

## **REDD-plus, forest people's rights and nested climate governance**

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At Copenhagen, the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA) was ready to endorse REDD-plus and to make explicit reference to the “rights of indigenous peoples and members of local communities” (UNFCCC, 2009). The reference is important because it acknowledges the historical background from which REDD-plus is developing: the historical dispossession, political exclusion and cultural marginalization of indigenous peoples and members of local communities (hereafter referred to as “forest people”). Recent experience with the recognition of forest people’s rights suggests three broad principles for operationalizing rights under REDD-plus: participation in political decision making, equitable distribution of forest benefits, and recognition of forest people’s particular identities. In addition, the emphasis on rights requires the development of decision-making processes at multiple scales and related across scales. Global-scale institutions will be important but not sufficient in themselves. Effective and equitable REDD-plus requires nested forest and climate governance.

## **Forest People’s Rights and Rights Claims**

Past and present forest management in most tropical countries has dispossessed, excluded and marginalized forest people. Colonial and independent governments have placed forests under state ownership and set up centralized forestry departments to manage them. Political decision making has excluded forest people from meaningful participation, even where governments are democratically elected. Forest people have found themselves outside the cultural mainstream, seeing their group-specific identities devalued. Yet state forestry has been neither equitable nor effective: forest cover has declined and many forests have become degraded throughout the tropics.

Recently, the rights of the estimated 1.6 billion forest people have found increasing recognition in national laws and international agreements. Rights have also emerged as a central rallying point in the demands of forest people and their supporters. Although this emerging rights agenda in forestry is far from uniform, three distinct approaches to the recognition of forest people’s rights are identifiable.

The first approach centers on the transfer of tenure rights to forest people. It builds on the premise that the redistribution of forest tenure is necessary to redress people’s historical dispossession. The transfer of tenure to forestland and connected resources is the key strategy to overcome people’s exclusion from forest management. Support for tenure transfer has long originated from grassroots organizations, civil society organizations, and researchers, whose demands have only recently been heeded by national governments. Nevertheless, the transfer of tenure to forest people has now gained significant momentum in many parts of the world, particularly in Eastern Europe, East Asia, Latin America, and most recently in India (Sunderlin et al., 2008).

The second approach promotes rights for indigenous peoples. Indigenous peoples’ organizations and their supporters go far beyond forestry, even though they often lobby for the restitution of forest tenure to indigenous peoples. They insist on indigenous peoples’ participation in political processes and demand rights to political and cultural self-determination. The proponents of indigenous peoples’ rights have long established strong organizations at national and international levels, including transnational NGOs such as the Forest Peoples Programme and associations such as the International Alliance of Indigenous and Tribal Peoples of the Tropical Forest. Higher-level organizing has helped indigenous peoples’ rights activists to lobby for the establishment of transnational bodies on indigenous rights, in particular the United Nations Permanent Forum on Indigenous Issues and the Inter-American Commission on Human Rights. It has also allowed them to successfully promote transnational agreements on indigenous rights such as the United Nations Declaration on the Rights of Indigenous Peoples, and to use transnational courts for their defense.

The third approach emphasizes the pertinence of human rights to forestry. Sympathetic conservationists have recently begun to employ universal notions of human rights to argue in favor of safeguarding procedural and substantive rights for local people (Campese et al., 2009). Procedural rights refer to a minimum level of participation by local people in political decision making and include, for instance, the right to information and

access to justice. Substantive rights are concerned with the minimum standards of living considered commensurate with human dignity, including the rights to life, health, food, housing, and work. References to human rights in forestry originate mostly from international organizations such as the International Union for the Conservation of Nature, and receive backing from such established transnational bodies as the UN Human Rights Council. They target the formulation of universal standards and the development of global conventions, including legally-binding human rights treaties and non-binding agreements.

## **Principles for the Recognition of Forest People's Rights in REDD-plus Actions**

From these approaches it is possible to distil three broad principles for the recognition of forest people's rights in future REDD-plus actions. Although the principles derive from all three approaches, they go beyond any particular one: they extend beyond the demand for tenure transfer; they cover a larger set of forest people than those considered indigenous; and they are more encompassing than human rights-based approaches as they emphasize the equitable distribution of forest benefits (rather than just a minimum standard of living) and attend to forest people's individual *and* collective rights.

The first principle is forest people's participation in political decision making regarding their own affairs. Participation requires the use of procedures in policy-making and policy implementation that encourage public participation, democratic control over forests, and the conduct of local affairs in ways that involve community participation (Ribot et al., 2008). The principle necessitates forest agencies' inclusion of forest people in decisions about forests, for example through the use of procedures seeking free, prior and informed consent. In addition it calls upon governments to create new mechanisms to make forest agencies accountable to local populations. For REDD-plus, the principle implies the need to open decision-making processes at local, national and global scales to forest people and their representative organizations. Participation in decision making can be enhanced in many ways, such as the decentralization of forest management to elected local governments and villagers' participation in the management of local forests. Forest people must be involved in the design, development and implementation of REDD-plus actions from the outset, as recognized by the AWG-LCA in December 2009.

Equitable distribution of forest benefits is the second principle, and this was not acknowledged by the AWG-LCA. Equitable distribution may take the form of redistribution of forest tenure to redress the historical exclusion of forest people from ownership, as is happening in many countries. It may also demand an equitable sharing of benefits derived from forests, such as giving forest people fair shares in logging receipts, payments for environmental services, and the profits generated through community-company partnerships. For REDD-plus, the principle implies that its benefits should be distributed between forest people and other stakeholders in an equitable manner, which can occur through several mechanisms such as additional transfers of forest tenure, codification of carbon rights, and equitable benefit-sharing arrangements. The design of REDD-plus avoids exacerbating forest people's historical dispossession only if it incorporates safeguards against elite capture of benefits.

The third principle, recognition, refers to forest peoples' particular identities, experiences and visions, as many forest peoples see themselves as outside the cultural mainstream and find their own cultures devalued. Acknowledgement of social and cultural differences helps to overcome stigmas attached to forest peoples and to prevent the loss of diverse cultures. The principle of recognition demands that REDD-plus pays explicit attention to forest peoples' cultural, social and economic identities and historical experiences of exclusion. Obvious tensions exist between forest peoples' particular visions of desirable lifestyles, customary economies and forest ecosystems, on the one hand, and the global bias towards high-carbon lifestyles, economies and forests, on the other. Explicit recognition of underlying social and cultural differences will help to address this tension and requires further attention by the AWG-LCA.

## The Need for Nested Forest and Climate Governance

Because rights cannot be simply defined in a uniform and universal manner at the global scale, REDD-plus requires nested governance extending from the global to the national and local scales. Only when transnational definitions, national law and local claims match to a sufficient degree will shared and robust understandings of rights emerge. Rights only gain concrete meaning in specific settings, and their concretization involves value-laden choices. At the same time, the definition of rights at higher scales is only meaningful if it includes effective participation from lower scales, particularly local voices. Otherwise, efforts to recognize forest people's rights may easily generate counterproductive effects. There are already too many examples where well-intended attempts to enhance forest people's rights have gone awry because they failed to build in space for decision making at local, national and global scales and to link decision processes with each other (Sikor and Tran, 2007).

Nested governance occurs through decision-making processes at multiple levels. Such processes will enable the definition of different types of forest rights at different scales. Global decisions will result in generalized notions of moral entitlement that are sufficiently flexible to accommodate variation across nations and localities. National rights definitions will establish more specific legal relationships and procedures that apply uniformly across national territories. Yet it is only at the local level that actors determine the concrete bundles of rights and duties regarding specific forest resources and functions as well as their distribution among stakeholders. The need for decision-making processes at multiple levels implies that for REDD-plus, the current focus on global negotiations and incipient attention to national processes requires complementary efforts at the local level.

The decision-making processes will need to relate to each other across scales. Cross-scale relations imply that processes at any particular scale involve stakeholders from the other scales. In this way, decision making considers the definitions of rights established at various scales. At the same time, cross-scale relations also offer space for stakeholders to voice their demands at more than one scale, providing additional opportunities for inclusive decision making (Singh, 2009). Cross-scale relations will obviously require radical changes in current forest governance, in particular renewed efforts to include both local and global stakeholders in national decision-making processes. Incipient attempts by the UN-REDD Program and the Forest Carbon Partnership Facility to assist national consultations involving transnational stakeholders and forest people's representatives provide grounds for optimism.

Recognition to forest people's rights is a challenge for the global climate agenda, as illustrated by the eventual failure of the Copenhagen Accord to include any explicit reference. The mitigation of climate change requires not only new technologies and financial incentives: appropriate governance is a critical prerequisite. Moreover, efforts to improve forest and climate governance cannot be directed at the global scale only, although global-scale institutions are important. They require nested governance including decision-making processes at multiple scales and across scales. The road ahead is messy. But there is no choice if humanity wants to undertake effective and equitable actions to mitigate climate change. In this way, REDD-plus and the recognition to forest people's rights may even lead the way to broader changes in climate governance.

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