

# At issue: REDD and the rights of Indigenous Peoples

## Ensuring equity and participation in Bank funds

**One of the most contentious issues under discussion in current climate change debates is how to reduce emissions from deforestation and degradation (REDD) by ensuring protection of the world's rainforests. Mrinalini Rai of the International Indigenous Peoples Forum on Climate Change argues that this initiative, heavily backed by the World Bank among others, raises questions about how to ensure fair compensation to those developing countries that undertake a commitment to such reductions.**

REDD turned into a key area of interest in the climate change debate in early 2007, with the publication of the UK government's *Stern review on the economics of climate change*. In his report, the ex-World Bank economist Sir Nicholas Stern recommended that 'avoided deforestation' measures should be included in the post-2012 commitment period under the United Nations Framework Convention on Climate Change (UNFCCC).

It was at the 13<sup>th</sup> conference of the parties (COP) of the UNFCCC, that took place in December 2007 in Bali, that a coalition of countries headed by Costa Rica and Papua New Guinea (the so-called coalition of rainforest nations) formally proposed that REDD and forests be included in the official negotiation agenda for a post-2010 regime, whose key elements would be negotiated under the so-called Bali roadmap.

It goes without saying that the inclusion of forests in the climate change discussion, has generated substantial interest and concern by Indigenous Peoples organisations, since the climate change debate directly and indirectly relates to them and their livelihoods and rights.

Moreover, many civil society and Indigenous Peoples organisations have stressed that effective REDD policies must ensure that

reduced emissions from deforestation are in addition to, and do not detract from, deep emissions cuts in developed countries.

As stated in the latest UN Human Rights Council report on human rights and climate change published in March, Indigenous Peoples are particularly vulnerable to climate change and might also be affected by mitigation programmes such as large palm oil plantations and large hydroelectric projects or top-down conservation programmes.

For this reason, Indigenous Peoples have been calling on all parties to recognise the rights of Indigenous Peoples and forest dependant communities as an essential precondition in the design and implementation of national and international efforts to protect forests and curb emissions. Proponents of REDD, maintain that a genuine ecosystem and landscape approach to avoided deforestation must encompass both healthy standing forests and degraded forests. Nevertheless, one issue of particular concern is the unclear definition and criteria for "deforestation" and "forest degradation" that might in fact discriminate against the sustainable traditional practices of Indigenous Peoples.

There are widespread concerns about the impacts of forests policies and practices on the livelihoods and well-being of the people who live in and near forest areas. Indigenous Peoples and forest communities are often some of the poorest and the most disadvantaged, and the growing focus on developing sustainable climate change mitigation approaches, as well as to voluntary market initiatives (such as carbon trading) might result in additional encroachment of their rights and traditional livelihoods. At the same time, any action aimed at adaptation or mitigation

of climate change is unlikely to be successful or sustainable if Indigenous Peoples and local communities do not actively participate in their design and implementation, or do not receive worthwhile benefits.

## The role of the World Bank

In parallel with official UNFCCC negotiations, several initiatives are being developed and undertaken to support a "pilot" project on REDD. Agencies like the World Bank and the UN have established international forest and climate initiatives to design REDD strategies.

The World Bank has set up several large climate investment funds, including a Forest Investment Programme (FIP), which is aimed at financing REDD reforms and investments identified through national REDD strategies and is due to start operation in 2009.

The Bank's carbon finance unit has also established the Forest Carbon Partnership Facility (FCPF) that started operations in June 2008. It aims to provide financing for select countries to develop plans for adopting REDD strategies as well as designing and implementing measurement and monitoring systems to enable countries to report

on emissions from deforestation and forest degradation. It is envisaged that these funds would contribute to development of general economic policies and regulations such as taxation, subsidies, rural credit, certification, and law enforcement along with forest policies and regulations, forest management and rural development projects.

REDD is designed primarily to create financial incentives that prompt those engaged in deforestation to switch to managing standing forests. However this raises a concern that those who could stand to benefit most are those who are engaged in logging activities and could preclude forest communities from benefitting.

The Bank's fund was heavily criticised during its rushed design phase and its premature public launch in Bali for having failed to consult properly with forest peoples and for failing to ensure proper rights. It also lacked accountability mechanisms for its governance structure and planned operations.

There is further concern about the possibility that the World Bank might succeed in positioning itself as the main financial broker for REDD and mitigation. It is however worth noting that the Bank has publicly committed to 'revisiting' its Indigenous Peoples safeguard policy to ensure it is consistent with the standards set out in the UN Declaration on the Rights of Indigenous Peoples, including the right to free, prior and informed consent (FPIC). But to be effective, it is essential that the Bank adopts strong procedures and oversight mechanisms to make sure safeguards like FPIC are properly applied to its REDD and other forest-related operations.

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## Is REDD equitable?

Equity and rights-based approaches have been consistently invoked by indigenous peoples due to the potential impact of REDD on their livelihoods and traditional knowledge. Much of the world's remaining forests in developing countries are located in the ancestral and customary lands of Indigenous Peoples and local communities. They not only have a historical relationship but also a spiritual relationship with forests. Therefore, Indigenous Peoples should not be considered simply as stakeholders to climate change discussion but rather as rights-holders.

Indigenous Peoples are not against mitigation actions, rather they already contribute to mitigation by protecting community forests and undertaking sustainable use of natural resources. In fact, indigenous knowledge and traditional practices can play an instrumental role in mitigating climate change. They have the right to be actively and effectively involved, to participate and to be informed about the potential implications of actions developed in response to climate change. In spite of this, they have not yet

been fully involved in negotiations, while at the country level REDD pilot schemes (in particular those developed under the World Bank's FCPF) have only marginally involved Indigenous Peoples.

In March 2009, the United Nations Committee on the Elimination of Racial Discrimination expressed their concerns on the schemes to promote forest conservation in Indonesia via a REDD mechanism. The released letter stated that REDD could increase conflict over land if the government doles out forest-carbon concessions in the same manner that it has with logging and plantation concessions. Furthermore, Fatimata-Binta Victoire Dah, chairperson of the UN Committee, pointed out that the regulation on implementation procedures for REDD in Indonesia "appears to deny any proprietary rights to Indigenous People."

## International obligations

Indigenous Peoples rights to their land and territories, to determine their own future and development, and thus be part of any decision-making affecting their lands, resources and communities, are enshrined in the recently adopted UN Declaration on the Rights of Indigenous Peoples, and a number of other international human rights instruments.

However, a report submitted to the United Nations Permanent Forum on Indigenous Issues in April 2008, states:

*The issues that surround climate change and Indigenous Peoples are issues of equity, social justice, ecological sustainability, environmental justice and human rights. Mitigation measures, such as emissions trading, carbon sinks, renewable energy systems, and alternative fuels, are causing big land grabs and further exclusion of Indigenous Peoples. The creation of carbon markets without structural reforms will reinforce old exclusionary mechanisms (e.g. exclusion from forests). Likewise, the expansion of carbon sinks, hydropower dams, and land for biofuel production are leading to massive land grabs and human rights violations against Indigenous Peoples.*

There is an increasing recognition that REDD policies might have an important impact 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 conservation and management. To achieve permanent reduction in degradation and deforestation and to avoid social conflict, it is also important to ensure that the benefits of REDD be distributed in an equitable manner. Ensuring land rights is an important prerequisite in this regard.

As the Convention on Biological Diversity ad hoc technical expert group on biodiversity and climate change notes: "Indigenous People are unlikely to benefit from REDD where they do not own their lands, if there is no principle of free, prior and informed consent, and if their identities are not recognised or they have no space to participate in policy-making processes."

Therefore all climate change mitigation measures have to be based on, recognise and uphold the rights framework established in the UN Declaration on the Rights of Indigenous Peoples.

A truly rights-based approach to climate change would also entail the recognition of the historical and ecological debt of the global North to the rest of humanity. For Indigenous Peoples this means that parties to the UNFCCC negotiations would have to take into consideration and underline the historical context for climate change. Indigenous Peoples

demand recognition for the historical stewardship that they have provided by protecting lands and resources from exploitation. Land and resources rights must be fully recognised to enable this stewardship role to continue.

If forests become part of an international regime that respects peoples' rights and promotes genuine people-centred tenure and governance reforms in the forest sector, and if some of the existing problems can be addressed, then many agree that there could be potential benefits to be gained by Indigenous Peoples and forest-dependent communities.

Many REDD initiatives and related funding risk being managed and administered by governments, international agencies such as the World Bank, carbon finance companies and large conservation NGOs. Indigenous Peoples are concerned that this would result in a top-down approach that would exclude them from directly accessing the funds they are entitled to support and recognise their historical stewardship role in both forests and biodiversity protection. The need to ensure equitable access and distributional equity of REDD funds is an additional reason to ensure that climate change policies, and those related to mitigation in particular, be based on biodiversity conservation and human rights instruments like the UN Declaration on the Right of Indigenous Peoples and other international human rights conventions, for example ILO Convention 169 on Indigenous Peoples' rights.

The recommendations developed and supported by Indigenous Peoples organisations involved in the climate change negotiations and discussions in the lead up to the 15<sup>th</sup> COP include legal recognition of customary rights as essential to increasing the security of land tenure and enabling sustainable practices, which is a crucial condition for Indigenous Peoples' participation. Furthermore, national laws pertaining to Indigenous Peoples' right to land must be considered in the development of REDD policies. Indigenous peoples' self determined development must also be advocated as an alternative development paradigm. Above all, forest and climate change mitigation policies must be rights-based, participatory and include free prior and informed consent of Indigenous Peoples.

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