Civil Society Workshop on Land Rights and Carbon Markets in India
20-22 February 2014, Pune, Maharashtra, India
Summary Report

From 20-22 February 2014, Carbon Market Watch together with civil society organisations in India organized a workshop on land rights and carbon markets. Co-organisers included: Bank Information Centre, Beyond Copenhagen Collective, Bread for the World, Center for Research and Advocacy, Manipur, GAIA, Gujarat Forum on CDM, INECC, International Rivers, LAYA, Matu Jan Sangthan, Paryavaran Mitra, Public Advocacy Initiatives for Rights and Values in India (PAIRVI), South Asia Network on Dams, Rivers and People (SANDRP), the Society for the Promotion of Wasteland Development (SPWD), VIKALP, Water Initiatives Orissa and the Timbaktu Collective.

Over the duration of 3 days, more than 50 participants from 12 states discussed the influence carbon markets may place upon land rights in India. Special emphasize was thereby given to the increased focus on climate mitigation activities in sectors that are typically dependent on common lands, such as forests and agricultural areas. Political impacts of land based carbon market initiatives have been outlined, including effects of the Clean Development Mechanism (CDM) and other offsetting mechanisms on common lands for marginalized groups and women.

The workshop highlighted important issues on land rights in India and the respective role carbon markets and especially the CDM place upon land rights. Practitioners and experts from various fields exchanged experiences and expertise on the impacts these projects can have on rural population that is dependent on common land for everyday survival. Focus was given to the experiences with CDM projects with special regard to public participation processes, sustainable development monitoring and missing grievance mechanism. The workshop served as an important platform for exchanging information on various topics related to land rights in

India, covering biodiversity, legal regulations and experience with CDM projects as well as challenges in the agricultural sector.

The large scope of the workshop was challenging because participants were faced with topics they usually do not cover as part of the expertise. However, at the same time, the horizon of the programme also invited to think "outside the box" and be inspired and alerted by different processes. The exchange of information and expertise of different groups of network members improved the general understanding of the complexity of the matter and provided the ground work for synergies between the participating groups.

Concluding, participants identified action points for future activities and the need to intensify collaborations, strengthen partnerships and increase synergies between groups with expertise different subject matters. The following three main areas were identified for follow up activities:

1) On the issue of **public hearings**, the participants agreed that
- Public hearing rules should be improved and most importantly applied to all project types
- Existing environmental public hearing rules must be enforceable and also be applied to international processes, such as for the CDM
- It would be beneficial to develop and share best practices of applying public hearings with the Indian national CDM authority (DNA) and state governments
- Closer collaboration should exist between civil society and local and national authorities and the experiences in India should be shared internationally as part of the CDM reform process

2) Regarding the important issue of **social monitoring** the participants agreed that
   o A monitoring map to monitor social impacts of environmental projects would increase transparency and incentives for best practices
   o Companies and NGOs already applying social monitoring shall approach the national authorities to extend this to all CDM project participants
   o A follow up technical workshop to work out concrete actions would be useful

3) In case of **non-compliance with Indian or international procedures**, the participants agreed that
   o An overview document explaining existing measures that apply in case of non-compliance would be useful
   o It would be important to apply those measures, e.g. by challenging a CDM project that is in violation with international obligations
   o Form alliances and link intelligence of different organisations; e.g. through a compliance working group
   o Keep sharing experiences and ideas for actions using existing mailing lists, e.g. the alert.india@carbonmarketwatch.org

Below is a summary of each of the individual presentations. The programme of the workshop can be found [here](#).

Falguni Joshi, Nature Code India: Welcome and Introduction

Falguni Joshi welcomed all participants and briefly presented the focus of the workshop. She highlighted the increasing difficulties of local communities to defend their individual as well as community rights to use common land for their everyday survival. She underlined the controversial role of the carbon markets on land rights in India and encouraged the participants to actively take part in the discussions. She announced the foundation of Nature Code India and introduced its mission and goals.

Mahesh Pandya, Paryavaran Mitra: India's Approach to Climate Change

Mahesh Pandya underlined the urgency of ambitious climate action. He emphasized that marginalized groups, such as women and rural population living under the poverty line are most vulnerable to adverse impacts of climate change due to a lack of capacity and resources to handle new arising challenges. He continued with a general overview of India's approach to climate change and introduced national plans and programs that are implemented by the Indian government to respond to climate change, such as the National Action Plan on Climate Change (NAPCC) and Climate Change Action Program (CCAP). He concluded his presentation pointing out the need of public participation in the policy making process and identified weak implementation processes as severe shortcomings in India's climate change policies.

Eva Filzmoser, Carbon Market Watch: Carbon Markets- Lessons Learnt and Look Ahead

Eva Filzmoser presented the lessons learnt from the Clean Development Mechanism (CDM) and provided an overview of both, positive as well as negative impacts. Special focus was thereby given to the social and climate integrity of CDM projects looking in particular at coal power projects under the CDM. She provided an overview of new political developments in the international climate negotiations and UNFCCC processes and introduced new carbon offsetting mechanism and frameworks, such as New Market Mechanisms (NMM), the Framework for Various Approaches (FVA) and Nationally Appropriate Mitigation Measures (NAMAs) to the participants.

She underlined the importance to advocate for adequate implementation of CDM projects, including improving stakeholder engagement as well as strengthening the rights of affected communities and individuals.

Devjit Nandi, All India Forum of Forest Movements (AIFFM): India's REDD+ and Forest Right Act

Devjit Nandi focused his presentation on forest issues. He briefly introduced the REDD+ framework and presented experiences gained with this mechanism in India. He gave an overview on the Green India Mission (GIM), a program established by the Indian Ministry of Environment and Forestry that was found to increase forest cover and to improve the quality of existing forest in India. Outlining the practice of the GIM, he emphasized his concerns about current implementation practices with special regard to problems leading to an increase of land grabbing, violation of people's rights, environmental destruction as well as loss of common lands and livelihoods based on them.

Kanchi Kohli, Independent Researcher: Biodiversity and People: Contexts, Threats, Conflicts and Responses
Highlighting large scale change in land use and water scopes, conservation enclosures as well as bio-piracy and bio-based trade as the three narratives of biodiversity loss in India, Kanchi Kohli underlined the importance of the law as a response mechanism on international, national and local level to adverse impacts on biodiversity. She underlined the outmost importance to put monetary value on habitats to limit destruction of biodiversity due to economic loss.

Bablu Ganguly, Timbaktu Collective: Right to Land, Food and Shelter
Bablu Ganguly stressed that western agricultural methods should not be blindly applied in Indian farming, as conditions, such as water availability or temperatures are not comparable. He provided different examples on how misconception of knowledge and its implementation at policy level can have harmful effects on the local population. He underlined the effectiveness of traditional Indian farming methods and criticized the intensified use of fertilizers as well as the arising dependency on them.

Jiten Yumnam, Centre for Research and Advocacy: Carbon Trading, Land Grabbing and Human Rights Violations
Jiten Yumnam underlined the importance of rightful and meaningful public participation in decision making processes and in the CDM. In particular, he stressed out the current poor protection of indigenous peoples rights and weak stakeholder consultation processes. He strongly argued that the possible impacts of projects implemented under offsetting mechanisms on the local community and the environment have to be assessed through holistic impact assessment before the construction of such projects.

Parineeta Dandekar, South Asia Network on Dams, Rivers and People (SANDRP): CDM Credits for Large and Small Hydro Incentivizing Severe Impacts
Outlining the adverse impacts of large hydro projects on rivers, communities and ecosystems, Parineeta Dandekar argued that these projects cannot be categorized as clean energy projects. She advocated for the exclusion of large hydro projects under the CDM for a number of social, ecological and economic reasons. She continued her presentation with case studies on several small hydro projects and outlined negative impacts of several projects on the local communities as well as the environment. She emphasized that missing requirements for public hearing or Environmental Impact Assessments (EIA) for hydro projects under 25MW are important factors for adverse impacts and called for punitive action against harmful projects.

Anuradha Munshi, Bank Information Centre: CDM Projects, Violation of International Treaties, Human Rights and Land Grabbing
Anuradha Munshi presented the Sasan CDM project. She underlined the questionable role of banks involved in the funding processes of CDM projects, with special regard to possible human rights violations as well as negative environmental impacts. She gave an overview about adverse impacts of the Sasan project on social and environmental issues. She highlighted the need of strengthened rights of affected communities and underlined the insufficient current safeguards provided under the CDM.

Prof. M. C. Varshneya, Ex Vice Chancellor Anand Agriculture University : Effects of Climate Change on Agriculture

Prof. Varshneya highlighted the positive benefits of biomass production from the agricultural sector for fossil fuel displacement. He underlined the importance to stabilize agricultural productivity in India with special regard to adverse climate impacts on crops and growing food demand. Outlining the emission savings potential of organic agriculture, he emphasized the need to expand organic agriculture activities.

Aman Singh, Krishi Avam Paristhitiki Vikas Sansthan (KRAPAVIS): Mitigating Climate Change in Semi-Arid Agro Zone through "Oran System"

Aman Singh provided an overview of the work of KRAPAVIS with Orans, areas of forest and pasture that are rich of bio-genetic diversity. He highlighted the positive effects of Orans on wildlife, biodiversity and the local population. He concluded his presentation with suggestions to implement afforestation policies and the need to declare Orans a biodiversity heritage site.

Viren Lobo, Society for the Promotion of Wasteland Development (SPWD): Community Land Grabbing and Land Rights of Marginalized Groups

Viren Lobo gave an overview on the degrading quality of land in India, highlighting causes as well as subsequent challenges for farmers. He underlined the need to grow local crops and to use native species in Indian agriculture and forests. He emphasized in particular that the usage of western crops will have adverse effects on the quality of land in India and the local biodiversity.

R. Sammanmma & C. N. Suresh Kumar, Millet Network of India: Our Biodiversity Farming

Sammanmma (last name) is a marginal farmer and introduced her farming practices. She underlined the positive effects of diverse crops and organic fertilizers on the agricultural production in India.

Suresh focused on low carbon farming and the need of soil management as well as empowerment of local communities in agricultural production. He emphasized that local farming knowledge must be respected, as this will help protecting biodiversity in India.

Bablu Ganguly, the Timbaktu Collective: Tapping Carbon Markets for the Poor and Finding Alternatives

Bablu Ganguly presented the work and projects of the Fair Climate Network (FCN). He introduced the partnership between the FCN and the airline IndiGo as an example of successful collaboration between NGOs and the industry and emphasized the need for alternative carbon markets. In particular, in the project IndiGo enables its flyers to voluntarily contribute Rs. 100 (per PNR), a revenue that can be used to support the implementation of climate friendly technologies in rural India.

Alka Palrecha, People in Centre: Experiences of Land Grabbing in India

Alka Palrecha focused her presentation on the importance of access to information. She highlighted education about the rights of the local population as a crucial point fighting illegal

land grabbing. She gave an overview of the insecure land hold situation of the rural population in India and their insufficient protection through the law. She highlighted that these most vulnerable groups must be strengthened.

Manju Menon, Independent Researcher: Property, Sustainable Agriculture and Forest Management: Rights or Freedoms
Manju Menon emphasized the separation of agriculture and forest management in climate change policies as major shortcoming in India. Food as well as mobility issues of the local population are negatively impacted by hard boundaries between these two policy topics, creating new dependency of farmers on external experts and the government. She called for free boundaries on landscapes to enable the local population to use food resources and to shift location according to their needs.

Ranjan Panda, Water Initiatives Odisha (WIO): Clean Development Mechanism and Water
Ranjan Panda presented the JK Papermill CDM project, providing an overview of the negative impacts of this project on the environment as well as on the local population. He stressed out the need for safeguards in the CDM process, underlining the current missing possibility to challenge the implementation of CDM projects.

Kanchi Kohli, Independent Researcher: Environmental Impacts Assessments and Public Consultation in India
Kanchi Kohli presented the Environmental Impact Assessment (EIA) in India. She briefly summarized the history of the EIA as well as set out requirements and rules. She underlined the current shortcomings, but emphasized the need to make use of the existing regulations. Further focus was given on the public participation processes under the CDM and its existing limitations.

Mahesh Pandya, Paryavaran Mitra: Environmental Impact Assessment Requirements in India
Mahesh Pandya presented the requirements for Environmental Impact Assessments (EIAs) in India illustrated by case studies. He underlined the shortcomings of this process focusing in particular on limited involvement of the public and inadequate screening of environmental impacts. He concluded his presentation advocating for an improvement of the EIA process and highlighted the need to require environmental clearance for all project types, including renewable energy projects.

Praveen Patel, Tribal Welfare: Grassroots Level Public Participation Process and its Impact at Panchayat Level
Praveen Patel focused on the legal provisions in India regarding land issues, especially mentioning the tribal areas and the rules of the Gramsabha as a supreme authority in decision-making processes. He highlighted the fact that the implementation of legal provisions in India is challenging and provided personal experience.

Manju Menon, Independent Researcher: Unsettling the Expert- Public Participation in Environmental Decision-Making

Manju Menon underlined that the public hearing process under the CDM has failed to meet its objective to effectively involve people, especially affected stakeholders in the clearance process. She argued that not only stakeholders with plausible stake should be allowed in the process and underlined the shortcomings of public hearing. She further emphasized that a single stakeholder consultation in the CDM process is not adequate, in particular as no further public participation is possible in the implementation process.

Eva Filzmoser, Carbon Market Watch: Public Participation Processes
Eva Filzmoser emphasized that the CDM reform is a crucial opportunity to push for the implementation of safeguards, monitoring of sustainable development benefits and improved stakeholder engagement. Further focus was given on missing sustainable development benefit monitoring processes.

After all presentations, the participants were divided in break out groups. The groups were focusing on: social monitoring, compliance and public hearing.

Day 3, 22 February 2014

Bhushan Oza, Human Rights Lawyer: Human Rights in Land Acquisition
Bhushan Oza provided different examples of court cases regarding land acquisition and human right violations. He focused on the challenge to restrict the state's power on land acquisition and outlined negative impacts on the local population in this regard.

Dr. Subhash Mohapatra, Lawyer: Human Rights Response Framework
Dr. Subash Mohapatra presented his views on a human rights response framework. He underlined the importance of monitoring all related activities of a project implementation as well as the need to use legal structures in their most effective way. He highlighted that established institutions and monitoring frameworks need to be used actively and supported this attempt with successful examples of his work.

Mahesh Pandya, Paryavaran Mitra: Practical Steps to Fights Human Rights Abuses of CDM Projects
Mahesh Pandya presented the national and state advocacy use of various Indian laws. He gave an overview of the framework of law given in India and stressed out possibilities for the civil society to get active in preparing cases. He shared experience from court and gave successful examples of his engagement.

Summary of the subsequent discussion
Following these presentations, the workshop continued with a round of discussion and comments by the participants. Thereby, the contradicting legislation of India was stressed out and personal experiences in the context of public consultation processes shared.

Furthermore, it was outlined and agreed that it is crucial to form alliances and to build up capacity among network members to bring the civil society in a better and more powerful position to lobby for necessary changes in and beyond the CDM. Considering the different angles of the work of the civil society, the importance to take part in governance was underlined, focusing on the better influence of decision-making processes.

Moreover, it was highlighted that a variety of solutions are available for one issue and that problems have to be looked at from different perspectives. Most importantly in this context is to stretch out various strategies and to know available tools very well. Therefore, partnerships between civil society groups need to be established and intensified. It was stressed out that the existing network can only profit from expertise of various organizations and individuals. Intelligence of organizations working on different issues need to be further linked and people mobilized.

Regarding questions of human rights violations, it was highlighted that it needs to be remembered that there is a whole range of laws applicable and that the relevant sources need to be carefully identified. In addition to this, it is essential to raise awareness for human rights issues as companies involved in CDM projects want to avoid to be linked with human rights violations. Main points and outcomes of the discussion:

- Solution strategies need to be developed on case-by-case basis
- Study of necessary sources of law and tools are crucial
- Raising awareness of human rights impacts needs the be created
- Collective work and linking intelligence of various organizations in the network needs to be intensified

Presentations of breakout group discussions:

1. **Public Participation**

One of the discussion points of the group was that all projects should have mandatory Environmental Impact Assessments (EIAs). Furthermore, it was agreed that one public hearing in the CDM implementation process is not sufficient. One public hearing should be done in the design-stage of the project, where project design developer is still willing to adapt changes and to consider recommendations or concerns raised by the stakeholders. A second one should be held during the construction phase of a CDM project, giving stakeholders the opportunity the chance to raise concerns as well as address possible changes in the initial plans and to show the impacts of the projects on the population and the environment.

A further point raised was the process of scheduling public hearings. It was underlined that time and venue of the public hearing should not solely be arranged by the project participant, but that stakeholders should be included in this process. Furthermore, and in line with the improvement of the public hearing, the announcement of a public hearing must be published in the local media and in the local language(s) to give every stakeholder the change to participate.

An important next step for the work of civil society is thereby to identify best practices of public hearings and to collect these in a best practice document. This document shall be the basis for recommendations and future lobbying for the improvement of public hearing rules. Shortcomings and flaws in the public hearing process need to be highlighted to raise awareness for this issue. Basic points:

- EIAs needed for all project types
- Two public hearings needed in the CDM process

- Public hearings need to be announced in local media and in local language(s)
- Action point: develop best practice document on public hearing

2. Compliance

The group discussed that monitoring of cases should not only be limited to check compliance with environmental issues, but be also expanded to human rights concerns. Therefore, one of the findings in the group discussion was that it is essential to link expertise and intelligence of organizations working on various issues to achieve effective results.

Highlighted was the importance of fact finding and precise documentation in every case, as this is the source of arguments and starting point for challenging CDM projects.
Furthermore, it was discussed that it is important to lobby for the design of an appeals or grievance mechanism where concerns and complains can be placed. It was agreed that a grievance mechanism is needed to provide accountability and recourse in cases of non-compliance.

Therefore, it was proposed to establish a compliance working group to enable sharing relevant information and intelligence. In addition to this, the existing mailing list and online tools shall be used to spread information and to build up capacity among the civil society.
One more issue raised and put on the agenda for future work of the network was to establish a strategy on how to challenge validation reports by the Designated Operational Entities (DOEs). Basic points:

- Form alliances and link intelligence of different organisations
- Establish strategy to challenge DOE validation reports
- Establish compliance working group
- Capacity building and information sharing through existing mailing list

3. Social Monitoring

One approach highlighted by the group in the context of social monitoring is that project proponents of CDM projects shall be contacted and asked for information on the compliance of their projects. This shall give them the chance to comment on their projects and to give their view on the achievement and level of compliance. At the same time, these project proponents they shall be informed that an investigation of CDM projects will be conducted soon.
Furthermore, it was underlined that it is important to get in touch with the Designated National Authorities (DNA) and to lobby for making use of technical assistance by the Executive Board to monitor sustainable development benefits of CDM projects. Therefore, pressure must be put on the DNA, for example by writing open letters.

Essential action point with regard to the CDM reform in 2014 is the establishment of a new software to monitor CDM impacts. This software shall be made publicly available and is open for the submission of comments to CDM projects, as it is created for stakeholders and interested people in general. This crowdsourcing map will contain information about CDM projects and make them easily accessible. Promises given in the Project Design Documents (PDDs) will be compared with the situation on ground.

Rising awareness on the shortcomings of the CDM is of outmost importance this year, as rules and procedures of the CDM will be reformed in 2014.

Basic points:

- Pressure on DNA to make use of technical assistance provided by Executive Board
- Contact project proponents on compliance issue
- Software to monitor sustainable development benefits of CDM projects
- Raise awareness for CDM shortcomings to influence CDM reform

Outcome
The workshop highlighted important issues on land rights in India and the respective role carbon markets and especially the CDM place on land rights.
Negative impacts on the rural population that is dependent on common land for everyday survival have been highlighted. The current shortcomings of the CDM were emphasized, with special regard to public participation processes, sustainable development monitoring and missing grievance mechanism.

The workshop served as an important platform for exchanging information on various topics related to land rights in India, covering biodiversity, legal regulations and experience with CDM projects as well as challenges in the agricultural sector. This exchange of information and expertise of different groups of network members improved the general understanding of the complexity of the matter. Most importantly, action points for future lobbying have been agreed on and the need to intensify collaborations has been established.

The strengthened partnerships, especially between network members with expertise in different subject matters will enable an improved civil society work in the future. Established linkages, agreed action points and the general overview due to the given presentations and information sharing will support effectiveness of lobby work.

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