WORKING PAPER

Sustaining Livelihoods while Reducing Emissions from Deforestation

Options for Policymakers

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Sustaining Livelihoods while Reducing Emissions from Deforestation: Options for Policymakers

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EXECUTIVE SUMMARY

Reducing tropical deforestation is a necessary component of any comprehensive strategy to address climate change. Mechanisms to reduce tropical deforestation in climate change policy are currently under consideration at the United Nations Framework Convention on Climate Change (UNFCCC), as part of U.S. climate policy deliberations, and through other public and private sector endeavors throughout the world.

How these mechanisms will address concerns that new reduced deforestation efforts might harm indigenous peoples and other forest-dependent communities ("forest people") is an open question. Much has been written about the potential negative impacts of reduced deforestation programs on forest people. However, to date, there has been little analysis of the specific policies that could be employed to guard against these risks. As such, we identify and discuss a suite of specific policies that could be applied to avoid negative impacts on forest people and promote their positive engagement in program design and implementation.

We argue that applying these policies should be viewed as more than just a means for producing ancillary "co-benefits" in a forest carbon program; rather, the well-being of forest people may be integral to the overall success of programs in reducing deforestation. This is because forest people can affect the program in either positive or negative ways: On the one hand, they can assist states with forest conservation if properly engaged. On the other hand, they can contribute to forest clearing and turn against programs if they are not properly engaged. For positive impacts to be realized, forest people require secure property rights, economic incentives for conservation, and opportunities to participate in program design and implementation. Yet this is where reduced deforestation programs and forest people face barriers: First, property rights for many forest people are insecure. Second, governance in many countries with potential to reduce deforestation is weak and, as a result, citizens may have limited opportunity to participate in forest and revenue management decisions or seek recourse through judicial systems. Moreover, corruption may preclude compensation and benefits from trickling down to local actors. Overcoming these barriers and avoiding the risks they create for people and forests will be critical for program success.

We describe a set of policies that could help overcome these barriers. We identify policy options based on an analysis of the full range of risks new mechanisms pose to forest people and hence program effectiveness. Our analysis also considers what is outlined by internationally-recognized human rights. While application of a Free, Prior, and Informed Consent policy could help address some of the risks presented by site-specific interventions (e.g., protected areas) and promote consistency with the UN Declaration on the Rights of Indigenous Peoples, policies to address governance issues at the national level will also be needed. We identify and discuss the following policies to do just that:

- **Citizen participation in program design and reforms to land use policies and property rights (to forests and forest carbon)**
  Implementation options include requiring (1) Environmental and Social Impact Assessments (ESIAs) for new programs and reforms to land use policies/plans and property rights, (2) the prior disclosure of ESIAs in appropriate languages and public comment periods that include culturally-appropriate consultations; and (3) that property rights reforms are informed by participatory mapping and undertaken at local levels.

- **Revenue transparency mechanisms**
  Implementation options include requiring the disclosure of contracts, payments, and audits as well as natural resource funds that provide clear guidelines on what the funds can be used for and allow for citizen and parliamentary oversight.

- **Dispute resolution mechanisms**
  Can be housed at local, national, and international levels to adequately address concerns of affected people.

- **Evaluation of project and program impacts on rural citizens**
  Both projects and national programs could conduct impact evaluations to understand how citizens are being affected and continually improve impacts.

Third-party involvement in application of the policies will be essential for some of them (e.g., externally-housed dispute resolution mechanisms) and important for incentivizing adherence and ensuring compliance with all of them. We discuss the avenues available for applying the policies with third-party involvement: (1) in the international climate change agreement; (2) by tropical countries' voluntary adherence to a certification standard; and (3) on the demand-side, through the programs of developed countries paying for reduced deforestation (as part of their greenhouse gas compliance market or through official development assistance). We outline some possible advantages and disadvantages of each approach and discuss how they might interact. We note the potential for the approaches to be complementary—especially if the U.S. becomes a large buyer/financier of international forest carbon and enacts strong policies to protect forest people.

INTRODUCTION

Reducing tropical deforestation is a necessary component of any comprehensive strategy to address climate change. Deforestation accounts for an estimated 17% of global greenhouse gas emissions – more than the global transport sector.[1] The vast majority of these emissions result from the clearing and burning of forests in tropical countries. Mechanisms to reduce tropical deforestation in climate change policy are currently under consideration at the United Nations Framework Convention on Climate Change (UNFCCC), as part of U.S. climate policy deliberations, and through other public and private sector endeavors. While many questions remain about the design of such mechanisms, a consensus is emerging around results-based approaches, where developed countries pay developing countries for reducing (or avoiding) deforestation below an established baseline. Important outstanding issues include how baselines will be determined, the scope of countries and forest carbon activities to be included, the extent to which forest carbon programs will be linked to carbon markets, and the role of sub-national programs and projects. How these mechanisms will address concerns that new reduced deforestation efforts might harm indigenous peoples and other forest-dependent communities ("forest people")[a] also remains an open question.

While much has been written about the potential negative impacts of reduced deforestation programs on forest people,[2] there has been little analysis of the specific policies that could be employed to guard against these risks. As such, we identify and discuss a suite of specific policies that could be applied in reduced deforestation programs to avoid negative impacts on forest people and promote their positive engagement in program design and implementation. We argue that applying these policies should be viewed as more than just a means to produce ancillary "co-benefits" for a forest carbon program; rather, the well-being of forest people may be integral to the overall success of programs in reducing deforestation. We conclude by discussing the various avenues available for applying these policies.

[a] We use the term "forest people" as shorthand for "indigenous peoples and other forest-dependent communities." It should also be noted that reduced deforestation mechanisms pose risks not just to people dependent on forests, but to those dependent on other terrestrial ecosystems (e.g., savannas and wetlands) as well. This is because there may be leakage, where agricultural activities shift from forests to these other ecosystems in response to new incentives to protect forests. While this risk of leakage could be addressed by expanding the scope of incentives and accounting beyond forests, measurement and monitoring capabilities may initially limit such an approach. New land use pressures in savannas and wetlands could adversely affect people dependent on these ecosystems, indicating that the policies described in this paper need to apply to *all* citizens in countries participating in forest carbon programs, not just to people living in forests. But given the current policy focus on forests, this paper uses the term "forest people."

THE ROLE OF FOREST PEOPLE IN PROGRAM EFFECTIVENESS

Millions of people in the developing world live in or near forests; many of these people are almost wholly dependent on forests for their subsistence and income needs, collecting food, medicine, and fuelwood from the forest.[3] There are many reasons to ensure that reduced deforestation programs positively engage forest people and do not harm their livelihoods. First, avoiding negative impacts and promoting forest peoples' participation is necessary for alignment with internationally-recognized human rights (see Box 3). Second, ensuring that the poor have continued access to forests could strengthen their ability to adapt to a changing climate. Forests provide "natural insurance" to the poor, who increase their collection of wild foods, medicines, and other forest products to cope with economic shocks such as a failed harvest or family illness.[4] With climate change projected to reduce agricultural yields and increase disease burdens in certain parts of the world, the importance of forests for the poor may increase. Third, net positive impacts on forest communities could advance other development goals, such as poverty reduction. Finally, another important, but often overlooked, reason is that avoiding negative impacts on forest people and promoting their positive engagement in program design and implementation could enhance the success of programs in reducing deforestation and maintaining political support. Given their proximity to the resource, forest people can impact the effectiveness of reduced deforestation programs in both positive and negative ways.

Potential to enhance program success

Experience shows that forest people can contribute to the success of reduced deforestation efforts if properly engaged.

Conservation

A growing body of research finds that local communities can be effective conservation agents when they have secure property rights: Indigenous territories and community-managed extractive reserves have been effective in preventing deforestation and fire in the Brazilian Amazon; other cases of effective community forest management have been documented in the Himalayas, Nicaragua, and Mexico.[5] Some of these studies have also found community management of forests to be more cost-efficient than state management.[6] States face difficulties stopping illegal logging and clearing in tropical forests, in part due to their sheer size and remoteness. But forest people can help states correct this problem of weak enforcement capacity if they have the legal authority to block encroachers (i.e., secure property rights) and economic incentives for conservation.

Transparency

Weak enforcement can also be the result of non-transparency and corruption, where civil servants permit illegal activity from which they are able to derive personal financial benefit. Here, forest people could help by providing an additional means of oversight that could strengthen the transparency of forest and revenue management decisions.

Potential to hinder program success

On the other hand, if they are not properly engaged, forest people could hinder the success of programs in reducing deforestation and maintaining political support.

Forest clearing

People clear (or permit the clearing of) forests when they lack secure property rights and economic incentives for conservation. When long-term rights to the resource are not guaranteed, land users have an incentive for rapid and destructive exploitation. In some countries, clearing forests is actually a means of

establishing property rights as it helps demonstrate that the land is being used productively. [7] While secure property rights are often a precondition for sustainable management, they don't guarantee it: without economic incentives for conservation, individuals and communities may rationally choose to convert forests to agricultural lands[8] or engage in unsustainable logging[9] to maximize profits, as has been observed in some cases. If peoples' incentives for deforestation persist, then so will deforestation. This is important because while small-scale agriculture and fuelwood harvesting are responsible for less deforestation in the tropics than industrial agriculture and timber operations,[10] they are the principal causes of deforestation and forest degradation in some regions (e.g., Congo Basin).[11] Moreover, the past does not perfectly predict the future. Although many communities have been conserving forests for generations, population growth within these areas[12] will increase the impacts of small-scale activities, as may higher incomes.[13] Migrations from urban areas or those due to conflict and extreme weather events could alter who lives in forests and traditional forest management practices.

Social unrest and loss of political support

Forest people could also hinder program success if they believe they are not being treated fairly. If new programs restrict forest peoples' access to resources they have traditionally relied upon and they are not adequately compensated, they could seek to block new conservation projects. Resentment and opposition could also ensue if citizens observe their governments collecting large amounts of forest carbon revenue but find that their lives are not improving. Such occurrences have plagued some projects in the extractive industries[18] and evidence suggests there are financial costs to not ensuring local community support.[19] Social unrest also creates reputational risks for financiers.

Programs could also lose the support of forest people and civil society if these groups feel they are not meaningfully participating in the design of new reduced deforestation programs. This could lead to a loss of broad-based political support for programs. The lack of participation by forest peoples and civil society in the Tropical Forestry Action Plan (TFAP), along with the fact that deforestation rates increased during the TFAP's first five years, contributed to a loss of political support and donor funding for the initiative (see Box 1).

Box 1. The Tropical Forestry Action Plan: A cautionary tale.

A cautionary tale is provided by the Tropical Forestry Action Plan (TFAP), an international initiative launched by donors and civil society in the early 1990s, to stem the tide of deforestation then overtaking tropical forests; it was very similar in scope and ambition to the reduced deforestation mechanisms under development today. The TFAP did not account for the divergent interests and power asymmetries between national and local actors and thus did not include measures to guard against negative impacts on forest people or guarantee their participation in forest management decisions. This oversight led to serious political battles in the TFAP's waning years: forest people and civil society pushed for a structure that would allow their participation in the design of national programs, but tropical governments asserted that external directives regarding participation violated national sovereignty.[14]

These battles, along with the fact that deforestation rates increased during the TFAP's first five years,[15] led to a loss of political support for the TFAP amongst civil society and donors: key conservation NGOs pulled out and the U.S. Congress halted funding. Some claimed the TFAP actually *increased* industrial logging[16] and harmed forest people.[17] The case of the TFAP offers a few important lessons for reduced deforestation initiatives: (1) anticipate that forest people and state elites may have different interests, (2) guarantee the meaningful participation of forest people in program design and implementation, and (3) monitor impacts on forest people. Such actions could help programs avoid negative impacts on these communities and maintain the political support of key stakeholders.

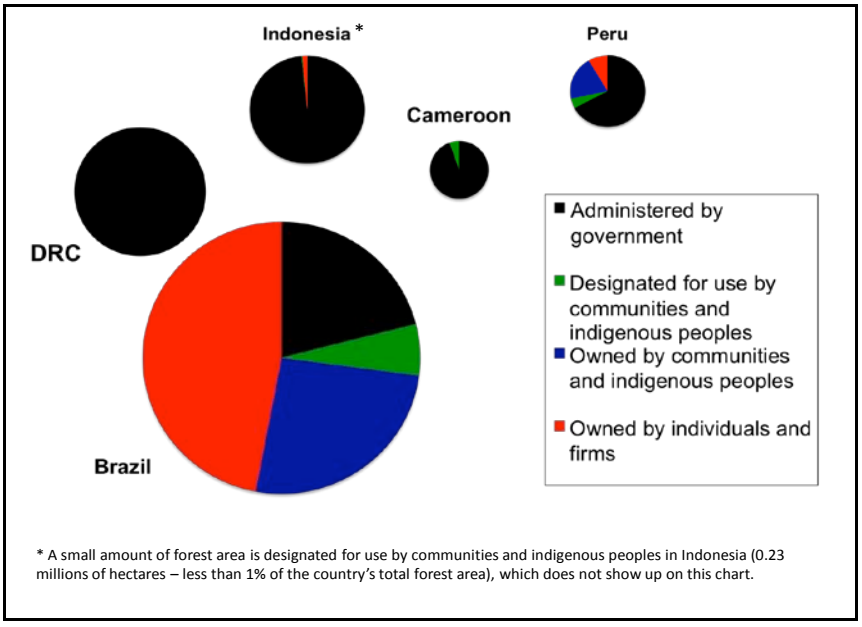
BARRIERS TO THE POSITIVE ENGAGEMENT OF FOREST PEOPLE

Considering these potential impacts forest people could have on reduced deforestation programs, maximizing the likelihood that these impacts are positive should improve the effectiveness of national programs and the permanence of emissions reductions. However, for this to happen, forest people require secure tenure, economic incentives for conservation, and opportunities to participate in program design and implementation. Yet this is where reduced deforestation programs and forest people may face certain barriers: First, despite a worldwide trend of states devolving forest management and ownership rights to local actors, property rights are still insecure for many forest people, with their customary resource rights not codified in law and the majority of land and forest area in many tropical countries legally owned by the state (see Figure 1). Second, many of the countries with the potential to reduce deforestation rank low on governance indicators.[20]

As a result, citizens may have limited opportunity to participate in forest and revenue management decisions or to seek recourse through judicial systems. And corruption may preclude compensation and benefits from trickling down to local actors. [21]

Where these barriers are present, the ability of reduced deforestation programs to positively engage forest people will be constrained and risks of negative impacts on forest people may be high.

Figure 1. Forest tenure distribution in selected tropical countries in 2008.



Data from Sunderlin, W.D., J. Hatcher, M. Liddle. 2008. *From Exclusion to Ownership? Challenges and Opportunities in Advancing Forest Tenure Reform*. Washington, D.C.: Rights and Resources Initiative. Piecharts scaled to size of forest area, relative to other countries shown.

RISKS OF NEGATIVE IMPACTS

In order to reduce deforestation, states may take the following measures, which could pose risks to forest people:

- **Increased enforcement on state-owned lands.** Such measures would alter the open-access regime that has been the *de facto* situation in many tropical forests, making the many that lack legal title to the lands they have customarily occupied or used vulnerable to penalties and restricted access.

- **Creation of new protected areas that limit the presence or activities of humans or property rights and land use policies/plans that maintain and expand the state's legal ownership of forests or forest carbon.** These measures could restrict access, displace people from forests, or legally deny them the opportunity to derive benefits from conservation. It is possible that states could take these measures not only to reduce deforestation but also to maximize their ability to derive forest carbon revenues; this possibility could be especially high in those countries where revenue transparency is lacking and political elites believe they may be able to siphon off some of these revenues for personal gain.[27] Even where forest people possess ownership or management rights to forests, it is still unclear whether they also have the right to benefit from the forest carbon. Just as sub-surface rights to mineral exploitation are separated from rights to own and use the land containing the minerals in many countries, states could enact laws that decouple forest carbon rights from forest management and property rights. Box 2 describes examples of forest policy reforms states are already enacting that raise cause for concern.

- **Programs intend to compensate forest people for reduced access or avoided deforestation, but benefit transfers are not realized or compensation provided is not adequate.** Property rights reforms that secure rights for forest people and the establishment of programs that pay landowners to avoid deforestation are possible measures states could take that may appear to pose little risk. Similarly, if new protected areas promise to compensate people for restricted forest use this may seem to adequately address potential negative impacts on forest communities. However, if forest people reduce their forest clearing in exchange for promised compensation or other services (schools, health clinics, water systems, etc.) and state elites (or elites representing a forest community) intercept the intended revenue transfers, forest people could find themselves bearing the costs but not sharing in the benefits of reduced deforestation programs. Problems could also arise with conservation

Box 2. Cause for concern: state reforms to property rights and forest policies.

There are already concerns about how countries are clarifying property rights and reforming forest policies in response to new incentives provided by emerging reduced deforestation mechanisms. A UN committee, for example, has recently expressed serious concern that a proposed reduced deforestation regulation in Indonesia appears to be at odds with indigenous peoples' rights to own, control, and consent to activities on their traditional lands.[22] There are also concerns about state action in Papua New Guinea (PNG), even though indigenous peoples and other communities own almost all of the land in the country.[23] Statements by the PNG government indicating that only the state will have the right to own forest carbon and enter into carbon credit contracts have worried landowners[24] and PNG's Office of Climate Change appears to already be issuing carbon credit contracts for forests, despite ongoing legal dispute over forest ownership and the absence of a regulatory framework for issuing carbon credits in PNG.[25] There is a lack of clarity regarding who owns the rights to forest carbon in other countries as well. For example, in Peru, the law permits the state to grant private entities and communities rights to sustainably manage and conserve forests, but not to own forests. It is thus unclear whether those that have been granted these use rights by the state also posses the right to enter into contracts and benefit from the forest carbon.[26]

payment programs if forest people enter into contracts they do not fully understand and they assume liability for forest loss or sign away land use or ownership rights. Payment programs could also unintentionally undervalue the opportunity costs of foregoing food production, which could threaten peoples' food security.

All of these scenarios would adversely impact not just forest people but potentially the overall effectiveness of national programs in reducing deforestation, affecting the interests of both those countries paying for and supplying reduced emissions. But it is important to emphasize that these scenarios are only *risks*; it is not a foregone conclusion that they will occur. States may very well clarify tenure in ways that favor forest people and grant them payments in exchange for conservation. But because the impacts on program effectiveness and forest people could be negative if the hypothetical scenarios are realized, it is important to put policies in place that guard against these risks.

POLICIES TO PROMOTE POSITIVE OUTCOMES FOR PEOPLE AND FORESTS

This section outlines a suite of specific policies that could be applied in concert to promote the positive engagement of forest people and guard against negative impacts on these communities. We base our selection of policies on an analysis of the full range of risks new mechanisms pose to forest people and hence program effectiveness. We posit that a single policy alone will not address all risks and therefore consider a suite of complementary policies. Table 1 shows the specific risks each policy addresses. Application of these policies could help overcome the barriers (insecure tenure and weak governance) to the positive engagement of forest people in reduced deforestation programs.

Our analysis also considers what is outlined in the UN Declaration on the Rights of Indigenous Peoples (UN DRIP). Many indigenous peoples groups are calling for the international climate change agreement and reduced deforestation mechanisms to uphold the rights outlined in this Declaration.[28] See Box 3.

Addressing site-specific impacts

Policy 1: Free, Prior and Informed Consent

The UN DRIP requires parties to obtain the Free, Prior, and Informed Consent (FPIC) of indigenous peoples for activities on or their resettlement from their lands and for policy changes that might affect them. Some extend the right to FPIC to non-indigenous communities as well.[35] The question of whether companies and governments must obtain FPIC from indigenous and other affected communities often arises during mining, hydrocarbon, dam, and logging projects. It is also relevant when new protected areas are created. The right to FPIC includes the right to say no.

Requiring the FPIC of affected communities could help to address many of the risks presented by site-specific interventions (i.e., protected areas) and ensure consistency with the UN DRIP. However, FPIC alone may prove insufficient for addressing the full range of potential impacts *and* affected communities.

Box 3. The Human rights dimensions of reduced deforestation mechanisms.[29]

A body of instruments (declarations, principles, conventions, covenants, and operational protocols) forms the basis of international human rights law and norms. Three instruments establish the special rights of indigenous peoples regarding activity on their customary lands: the 1989 International Labor Organization's (ILO) Indigenous and Tribal Peoples Convention No. 169, Article 8j of the Convention on Biological Diversity, and the UN Declaration on the Rights of Indigenous Peoples (UN DRIP). The UN DRIP was adopted by the UN in 2007, after more than 20 years of negotiations. One hundred and forty four nations voted in favor of the UN DRIP. Only four nations voted against its passage: Canada, New Zealand, Australia, and the United States. However, in 2009, Australia reversed course and adopted the Declaration. There were also 11 states that abstained: Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine.

The UN DRIP requires states that are parties to the Declaration to obtain the free, prior, and informed consent (FPIC) of indigenous peoples for activity on or resettlement from their lands and for policy changes that might affect them.[30] It also says that "Indigenous peoples have the right to own, use, develop and control the lands, territories and resources" they have traditionally owned, occupied, or used. To this end, the UN DRIP declares "States shall give legal recognition and protection to these lands, territories and resources."[31]

Many indigenous peoples groups are calling for the international climate change agreement and reduced deforestation mechanisms to uphold the rights outlined in the UN DRIP.[32] While the UN DRIP is not legally binding on states, it does outline principles that parties have agreed to abide by and establishes norms regarding the treatment of indigenous peoples.

Other human rights instruments may also be relevant. For example, the UN Declaration on the Right to Development speaks to the rights of people to participate in the development decisions that affect their lives.[33] It could be argued that this points to the need for people to participate in land use zoning, property rights clarifications, and decisions regarding the management of forest carbon revenues. Some also highlight the relevance of Article 1 of the International Convention on Economic, Social, and Cultural Rights, which specifies that people not be denied means of subsistence. This could be interpreted to mean that forest communities should not be denied access to food, medicine, and fuelwood in forests.[34]

First, if states apply the right to FPIC to just indigenous peoples (as international human rights instruments do), then many forest communities not commonly described as "indigenous"[36] could be excluded. Second, metrics for determining what constitutes "consent" are not well-defined[37] and establishing what constitutes the "community" can be complicated. There could also be disagreement amongst community members over whether "consent" for activity on their lands was actually given. Disagreement could also arise if there are multiple communities that claim rights to use a forest. Third, while FPIC is typically described as an iterative process, where information flow and assessment of consent is ongoing, FPIC alone may not be able to resolve situations where promised compensation or benefits are not transferred. But perhaps most importantly, it may be unclear whether and how a FPIC policy would be triggered during national reforms to forest zoning or property rights (to forests and forest carbon). This is of fundamental importance, since (1) the absence of legal title to their lands could complicate the ability of many communities to assert the right to FPIC[38] and (2) there is the potential for states to decouple forest carbon rights from forest management and ownership rights. FPIC, therefore, may be insufficient for addressing impacts that are not site-specific, such as policy reforms that occur at national or regional levels.

For all these reasons, FPIC will need to be combined with additional policies that address governance issues more broadly and promote transparency and participation at the national level.

Addressing governance and promoting accountability

Policy 2: Citizen participation in program design and reforms to land use and property rights
Requiring citizen participation in program design and reforms to land use policies/plans and property rights could help address some of the risks presented by national level decisions to increase enforcement on state-owned lands or enact policies that solidify and expand state ownership of forests *and* forest carbon.

Requiring citizen participation in program design, and reforms to land use policies/plans and property rights could promote the securitization of land and forest carbon rights for politically-marginalized groups. [Policies could go even farther by requiring the titling of indigenous peoples' customary lands, which could promote more consistency with the UN DRIP.] Secure property rights would help more communities assert the right to FPIC.

To implement citizen participation, specific policies could require that new programs and proposed reforms to land use policies and property rights (1) conduct Environmental and Social Impact Assessments (ESIAs), (2) disclose the ESIAs in appropriate languages, and (3) hold public comment periods on the ESIAs that include culturally-appropriate consultations prior to program/policy implementation. ESIAs have long been used to assess the impacts of development projects and provide avenues for public involvement in decision-making; they are increasingly also being conducted for broader policy reforms or programs – called "Strategic ESIAs."[39] When there are multiple initiatives affecting land use, Strategic ESIAs that assess cumulative impacts could be useful for ensuring that any plans to restrict access or relocate communities are based on accurate estimates of land availability. Experience with Strategic ESIAs in developing countries is still nascent, but the following elements have been identified as best practice: the Strategic ESIA is well-timed (begun early enough to influence the process, but not delay the initiative); transparent and participatory (includes all stakeholders throughout whole process); and influential (public's comments are incorporated into final plans).[40]

Another option is to require that property rights reforms are informed by participatory mapping and undertaken at local levels. While circumstances will vary across regions, a recent review of land titling systems in Africa found that undertaking such exercises at a national level can be slow, costly, and result in unjust and contested outcomes. Using local institutions that build on customary rights and simple registration procedures was found to be more effective.[41]

However, land titling can cause disputes between land users[42] and providing land users with secure property rights but no economic incentives for conservation could lead to deforestation. Therefore additional policies need to address dispute resolution and benefit flows.

Policy 3: Transparent management of forest carbon revenues

Revenue transparency mechanisms could be used to address the risk of compensation and benefits not trickling down to forest people due to interception by state elites. These mechanisms are designed to help citizens hold their governments accountable and encourage the equitable sharing of costs and benefits. They are increasingly being applied in the extractive industries to address the problem of the "resource curse" observed in many countries rich in mineral wealth; their application could also prove useful for the emerging commodity of forest carbon. Revenue transparency mechanisms could require that contracts with and payments to governments be disclosed by both those extending and receiving the payments. Financial audits and their disclosure could also be required. In response to legislation passed by the U.S. Congress in 2006, large extractive industry projects receiving financial support from the World Bank Group must now meet such requirements.[43] Natural resource funds, which are designed to improve budget predictability and increase the transparency of revenue flows, are another option. They consist of both stabilization and savings funds. These have been used for managing oil revenues in Alaska, Norway, Venezuela, and Chad, with the variable outcomes of these experiences yielding lessons about the importance of (1) citizen and parliamentary oversight, (2) clear guidelines on what the revenues can be used for, and (3) public disclosure of external audits.[44]

Policy 4: Dispute-resolution mechanisms

Dispute resolution mechanisms could serve as a safety net for addressing negative impacts that occur despite the application of all the other policies mentioned. For example, there could be elite capture of forest carbon benefits at the village level or individuals may wish to challenge a FPIC determination; participants in a conservation payment program might find that their opportunity costs were underestimated, threatening their food security; and property rights designations could produce contested claims to the resource. Further, despite best efforts to design good policies, actual impacts can differ from anticipated impacts; policies are not always implemented as they should be; and sometimes they are not implemented at all despite rules that trigger them. For all these reasons, citizens require means of recourse.

Dispute resolution mechanisms provide an avenue for affected people to have their concerns addressed. Local level mechanisms can help with accessibility and speed. National level mechanisms could be appropriate for addressing issues that are not site-specific. The inclusion of externally-housed mechanisms is also important for instances where affected people fear that their in-country mechanisms do not work or may not handle their concerns in a fair and impartial manner. The World Bank Group, for example, has the externally-housed Inspection Panel and Compliance Advisor Ombudsman (CAO) accountability mechanisms. Lessons from these mechanisms could inform the design of similar mechanisms for international forest carbon programs. For example, the CAO keeps procedures for filing complaints very simple to make the mechanism accessible to the target population. It also allows complaints to be filed before harm actually occurs so that interventions can be made pro-actively, while

projects are still being designed.[45] However, concerted effort to make project-affected people aware of their right to seek recourse with accountability mechanisms is still important. Deadlines for processing complaints may be needed to make sure complaints are handled efficiently.[46]

Addressing learning and adaptive management

Policy 5: Evaluation

A final policy should address learning and adaptive management. Too often, we know very little about the net impacts of conservation and development interventions on human welfare and ecosystem services.[47] Site-specific projects should engage in ongoing monitoring and evaluation and national programs should conduct periodic impact evaluations to assess net impacts on rural citizens. If negative impacts are identified, programs can be retooled to correct this. If positive impacts are identified, then this provides not only important learning but also evidence that could be used to help maintain political support for reduced deforestation mechanisms should they come under scrutiny.

Table 1. How the policies comprehensively address risks to forest people and program effectiveness.

<table>
<tr><th>Potential state action in response to new forest carbon mechanisms</th><th>Risks to forest people and program effectiveness</th><th colspan="3">Corrective Policy Options</th></tr>
<tr><td>Forests zoned and property rights (to forests and forest carbon) clarified in ways that favor state interests or do not recognize contested claims between forest users</td><td>→displacement from or restricted access to forests people have traditionally occupied and/or used
→ property rights granted only on marginal lands
→ property rights granted are temporary, limiting incentives for long-term sustainable management
→ people lack legal authority and support to block illegal deforestation by outsiders
→ conflicts over use and ownership of forests</td><td><u>Governance</u>
Citizen participation in land use and property rights reforms</td><td rowspan="5"><u>Governance</u>
Dispute Resolution Mechanisms (Local, National, and International levels)</td><td rowspan="5"><u>Learning</u>
Monitoring & Evaluation of site-specific interventions
Impact Evaluations of how national programs are affecting rural citizens</td></tr>
<tr><td>Creation of new protected areas that disallow access or presence of people</td><td>→ displacement from or restricted access to forests people have traditionally occupied and/or used</td><td><u>Site-specific</u>
FPIC of affected communities</td></tr>
<tr><td>Increased enforcement on state-owned lands, altering open access regimes</td><td>→ restricted access to or arrest for using forests people have traditionally occupied and/or used</td><td><u>Governance</u>
Citizen participation in program design</td></tr>
<tr><td>Forest carbon revenues from new conservation efforts not shared with forest people (in the form of new services, forest monitoring jobs, or conservation payments)</td><td>→ people's deforestation incentives continue
→ people lack incentives to block illegal deforestation by outsiders
→ missed development/poverty reduction opportunity
→resentment and opposition to conservation efforts
→ societies destabilized by conflicts between groups vying for control of revenues at regional and national levels</td><td><u>Governance</u>
Revenue transparency mechanisms</td></tr>
<tr><td>Establishment of contracts for reduced deforestation with forest people</td><td>→ unknowingly accept terms that sign away land use rights, assume liability, or undervalue opportunity costs</td><td><u>Site-specific</u>
FPIC of affected communities or individuals</td></tr>
</table>

AVENUES FOR REQUIRING THE POLICIES

While identifying the right policies to address risks to forest people and program effectiveness is critical for success, choosing the right avenue for applying these policies is also important. External pressure or rewards may be necessary to incentivize adherence with the policies and third-party verification of compliance with such policies could help improve performance and boost the confidence of stakeholders, investors, and donors. This may be done through the following avenues: (1) in the international climate change agreement; (2) by developing countries' voluntary adherence to a certification standard; and (3) through requirements set by the programs of developed countries that are paying for reduced deforestation (as offsets or development assistance). These approaches are not necessarily mutually exclusive and could be complementary. Here, we outline some possible advantages and disadvantages of each approach and discuss how they might interact.

International agreement

Requiring the social and governance policies discussed in this paper through an international climate change agreement will likely face substantial political hurdles at the UNFCCC. Achieving international consensus on social and governance policies could be beneficial. However, there will likely be a trade-off between finding consensus amongst a large number of countries and the strength of any policies included in an agreement. Negotiations, for example, may produce agreement only on a general principle, but then leave it up to each country to define what constitutes adherence with the principal. This was the case with the Kyoto Protocol, which states that part of the purpose of the Clean Development Mechanism (CDM) is to assist non-Annex I parties in achieving "sustainable development" but leaves this concept undefined. Under the CDM, each country applies their own "sustainable development" screening criteria for projects,[48] resulting in varied approaches to measuring this poorly-defined concept.[49] This ambiguity may have contributed to the negative development and environmental outcomes for local communities and ecosystems reportedly observed in some CDM forestry projects.[50]

Even when international agreements are more specific, they may still fall short in affecting outcomes on the ground. For example, ILO Convention 169 and the UN DRIP both affirm indigenous peoples' rights to own and exercise control over the lands they have customarily occupied and used (see Box 3). Yet some of these human rights instruments' signatories have not enacted corresponding national legislation, done much titling of indigenous lands, or succeeded in avoiding social unrest.[51] Violent conflict in the Peruvian Amazon between indigenous peoples and the state (a UN DRIP signatory) over the granting of oil and gas concessions on lands customarily occupied by indigenous peoples provides a recent example.[52]

Voluntary certification standards

Another approach for applying social and governance policies is to rely on developing countries' voluntary adherence to a certification standard. Then buyers/donors (countries or private entities) could voluntarily choose to purchase/fund forest carbon credits/programs that meet these standards. The critical element for success in this approach is that there has to be some reason for developing countries to find it in their interest to adopt the standards. Demand from buyers/donors for credits/programs with high social and governance performance would likely be that reason.

Since voluntary certification standards have not worked very well to incentivize sustainable timber extraction at a large scale in the tropics,[53] it seems legitimate to question whether a voluntary approach could effectively address social and governance issues in the forest carbon sector. Yet differences

between the two sectors could lead to different outcomes. The incentive for a project or company to adhere to a sustainable timber certification scheme is likely to command a higher price for the timber, but price premiums for sustainably harvested wood have not emerged and the strongest standards (such as Forest Stewardship Council) have been undercut by a multiplicity of weaker standards and demand from consumers not interested in sustainably harvested wood.[54] In the forest carbon sector, however, demand might operate a bit differently: Sustainability certification for wood offers consumers a sense that they are doing good in the world, but it does not necessarily signal that the wood itself will function better or last longer. The story is different with social and governance standards for forest carbon, as buyers/funders may believe that positive community engagement decreases risks of impermanence and that good governance is integral to reducing deforestation at the national scale. They may thus show a preference for buying/funding reduced deforestation credits/programs that conform to social and governance standards. In the case of carbon markets, buyers may be willing to pay more for these credits.

The fact that most reduced deforestation projects in the voluntary market are adopting the Climate, Community, and Biodiversity Alliance certification standards (which require demonstration of positive impacts on local communities and biodiversity) and that there appears to be a price premium for this certification,[55] provides indication that verification of positive social and biodiversity impacts has value from the buyers' perspective. However, it is not clear if this trend will hold as reduced deforestation moves from projects in a voluntary market to large-scale compliance-linked programs. The question of where liability rests may be key. If buyers hold no liability for the forest carbon credits they buy, they may show little preference for credits that meet social and governance standards. Other questions about the voluntary approach include whether it would be possible for very poor countries to finance the implementation of new policies and certification audits.

Required by buyer/donor countries

Adherence to social and governance policies could also be required by those countries paying for reduced deforestation, as offsets in a greenhouse gas compliance market or as official development assistance. Countries paying for reduced deforestation could require that countries comply with certain policies in order to participate in the program ("demand-side approach"). For example, reduced deforestation programs outlined in previous and current versions of U.S. climate change legislation have all included various requirements regarding the treatment of forest people. Requiring that countries comply with the social and governance policies discussed in this paper would not be unprecedented: The World Bank Group requires countries and companies to comply with social and environmental policies and the U.S. Millennium Challenge Corporation requires countries to meet national-level governance criteria in order to receive U.S. development assistance.

A demand-side approach provides an avenue for applying strong policies and offers powerful incentives for countries to adopt the policies. However demand-side approaches could also face difficulties if developing countries are not willing or able to implement the policies; if other funder/buyer nations require weaker or different policies (or none at all); or if imposing such rules would violate international trade law (see discussion below).

Complementary approaches?

There is potential for the approaches discussed above to be complementary. For example, early application of a strong voluntary standard could pave the way for establishing best practices while multilateral and bilateral reduced deforestation agreements are still being hashed out. Demand-side policies and certification standards could provide guidance on how to operationalize any principles included in an international agreement. And demand-side and voluntary certification approaches could be

highly complementary. Analysts of timber certification have noted that if a major wood importer were to adopt strong requirements related to legality or sustainability, then this could induce a "race to the top," where suppliers voluntarily strive to meet high standards so they can access this large market.[56] Similar prospects might exist for forest carbon if just one of the major buyers/funders— such as the U.S.—adopts strong social and governance standards.

Already there are strong signs of this possibility: The climate bill currently being considered by the U.S. Congress (H.R. 2454, The American Clean Energy and Security Act of 2009), includes provisions to protect forest people in a reduced deforestation program.

These provisions outline principles but not specific policies that would be employed to operationalize adherence with these principles. While the bill establishes strong principles, it is ambiguous regarding whether the U.S. would establish specific policies and require developing countries to adhere to them in order to participate in the program. The process that would be used to establish any such policies is also unclear, though it appears that this will be done through diplomatic negotiations (bilateral or multilateral agreements/arrangements). The language states:

> "With respect to an agreement or arrangement described in subsection (b)(2)(A) with a country that addresses international offset credits under this subsection, the Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall seek to ensure the establishment and enforcement by such country of legal regimes, standards and safeguards that –
>
> (A) give due regard to the rights and interests of forest-dependent communities, indigenous peoples, and vulnerable social groups;
>
> (B) promote consultations with, and full participation of, forest-dependent communities and indigenous peoples in affected areas, as partners and primary stakeholders, prior to and during the design, planning, implementation, monitoring and evaluation of activities; and
>
> (C) facilitate sharing of profits and benefits derived from international offset credits with forest-dependent communities and indigenous peoples."b

An international agreement on reduced deforestation, however, might constrain what demand-side initiatives can do with respect to social and governance requirements for forest carbon. Concerns about possible World Trade Organization (WTO) non-compliance may have limited the reach of demand-side initiatives designed to reduce the trade of illegally-logged wood[57] and the forest carbon sector could possibly face similar constraints. For example, if funds are transferred to developing countries as payments for forest carbon offsets (rather than as development assistance), then demand-side social and governance requirements could possibly be viewed as unilateral barriers to trade. This risk may only exist if forest carbon offsets are deemed a "commodity" rather than a "service" and the UNFCCC acts before buyer countries in establishing rules for defining and trading reduced deforestation offsets. It may be that strong policies to protect forest people need to be adopted by whichever entity acts first: the UNFCCC, or a buyer government, such as the U.S. But further research into this question is needed.

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[b] Language in version passed by House Energy and Commerce Committee for *Sec 743(e)(3),* which outlines the provisions for offsets. The language describing the provisions for the supplemental emissions reductions activities [*Sec. 754(d)(6)]* is similar.

Phasing in and funding the policies

The risk of leakage (i.e., where deforestation drivers shift from countries participating in the program to those that are not) dictates that it is in everyone's interest for as many tropical countries as possible to participate in a reduced deforestation program. To allow for immediate action and help build countries' capacity to comply with the policies at the national level, a step-wise or phased approach[58] could be taken that engages countries in reducing deforestation and applying the policies at the sub-national level or in specific conservation activities. An emphasis on capacity-building during such activities could help countries institute the good governance procedures (i.e., citizen participation, revenue transparency) that will be necessary for program success.

Complying with the five policies outlined in this paper will undoubtedly raise the costs of participation in reduced deforestation programs. However, application of these policies should yield long term gains for all stakeholders by increasing the likelihood and permanence of deforestation emissions reductions. And if forest people are positively engaged in the fight against deforestation this could potentially improve the cost-efficiency of national efforts (and avoid the financial costs of local community discontent).[59] To defray upfront costs and build countries' capacity to participate in reduced deforestation programs, overseas development assistance (ODA) could direct its early efforts and funds at helping countries institute the proposed policies and verifying policy compliance.

CONCLUSION

Promoting the positive engagement of forest people and avoiding negative impacts on these communities may be integral to the ability of programs to reduce deforestation emissions and maintain political support. Therefore, getting the social and governance policies right may be as important as requirements related to emissions baselines and measurement and monitoring capabilities. In order to be successful, commitments to protect forest people will need to be operationalized by specific policies that adequately address the full range of risks new reduced deforestation mechanisms pose to these communities. While application of a Free, Prior, and Informed Consent policy could help address some of the risks presented by site-specific interventions (e.g., protected areas) and promote consistency with the UN DRIP, policies to address governance issues at the national level will also be needed. We identify and discuss the following policies to do just that:

- Citizen participation in program design and reforms to land use policies and property rights (to forests *and* forest carbon)
- Revenue transparency mechanisms
- Dispute resolution mechanisms (housed both internally and externally)
- Evaluation of project and program impacts on rural citizens

Further research into the application of these policies in other sectors could yield useful information about best practices and the time and costs required for policy implementation.

Third-party involvement in application of the policies will be essential for some of them (e.g., externally-housed dispute resolution mechanisms) and important for incentivizing adherence and ensuring compliance with all of them. Policies could be applied through various avenues, each of which offers distinct advantages and disadvantages. These avenues could potentially be complementary, but further research on this topic is needed.

If reduced deforestation mechanisms apply and enforce solid policies for avoiding negative impacts on forest people and promoting their positive engagement, the climate, conservation, governance, and human rights gains could be significant.

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55 Richards, M. 2008. Issues and Challenges for Social Evaluation or Impact Assessment of 'Multiple-Benefit' Payment for Environmental Services (PES) Projects. DRAFT. Washington, D.C.: Forest Trends.

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57 Humphreys, D. 2008. Logjam: Deforestation and the Crisis of Global Governance. London: Earthscan.

58 For an additional perspective and more information on what a "phased approach" might look like, see: Angelsen, A., S. Brown, C. Loisel, L. Peskett, C. Streck, and D. Zarin. 2009. Reducing Emissions from Deforestation and Degradation (REDD): An Options Assessment Report. Prepared for the Government of Norway. Washington, DC: The Meridian Institute.

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