

The Impacts of REDD + to The Protection of Indigenous People's Rights in Developing Countries Based on International Law Perspective

Sri Wartini^{1*}

¹Faculty of Law, Universitas Islam Indonesia, Yogyakarta, Indonesia

Abstract. The paper is aimed to analysed comprehensively the impacts of REDD + to the human right of indigeneous people in developing countries based on International law perspective. The impacts of climate change is not only to the environments, such as drought, flooding, and raising of the sea level, but also to the economic and social life. Reduced emissions from deforestation and forest degradation (REDD+) is a key component in the global strategy to mitigate climate change. However, the REDD+ program potentially causes human rights violation to the rights of indigeneous people in developing countries, if there is no respect of the rights of the indigenous people and the host state do not prepare well concerning the regulations and institutional bodies to cope up with the REDD+ implementation .The research is normative juridical research by applying historical, and conceptual, statutory and comparative approaches. The results of this research indicate that the implementation of REDD + in most developing countries still potentially cause the violation to the human right of indigeneous people , if the REDD+ is not conducted in accordance with the Paris Agreement the ILO Convention as well as UNDRIP. Hence, there are some measures that can be carried out to prevent the violation of human rights to indigeneous people in implementing the REDD Program in Developing Countries. However, it is believed that there are some challenges and opportunities concerning the implementation of REDD + in developing countries.

1 Introduction

The aim of the paper is to examine the Impacts of Reducing emissions from deforestation and forest degradation (REDD) + to the protection of indigenous people's rights in developing countries based on international law perspective. Forests have ecological, economic, and social functions. As an ecological function, forests be able to absorb large amounts of CO², but when forests are burned or destroyed, they become sources of greenhouse gas emissions. In order to mitigate and combat the increasing of emission,

* Corresponding author: sri.wartini@uii.ac.id

states agree to establish the 'REDD+' framework to protect forests as part of the Paris Agreement. The stands for extra forest-associated activities which protect the climate, namely "a sustainable management of forests and the conservation and enhancement of forest carbon stocks". It is imperative to protect the forest in order to mitigate the bad impacts of climate change.[1]

REDD+ is a market-based mechanism for reducing emissions that permits governments and private companies to offset their own carbon emissions by compensating developing countries to conserve their forests, which may violate indigenous peoples' rights if indigenous peoples are not involved in decision-making and program implementation. For indigenous peoples, trees serve more than just as carbon storage; they also provide food, shelter, and a means of subsistence. Deforestation can also be an important part of indigenous income, because agricultural growth, logging activities, and infrastructure development all contribute to the economic well-being of forest-dwelling peoples.[2]

In September 2007, the United Nations General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). UNDRIP is not legally enforceable, but it outlines a set of standards and legal norms for the treatment of indigenous peoples, with the purpose of eliminating discrimination and human rights violations.[3] Thus, the implementation of the REDD + Program have to consider the human rights of the indigenous peoples that have been recognized in the UNDRIP. Their rights need to be protected as the same as the common people. Indeed, the UNDRIP is not legally binding, but if there are many states protected the rights of indigenous peoples and recognized as law and become a state practices, so the protection of indigenous peoples human rights will have the legal status as customary international law.[3]

The UNDRIP recognize Indigenous peoples' right to the lands, territories, and resources that they have traditionally owned, inhabited, or used. Furthermore, these Declaration establishes Indigenous peoples' rights to own, utilize, develop, and control lands, territories, and resources obtain through traditional ownership or other traditional occupation or use. These uses include carrying out traditional practices and activities that are necessary for their cultural survival. Thus, under these rules, indigenous peoples have the right to "govern, access, and benefit from their traditional lands and resources.[2]

Thus, when the REDD+ project implemented in the indigenous peoples' forest, those kinds of rights have to be recognized and protected. It is important to protect the rights of indigenous peoples, because the life of the indigenous peoples and also their wellbeing are so dependent to the existence of the forest. When the REDD + Project implemented in developing countries which include the forest where the indigenous peoples live there may violate the human rights of the indigenous people due to their unique lifestyles and circumstances. Closely related to the natural environment. If the existing of the REDD + project prohibit the indigenous people to access the appropriate food, drink, and shelter, so the prohibition has already violate the human rights of indigenous people.[2]

Furthermore, global climate governance and project execution frequently have negative repercussions for Indigenous peoples, such as limiting their access to lands and resources. The UNFCCC's REDD+ mechanism, which aims to mitigate climate change through forest management, has prompted concerns about its impact on Indigenous peoples' human rights. Some incidents show that the REDD + did not acknowledge the existence of Indigenous peoples, was established without their input, and excluded Indigenous peoples from the selection of local projects. A similar exclusion occurred in Panama, when indigenous peoples declared complete opposition to the execution of REDD+ projects on their lands. Negative effects of domestic REDD+ implementation have also been found in Colombia, Guyana, and Papua.[2]

Indeed, there are some several studies have been conducted concerning the Implementation of the REDD + project in developing countries and the violation of the in

indigenous peoples' human rights. First, the study which was conducted by Sébastien Jodoin, the Title of the research is "Transnational Legal Process and Discourse in Environmental Governance: The Case of REDD+ In Tanzania".[4] This study focus on the discourse analysis of the transnational legal process for REDD+ in Tanzania, and demonstrate how domestic efforts to operationalize REDD+ have been dominated by a government coalition that has emphasized green governmentality, made few concessions to civic environmentalism discourse, and completely ignored Indigenous Peoples' climate justice claims.

Second, study which was conducted by Joshua Hammond, the title of the study is "Salvaging the United Nations Redd Program against the Backdrop of International Human Rights Violations". [3]. This study analyzes at the program's significance in terms of political and socio-cultural issues, as well as its consequences on indigenous peoples and forest-dependent populations. Aside from that, the study examines international laws and regulations aimed at protecting indigenous peoples' human rights, as well as the strengths and weaknesses of Brazil's national mitigation strategies. This study also makes comparison Ecuador's REDD-stamped national strategy to Brazil's, focusing on the significant disregard for international human rights resulting from emissions reduction initiatives in both Amazon countries.

The third, is a study which was conducted by Federico Díaz Chacón, the title of the study is "REDD+ and The Promotion of The Human Rights of Indigenous Peoples: The Case of Chile". The study examines REDD+, an international system under the UNFCCC aimed at mitigating climate change through forest management, and raises concerns about its impact on Indigenous peoples' human rights. The study found that the domestic implementation of REDD+ has both negative and positive implications on Indigenous peoples' rights. The study also investigates the relationship between the REDD+ mechanism and Indigenous peoples' rights, with a focus on its domestic implementation in Chile. Finally, the analysis demonstrates that progress in promoting Indigenous peoples' rights has been predominantly focused on individual rights rather than collective rights as peoples.[2].

In various studies outlined above, there is no study that focus on "The Impacts of REDD + to The Protection of Indigenous People's Rights in Developing Countries Based on International Law Perspective. Therefore, this article explores the following research questions how does the REDD+ program may violate the rights of indigenous peoples in developing countries based on international law perspective and what kinds of measures to prevent the violation of indigenous people's rights. The purpose of this research is to analyze how the REDD+ program may cause violation of human rights to the indigenous people in developing countries based on international Law perspective and to propose any measures to prevent Moreover, the research also is aimed to propose any measures to prevent the violation of human rights in the developing countries. The novelty of this research is to specifically comparative analysis the implementation of REDD + in developing countries.[2]

2 Methodology

The type of the research is normative. The approaches employs in the research are historical, conceptual, and statutory. The researcher examined all relevant, international instruments, related t to the REDD+ program such as Agreement, Protocol and Declaration as well regulations and also refers to the relevant doctrines and legal theories. Qualitative analysis method has been used to produce analytical-descriptive data and regulations associated with positive legal theories concerning the research problems. The author employs a descriptive analysis approach using the deductive method, which involves

drawing a specific statement from a general discussion. The research relies on secondary data, including various sources such as research literature, books, journals, and legal materials by using library research and access to the online journals, International Organization websites and official government websites.

3 Analysis and Discussion

3.1 The Function of Forest as a carbon Sink

The function of trees absorb more than a fifth of human-emitted greenhouse gases. Functional forests provide ecological resilience to human societies. Forests benefit human communities by regulating local weather, preventing drought, buffering floods, filtering drinking water, stabilizing soil, attracting pollinators, providing food, medicine, and building materials, and preserving a plethora of other ecosystem services critical to human survival. Forests are the world's most important terrestrial carbon sinks, or carbon storage sites. Forests extract carbon from the atmosphere and sequester it in their biomass and soils, which comprise around 60% of the carbon stored in terrestrial sinks.[5]

When a forest is destroyed (e.g., cut down for timber or burned), the negative impacts are twofold: not only is the carbon sequestered in each tree released into the atmosphere, but it reduces the remaining forest's ability to absorb carbon from the atmosphere. As a result, deforestation, or the permanent removal of forest cover, is a significant contributor to world carbon dioxide emissions. Because forests are massive carbon sinks, many scientists and policymakers believe they should play a major role in combating climate change. Forests have an important role in biodiversity protection. They contain 80% of the world's amphibian species, 75% of bird species, and 68% of mammal species.[5]

As a result, forests are critical to preserving genetic variety and resilience. Furthermore, woods play an important role in providing water by protecting soils and watersheds. In addition to their significant contributions to climate change adaptation, forests play a vital role in climate mitigation through carbon sequestration. According to studies, trees can trap more than two billion tons of CO² per year. The Intergovernmental Panel on Climate Change (IPCC) has said that deforestation and forest degradation account for between 12 and 17 percent of global greenhouse gas (GHG) emissions. As a result, scientists have concluded that achieving the goal of keeping world average temperature rise below 1.5°C is impossible without increased forest.[6]. These people rely on forests for not only fuel and food, but also medicine and shelter. Indigenous and forest-dependent communities conserve forests for the benefit of all because they provide ecosystem services and act as carbon sinks, combating climate change. [7]

Forests trap and store massive volumes of carbon dioxide (CO₂), playing an important role in global climate management.⁴⁰ DD releases carbon held within forest ecosystems, reducing their ability to sequester more carbon.⁴¹ DD of tropical areas is accelerating rapidly. Forest loss accounts for 3.6 to 4.5 billion tons of CO₂ emissions per year, or 17-20% of global greenhouse gas (GHG) emissions.[5] Forests provide ecological services by sequestering and storing carbon. However, ecosystem services are often taken for granted. Countries and residents benefit from forests' clean air and carbon offsetting services, but they do not bear equal costs for their upkeep. International policy has evolved to solve this problem by valuing environmental services through economic incentives. The incentive system would help minimize the current market failures that allow for the destruction of tropical forests worldwide. Though still in its infancy, REDD+ is one of such incentive schemes.[7].

3.2 The History REDD + and international framework

REDD was first introduced as a sustainable means to curb unprecedented deforestation that was occurring at unprecedented rates. Deforestation was found to be a significant source of global carbon emissions totaling approximately eighteen percent of all annual emissions. Despite this reality, no mechanism had been established to effectively mitigate this problem. In response to mounting fear of the environmental disasters threatened by deforestation, REDD discussions began in the 1970s. Various incarnations of REDD policies emerged in the form of international environmental policy initiatives aspiring to preserve natural resources.[8]

History of REDD started from the early 1990's after the Rio Earth Summit in Brazil that provided the declaration on sustainable development and formed the UN Framework Convention on Climate Change (UNFCCC) in 1992.[9]. At that time, global experts reached agreement on the level of greenhouse gases (GHG) in the atmosphere that had increased to levels where it was threatening the environment, health, food security and economic activities as well as natural resources and physical infrastructure. The UNFCCC issued a working framework to stabilize the concentration of GHG in order to avoid endangering anthropogenic activities that in turn threatened the climatic system.

The Coalition of Rainforest Nations advocated for the implementation of emission-reduction measures to prevent deforestation. The Bali Action Plan from COP 13 directed negotiation parties to address 'policy measures and positive incentives' for REDD in developing nations.. REDD was later extended to include sustainable forest management and the augmentation of forest carbon stores (REDD+). REDD+ addresses the contribution of greenhouse gas emissions from deforestation and forest degradation, bringing together questions of sustainable forest management with climate change mitigation by providing economic incentives to address tropical deforestation and forest degradation in the Global South.[10].

In this framework, the UNFCCC established the REDD+ system. REDD+'s goal is to "establish incentives for developing countries to protect and better manage their forest resources, by creating and recognizing a financial value for the additional carbon stored in trees or not emitted to the atmosphere." [8]. This worldwide environmental policy seeks to make developing countries eligible for international financing to maintain and manage their forests. Furthermore, since the Paris Agreement, REDD+ has become even more essential because it assists developing nations in meeting the emission reduction objectives outlined in their Nationally Determined Contributions (NDC).[9]

REDD eventually evolved into REDD+ with the addition of sustainable practices, which allowed REDD+ to incorporate previously degraded forests as well as forest management methods. The United Nations eventually accepted REDD+ in 2007, when the Conference of the Parties produced the Bali Action Plan. Although initially excluded from the Kyoto Protocol. REDD+ addresses a gap in carbon emission reduction efforts by focusing on deforestation and forest degradation. REDD+ offers financial incentives to participants for reducing deforestation and forest degradation, either through direct monetary payments or emissions credits that may be traded on the carbon market. The possible benefits of REDD+ include providing new cash streams, contributing to community security through forest preservation, and empowering local communities by giving them a say in the future survival of their forests.[6]

While REDD+ promises substantial outcomes in the fight against deforestation, it has received some criticism. Among the many critiques leveled toward REDD+, poor property rights and contempt for indigenous sovereignty are prominent in conversations with indigenous peoples and human rights organizations. Because REDD+ initiatives effectively convert forests into commodities by bringing financial resources into developing countries, land tenure rights are critical in determining who has the authority to accept or reject

REDD+ projects, who can manage the forests, and who will ultimately benefit financially from the program. On a domestic level, this produces conflict among the primary stakeholders involved: the developing country, indigenous peoples, and various commercial enterprises. Another complaint of REDD+ is that it does not adequately limit the major drivers.[6].

The Cancún Agreements reflected the twin-track negotiations occurring under the UNFCCC and the Kyoto Protocol. The Convention Agreement, with respect to the implementation of REDD+, provides developing countries with guidance on 'REDD + readiness'. Further, developing countries are requested to ensure 'the full and effective participation of relevant stakeholders, inter alia indigenous peoples and local communities'. Appendix I outlines safeguards that should be 'promoted and supported' when undertaking REDD+ activities; including 'respect for the knowledge and rights of indigenous peoples and members of local communities'. However, as the IBA Report notes, the UNFCCC has been constrained in effectively addressing the global mitigation of climate change, as well as in providing redress to secure climate change justice.[10]

REDD is the idea of creating an international framework to halt deforestation. In addition, the mechanism could help fight poverty while conserving biodiversity and sustaining vital ecosystem services. The REDD mechanism was initiated in 2005 at the Conference of the Parties' eleventh meeting in Montreal, and the concern about carbon stock enhancement, conservation, and sustainable forest management indicated by the (+) was added in 2009.[11] The United Nations with their UN-REDD+ program and the World Bank with their Forest Carbon Partnership Facility (FCPF) are currently the main international organizations supporting REDD+ at international and national scales, but a range of other organizations engage in local REDD+ projects global. Many projects are at the planning stage, whilst others are being implemented. [12].

The Warsaw Framework for REDD+ has mobilized significant resources for REDD+ implementation, including for capacity-building, technical assistance, demonstration activities and results-based finance. Many developing countries have significantly enhanced forest monitoring and management capacities, which is essential to achieve forest protection and sustainable management of forests over the long-term. Many developed countries and financing entities have provided significant support for REDD+ readiness and demonstration activities and continues to do so to ensure sustainability of actions.[13]

However, the agreement does not provide a specific legal mechanism through which to achieve these rights and there is still no agreement on the inclusion of free, prior and informed consent (FPIC) in REDD+. Increasingly recognized as a standard to be achieved by governments, establishing FPIC standards for REDD+ would ensure greater procedural rights for affected communities. Although the inclusion of safeguards is an important operational step, considerable work is needed to translate these non-binding principles into practice within individual countries. Underlying the REDD+ framework is the creation of a strong global partnership based on a commitment by developing countries to embark on low-carbon climate resilient development and on developed countries providing significant funding as an incentive for reduced forest-based carbon emissions.[10]

Funding for REDD+ payments can originate from either national funds set up by multilateral institutions, major bilateral donor countries or non-governmental organisations (NGOs), or from emerging global carbon credit markets. Working outside of the UNFCCC until discussions about appropriate methods for tracking and financing national mitigation actions are completed, new international programmes have been created among multilateral bodies. [15]. These include the World Bank's Forest Carbon Partnership Facility (FCPF), the UN-REDD Programme and the Forest Investment Programme (FIP) of the World Bank to provide technical assistance. However, questions still remain regarding funding for phase three due to the lack of clarity on what a result-based approach could actually include.

Countries that receive funds are obliged to implement policies and programmes which reduce the CO₂ emissions from deforestation and forest degradation.[15]

REDD+ projects may also help communities adapt to climate change, which endangers survival of many species of flora and fauna in forest ecosystems and may impair how those ecosystems function. However, indigenous groups are concerned that these goals will be achieved at the expense of their livelihood, while allowing developed nations to continue “business as usual.” In order to ensure that indigenous peoples can co-exist with REDD, avoided deforestation programs must protect indigenous rights to self-determination, informed consent, and property. The consequences of climate change are especially severe for indigenous peoples, who are among the poorest and most marginalized in the world, and often also live in areas most affected by rising temperature. Because their livelihoods frequently depend upon land use and natural resources, indigenous groups are at great risk as climate change depletes resources and pushes them from their traditional homes. [16].

3.3 The Human Rights of Indigenous Peoples

Historically, indigenous peoples’ struggles relate to the denial of recognition of autonomy and self-determination, the protection of their culture and territories, and the property and resources therein. While indigenous peoples have won a few important victories in recent years, such victories were not won easily. For instance, it took twenty years of international advocacy and negotiation until the U.N. General Assembly adopted the Declaration on the Rights of Indigenous Peoples, now a decade old. Other successes followed, including the adoption of the American Declaration on the Rights of Indigenous Peoples and the recognition of indigenous protections in different policy instruments. In the field of business and human rights, the U.N. Guidelines recommend particular attention to specific groups and populations, including indigenous peoples.[17].

Indeed, the most important features of ILO Convention No. 169 and UNDRIP is the enshrinement of the collective rights of Indigenous peoples. It cannot be ignored that prior to these instruments the international human rights system had been slow to endorse the concept of rights assigned in groups. This was especially problematic, as it was widely recognized by Indigenous Peoples Organizations (IPOs), Non-Governmental Organizations (NGOs), and scholars that individual rights were not sufficient to ensure adequate protection and promotion of rights with a collective dimension. Thus, the establishment of the collective rights of Indigenous peoples in ILO Convention No. 169 and UNDRIP represented an important transformation of the nature of human rights, overcoming the Western traditional conception based on individualism, for “collective claims of historically grounded human associations.[5]

Consequently, these instruments establish a distinctive set of rights for Indigenous peoples, different from individual human rights and other human rights categories. They are usually defined as a *sui generis* category of rights--arising from the historical condition of Indigenous peoples as distinctive societies with the aspiration to survive as such, free from forced assimilation. This distinction is relevant, because although Indigenous peoples hold individual human rights, they alone do not have the capacity to respond to the specific needs of Indigenous peoples. Thus, collective rights of Indigenous peoples are fundamental to their existence, well-being, and cultural identity as peoples.

In other words, Indigenous peoples hold general individual civil and political rights, including the right to security of person, freedom of movement, freedom of expression, and freedom of religion. Individuals also hold conventional economic, social, and cultural rights, such as the right to health, food, and an adequate standard of living. In attention to the fact that such individual rights do not provide an appropriate response to the unique situation of Indigenous peoples, ILO Convention No. 169 and UNDRIP have established a

set of distinctive rights due to their status as peoples, comprehensively addressing their unique nature as collectivities and, even more, as societies. It is important, therefore, to develop at least briefly some of these distinctive rights of indigenous peoples, both procedural and substantive. [18]

Indigenous peoples also hold a *sui generis* right to land, including their territories and natural resources (which this Article will refer to as “territorial rights”). ILO Convention No. 169 and UNDRIP establish that Indigenous peoples have the right to the lands, territories, and resources that they have traditionally owned, occupied, or used. In addition, these instruments establish Indigenous peoples’ right to own, use, develop, and control the lands, territories, and resources they possess by reason of traditional ownership or other traditional occupation or use. These uses include the realization of traditional practices and activities on which their cultural subsistence depends. Thus, in accordance with these provisions, Indigenous peoples have the right to govern, access, and benefit from their traditional lands and resources.[17].

Finally, Indigenous peoples also enjoy collective cultural rights. These rights respond to the historical cultural appropriation that Indigenous peoples have suffered, including appropriation of their cultural objects, archaeological sites, and ancestral knowledge. ILO Convention No. 169 establishes that governments must respect the cultural identity of Indigenous peoples and that the cultural, religious, and spiritual values and practices of Indigenous peoples should be recognized and protected. For its part, UNDRIP establishes that Indigenous peoples have the right not to be subjected to forced assimilation or destruction of their culture. UNDRIP also asserts Indigenous peoples’ right to maintain and protect past, present, and future manifestations of their cultures, such as archaeological sites, designs, ceremonies, and literature. In this sense, these collective cultural rights are notably distinguishable from the individual cultural rights; for example, to take part in cultural life of the society. These collective rights aim to protect the cultural identity of Indigenous peoples. Consequently, these provisions consider cultural rights in a broader dimension, not as property, but as ways of life.

3.4 The Violation of Human Rights of Indigenous people due to the implementation of REDD +

Climate projects, particularly Reducing Emissions from Deforestation and Forest Degradation (REDD+) projects, has increasingly been linked with human rights violations, land grabs, forced displacements, marginalisation, exclusions and governmental repressions, most especially in developing countries.[1]. However, despite increased calls for the international climate regime to address these negative impacts of climate actions on human rights, legal and institutional frameworks for addressing the impacts have not been exhaustively developed and communicated. Indeed, there are some factors that trigger the violation of Human Rights of Indigenous people that can be identified as followed:

First, there are concerns that REDD+, as a global idea, may drive local communities to adapt in ways that are inconsistent with local beliefs and customs. Hence, it appears tough to ensure authentic methods and outputs. In the early stages of implementing the REDD+ program in developing countries, the REDD+ programs violated indigenous peoples' rights in some ways, such as the lack of prior informed consent and the lack of participation of indigenous people and local people who are directly affected by the REDDs+ Program in decision making. Indigenous communities in particular have raised worry that by putting a price label on trees, REDD + projects may damage some of the environmental services that forests provide. However, it is imperative to give prior informed consent to the indigenous people. [19].

Second, the REDD + project in most developing countries potentially violate the human rights of the indigenous people due to the loophole of the national regulations in addressing the REDD+ Program. For instance, in Indonesia, REDD project in the early stage have damaging effects for Indigenous peoples, such as restricting their access to the lands, food, and resources on which their livelihoods and ways of life depend. Indeed, there are some experiences which occur in developing countries indicate that the implementation of REDD + violate the rights of Indigenous peoples.[20]

Third, the UN must acknowledge that its current protections aimed at protecting the human rights of indigenous peoples and forest-dependent communities, as enshrined in REDD+, are ineffective. This is consistent with the reality that REDD was not designed to protect indigenous peoples' human rights; rather, those safeguards were of secondary and tertiary priority. It is vital that the COP, particularly the REDD+ Parties, view international human rights and their connection with REDD from this perspective. The UN cannot deny that the REDD initiative violates indigenous peoples' rights and silences the voices of forest-dependent communities. Local and national authorities, especially in Brazil, pose various challenges to indigenous peoples' rights which cause civil disturbance.[3].

Fourth, as currently conceived, REDD+ may promote widespread violations of indigenous peoples' human rights, such as the loss of their lands and territory. In fact, the history of REDD+ pilot projects demonstrates a pattern of infractions. It is unrealistic to expect indigenous peoples to want to engage in REDD+ simply because it involves conservation. Indigenous peoples would likely resist REDD+ unless REDD+ programs create and implement measures to adequately recognize and safeguard their rights. Indigenous peoples are not victim groups that will consistently collapse under a certain level of pressure.[1].

Fifth, Indigenous groups argue that there is both a moral and practical imperative for emphasizing equity and protecting indigenous rights in REDD. They assert that it is fundamentally unfair that REDD would curb development for indigenous peoples, who have contributed least to climate change, while allowing Annex I nations to continue business as usual. If REDD is designed without the input of forest-dwelling peoples, Annex I nations may be able to benefit economically and environmentally from indigenous groups' loss of livelihood. Practically speaking, REDD policies will be most successful when they have the cooperation and support of the people who have been traditional stewards of the forests. Environmental NGOs and researchers agree that “REDD will never succeed . . . without the involvement of the [communities] that are making decisions every day as to whether to cut a tree down or leave it standing.[21]

Fifth, Indigenous peoples living in forested lands often lack legal title to their lands and territories, instead holding their lands and territories under customary land title. In fact, much of the area covered by tropical forest in Central and South America is governed by a patchwork of customary and statutory land title systems, with many owners, indigenous peoples, local communities, individuals and other entities lacking formal legal title over their property. The lack of a formal western-style system of land holding has been identified as a major driver of deforestation. Accordingly, land demarcation may be a necessary step in the process of protecting the remaining tropical forests. It is almost certainly a necessary step to prepare for participation in REDD+ carbon offset markets. The process of demarcating land for the purpose of participating in REDD+ programs, however, is fraught with risk to indigenous peoples.[1]

3.5 The Way Forwards to Address and To Promote the Human Rights of Indigenous People in the REDD + Program

Actually, there are some solutions that can be proposed in order to provide protection to the human rights of indigenous people in implementing REDD+ in developing countries. The impacts of REDD+ projects have to be resolved in order to encourage active participation of indigenous people in the REDD+ program without violating the human rights. The protection of indigenous people rights is imperative. They have the equal position with the other citizen of a state. The implementation of the REDD+ program directly affects their human rights. Regarding the right to property especially the right of which land is very sensitive. However, in the case of REDD+ program, it is not entirely clear how the rights to carbon will be characterized (as part of the land or divisible from the land), indigenous peoples own and control the carbon within their territories under the principle of indigenous peoples' permanent sovereignty over natural resources. Accordingly, states may not adopt policies that take away the right of indigenous peoples to the carbon within their territories without their free, prior and informed consent.[10]

First, REDD+ implementation must not contravene relevant international protections. By aligning REDD+ strategies with international conventions and treaties, REDD+ participants support the United Nations Framework Convention on Climate Change's mission to promote consistency in the international community by ensuring that parties observe existing international agreements. In order to overcome the negative impacts of REDD + implementation in developing countries, there are various measures and policies that have to be conducted, such as the three aspects should be included in REDD + schemes. First, indigenous peoples should have the right to participate in the REDD + decision-making process, "in accordance with their right to free, prior and informed consent." Furthermore, REDD + should respect indigenous property rights to lands and resources, in accordance with international human rights instruments and obligations.[22]

Second, REDD+ initiatives must respect domestic laws. Simply stated, REDD+ implementation must consider national sovereignty and legislation by including access to information and the right to participation in policy decisions affecting the environment. The third safeguard can only be fully appreciated through the lens of the United Nations Declaration on the Rights of Indigenous Peoples and International Labour Organization Convention No. 169 that address indigenous rights. This safeguard mandates indigenous inclusion in REDD+ initiatives by observing international conventions protecting indigenous rights, utilizing indigenous knowledge during the process, sharing the benefits gleaned from REDD+ with the indigenous and local communities, and respecting their procedural rights to remain informed.[23]

Third, Safeguard encourages the full and effective participation of key stakeholders, including indigenous peoples and local communities. Full and effective involvement necessitates information sharing, cooperation in concept presentation and communication, and an active engagement in decision-making processes. This guarantees that all relevant interests are fully represented and considered before implementation begins. Without complete and effective engagement, REDD+ is likely to have a negative impact on the forests it is intended to protect and hurt local communities, particularly indigenous groups, which are frequently powerless against national and corporate objectives.[4]

The fourth, the most obvious safeguard is to ensure that all REDD+ program actions are consistent with the preservation of natural forests. This includes the conservation of biological variety. Finally, the final two safeguards exist to ensure that global greenhouse gas emissions are lowered and that these reductions persist long after particular project-based reductions are completed. Thus, any REDD+ project must be permanent. As a result, REDD+ operations that do not cut greenhouse gas emissions or prevent them from returning to the environment are unsuccessful and do not meet the Cancun Agreements'

objectives. While some countries seeking for REDD+ program financing appear to have taken the view that carbon is tied to land ownership and that indigenous peoples who own the land also own the carbon.[1]

The fifth, the approach in the REDD + should be based on bottom up to the top of the hierarchy. Establishing institutions facilitating REDD+ can, however, hardly be bottom-up. For REDD to succeed, participating countries must carefully clarify land tenure for indigenous people so as to avoid serious unintended negative consequences. If property ownership is surveyed haphazardly in a rush to establish a carbon market, indigenous people with few documented claims to ownership may find themselves with their property rights once again disregarded. In addition, a REDD scheme could increase land grabbing and loss of indigenous lands as previously marginal lands gain value as potential carbon project sites.[24]

4 Conclusion

In the early stage of REDD+ implementation commonly cause human rights violation of indigenous people rights. Thus, If REDD+ programs continue to fail to incorporate recognition and protection for the rights of indigenous peoples, it is likely that REDD+ itself will destroy tropical forests. It is important to force the state to recognize and uphold their human rights with respect to the ceded territories, and allow them to meaningfully participate in decisions making process which affected the ceded territories. By applying these principles to REDD+, states and indigenous peoples could create programs that allow all parties to meet their goals. However, mutually beneficial agreements do not happen by chance. States are required to have strong protections for indigenous peoples' rights to self-determination and control of lands and territories, resources, and mechanisms to secure implementation and compliance.

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