Rights, Justice, and REDD+: Lessons from Climate Advocacy and Early Implementation in the Amazon Basin

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ABSTRACT

Aware of the impacts that both climate change and related policy reforms would bring worldwide, organizations that support forests communities have been keen participants in international climate change talks. Many of them have capitalized on recent advancements in international human-rights law for their activism. This chapter presents some early lessons on the integration of human rights into climate advocacy and governance reforms for forest-related climate actions. Lessons are taken, mainly, from two arenas: (1) the multilateral negotiations on Reducing Emissions from Deforestation and forest Degradation (REDD+) at the Conferences of the Parties of the United Nations Framework Convention on Climate Change, and (2) the implementation of UNFCCC agreements in countries of the occidental Amazon Basin (Colombia, Ecuador, and Peru) by international programs such as UNREDD, FCPF and States.

1. Introduction

Organizations that support forest communities are acutely aware of the global impacts that will ensue from climate change, on the one hand, and from related policy reforms, on the other. They have therefore worked to keep informed about – and actively participated in – international climate change talks. During the last fifteen years, many of these organizations have avidly seized upon human-rights developments in international law in order to ensure that positive impacts of environmental policies reach local communities. This chapter presents some early lessons on the integration of human rights into climate advocacy as well as into reforms in forest governance driven by climate policies.

We will focus on the mechanism that has been under negotiation by the United Nations Framework Convention on Climate Change (UNFCCC) for the reduction of emissions from deforestation and forest degradation, known as REDD+. REDD+ encompasses a range of forest conservation and reforestation activities, as well as financing mechanisms to reduce deforestation and forest degradation and to improve forest

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carbon stocks in order to mitigate climate change1. In this chapter lessons are taken mainly from: (1) the international negotiations on REDD+ at the Conferences of the Parties of the United Nations Framework Convention on Climate Change, and (2) the implementation of agreements from these Conferences on countries of the occidental Amazon Basin (which include Colombia, Ecuador, and Peru) by The United Nations Programme on Reducing Emissions from Deforestation and Forest Degradation (or UN-REDD Programme), the Forest Carbon Partnership Facility (FCPF) and States. We will therefore pay closest attention to the political arenas of planning and early implementation.

Recognition of the links between the enjoyment of human rights and environmental protection, broadly speaking, has risen for several decades within the United Nations, governmental agencies, and civil society. This process started with the 1972 Stockholm Declaration2 and its significant mainstreaming can be noticed by the adoption of the Sustainable Development Goals in 2015 and the Climate Agreement reached in Paris in 2016. Here we will analyze particularly the advocacy of two types of actors within civil society that played an active role in this process: (1) Environmental NGOs working in nature conservation and (2) Indigenous peoples' organizations, as their advocacy has been prominent, both during the agenda-setting process of REDD+3 and in the early implementation of policies on the national and subnational level4. As they come from different standpoints and have different power bases, these two civil-society actors have gained significant influence working in coalition. Yet their relationship was not always close. At the beginning of the XXI century, the conservation community was challenged to take stronger action to respect human rights and cultural diversity on the sites where they intervene5. The rapprochement of conservationist and indigenous peoples in the context of climate policies has been one of the responses to this challenge.

This chapter proceeds as follows. The first section analyzes the agenda-setting process of climate policies, paying particular attention to the influence on the design of REDD+ of political discourses framed in respect to human rights. The focus of the second section is the current implementation efforts taking place in the Occidental Amazon,

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1 Brown *et al.*, 'How do we achieve REDD co-benefits and avoid doing harm?', in Center for International Forestry Research (ed), *Moving Ahead with REDD: Issues, Options and Implications* (2008) 107.

2 Campese *et al.* (eds), *Right Based Approaches: Exploring Issues and Opportunities for Conservation* (2009), available online at http://www.cifor.org/publications/pdf_files/Books/BSunderland0901.pdf (last visited 25 March 2017).

3 Wallbot, 'Indigenous peoples in UN REDD+ negotiations: 'importing power' and lobbying for rights through discursive interplay management', 19(1): 23 *Ecology and Society (E&S)* (2014) 176.

4 Aguilar-Støen, 'Better Safe than Sorry? Indigenous Peoples, Carbon Cowboys and the Governance of REDD in the Amazon' 44(1) *Forum for Development Studies (FDS)* (2017) 1891-1765 ; Aguilar-Støen, Toni and Hirsch, 'Forest Governance in Latin America: Strategies for Implementing REDD', in F. de Castro, B. Hogenboom and M. Baud (eds), *Environmental Governance in Latin America* (2016) 205, at 233.

5 Chapin, 'A Challenge to Conservationists', 17(6) *World Watch* (2004) 17; Alcorn, Bristol and Royo, 'Conservation's engagement with human rights: "traction", "slippage", or avoidance?', 15 *Policy Matters* (2007) 115; Igoe and Brockington, 'Neoliberal conservation: a brief introduction', 5(4) *Conservation and Society* (2007) 432.

which includes the subnational regions of Bolivia, Colombia, Ecuador and Peru. The chapter will conclude with a set of lessons learned from these processes.

Methodologically, the analysis provided in this chapter is grounded in a combination of participant observation, semi-structured interviews and an analysis of legal documents and reports issued by institutions such as the UNFCCC, the Green Climate Fund, the FCPF and organizations working for nature conservation and indigenous peoples' representation between 2007 and 2016. Multi-sited ethnographic fieldwork[6] was done within the Conferences of Parties of the UNFCCC from 2010 to 2015 as well as during meetings regarding the implementation of REDD+ at the subnational level in the Amazon Basin of Ecuador and Peru[7].

2. The Advocacy for a Rights-Based Approach at the Outset of REDD+

The climate narrative has rekindled contention over who is politically and legally accountable for the past, present and future environmental degradation, biodiversity loss and hazards brought about by human-caused climate change. Discussion on several agenda items of the UNFCCC included complex considerations related to justice and equity. In the particular case of REDD+, national representatives and civil-society accredited observers revealed different conceptions of justice from the outset[8]. Climate policies at a global level have favored technical solutions, tending to prefer market-based approaches[9]. In that sense, effectiveness, monitoring and accounting have been at the core of technical policy debates, which intended to attain standardized procedures for REDD+ at a global level. At the same time, the protection of the traditional knowledge and land-management practices of inhabitants of forested lands has been one of the central topics in the policy debate in many of the countries that participate in REDD+. These topics were frequently framed within a rights-based approach[10]. As a result, negotiations on REDD+ have been the site of lively discussions on how to avoid perverse outcomes of market-based mechanisms, and how to combine REDD+

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[6] For further references on this methodology, see Marcus, 'Multi-sited Ethnography: Notes and Queries', in M-A Falzon (ed), *Theory, Praxis and Locality in Contemporary Research* (2009) 181-198.
[7] As part of a broader research project, analyzing the attempts to reform land and resources management policies emanating from global environmental political regimes and concern the Upper Amazon region, I completed 82 semi-structured élite interviews with individuals affiliated with international organizations, Andean governments, indigenous organizations and NGOs actively working on REDD+ in South America. The majority of the interviews were conducted, in person, in: Germany, Norway, South Africa, the United States during climate talks and other related gatherings.
[8] Okereke and Dooley, 'Principles of Justice in Proposals and Policy Approaches to Avoided Deforestation: Towards a Post-Kyoto Climate Agreement', 20(1) *Global Environmental Change* (2010) 82, at 95.
[9] Meckling, 'The Globalization of Carbon Trading: Transnational Business Coalitions in Climate Politics', 11(2) *Global Environmental Politics (GEP)* (2011) 26, at 50.
[10] See Espinoza, Roberto and Conrad Feather, AIDESEP, *The Reality of REDD+ in Peru: Between Theory and Practice* (2011), available online at http://www.forestpeoples.org/sites/fpp/files/publication/2011/11/reality-redd-peru-between-theory-and-practice-november-2011.pdf (last visited 25 March 2017), at 63. See also Griffiths, *Seeing 'REDD'? Forests, Climate Change Mitigation and the Rights of Indigenous Peoples*, 3 December 2008, available online at http://www.forestpeoples.org/sites/fpp/files/publication/2010/08/seeingreddupdatedraft3dec08eng.pdf (last visited 25 March 2017).

activities and policies with the pursuit of co-benefits (or multiple benefits), such as improved forest governance, biodiversity conservation, and an array of social advantages that might be also delivered by climate actions.

In the academic debate, some authors have considered that REDD+ represents an example of a policy that reaches a balanced trade-off, since it covers both economic means and ecosystem benefits[11]. Others argue that REDD+ aims to confirm and legitimize particular discourses[12], tools and actors in order to achieve climate goals, while disregarding others[13]. For the latter authors, REDD+ has become a new technology of governance that reinforces an apolitical and mercantile vision of nature[14], emphasizing the technical framing while tending to evade discussion of other inevitable but contentious topics (such as respect for human rights, and land tenure rights) and potentially fostering a perverse incentive for developed countries by creating the 'right to pollute'[15].

Up until now, the most prominent actors of civil society that have being pushing for broader social and environmental considerations at the multilateral level are indigenous peoples' international organizations, as well as NGOs and think tanks that strive for a global agenda on conservation. I will argue in this section that 'environmental justice' as a political frame has not had much influence on the development of climate policy. However, a human-rights-based approach has been effectively integrated into advocacy efforts and has had a limited but more meaningful impact. We can observe that it facilitated the representation of right bearers (such as indigenous peoples and representatives of people living in small island states) in various political arenas and helped bring to the fore sensitive regulation for respecting the rights of subaltern populations.

2.1 Lobbying for the Integration of Human Rights in REDD+

REDD+ is first and foremost focused on reducing emissions from deforestation and forest degradation in developing countries. However, the means by which this objective is pursued have been established little by little over time. The item on reducing

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[11] Malhi *et al.*, 'Climate Change, Deforestation, and the Fate of the Amazon', 319(5860) *Science* (2008) 169, at 172.

[12] Luttrell *et al.,* 'Who Should Benefit from REDD+? Rationales and Realities', 18(4): 52 *Ecology and Society (E&S)* (2013), at 6.

[13] Corbera, 'Problematizing REDD+ as an Experiment in Payments for Ecosystem Services', 4(6) *Current Opinion in Environmental Sustainability* (2012) 612, at 619; Thompson, Baruah and Carr, 'Seeing REDD+ as a Project of Environmental Governance', 14(2) *Environmental Science & Policy* (2011) 100, at 110; Shankland and Hasenclever, 'Indigenous Peoples and the Regulation of REDD+ in Brazil: Beyond the War of the Worlds?', 42 *Institute of Development Studies (IDS)* (2011) 80; Hiraldo and Tanner, UNRISD, *The Global Political Economy of REDD+ Engaging Social Dimensions in the Emerging Green Economy* (2011), available online at http://www.fes-globalization.org/geneva/documents/4%20Hiraldo-Tanner%20(with%20cover)%20Small.pdf (last visited 25 March 2017).

[14] Corbera, *supra* note 13.

[15] Norgaard, 'Ecosystem Services: From Eye-Opening Metaphor to Complexity Blinder', 69(6) *Ecological Economics* (2010) 1219.

emissions from deforestation (RED) in developing countries was formally introduced into UNFCCC negotiations at COP-11 in 2005 by a submission of Papua New Guinea and Costa Rica. In 2006, after parties and accredited observers had submitted their views, the Subsidiary Body for Scientific and Technological Advice (SBSTA) expanded the possibilities technology could bring to the problem, considering relevant scientific, technical, and methodological issues, and providing proposals on policy approaches and positive incentives for related mitigation[16]. In 2007 the Bali Action Plan, formulated at the thirteenth session of the Conference of the Parties (UNFCC COP-13) of the UNFCCC, stated that a comprehensive approach to mitigating climate change should include '[p]olicy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries'. A year later, the role of conservation, sustainable management of forests and enhancement of forest carbon stocks was upgraded, to receive the same emphasis as avoided emissions from deforestation and forest degradation. In 2010, a 'plus' was added to the original designation REDD to reflect its new components.[17] Considerations on all of them have since been repeatedly confirmed, particularly in the Warsaw Framework for REDD+ issued by the COP19 in 2013. So REDD+ includes: (a) reducing emissions from deforestation; (b) reducing emissions from forest degradation; (c) conservation of forest carbon stocks; (d) sustainable management of forests; (e) enhancement of forest carbon stocks.

Following the approach of Wallbot[18] and our recent work[19], we view politics as shaped by institutions that, at the most general level, consist of clusters of rights, rules, and decision-making procedures that give rise to social practices, assign roles to participants, and govern interactions among occupants of these roles[20]. Hence, the design of institutions (including international 'sector-specific regimes', like the UNFCCC) includes foundational norms that can be defined as 'collectively held or 'intersubjective' ideas and understandings on social life'[21]. Norms of justice and equity relate to the distribution of rights and responsibilities, of substantive rights (like the right to culture or water) and procedural rights (like the right to participate in decision-making processes). 'Agency,' in turn, refers to the power and ability of actors to display 'conduct that possessed subjective meaning'[22].

The advocacy for the inclusion of human rights in climate governance has struggled to make headway gaining critical support from States at the lead-up to the Paris Conference when more than thirty states signed the 'Geneva Pledge for Human Rights

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16 Wallbot, *supra* note 3.
17 At COP-16 (15) as set out in the Cancun Agreements.
18 Wallbot, *supra* note 3.
19 Claeys and Delgado Pugley, 'Peasant and Indigenous Transnational Social Movements Engaging with Climate Justice', 1 *Canadian Journal of Development Studies (CJDS)* (2016) 1, at 16.
20 Schroeder, 'Analysing Biosafety and Trade through the Lens of Institutional Interplay', in O. R. Young *et al.* (eds), *Institutional Interplay: Biosafety and Trade* (2008) 49, at 70.
21 Finnemore and Sikkink, 'International Norm Dynamics and Political Change', 52(04) *International Organization* (1998) 887.
22 Campbell, 'Distinguishing the Power of Agency from Agentic Power: A Note on Weber and the 'Black Box' of Personal Agency', 27(4) *Sociological Theory* (2009) 407.

in Climate Action'[23]. The 2015 Paris Agreement makes explicit preambular reference to overarching human-rights obligations on the States. However, as Mayer notes, since it specifies no concrete measures, its direct impact on the protection of human rights in climate action might remain limited[24].

In the case of REDD+ some more specific steps have been taken for the implementation of a rights-based approach. It was recognized early in the development of the mechanism that various human-rights instruments, and the standards they put forth, provide a normative basis for establishing a REDD system based on human rights[25]. In such a system, people living in forest would have continued access to their land, and would participate in the decisions affecting how forests are used, who owns them and how populations are compensated for any costs they bear and share any revenue they accrue. Let us now explore how advocacy by indigenous peoples' networks has worked to achieve this recognition.

2.2 The Insider/Outsider Strategy of Indigenous Peoples: Displaying Influence as Right Bearers

Framing demands in human-rights terms has been a way to aid common formulation of claims across diverse networks and to facilitate their insertion into global governance debates. Many movements have succeeded in making human rights relevant to their local and global struggles by pushing the boundaries of existing human rights[26].

REDD+ is implemented in forest-rich countries of the Global South, accounting for its weak governance systems and serious land tenure issues, which have raised alarms among multiple actors across scales of governance. These concerns especially resonated since in the original proposal of RED in 2005 there was no mention of Indigenous Peoples or indigenous peoples' rights[27]. Without recognition of rights, weak tenure regimes could lead to displacement of communities if more powerful local

[23] Geneva Pledge for Human Rights in Climate Action, adopted on 27 February 2015.
[24] Benoit, 'Human Rights in the Paris Agreement', 6 *Climate Law* (2016) 109.
[25] Lawlor and Huberman, 'Reduced Emissions from Deforestation and Forest Degradation (REDD) and Human Rights', in J. Campese *et al.* (eds), *Rights-Based Approaches: Exploring Issues and Opportunities for Conservation* (2009) 269, at 286.
[26] Claeys, 'Food Sovereignty and the Recognition of New rights for Peasants at the UN: A Critical Overview of La Via Campesina's Rights Claims over the Last 20 years', 12(4) *Globalizations* (2015) 452; Brysk, 'Human Rights Movements', in D. A. Snow *et al.* (eds), *The Wiley-Blackwell Encyclopedia of Social and Political Movements* (2013).
[27] See Jodoin, 'The Rights of Forest-Dependent Communities in the Complex Legal Framework for REDD+,' in Christina Voigt (ed), *Research Handbook on REDD-plus and International Law* (2016), 157; Wallbot, *supra* note 3.

actors[28] (e.g. ranchers, loggers, government, and corporations) acquire rights over their forest[29].

Discussions on the limits of REDD+ have been impassioned, with indigenous organizations as key participants in them. Indigenous peoples' networks have deployed an interesting inside/outside strategy of involvement in climate negotiations[30]. IP organizations, have used their political engagement within the UNFCCC to gain respect for their territorial and human rights as well as means of exercising these rights. They strived to be recognized as efficient actors against deforestation, advancing the idea that respecting the rights of indigenous peoples (IP) were the best guarantee for forests resilience. As this chapter shows, IP networks pushed to change the framing of initiatives to control deforestation under the UNFCCC, in order to increase the participation of indigenous organizations and communities.

2.3 Indigenous Peoples Advocacy Within UNFCCC

Agency of indigenous movements was vital and, as I would like to demonstrate in this section, strongly connected with their advocacy in the UN for collective human rights. Their use of evidence from the ground, coupled with the advancement of international human-rights law, brought them some significant achievements in the climate regime and in the UNFCCC particularly.

Indigenous Peoples advocacy within the UNFCCC process can be traced back to 1998, when the first indigenous participants from the Northern Hemisphere attended the COP[31] and issued a declaration demanding the inclusion of indigenous peoples' rights in the Convention (Indigenous Peoples of North America 1998). A global involvement followed. In order to articulate their action, the International Indigenous Peoples Forum on Climate Change (IIPFCC) begin working in 2000 as an open forum for all indigenous peoples who were interested in following the UNFCCC process[32]. One of the first public statements made by the IIPFCC was The Hague Declaration of the Second International Forum of Indigenous Peoples and Local Communities on Climate Change (2000). It consisted on a direct and simple request for inclusion in the political process and recommendations on how to include them as political actors:

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[28] Claims for forests and forestlands may involve: (a) wealthy farmers & agribusiness agents; (b) displaced peasants; (c) business consortia interested in extractive industries (logging, oil, mining); (d) the expansion of protected areas. On top of these competing actors and claims, countries of the region have ongoing or projected state-supported infrastructure projects.

[29] See Wollenberg and Springate-Baginski, *Incentives+: How can REDD Improve Well-Being in Forest Communities?* (2009), No. CIFOR Infobrief no. 21 and Van Dam, 'Indigenous Territories and REDD in Latin America: Opportunity or Threat?' 2(1) *Forests* (2011) 394.

[30] Claeys and Delgado Pugley, *supra* note 19.

[31] Powless, 'An Indigenous Movement to Confront Climate Change', 9(3) *Globalizations* (2012) 411.

[32] Doolittle, 'The politics of Indigeneity: Indigenous Strategies for Inclusion in Climate Change Negotiations', 8(4) *Conservation and Society (C&S)* (2010), 286.

'We are profoundly concerned that current discussions within the Framework Convention on Climate Change, as well as the practical implementation of the Kyoto Protocol do not recognize our right to adequate participation. These policies and mechanisms exclude us as participants, deny our contributions, and [marginalize] our Peoples.'[33].

They recommended the establishment of an ad-hoc, open-ended working group on Indigenous Peoples and climate change with the broad participation of Indigenous Peoples; the creation of a Division on Indigenous Peoples within the Convention's Secretariat and the inclusion of a permanent agenda item on Indigenous Peoples in the permanent agenda of the COP[34].

In 2001 Indigenous Peoples were recognized as a UNFCCC constituency and since then they have engaged in every meeting COP and subsidiary bodies' meeting with varying intensity. IP organizations came with well-prepared delegations to Bali meetings in 2006 as they felt that REDD+ compromised their lands and territories, and decision-making was done without proper consultation of their constituency[35]. What concerns indigenous peoples is that they own, or live within, much of the developing world's last standing forests. As Victoria Tauli-Corpuz, indigenous leader from the Philippines at the time, expressed it:

> We decided to engage actively in this process because we feel that with the role that forests will play in climate change, everybody is interested to go into our communities and be the ones who will be receiving such benefits to the detriment of indigenous peoples. And secondly, we also fear that governments will not recognize our rights to our territories and also to carbon[36]

Indigenous organizations increasingly organized in order to have daily discussions and coordinate joint advocacy in the UNFCCC process. In 2008 the International Indigenous Peoples' Forum on Climate Change (IIPFCC) settled as the Caucus for IP participating in UNFCCC meetings[37]. This happened at the same time that in the 14th session of the UNFCCC (held in 2008 in Poznan, Poland), governments could not agree to include references to the rights of Indigenous Peoples and forest-dependent communities in the developing SBSTA guidance on REDD+. They referred instead to the need to 'promote the full and effective participation of indigenous people and local com- munities, taking into account national circumstances and noting relevant international agreements.' Most remarkably, this SBSTA text referred to 'Indigenous people' (singular) rather than 'Indigenous Peoples' (plural), thus avoiding even an

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33 IIPFCC, *The Hague Declaration of the Second International Forum of Indigenous Peoples and Local Communities on Climate Change* (2000).
34 IIPFCC, *The Hague Declaration* (2000), *supra* note 33.
35 Personal interview realized in Durban 2012
36 Interview, quoted in Claeys and Delgado 2016, *supra* note 19.
37 The mandate of IIPFCC is to come to agreement on what IP representatives will be negotiating for, and to share information on the evolution of the negotiations (see webpage IIPFCC). It is composed of representatives from IP organizations from seven regions of the world, but any indigenous person present at a UNFCCC meeting has the right to participate in the IIPFCC.

implicit reference to the international human rights obligations owed to Indigenous Peoples by virtue of their status as peoples under international law[38].

The IIPFCC continued its work in the UNFCCC and organizations of indigenous peoples had deeper debates on the implications of REDD+ for the respect of their rights. Between 2008 and 2009, the discourse on Indigenous Peoples Rights intensified but also became more visibly differentiated. Some IP networks expressed stark opposition to carbon markets for land-use activities[39], while some networks considered these schemes as a way to regain control and autonomy in their territories and influence the regulation of other investments on their lands (such as oil extraction, cattle ranching and palm plantations). As tensions exist between different organizational agendas, advocacy points are usually discussed before the COPs, and issues that are too contentious are not included in the IIPFCC objectives[40]. This way of working has enabled the IP constituency to speak with a single voice, while not preventing IP organizations from engaging in coalitions[41] with other social movements, NGOs, business or donors.

One important process influenced the inclusion of human rights in their work influencing the climate negotiations. After decades of struggle in various international arenas, Indigenous Peoples succeeded in getting the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) adopted by the UN General Assembly in 2007. The UNDRIP grants IP the right to self-determination, as well as collective rights to own, use, control and manage their lands, territories and resources[42]. Since 2007, the focus of IP has been on getting this new framework recognized, and on seeing their new group rights implemented. The IIPFCC consistently insisted that a reference to the human rights of Indigenous Peoples should be included in the UNFCCC decisions[43]. In effect, one of the main goals of indigenous movements within the UNFCCC process has been to mainstream the UNDRIP[44]. Making human rights the common framework for advocacy, represented a key point of consensus for the entire constituency and played a key role in the cohesion of IIPFCC.

As Jodoin notes, the Cancún Agreements provide that the implementation of REDD+ should 'promote' and 'support' a set of social and environmental safeguards, including

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[38] See Jodoin, *supra* note 27 for more details on this process.

[39] Personal Interview, realized in the Climate Talks in Cancun, 2010. See also the website of the campain http://www.ienearth.org/category/we-support/no-redd/.

[40] Personal Interview, Warsaw 2013

[41] Meckling, 'The Globalization of Carbon Trading: Transnational Business Coalitions in Climate Politics', 11(2) *Global Environmental Politics (GEP)* (2011) 26, at 50.

[42] E-I A. Daes, Commission on Human Rights, Final Report of the Special Rapporteur on the Prevention of Discrimination and Protection of Indigenous Peoples: 'Indigenous Peoples' Permanent Sovereignty over Natural Resources', UN Doc. E/CN.4/Sub.2/2004/30, 13 July 2004.

[43] TWN (Third World Network), Bangkok News Update, *Differences over Indigenous Peoples' Rights and Forest Conversion in REDD-Plus*, 9 October 2009, available online at http://www.twn.my (last visited October 20, 2016).

[44] Personal Interview with indigenous representatives of North America realized in the Climate Talks in Cancun in 2010.

the following two safeguards that are relevant to the rights of Indigenous Peoples and local communities:

(c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples;

(d) The full and effective participation of relevant stakeholders, in particular, indigenous peoples and local communities in [REDD+ activities]

It is not coincidental that the Cancun safeguards were pushed for after the approval of UNDRIP. Delegations of indigenous peoples, NGOs and their allies lobbied in order to get an explicit reference to it. Support for safeguards came from different coalitions in the environmental NGOs. Conservation International declared right after the negotiations

> 'From our development and documentary work with forest communities in 7 Latin American countries over 35 years, we believe that REDD+ should require that these resource statutory rights be made binding for all indigenous people and other forest peoples whose rights do not conflict with the rights of adjoining indigenous peoples. These rights should be a pre-requisite for the granting of REDD+ funds and funds should earmarked for the recognition, securing, resolution and enforcement of these rights.'

The following year, in Durban, countries confirmed that a 'Safeguards Information System' should be in place to receive results-based finance for REDD+[45]. At that moment, a coalition of NGOs and IPOs, called 'the REDD+ Safeguard Working Group' was created to ensure that safeguards will be monitored and respected. In any case, and from many regards, safeguards for REDD+ were perceived as necessary but not as strong as it they should be. As Jodoin discusses, the expression 'shall respect' safeguards used in previous drafts was replaced by the expression 'promote and support.' Second, the safeguards do not specifically refer to the right of Indigenous Peoples to FPIC. Third, the safeguards only 'note' the adoption of UNDRIP, a drafting term of negligible legal import within the formal practices of the UNFCCC decision-making process[46].

From the indigenous activist, doubts over safeguards were explicitly advanced. Berenice Sanchez, of MesoAmerican Indigenous Womens BioDiversity Network from Mexico, said:

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[45] UNFCCC, Decision 1/CP.16, 15 March 2011, at para 71(d).
[46] Jodoin, *supra* note 27.

> 'The supposed safeguards are voluntary, weak and hidden in the annex. REDD+-type projects are already violating Indigenous Peoples' rights throughout the world. We are here to demand an immediate moratorium to stop REDD+-related land grabs and abuses because of REDD+.'[47]

As a result, some IP organizations tried to influence the constitution of the REDD+ scheme, whilst others decided to boycott it or to ask for an international moratorium. IP representatives were united, however, in their demand to be recognized as actors in the territory, with local organizations holding tenure rights over land and forests. At the risk of losing the support of other actors who had come out strongly against REDD+, the IIPFCC strategically used REDD+ discussions to further its own agenda, demanding that REDD+ schemes respect human rights and include IP in the decision-making process and modalities of benefit sharing. The IIPFCC demanded the broad application of the principle of free prior and informed consent (FPIC) to REDD+ strategies at national and subnational levels, and sought to demonstrate how to do this in a cost-effective manner (as in Indonesia, Thailand or the Philippines)[48].

The fact that the global indigenous movement is not homogeneous is probably what has given it the capacity to make use of different frames and strategies without breaking solidarity[49]. As a result, Indigenous Peoples organizations have used their political engagement within the UNFCCC to gain respect for their territorial and human rights and the means of exercising these rights. This insider strategy has proved effective to some extent because the IIPFCC clearly succeeded in influencing the REDD+ schemes[50] by an explicit recognition of UNDRIP. How to balance participation in institutional processes, and more confrontational types of activism, have long been debated within the IP movement[51]. Until today, the consensus over the importance of autonomy and territory has not being broken. IP activists continue, overall, to see the international human-rights framework as useful for asserting their rights in this regard.

2.4 Human Rights Compliance and REDD+

Human rights approaches provide benchmarks against which states' actions can be evaluated and they offer the possibility of holding authorities to account. Human rights approaches may also offer additional criteria for the interpretation of applicable principles and obligations that states have to each other, to their own citizens, and to

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[47] See Global Alliance of Indigenous Peoples and Local Communities against REDD and for Life, *Indigenous Peoples Call for a Moratorium on REDD+*, 6 December 2011, available online at http://www.carbontradewatch.org/articles/indigenous-peoples-call-for-a-moratorium-on-redd.html (last visited March 25 2017).

[48] See Claeys and Delgado Pugley, *supra* note 19.

[49] See Claeys and Delgado Pugley, *supra* note 19.

[50] Martin, *The Globalization of Contentious Politics: The Amazonian Indigenous Rights Movement* (2014).

[51] In my personal interviews and informal conversation this was a big issue mainly until Durban climate talks.

the citizens of other states in relation to climate change[52]. International safeguards are proposed to counteract potential negative social and environmental outcomes of prospective REDD+ projects. Currently, there are various safeguard initiatives for global REDD+ project implementation[53]. These include the UN-REDD Programme Social and Environmental Principles and Criteria (UN-REDD 2011), the Forest Carbon Partnership Facility (FCPF) Readiness Fund Common Approach to Environmental and Social Safeguards for Multiple Delivery Partners [54], and the REDD+ Social and Environmental Standards[55].

UN-REDD has adopted standards to support partner countries in developing national approaches to REDD+ safeguards, which are specified in the UN-REDD, 'Social and Environmental Principles and Criteria,'[56]. In its article 2 it specifies that the 'SEPC reflect the UN-REDD Programme's responsibility to apply a human-rights based approach to its programming, uphold UN conventions, treaties and declarations, and apply the UN agencies' policies and procedures'. The standards interpret the UNFCCC safeguards in light of human-rights law and practice; applying a human-rights-based approach to the work of the UN-REDD. It remains to be assessed comparatively how REDD+ safeguards have been interpreted in practice at national and subnational levels, as well as the weight of safeguard implementation on the result-based payments. It is worth noting that there are no specific sanctions attached to contraventions of UN-REDD standards. Similar concerns apply to the adopted GCF Environmental and Social Safeguards, which explicitly mention ensuring full respect of the human rights of indigenous peoples, and their free, prior and informed consent, at least in certain circumstances.[57]

Given these international efforts, only a few UNFCCC Parties have pronounced themselves on the interpretation of REDD+ safeguards, and their reporting, as being closely linked with extant obligations under human-rights law. As Savaresi[58] points out, views on the interpretation of safeguards' links with human rights law were expressed by El Salvador (on behalf of the Dominican Republic, El Salvador, Honduras and

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[52] Rajamani, 'The Increasing Currency and Relevance of Rights-Based Perspectives in the International Negotiations on Climate Change', 22(3) *Journal of Environmental Law (JEL)* (2010) 391.

[53] Moss, *el al.*, Forest Carbon Partnership and UN REDD, 'A Review of Three REDD+ Safeguard Initiatives' (2011), available online at https://www.cbd.int/forest/doc/analysis-redd-plus-safeguard-initiatives-2011-en.pdf (last visited March 25 2017); McDermott *et al.*, 'Operationalizing Social Safeguards in REDD+: Actors, Interests and Ideas', 21 *Environmental Science & Policy* (2012) 63.

[54] Forest Carbon Partnership Facility (FCPF), *Readiness Fund Common Approach to Environmental and Social Safeguards for Multiple Delivery Partners* (2011), available online at https://www.forestcarbonpartnership.org/sites/forestcarbonpartnership.org/files/Documents/PDF/Nov2011/FCPF%20Readiness%20Fund%20Common%20Approach%20_Final_%2010-Aug-2011_Revised.pdf (last visited March 25 2017).

[55] For further information see: http://www.redd-standards.org.

[56] UN-REDD, UN-REDD Programme Social and Environmental Principles and Criteria: UN-REDD Programme Eight Policy Board Meeting, UN Doc. UNREDD/PB8/2012/V/1, 25-26 March 2012.

[57] GCF, 'Guiding Framework and Procedures for Accrediting National, Regional and International Implementing Entities and Intermediaries, Including the Fund's Fiduciary Principles and Standards and Environmental and Social Safeguards, at 1.7.

[58] Savaresi, 'The Legal Status and Role of REDD-Plus Safeguards', in C. Voigt (ed), *Research Handbook on REDD+ and International Law* (2015) 126.

Panama) and Switzerland.[59] For example, Switzerland suggested that 'information systems for safeguards embody and reinforce the guidance and rules of existing environmental and human rights treaties, particularly UNDRIP and FLEGT, when relevant.'[60]. Likewise, Chad (on behalf of Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Rwanda, and Sao Tome and Principe) suggested that safeguard information systems guarantee consistency with international human-rights law.[61']

3. Implementing Rights-Based Tools for REDD+

REDD+ implementation is a multi-scalar and multi-actor challenge. As Peskett and Todd puts it[62], countries undertaking REDD+ activities need to develop country-level approaches that enable them to respond to requirements outlined in recent United Nations Framework Convention on Climate Change (UNFCCC) agreements. At the same time, they need to ground this country-level approaches into different regional contexts by efforts that involve different state sectors and stakeholders.

Besides governance complexities, it is necessary to step back and analyze forests as social-ecological systems[63], and examine climate action with 'context-dependent, adaptive outcomes interlinked to nested ecological states'[64]. It is important to take into account that the institutional and governance elements represent only a piece of a larger puzzle that must match the scale of the forest[65].

It is worth taking Eleanor Ostrom's theory of collective action for common pool resource (CPR) management[66] as an analytical framework to approach institutions governing forest conservation. The theory originally described eight principles that characterize the institutional governance structures in systems that have achieved sustainable management of CPRs such as tropical forests. Ostrom divides the eight

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[59] UNFCCC, 'Views on Methodological Guidance for Activities Relating to Reducing Emissions from Deforestation and Forest Degradation and the Role of Conservation, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks in Developing Countries', UN Doc. FCCC/SBSTA/2011/MISC.7, 19 October 2011.

[60] *Ibid*., at p. 100.

[61] UNFCCC, Views on Experiences and Lessons Learned from the Development of Systems for Providing Information on How all the Safeguards Are Being Addressed and Respected and the Challenges Faced in Developing Such Systems, UN Doc. FCCC/SBSTA/2014/MISC.6, 6 November 2014, at 17. See also Savaresi and Hartmann, 'Human Rights in the 2015 Agreement', Legal Response Initiative Briefing Paper, 2/15 (2015).

[62] Peskett and Todd, 2013. 'Putting REDD+ Safeguards and Safeguard Information Systems Into Practice', 3 *Policy Brief* (2013).

[63] S. B. Hecht, K. D. Morrison and C. Padoch (eds), *The Social Lives of Forests: Past, Present, and Future of Woodland Resurgence* (2014); Nagendra and Ostrom, 'Polycentric Governance of Multifunctional Forested Landscapes', 6(2) *International Journal of the Commons (IJC)* (2012) 104.

[64] Nagendra and Ostrom, *supra* note 63.

[65] Nagendra and Ostrom, *supra* note 63.

[66] Ostrom, Roy and Walker, 'The Nature of Common-Pool Resource Problems', 2(3) *Rationality and Society* (1990) 335, at 358.

principles into three levels: operational, collective choice, and constitutional. Operational rules are those governing day-to-day activities that directly affect the physical world, such as resource appropriation, monitoring, and enforcement. For example, operational rules may describe when, where, and how resources may or may not be withdrawn from the common pool resources system. Constitutional rules define who is eligible to govern; who can make the rules. These 'working rules' may also be understood as the rules that are used to craft collective-choice guidelines; those actually used, monitored and enforced.[67] We will focus here on the changes at the constitutional level.

3.1 Governance Reforms on the Ground

Communities that live in and around forested areas are diverse in their histories, internal organization, livelihood strategies and networks. As there are usually limited opportunities of their involvement in politics, there are, of course, risks of resource appropriation and elite capture within communities[68]. Various channels have been created both globally and nationally to empower indigenous agency, such as giving them the position of stakeholders (with attached responsibilities) and providing them with a political status in the global meetings so as to make them part of the 'planned solution'. It remains necessary to analyze whether these participation mechanisms enhance their agency and collective decision-making or if they might represent predominantly an exercise of what some author call the biopower of indigenity[69]. But for now it certainly seems that strengthening supra-communal organizations and building autonomous indigenous REDD committees has been a powerful driver of agency at different levels of governance[70].

One important example of indigenous peoples achieving inclusion at the constitutional level is the Forest Investment Programme (FIP), which counts Indigenous Peoples organizations among the participants of decision-making bodies, both globally and in some countries such as Peru and Colombia[71]. As a result, part of FIP investment and funding coming from bilateral agreements – such as the Norwegian and German Climate and Forest partnership, which aloud these countries to pledged the support for the achievement of REDD+ milestones of $40M and after 2017 for verified emission reductions up to $200M[72]. These actions foresee land titling and demarcation of indigenous territories.

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[67] Ostrom, *supra* note 66.

[68] Peskett *et al., Making REDD Work for the Poor*, A Poverty Environment Partnership (PEP) Report, September 2008, available online at https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3451.pdf (last visited March 25 2017).

[69] Lindroth and Sinevaara-Niskanen, 'Adapt or Die? The Biopolitics of Indigeneity—From the Civilising Mission to the Need for Adaptation', 28(2) *Global Society* (2014) 180, at 194.

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[71] See Climate Investment Funds, *Design Document for the Forest Investment Program, A Targeted Program under the SCF Trust Fund*, 7 July 2009, available at https://www.climateinvestmentfunds.org/cif/sites/climateinvestmentfunds.org/files/FIP_Design_Document_July_final.pdf (last visited March 25 2017).

[72] See Joint Statement by Germany, Norway and the United Kingdom of Great Britain and Northern Ireland, *Unlocking the Potential of Forests and Land Use Paris*, COP21, 30 November 2015, available

Gaining influence at a constitutional level has been a key part of the agenda of the indigenous peoples movement in the occidental side of the Amazon Basin. Although the impact and 'translation' of human rights at the international level is very important on the ground, national laws play a significant role in the mainstreaming of a rights-based approach[73]. To show this we will use here the case of Peru. Following official data Peru has the fourth largest surface of tropical-forest coverage in the world. Almost 58% of its territory is covered by forest, and from this, 94% is clasified as tropical forest[74]. Peru's tropical forest has a significant role nationally and globally in tackling climate change. Since 2015, Peru has committed to align its development and environmental agenda in order to comply with the Sustainable Development Goals (approved in September 2015) and the commitments of the Paris Agreement (approved in December 2015). Peru's Readiness Preparation Proposal (a framework document which sets out a clear plan, budget and schedule for a country to achieve REDD+ Readiness) was presented in 2011 and has received comments from many actors[75], but specifically from AIDESEP, the association that represents ethnic indigenous organizations of the Peruvian Amazon. In 2010, during the meeting on the 'Preparation Proposal' of REDD+, AIDESEP expressed its views on the process, especially how it excluded a discussion on the rights of Indigenous People in Peru. Since that meeting, AIDESEP has been a key player in the readiness process[76].

Significant progress has being achieved by indigenous organizations towards the inclusion of their rights on the projects implemented by the Forest Investment Programme and the whole REDD+ in the country. A total of 40 agreements were made from observations in the Plan of Investments of the FIP-Peru. These agreements were signed on August 2013 by the Committee of Directors of the FIP (CD-FIP), formed by the Ministries of Environment, Economy, Agriculture and Culture, and the Amazonian regional Governments, together with national, regional and local leaders of Indigenous organizations. Across the 40 agreements, $50 million will be invested, of which $14.5 million will be granted to meet the demands of Amazonian Indigenous Peoples, divided into 3 priorities: $7 million to meet the demands for land-titles; $4 million to promote community-based forest management; and $3.5 million to support forest governance of Indigenous communities and organizations[77]. The act also includes other points

online at http://www.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Klimaschutz/joint_statement_redd_cop21_en_bf.pdf (last visited March 25 2017).

[73] Gready, 'Rights-Based Approaches to Development: What is the Value-Added?', 18(6) *Development in Practice* (2008 735.

[74] See W. A. L. León, *MINAM - National Forest Monitoring in Peru*, available online at http://claslite.ciw.edu/en/success-stories/minam-national-forest-monitoring-in-peru.html (last visited March 25 2017).

[75] Romijn *et al.*, 'Assessing Capacities of Non-Annex I Countries for National Forest Monitoring in the Context of REDD+, 19 *Environmental Science & Policy* (2012) 33, at 48.

[76] For a coverage of this process, see Chris Lang, *AIDESEP Critique of Peru's Readiness Preparation Proposal,* 8 March 2011, available at http://www.redd-monitor.org/2011/03/08/aidesep-critique-of-perus-readiness-preparation-proposal/ (last visited March 25 2017).

[77] For information about the funds, see World Bank, document about *Saweto Dedicated Grant Mechanism for Indigenous Peoples and Local Communities in Peru*, 19 August 2015, available at: https://static1.squarespace.com/static/550abd2ce4b0c5557aa4f772/t/574328c7ab48de0aeb435567/1464019144570/DGM_Peru_Saweto_PAD_18.8.2015_EN.pdf (last visited March 25 2017).

addressed by AIDESEP and CONAP to be included in CD-FIP and the National Forest Program, the Indigenous participation in specific projects, and the project design of PTRT (a land titling project) with Inter-American Development Bank (IDB)[78].

Ensuring a dedicated Grant Mechanism (DGM) is a success in itself, and can be a political tool. It is a platform for: (a) direct funding allocation to indigenous peoples for solving enabling conditions and community forest-management initiatives; (b) strengthening indigenous forest governance through the empowerment of its National Steering Committee (NSC) and its regional and local indigenous organizations. Finally, indigenous people and private banking cooperative agreements might constitute examples of 'in-house' climate funding for the implementation of indigenous economy initiatives. This will allow analysis of indigenous communities as economic actors within a framework of territorial sustainable development.

3.2 Facing Incommensurability: Amazon Indigenous REDD+ (AIR)

Regional organizations in the Amazon Basin (including Colombia, Ecuador and Peru) have agreed not to sign REDD+ contracts until the nature of REDD+ projects and programmes have been clearly defined, IPs and local communities' rights are guaranteed and due processes for Free Prior and Informed Consent is established. But IP movements have developed more ambitious proposals, such as the 'Amazonian Indigenous REDD+'[79]. The Indigenous REDD+ proposal is interesting because it places indigenous collective rights recognized by the UNDRIP at the core of REDD+, and goes beyond carbon capture by encouraging holistic management of the territories and by including non-carbon benefits[80].

The Amazonian Indigenous REDD+ (AIR) initiative deploys an instrument called 'community-based Monitoring Reporting and Verification system' (CB-MRV) as a local tool to monitor forest conservation over indigenous territories. AIR has the ambition to further develop a small-scale indigenous economic/development model that guarantees food security and supply of forest goods/services, and through this, to contribute to the national development and environmental agenda. Despite the limitations on capacity and resources, indigenous peoples organizations have succeeded in scaling up the AIR narrative and incorporating it in some planning forestry

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[78] For a coverage of the process see Rights and Resources, *Indigenous Participation in REDD+ increases in Peru,* 13 August 2013, available online at
http://rightsandresources.org/en/blog/indigenous-participation-in-redd-increases-in-peru/#.WNCd1GTytsM (last visited March 25 2017).
[79] An ambitious project to implement pilot cases of the 'Amazon Indigenous REDD+' in Madre de Dios (Peru) and Inirida (Colombia) and a test case in Ecuador was launched last December 9 at UNFCCC COP 20. See http://wwf.panda.org/wwf_news/?235956/Amazon-Indigenous-REDD-launched-at-UNFCCC-COP-20
[80] For an extensive re ort on eru see REDD+ INDÍGENA EN EL PERÚ: Perspectivas, avances, negociaciones y desafíos desde la mirada de los actores involucrados.
http://www.proyecto-cbc.org.pe/admin/recursos/publicaciones/c4073-REDD_Indigena_En_El_Peru.pdf

and climate documents (such as the National Determined Contributions of countries such as Peru and Colombia)[81].

AIR has been embraced by national indigenous organizations with varying strengths, since the political opportunities differ in each country. Bolivian organizations could not keep the pace as the national pressure over avoiding REDD+ was high. The Amazonian Indigenous Peoples Association in Peru (AIDESEP) and Colombia´s OPIAC have become active in debates about climate change at the national level, and have brought 'alternatives' to the fragmented vision of technical approaches to forest conservation and poverty alleviation. They argue for prioritizing indigenous "life plans" as an overall natural resource-management strategy within indigenous territories, in which forest ecosystem services such as carbon sequestration are incorporated as one element of the holistic territorial management.

3.3 The Limits of Implementation

It is recognized that where funds could be mobilized through REDD for indigenous populations, there must be inquiry into what social transformation processes this may trigger[82]. Critical voices are concerned that the traditional relationship with the non-human will be eroded, generating a counter-productive impact. This underscores the need for indigenous peoples to actively shape REDD at the constitutional level in order to apply traditional knowledge right from the outset. The example of Panama can be illustrative, as Potvin and Mateo-Vega[83] pointed out. REDD+ started well in Panama. The country put the rights of indigenous peoples on the agenda of the United Nations Framework Convention on Climate Change, and REDD+ project promoters complied with the consent procedures of the Guna General Congress. Panama's National Coordinating Body of Indigenous Peoples (COONAPIP) drafted a plan in 2011 for comprehensive REDD+ capacity-building efforts in each indigenous territory. If the plan had been implemented, this would have stimulated debate among indigenous people over fears that REDD+ might threaten traditional land uses and rights, as well as over possible ways forward. In July 2013, one of Panama's leading traditional indigenous authorities, the Guna General Congress, banned a REDD+ project. As Potvin and Mateo-Vega The Congress, controls about 7% of Panama's primary forests, went further, forbidding organizations in the Guna Yala territory from engaging in REDD+ activities, and walked out of REDD+ discussions.

COONAPIP withdrew from the UN-REDD programme and called on indigenous peoples globally to proceed cautiously on REDD-related matters. This crisis stems from

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81 This information was recollected in personal interviews with national officials and also NGO allies, who are working with indigenous peoples proposals that are currently ongoing in Colombia and Peru. No public documents are available at the moment of writing this chapter.
82 Sheil, Douglas and Wunder, 'The Value of Tropical Forest to Local Communities: Complications, Caveats, and Cautions', 6(2): 9 *Conservation Ecology* (2002); P. West, *Conservation is Our Government Now: The Politics of Ecology in Papua New Guinea* (2006).
83 Potvin and Mateo-Vega, 'Panama: Curb Indigenous Fears of REDD+', 500(7463) *Nature* (2013) 400.

a failure to build REDD+ capacity for indigenous people at all levels. The plan failed to receive UN funding in a timely manner. It became later clear that knowledge transfer was the best antidote for the fear of REDD+.

4. Early Lessons

It is crucial to build on lessons learned about multi-scale programmes such as REDD+ in order to provide broader ground for the development of impact strategies that ensure respect for human rights. We would therefore like to highlight some early lessons as concluding remarks of this chapter.

As Savaresi points out[84], the complex debate on REDD+ safeguards boils down to concerns over striking the right balance between, on the one hand, avoiding perverse outcomes of climate actions while pursuing co-benefits, and, on the other, ensuring the feasibility of REDD+. So far, a cost-effective REDD+ framework has been implemented across multiple scales in a rather slow manner. Nevertheless, it has already abounded in political incentives for the public sector to listen to and engage communities living in forested areas in political processes, and to ensure respect for substantive and procedural human rights. Nevertheless, REDD+ implementation interacts with and affects socio-cultural dynamics and power in ways that are still to be apprehended.

Looking back at the dynamics of framing and counter-framing concerning the place of local and indigenous peoples during the last decade, it is striking how movements and (to a lesser extent) environmental NGOs have endeavoured to change the perceptions among other actors in climate policy of communities living in forests. Changing the perceptions of local drivers of deforestation was one of the main challenges faced where big advancements are achieved[85]. Framing representation and demands in terms of human rights has been a way to assist a common formulation of claims across diverse networks and to facilitate their insertion into global governance debates and climate politics.

The UN-REDD experience has confirmed that there is ample scope to build upon human rights to interpret REDD+ safeguards. The added value of making reference to human rights lies in avoiding duplications and exploiting the consensus underpinning existing human-rights law. Building explicit links with extant human rights instruments and practice may be difficult, because not all State Parties eligible to carry out REDD+ activities are parties to the same human-rights treaties[86]. Taking this into account, insofar as several of these countries have since subscribed to treaties regarding indigenous peoples, reference to human rights has played a positive role so far.

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[84] See Savaresi, *supra* note 58.

[85] For a case study, see Wehkamp *et al.*, 'Analyzing the Perception of Deforestation Drivers by African Policy Makers in Light of Possible REDD+ Policy Responses', 59 *Forest Policy and Economics (FPE)* (2014) 7.

[86] Savaresi, *supra* note 58; Savaresi & Hartmann, *supra* note 61.

After years of work on REDD+, land rights and clear local authority issues should still be considered as a priority at different scales of governance. Countries are making slow progress on land tenure and carbon rights reform. Absence of transparent and accountable processes, comprehensive carbon rights legislation, and dispute resolution mechanisms are still worrisome[87]. In this context, incorporating indigenous planning and decision-making processes requires additional time and resources, which is, nevertheless, fully rewarded as conflicts are prevented and the long-term sustainability of REDD can be secured. Funding should come in a timely manner to enable debates and support grounded visions on governance, conservation and forest management. As an example, an interesting process is happening in this regard with the Climate Forest Partnership Agreement of Norway, Germany and Peru for REDD+. Mainstreaming approaches that include multiple stake-holders for the success of new policies demand evolving knowledge. Capacity building and knowledge construction for multi-scale interventions seems to be a way forward.

As Jodoin highlights, the relationship between different sites of law in the complex legal framework for REDD+ is a key line of scholarly inquiry concerns. The field of REDD+ is now governed by multiple sites of law that are characterized by different forms and modes of law-making.

Finally, it is a common stance to underestimate the agency of subaltern organizations. Rights over forests resources have historically been reserved to the State. Rural organizations, indigenous and peasant alike, face this context in many forest-rich countries in the world. Advances on policies related to REDD+ at the international level, (either at the UNFCCC, or by bilateral cooperation agreements) have increased available resources and incentives to define access and property rights to forest. This political opportunity is being used for the assertion of human rights recognized for collective actors. Alternative approaches coming from indigenous peoples can make relevant contributions to the overall forestry system with positive impacts for climate and environmental resilience as a whole.

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[87] Dunlop and Corbera, 'Incentivizing REDD+: How Developing Countries Are Laying the Groundwork for Benefit-Sharing', 63 *Environmental Science and Policy* (2016) 44.