional and local institutions for natural resource management, effective forms of representation in co-management bodies and participatory democracy in general. Conservation is and should be part of cultural identity and pride.²⁶

Conclusions

The current debate on policies and incentives to reduce deforestation and forest degradation could have a positive outcome if it is reshaped into a discussion about a coherent cross-cutting compliance regime with the main legally binding agreements related to forests, FCCC Article 4.1(d) and the Convention on Biodiversity, related human rights instruments like the UN Declaration on the Rights of Indigenous Peoples, and the financial agreements made in 1992.

²³ Global Forest Coalition, 2008, *ibid*.

²⁴ Kanninen, M., Murdiyoso, D., Seymour, F., Angelsen, A., Wunder, S., and L. German. "Do Trees Grow on Money? The implications of deforestation research for policies to promote REDD", *Forest Perspectives* 4. CIFOR, Bogor, 2007

²⁵ Pollini, J. *ibid*

²⁶ Borrini-Feyerabend, G. et al, 2008

Such a compliance regime should support a broad range of social, cultural and economic incentives for forest conservation, including by respecting the historical territorial and use rights of Indigenous Peoples and local communities and by recognizing and supporting Indigenous Territories and Community Conserved Areas.

Karsenty calls for a principle of responsibility at

side of the coin of the (uncontested) sovereignty of de resources should be the responsibility vis-à-vis the forests as global environmental service providers; Industrialized countries have the responsibility to reward genuine efforts of governments and local actor strong evaluation of public policies implemented as well as their impacts; and Citizens, especially those of industrialized countries, must be aware that appropriate economic instruments can contribute to solving the problem but will not be sufficient to re if in-depth change in consuming patterns are not carried out. The ultimate solution (still)remains in the collective choices and both collective and individual behaviour: forests continue to be converted for cattle ranch expansion as well as biofuel and pulp and paper production which - at the end of the day - boils down to the issue of ever-increasing consumerism." (Karsenty, A., 2008, "The architecture of proposed REDD schemes after Bali: facing critical choices" in International Forest Policy Review Vol. 10 (3), 2008)

Without social and environmental safeguards, REDD as a greenhouse gas emission reduction mechanism will have a large number of negative impacts on the rights of Indigenous Peoples and local communities. It will also add to fundamental inequities in current climate and forest policies.

A forest conservation regime should:

1. Ensure Policy Coherence and Compliance

- **ensure full coherence between different international agreements in the field of forests and forest peoples' rights, including the CBD and UNDRIPs. This requires innovative cooperative structures at the international and national level between the institutions responsible for implementing these agreements;**
- **contribute to a more equitable climate regime by taking into account the principle of common but differentiated responsibilities and ensuring compliance with the financial commitments made at the 1992 UN Conference on Environment and Development;**
- **ensure that any emission reductions through forest conservation policies in developing countries are complementary to emission reductions in industrialized countries;**

2. Respect Rights and Address Underlying Causes

- **ensure full and effective participation and engagement of Indigenous Peoples and local communities in all stages of the development and implementation of REDD policies and projects. In certain cases, this might imply revisiting policies that have developed without such engagement;**
- **ensure equitable treatment of Indigenous Peoples, communities and countries that have successfully conserved forests and/or reduced deforestation. This implies that incentives should be de-linked from emission reductions;**
- **take into account the gender dimension of different policies and incentives to conserve forests and fully respect the rights and needs of women in forest policies;**

- respect traditional and local institutions for natural resource management, effective forms of representation in co-management bodies and participatory democracy in general.
- address underlying causes of forest loss, including those related to unsustainable consumption of products like wood, meat and transport fuels;

3. Provide a Broad Range of Positive Incentives for ICCAs

- provide a broad range of social, cultural, legal and economic incentives for forest conservation and sustainable use, especially by Indigenous Peoples and local communities. Conservation is and should be part of cultural identity and pride;
- ensure that incentive schemes and other forest policies recognize, respect and/or are based on the historical territorial and use rights of Indigenous Peoples and local communities;
- ensure that incentive schemes and other forest policies recognize and support the significant contribution of Indigenous territories and community conserved areas to forest conservation;
- ensure that such incentive schemes do not undermine the customary governance systems of Indigenous Territories and community conserved areas, and the values that have lead to their success in terms of forest conservation.



Photo: Miguel Lovera