



Forest Peoples
Programme

Safeguarding rights in the FCPF

Presentation

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Why rights matter

- Livelihoods of 1.2 billion people depend of forests
- Including several hundred million forest people with customary rights
- Prior studies show that social exclusion and denial of rights by conventional forestry is underlying cause of deforestation
- Ignoring rights in REDD will fail and will undermine sustainability and weaken efforts to achieve 'permanence' and avoid 'leakage' but will create conflict
- Clear property rights are vital for 'markets' (or equivalent) and 'development effectiveness'
- Three pillars of international law: international human rights, trade and environment
- UN has to be internally consistent
- UNFCCC's 'REDD ++' has to relate to all
- UNREDD agrees to follow UN DRIP and FPIC

How the Bank 'safeguards' rights

World Bank has 10 safeguards.

Key ones for REDD are on IPs, Forests and Involuntary Resettlement

Key Provisions of OP 4.10 on Indigenous Peoples

- Borrowers must carry out Free, Prior and Informed Consultations with IPs
- *'Culturally-appropriate and collective decision-making process subsequent to meaningful and good faith consultation and informed participation regarding the preparation and implementation of the project'*
- informed participation and broad community support are required for each stage of the project, must involve indigenous women and youth, indigenous peoples' organizations and any civil society organizations identified by the affected communities, and be carried out in a manner appropriate to the social and cultural values of the affected peoples.
- The borrower should also provide all relevant information about the proposed project including an assessment of potential negative impacts. This should include providing the affected communities with full information about their rights to natural resources under both statutory and customary law.
- The policy highlights the importance of land to indigenous peoples and requires borrowers to develop an action plan which either provides full legal recognition of existing customary land tenure systems or a process for converting customary rights into ownership rights.

World Bank and REDD

- World Bank seeking to channel funds for REDD
- Forest Carbon Partnership Facility: 'Readiness'
 - Initially ignored rights and no participation
 - After complaints consulted IPs in the regions
 - Issued Charter which provides guarantees
 - Procedures require participation and recognition of rights in planning and implementation
- Forest Investment Fund
 - Consultations done, mechanism not yet clear



How FCPF is meant to safeguard rights

Charter of the Forest Carbon Partnership Facility

'The operation of the Facility, including implementation of activities under Grant Agreements and Emission Reduction Programs, shall: ...

*Comply with the World Bank's Operational Policies and Procedures, taking into account the need for effective participation of forest dependent indigenous peoples and forest dwellers in decisions that may affect them, **respecting their rights under national law and applicable international obligations.***^[1]

^[1] *Charter of the Forest Carbon Partnership Facility, Operating Principles, 3.1(d). Available at:*

http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/FCPF_Charter_06-13-08.pdf

When are the safeguards triggered?

A moving target?

- R-PINs?
- R-PLANs?
- READINESS implementation?
- Will OPs be applied comprehensively or selectively?

Montreux surprises:

- R-PLANs have become R-Preparation Proposals
- Panama & Guyana 'approved', Indonesia on 10th-24th July on 'no objection' basis: before safeguards run through
- Due diligence now to follow 'approval'
- No clarity about role of Technical Advisory Panel in assessing adequacy of safeguard reviews: not clear who signs off that due diligence is adequate

Guyana

- Amerindians: 9% of nat'l pop'n but majority in forest interior
- Only 1/3rd of IP land claims have been recognised
- 2 prior World Bank / GEF projects in Guyana suspended as GoG could not comply with OP
- UN CERD has specifically criticised Amerindian Act of 2006 as discriminatory
 - in giving less security to Amerindian land right than others
 - making a discriminatory distinction between titled and untitled communities, and it
 - urged the government to recognise and protect Amerindians' rights to own, develop and control their customary lands [2]
- Amerindians insist that R-PLAN has left them out
- Demand proper consult'n and recognition of customary areas
- Current consultation limited: 'do you want to opt in or be left out?'

Panama

- Uneven recognition of IP rights: some autonomous 'comarca', others' IPs' rights unrecognised
- R-PLANs do not reference international human rights obligations (UNDRIP and FPIC)
- Unfocused consultations
- Do not address land rights
- Current World Bank land titling project is subject to Inspection Panel claim over poor compliance
- May 24th : IPs demand recognition of rights and effective involvement in REDD plans and implementation. Admit they are unsure about REDD.
- New grant for IP consultations being made.

Indonesia

- Only 40% of land holdings in Indonesia are formally titled: rest held informally and/or in accordance with custom
- 70% of national territory is forest
- Tens of millions of forest residents are without rights in 'State Forest Lands'
- Conflicts, illegal logging and mis-management are prevalent
- UN CERD has criticised GoI for: not recognising customary rights, taking land in 'national interest' without fair process, denying right to consent (2008).
- Specifically demanded revision of draft REDD regulation (2009) but law was passed by GoI without being corrected. [3]
- Indigenous Peoples (AMAN) have appealed to the FCPF not to approve the current R-PLAN (R-PP)

[3] http://www.forestpeoples.org/documents/asia_pacific/indonesia_cerd_response_press_rel_mar09_eng.pdf

Prospects

- Technical Advisory Panel assessments critical of R-PLANS and noted non-compliance with Charter
- Government members of the PC have insisted on the importance of the safeguards
- Yet same governments fear delay of REDD
- Importance of securing rights has been played down and safeguards process allowed to drift
- Major risk 'more haste less speed' may undermine REDD
- FCPF carelessness risks triggering World Bank Inspection Panel claims and has already caused national level controversy and anxiety
- UK Government as main funder of FCPF and proponent of FIP has key role to argue for due diligence and ensure a fair process