

Report of the INFOE Conference on “Forest / Climate Protection after Paris” 8th July 2016 in Bonn

After welcoming the participants of the conference, Sabine Schielmann from INFOE briefly introduced the subject, main points and objectives of the Conference. She referred to previous conferences and workshops held by INFOE on similar topics aiming at the promotion of a human rights-based approach to forest conservation. With the adoption of the Paris Agreement and the global Sustainable Development Goals (SDGs), the international community has agreed upon two important and far reaching instruments which include ambitious tasks and targets to achieve sustainable development for all and to address environmental problems such as climate change, deforestation, land-grabbing and the unsustainable use of natural resources. The objective of the conference, beyond bringing together a variety of rich experiences and exchanging perspectives, was also to come up with observations about a rights-based forest(climate) protection which could feed into the processes of implementation, in particular of SDGs 13 and 15 and the Paris Agreement.

As first speaker, Ms Rukka Sombolinggi, Deputy Secretary General of AMAN, Aliansi Masyarakat Adat Nusantara (Indigenous Peoples Alliance of the Archipelago) from Indonesia was welcomed. Ms Sombolinggi first gave a brief summary of the Paris Agreement and its references and meaning to indigenous peoples. She emphasized that despite indigenous peoples are continuing to be the major guardians of forests, natural resources and biodiversity, they are still being widely disregarded in the operational parts of such official UN documents. As an example of this fact, she mentioned that a recent study by RRI (Rights and Resources Initiative) found that only 21 of the INDCs (intended nationally determined contributions) prepared by the UNFCCC Parties, made reference to indigenous peoples and community forestry.

With regard to the REDD mechanism, which was finally consolidated with the Paris Agreement, she said that it is just one further threat to indigenous peoples in the name of so called sustainable development. Nevertheless, Ms Sombolinggi admitted that REDD was foremost a door opener to get indigenous peoples' rights into the discussion (internationally) and into the processes and institutions at the national level dealing with REDD+ and forest management and related



land and forest tenure issues. When asked regarding the implementation of FPIC (free, prior and informed consent) and who would be the entity granting FPIC, Ms Sombolinggi made some arguments to “boil down the hot soup of FPIC”. She said that FPIC implies the need for adequately considering local ways of negotiation and communication, but that this is not an easy task and that it requires a new perspective by those facilitating FPIC processes. In fact, the mechanisms and procedures of indigenous peoples to achieve agreement is much more an art than a principle and even less so it is a check list. It has a lot to do with people meeting with respect and time to come to an agreement on something everybody in the community agrees to. This indeed might take months but it is worth respecting these local decision making practices as an integral part of FPIC; Because whoever does not, will not have the indigenous communities as partners and most likely will be faced with high costs for security or compensation afterwards on top of the fact that a project without FPIC can never be sustainable because it does not count with the local people.

As next speaker, Ms Britta Krüger from GIZ informed about the main elements and objectives of the BMZ human rights policy and how it is applied in GIZ programmes. She explained the human rights based approach constitutes a paradigm shift looking at duty bearers and rights holders (instead of beneficiaries). She referred to the BMZ Guidelines (Guidelines on incorporating human rights standards and principles, including gender, in programme proposals for bilateral German Technical and Financial Cooperation) and highlighted that in GIZ programmes an appraisal of human rights impacts and risks must be undertaken before any programme or project can be commissioned by BMZ, including REDD+ projects. If human rights risks are identified, implementing agencies shall devise and present appropriate measures to avoid the risks, and incorporate these in programme proposals.

The discussion following the presentation by Ms Krüger revealed that the guidelines do not clearly reflect that most development and conservation initiatives are taking place in countries that often don't fully recognize the rights of indigenous peoples e.g. in the implementation of forest based initiatives as for example Indonesia, where first promising policy developments (such as the Mataram declaration to allocate 12,7 m ha of forest to forest dependent communities) have not yet resulted in a tangible strengthening of indigenous peoples. It remains widely open where an acceptable threshold for human rights violations is and what exactly the consequences are if an appraisal detects such violations. One way out might be to avoid conflict areas and issues by instead focusing on areas where human rights issues are less controversial and political and economic interests are not strong. However, by conducting a human rights assessment and by applying the human rights based approach, development interventions shall systematically integrate human rights principles such as non-discrimination, transparency, accountability. One example are grievance mechanisms, which, at least in the future, might help to more effectively consider complaints of indigenous peoples.

After a coffee break, the session with presentations on practical experiences started with the presentation by Mr Mathias Bertram from GIZ on the ForClime Project in Indonesia. Mr Bertram explained the complex situation in Indonesia in which the project is being developed including rapidly changing forest governance structures and strong drivers for deforestation (e.g. palm oil industry). The conditions to implement a programme in the forest sector with a rights-based approach are challenging and require time. However, in recent years there have been some promising developments regarding the recognition of indigenous territories (12.7 million ha of forest) and the institutional setting in the forest sector (e.g. Ministry of Environment and Forestry with new directorates for social forestry, indigenous communities, tenure and conflict resolution, development of forest management units, strong anticorruption commission).

These improvements were accompanied by the development of a safeguards framework for REDD+ and sustainable forest management which has been developed in a consultative process with civil society over the last 2 years; however, it is not yet being implemented. To meet its objectives, the project focuses on the improvement of capacities for good local forest governance through the creation of forest management units, introduction of community-based forest management schemes, for example for Dayak communities living in or around natural forest. These community forests in combination with agroforestry systems (e.g. cacao production) provide models of alternative and sustainable forest use and management which, however, due to their pilot character currently cannot compete with palm oil concessions and commercial logging in economic terms. He concluded that framework conditions for strengthening local rights holders and duty bearers for forest management & REDD+ are more promising than ever in Indonesia but need to be further developed (esp. at local level). Mr Bertram also stressed that forest governance reform processes are complex, need time and continuous support and that good practices at local

level need to be up-scaled and integrated into policy frameworks. REDD+ (esp. safeguard) frameworks and international commitments (UN Declaration on Forests, GNU Initiative, etc.) have the potential to significantly strengthen local forest governance and human rights but should be built on existing policies and institutional structures whenever possible.

The next practical example was presented by Dr. Elke Mannigel from OroVerde. Ms Mannigel reported about a so-called REDD-Pilot-Project in Guatemala funded by ICI (International Climate Initiative) and the EU for the last five years. OroVerde came up with a number of important lessons learnt including as regards critical concerns of REDD+ social aspects (see presentation attached). The experiences from the field clearly showed the importance to respect traditional land use and to work closely with the communities and fully involve them and respect their decisions and their decision-making processes from the start on. This participation process was very time consuming and, in response to local dynamics, a lot of adjustments had to be done to the original project plan. However, the negotiation process also meant a lot of learning on all sides and can be called successful, confirming what Ms Sombolinggi had said earlier. It is worthwhile to take the time and resources to enter in a transparent and participatory process with the communities and get their FPIC for the different steps of a project. In the discussion, the question was raised, among others, why OroVerde had called this project a 'REDD+-Project'. The reason was that in this way, access to funding was easier. It became also obvious that the transactions costs of over 2 Mio Euro were immense.

Then it was time for the lunch break. After that, Mr Benno Pokorny from the University of Freiburg shared information and findings from his study on 'German bilateral development cooperation in the forest sector'. The study had started with an overview of Germany's Official Development Assistance (ODA) and the goals and strategies of German forest cooperation. Mr Pokorny mentioned the methodological constraints they had to face in their investigation such as the low quality of provided information and a nearly complete absence of published evaluation results. The main goals of German funded development projects in the forest sector are the sustainable use and protection of forests for the conservation of biodiversity. Only to a minor extent the support for local livelihoods is mentioned. Among the key features of German forest cooperation, there is a strong preference for large-scale forest management schemes, a weak faith in community forestry and a nearly complete ignorance of the informal sector. This strategic focus is reflected in the effects of the German forest cooperation, which show some remarkable success in strengthening national forest administrations, little sensitivity for local peoples' concerns and capacities. It remains unclear, if and to what degree, the BMZ strategy on human rights played a role within in the supported initiatives.

Mr Thomas Fatheuer from FDCL (Forschungs- und Dokumentationszentrum Chile-Lateinamerika e.V.) then gave a critical reflection on 'REDD+ after Paris'. REDD+ was developed under the UNFCCC as a supposedly simple financial mechanism to incentivize the reduction of emissions from deforestation and forest degradation in developing countries as compensation for greenhouse gas emissions in industrial countries produced by the continuing use of fossil fuels. However, in practice, this fabricated mechanism was not as simple as initially expected. Mr Fatheuer noticed that there have been many failures and errors involved in the development and implementation of REDD+, as most importantly the fact that REDD+ or REDD+ programmes fail to address the main drivers of deforestation. There is too little money involved or to be gained with REDD+ for it to be able to compete with the revenues from palm oil plantations, logging or agribusiness. Therefore, REDD+ has to focus on the small-scale drivers of deforestation, which are the local farmers and forest dependent communities practising so called 'slash and burn' agriculture and other traditional resource use practices. For them REDD+ means sufficient opportunity costs while at the same

time the sources of funding for REDD+ via markets or other sources are not sufficient or in place yet. Mr Fatheuer showed by exploring the example of Brazil that reducing deforestation is possible but that REDD did not and does not play a major part in that. In the case of the state of Acre this means that the REDD payments cannot be related to a reduction of emissions achieved by REDD policies. Mr. Fatheuer shows that in Acre, where an important REDD-Programme by the KfW is implemented, there are no reductions of deforestation in the last five years.

In the panel discussion moderated by Mr Thomas Brose from the Climate Alliance, the first question to the panellists was regarding their personal understanding of a human rights approach. Even though there might be a consensus that the protection of forests (in the name of climate change mitigation) should respect the rights and livelihoods of the people living in the forests, it might still be that people have a different understanding of what means 'rights-based' and what is a human rights approach.



All panellists manifested the importance and necessity of a human rights approach as THE approach which helps to move ahead on sustainable development, forest and nature conservation among others. Asked then, what were the main challenges for the implementation of such a rights-based approach and why such a seemingly natural and human approach is handicapped by many factors, the panellists answered likewise diverse. For some, the main issue is a necessary shift in mindsets and priorities as a precondition for true transformation (such as e.g. called for by Agenda 2030); for others, the main challenge was 'time' to identify the human rights risks and implement the necessary participatory processes. Also, the role of economy was named and the fact, that economic thinking or an economic approach is not workable with a human rights approach. More attention should be placed on the process of the Guiding Principles on Business and Human Rights; however, the flawed process of developing the National Action Plan to implement the Guidelines does not seem encouraging. Also the diversity of perspectives presents a challenge with regard to how to come to feasible common terms and solutions to achieve apparently common goals and targets. There is a further need to clarify the motives behind and make the main goals explicit in order to be able to discuss on common grounds amongst partners.

Key (summary) points of final discussion and reflection round:

To summarize the key points of the discussions, finally the group discussed recommendations for a rights-based implementation of SDG 15.2. and the Paris Agreement Article 5. The main points were summarized on a flipchart as follows:

- Human rights touch every aspect of our life. Therefore, a human rights approach is basic and must be taken serious.

- The human rights approach represents a holistic approach to the implementation of the SDGs which in turn are also complex, encompassing and very much interrelated.
- A culture of human rights should be mainstreamed and not just exist on paper but in heads and hearts. It is an added value and not a problem.
- A human rights approach works! It should be quite natural and simple for human beings to engage in a participatory process amongst humans respecting each other and with human dignity.
- The human rights approach is an instrument for more democracy. It can help to open broader discussions on the legitimacy of projects.
- However, in practice, there seem to exist differing and even conflicting views, beliefs and approaches that hamper the application of the approach.
- In order for a human rights approach to work in practice (in the context of development cooperation and beyond), the following aspects have been identified as important:
 - Practitioners of all sides/groups involved should receive capacity-building with regard to human rights and a human rights approach
 - It is important that the different parties/stakeholders/groups involved are clear, honest and transparent about their 'real' goals and that they make the implications of their concerns explicit.
 - 'Forest conservation' is being promoted, considered, viewed, used and practiced by many different actors with many different backgrounds, perspectives and goals. When such actors come together, they need to share their backgrounds, perspectives, motives and goals to work together towards their common goal/s. In this process they need to identify priorities and consider possible trade-offs.
 - Even when a country has officially/constitutionally recognized the rights of indigenous peoples (and/or other groups for that matter) it still does not mean, that these groups have access to justice to claim or enforce their rights. A human rights approach is needed to enable rights holders to engage their rights. This includes the provision of financial resources.
 - Existing grievance mechanisms should be used more (e.g. BMZ/GIZ/KfW mechanism).

With a view to continue the discussion on these issues in other events and meetings and to remain exchanging information etc., the conference ended with participants having received much information from diverse perspectives and on the multifold panorama of the challenges ahead.

*Report prepared by Sabine Schielmann, INFOE with comments and amendments by the speakers of the conference.
Photos by Philip Gondecki, INFOE*

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