

Community forest management: how it is supported in international agreements

Report for Friends of the Earth International

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Glossary of acronyms used in the report

ACHPR – African Charter on Human and Peoples Rights
BCCFA – British Columbia Community Forest Association
CAR – Central African Republic
CBD – The Convention on Biological Diversity
CEAFDW - Convention on the Elimination of All Forms of Discrimination against Women
CERD – Committee on the Elimination of Racial Discrimination (of the UN)
CFM – Community forest management
CGD – Centre for Global Development
CRC - Convention on the Rights of the Child
DRD - Declaration on the Right to Development
FAO – Food and Agriculture Organisation of the UN
FPIC – Free prior and informed consent
ILO – International Labour Organisation
ICCA – Indigenous and community conserved areas
ICCPR - International Covenant on Civil and Political Rights
ICEAFRD - International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR - International Covenant on Economic, Social and Cultural Rights
MRG – Minority Rights Group
REDD+ - Reducing Emissions from Deforestation and forest Degradation (and foster conservation, sustainable management of forests, and enhancement of forest carbon stocks)
RRI – Rights and Resources Initiative (NGO)
RFUK – Rainforest Foundation UK
SOD – The Shorter Oxford Dictionary
UDHR - Universal Declaration of Human Rights
UN – United Nations
UNDP - United Nations Development Programme
UNDRIP - United Nations Declaration on the Rights of Indigenous Peoples
UNDRPOPWRA - United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas
UNFCCC - United Nations Framework Convention on Climate Change
UNPFII - United Nations Permanent Forum on Indigenous Issues
UNPO – Unrepresented Nations and Peoples Organisation

1. Executive Summary

Community management has the potential to play a much greater role in the conservation of the world's forests, whilst simultaneously improving the rights and security of local communities and generating substantial improvements in people's well-being. The devolution of tenure and responsibility for forests to local communities has increased in recent years, but still state and private ownership dominates in almost all countries. The result has been continuing loss and degradation of forests, including conversion of them to industrial plantations.

International agreements and norms provide much support to the set of essential rights which underpin community forest management efforts. Whilst, ultimately, the policies and practices which apply to forests are matters of sovereign determination, policies aimed at facilitating community forest management can help compliance with these international agreements. In some cases, the international agreements imply obligations on states to adopt such policies and practices.

This report sets out how the rights related to self determination, consultation, territory, livelihoods and economic development, women, and culture and traditional knowledge can be applied to community forest management, and how each of these is treated in the clauses of seventeen international agreements and standards.

2. Introduction

2.1 Background to the report

Despite decades of international concern and some efforts to reverse the trend, the world has continued to lose its forests. The importance of addressing this has gained new recognition because deforestation is a significant contributor to climate change. Forests are now being considered as one of the very few ways known to significantly sequester, though emphasis is tending to be placed on afforestation, which if done in large-scale monocultural plantations would not be sustainable in terms of reducing climate change and brings many other environmental and social problems. Conservation of all existing forests would reduce global emissions by perhaps 10%, and restoration of degraded ones would have some long-term climate benefits. The many other benefits provided by forests – livelihoods for indigenous and other local communities, preservation of biodiversity and protection of environmental services such as ensuring water flows, conservation of soil and regulation of weather patterns – are all strong reasons for preventing deforestation and restoring forests worldwide.

That deforestation has nevertheless continued at a high and even, in the tropics, accelerating pace is an indication that the strategies pursued to conserve forests have largely failed. Typically, this has consisted of a 'binary paradigm': the largest areas of forest allocated for large-scale industrial logging – euphemistically termed 'sustainable forest management' - and much of the remaining area allocated to more or less strict protection for wildlife. The first of these has generally not proved sustainable in terms of maintaining complex forest ecosystems or environmental services, whereas strict conservation has tended to exclude people and undermine livelihoods. Rapidly growing demand for wood fibre, fuel and food has been met with increasing areas of large-scale 'fast wood' industrial plantations of exotic species, many of which have replaced forests and other ecosystems, dispossessed local people, polluted water courses and created a massive fire hazard.

A third approach – that of empowering local (including indigenous) people to take control, to manage and to benefit from their local forests – has long been recognised as addressing most of the

problems of other approaches. There is growing consensus underpinned by a body of scientific and economic evidence that formalising customary land tenure systems is one of the most effective strategies to protect forests and tackle poverty. The key arguments in favour of community forest management (CFM) were summarised in the Friends of the Earth 2015 briefing, ‘ Why Community Forest Management Matters’, and include: Better protection of forests, biodiversity, soils and water; Direct benefits for community rights and livelihoods, and; Significant contributions to climate change mitigation and adaptation.¹

The significance and potential for community-based management and conservation of forests and other ecosystems has been growing. The Indigenous and Community Conserved Areas (ICCA) Consortium has been collating information about and acting as effective advocates for the recognition of the importance of such lands for conservation (as well, of course, in terms of ensuring the well-being of the local custodians).² In 2018, the Parties to the Convention on Biological Diversity adopted decision 14/8 concerning ‘Protected areas and other effective area-based conservation measures’.³ CBD defines “Other effective area-based conservation measure” as “*a geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the in situ conservation of biodiversity, with associated ecosystem functions and services and where applicable, cultural, spiritual, socio-economic, and other locally relevant values*”. The decision included a detailed set of voluntary guidelines for the adoption and ‘mainstreaming’ of such ‘other measures’, and encouraged Parties to apply these guidelines. Parties were specifically encouraged to support national associations or alliances of protected and conserved area such as the ICCA alliance. IUCN and the World Conservation Monitoring Centre was invited to include such areas in the World Database on Protected Areas.

The area of forest under community control has been increasing: surveys across 41 countries covering 85% of the world’s forests show that around 521 million hectares were legally recognized for indigenous peoples and local communities by 2017.⁴ However, this represented only 15.3% of the total area of forest, and had only grown from 374 million hectares (10.9%) in the previous fifteen years. As the Rights and Resources Initiative noted, “*Governments continue to maintain legal and administrative authority over more than 70 percent of forestlands (2,473 mha), much of which is claimed by Indigenous Peoples and local communities.*” Community forest management has received much less political, technical and financial support, and in many parts of the world is still largely disregarded or even actively opposed by governments and the private forest industry.

Friends of the Earth International has long supported the development and expansion of CFM. In a 2018 report, on how such management can preserve and restore vital resources for the Good Living of human societies, we described it as:

“the political control by communities over their territories and resources through horizontal decision making processes that include transparency and accountability towards the rest of the community. CFM is not limited to the forest and the timber in them. It is holistic because it involves the adequate and planned use of water, of sacred places and biodiversity. It is not limited either to political management, given that it also involves aspects related to

¹ FoEI, 2015

² ICCA, undated

³ CBD, 2018

⁴ RRI, 2018

appropriate technologies, ancestral knowledge and community practices of organized planning and use of resources.”⁵

In our 2015 briefing we set out some of the key factors of success of (and threats to), community forests.⁶ Following from this, we have identified a key set of broad rights that must be available and exercised to enable successful community forests, set out in the document ‘Essential Rights for Community Forest Management’. This includes both the internal and external conditions.

This report focuses on the external conditions, which are summarised below. By doing so it aims to provide advocates for CFM an additional tool with which to press governments, the private sector and other stakeholders to move towards the requirements of various international agreements through allowing and encouraging CFM.

2.2 Key rights underpinning community forest management

The experience of community forest development and implementation suggests that a number of basic rights must apply for CFM to be both possible and effective. According to an assessment by FoEI, the key rights in relation to the establishment and maintenance of CFM are:

- The fulfilment of State obligations
- The right to self-determination
- Rights to consultation
- Territorial rights
- Rights to livelihood and economic development
- Women’s rights
- Cultural rights and traditional knowledge

The core part of this report consists of an assessment of 17 international agreements, declarations and normative documents (such as FAO Voluntary Guidelines) which set out the obligation or case for adoption of the above rights. It describes the meaning of each of these rights (which have been slightly reorganised, aggregated or disaggregated) and, critically, sets out how each of them is supported in various international agreements and standards. It also considers some of the obligations states are under to fulfil such rights

2.3 About this report

For each of the rights, there is a section explaining their meaning (mostly in terms of their definition or normal interpretation in international agreements or related texts), and their relevance to CFM is described. Each section contains a matrix which includes the relevant clauses from the relevant international agreements. In the specific case of indigenous people, additional agreements and provisions apply, and these are detailed in a separate section at the end of each matrix. The ‘universal’ agreements also apply, of course, to indigenous peoples.

Within each of the matrices showing which international agreements support each right, the international agreements are listed in reverse chronological order (ie the relevant text of the most recent agreement is cited first). Where the clause of an agreement might be deemed to cover more

⁵ FoEI, 2018

⁶ FoEI, 2015

than one right, it is repeated in each of the relevant rights' sections. The dates given for the various international agreements are those of adoption, rather than the date of entry into force.

Note that the absence of some of the set of rights might compromise the effectiveness of the community forests even where they are possible at all. For example, in Cameroon, it could be said that the state fulfilled some of its obligations by adopting legislation and procedures in 1994 and 1998 allowing for community forests to be established with, in theory, appropriate levels of consultation, but this was not accompanied by the attribution of adequate territorial rights or cultural rights. Hence, community forests could only be of a very limited size, in certain locations, and did not necessarily relate to the customary lands of communities and thus their cultural practices – and thus proved to be highly problematic and, for most part, non-viable in terms of sustaining livelihoods.⁷

Following this introduction, some definitions are considered – especially, in detail, that of the term 'community forest management' itself. Following the main sections on the rights, some conclusions and recommendations are provided.

2.4 Definitions

Note that each of the main type of rights inspected in this report are described or defined in the relevant chapters on those rights below.

'Community forest management': this is defined by Friends of the Earth as:

*"The political control by communities over their territories and resources through horizontal decision making processes that include transparency and accountability towards the rest of the community. CFM is not limited to the forest and the timber in them. It is holistic because it involves the adequate and planned use of water, of sacred places and biodiversity. It is not limited either to political management, given that it also involves aspects related to appropriate technologies, ancestral knowledge and community practices of organized planning and use of resources."*⁸

'Peasant': this an important concept as it is the subject of a UN Declaration which potentially has much bearing on the case for CFM. The UN Declaration of the Rights of Peasants and Other People Working in Rural Areas defines such people as:

"1. For the purposes of the present Declaration, a peasant is any person who engages or who seeks to engage alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land.

*2. The present Declaration applies to any person engaged in artisanal or small-scale agriculture, crop planting, livestock raising, pastoralism, fishing, **forestry**, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area. It also applies to dependent family members of peasants."*

⁷ See for example, Djeumo, A., 2001

⁸ FoEI, 2018

This definition would this likely embrace many who are presently engaged in CFM or are likely to be in the future.

3. Obligations of States

3.1 Meaning

By becoming parties to international treaties, States assume obligations and duties under international law. In that sense, the various treaties referred to in this report convey all the obligations set out in it to the parties to it. However, what this section focuses on are the specific clauses within the relevant agreements which compel or implore states to ensure proper implementation of the agreement, often in specific ways.

It has to be noted though that not all of the international agreements considered in the report have the status of international treaty. Those such as UN Declaration of the Rights of Peasants and UN Declaration on the Rights of Indigenous People are not legally binding but “*represent the dynamic development of international legal norms and reflect the commitment of states to move in certain directions, abiding by certain principles*”.⁹ Others, such as the FAO Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests are essentially normative documents which establish a set of standards of best practice, normally agreed through an international consultative process, but which do not place any formal obligations on States.

3.2 Relevance to community forests

Obligations of States can be very general in terms of setting a policy or institutional context in which specific rights or the provisions of international agreements have to be applied. No single international agreement has placed a legal obligation on states to create community forests – though the combination of several of them would clearly make a convincing case for this. Many of the ‘obligation’ clauses referred to below are thus best understood in conjunction with other more specific clauses within the same agreements, which are set out in the following sections in this report.

3.3 Relevant Obligations of States in international agreements and norms

Agreement	Text (with relevant clause number)
United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas	2.1 States shall respect, protect and fulfil the rights of peasants and other people working in rural areas. They shall promptly take legislative, administrative and other appropriate steps to achieve progressively the full realization of the rights of the present Declaration that cannot be immediately guaranteed.

⁹ UNPFII, undated

	<p>2.4 States shall take all necessary measures to ensure that non-State actors that they are in a position to regulate, such as private individuals and organizations, and transnational corporations and other business enterprises, respect and strengthen the rights of peasants and other people working in rural areas.</p>
	<p>9.3 States shall take appropriate measures to encourage the establishment of organizations of peasants and other people working in rural areas, including unions, cooperatives or other organizations, particularly with a view to eliminating obstacles to their establishment.</p>
	<p>17.3 States shall take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law, recognizing the existence of different models and systems. States shall protect legitimate tenure and ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed. States shall recognize and protect the natural commons and their related systems of collective use and management.</p>
	<p>18. States shall protect peasants and other people working in rural areas against abuses by non-State actors, including by enforcing environmental laws that contribute, directly or indirectly, to the protection of the rights of peasants or other people working in rural areas.</p>
<p>FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security</p>	<p>4.4 Based on an examination of tenure rights in line with national law, States should provide legal recognition for legitimate tenure rights not currently protected by law... All forms of tenure should provide all persons with a degree of tenure security which guarantees legal protection against forced evictions that are inconsistent with States' existing obligations under national and international law, and against harassment and other threats.</p>
	<p>4.10 States should welcome and facilitate the participation of users of land, fisheries and forests in order to be fully involved in a participatory process of tenure governance, inter alia, formulation and implementation of policy and law and decisions on territorial development, as appropriate to the roles of State and non-state actors, and in line with national law and legislation.</p>
	<p>5.3 States should ensure that policy, legal and organizational frameworks for tenure governance recognize and respect, in accordance with national laws, legitimate tenure rights including legitimate customary tenure rights that are not currently protected by law; and facilitate, promote and protect the exercise of tenure rights. Frameworks should reflect the social, cultural, economic and environmental significance of land, fisheries and forests.</p>

	<p>6.3 States should provide prompt, accessible and non-discriminatory services to protect tenure rights, to promote and facilitate the enjoyment of those rights, and to resolve disputes. States should eliminate unnecessary legal and procedural requirements and strive to overcome barriers related to tenure rights. States should review services of implementing agencies and judicial authorities, and introduce improvements where required.</p>
	<p>6.6 States and other parties should consider additional measures to support vulnerable or marginalized groups who could not otherwise access administrative and judicial services. These measures should include legal support, such as affordable legal aid, and may also include the provision of services of paralegals or para-surveyors, and mobile services for remote communities and mobile indigenous peoples.</p>
	<p>8.3 Noting that there are publicly-owned land, fisheries and forests that are collectively used and managed (in some national contexts referred to as commons), States should, where applicable, recognize and protect such publicly-owned land, fisheries and forests and their related systems of collective use and management, including in processes of allocation by the State.</p>
	<p>8.7 States should develop and publicize policies covering the allocation of tenure rights to others and, where appropriate, the delegation of responsibilities for tenure governance. Policies for allocation of tenure rights should be consistent with broader social, economic and environmental objectives. Local communities that have traditionally used the land, fisheries and forests should receive due consideration in the reallocation of tenure rights.</p>
	<p>8.9 States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages.</p>
<p>FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (2005)</p>	<p>8.1 States should facilitate sustainable, non-discriminatory and secure access and utilization of resources consistent with their national law and with international law and protect the assets that are important for people’s livelihoods. States should respect and protect the rights of individuals with respect to resources such as land, water, forests, fisheries and livestock without any discrimination. Where necessary and appropriate, States should carry out land reforms and other policy reforms consistent with their human rights obligations and in accordance with the rule of law in order to secure efficient and equitable access to land and to strengthen pro-poor growth. Special attention may be given to groups such as pastoralists and indigenous people and their relation to natural resources.</p>

	4.10 States should welcome and facilitate the participation of users of land, fisheries and forests in order to be fully involved in a participatory process of tenure governance, inter alia, formulation and implementation of policy and law and decisions on territorial development, as appropriate to the roles of State and non-state actors, and in line with national law and legislation.
Declaration on the Right to Development	2.3 States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.
International Covenant on Economic, Social and Cultural Rights <i>and</i> International Covenant on Civil and Political Rights	1.3 The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.
Provisions relating specifically to indigenous peoples	
Agreement	Text (with relevant clause number)
UN Declaration on the Rights of Indigenous Peoples	8. States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources.
	21.2 States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.
	26.3 States shall give legal recognition and protection to these [indigenous] lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

ILO Convention 169	2.1. Governments shall have the responsibility for developing, with the participation of the peoples concerned, co-ordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.
	18. Adequate penalties shall be established by law for unauthorised intrusion upon, or use of, the lands of the peoples concerned, and governments shall take measures to prevent such offences.

4. Rights to self-determination

4.1 Meaning

The principle of self determination was first recognised in Article 1 of the founding charter of the United Nations in 1945.¹⁰ According to one definition it is “*the right of a people to determine its own destiny. In particular, the principle allows a people to choose its own political status and to determine its own form of economic, cultural and social development*”.¹¹ The term was initially intended to apply to the rights of peoples to form, or associate with, an independent state, particularly in the context of decolonisation.¹² The right was reinforced in the 1966 International Covenant on Civil and Political Rights (ICCPR), in which the use of the phrase ‘all peoples’ (instead of ‘everyone’) indicates that the right to self-determination is a collective right, that is applicable to only a ‘people’, not to individuals.¹³ Whilst the *outcome* of a claim to self determination will depend on the attitude of governments, the right of *process* of self determination is broadly recognised and belongs to peoples and not solely to states or governments.¹⁴

4.2 Relevance to community forests

Importantly, as stated in the ICCPR, the right to self-determination has economic content which gives peoples the right to freely “*dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law.*” Similarly, the 1986 Declaration on the Right to Development refers to “*The human right to development also implies the full realization of the right of peoples to self-determination, which includes...the exercise of their inalienable right to full sovereignty over all their natural wealth and resources*”.

A key consideration is the extent to which the right to self determination applies to groups *within* nations (i.e ‘internally’). In 1996 the UN Committee on Elimination of Racial Discrimination (CERD) stated that “*The right to self-determination of peoples has an internal aspect, that is to say, the rights of all peoples to pursue freely their economic, social and cultural development without outside interference*” (though noting that this cannot be construed “*as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States*”).¹⁵ Whilst there are no agreed UN definitions of (internal) ‘peoples’, the principle of right to self determination for indigenous peoples was established in the 2007 UN Declaration on the Rights of Indigenous People (UNDRIP), whilst a specific aspect of determination was also included in the 2018 UN Declaration on the Rights of Peasants.

Other than for indigenous people, the right to self determination does not in itself confer any rights for communities or members of it to make a case for CFM. However, the principle of self

¹⁰ United Nations, 1945

¹¹ UNPO, 2017

¹² Diakonia, undated

¹³ MRG,

¹⁴ UNPO, 2017

¹⁵ CERD, 1996

determination over the use of resources, taken with other rights, can be used as a moral case for devolvement of authority over forest resources where they are otherwise solely retained by the state. The principle of self-determination of development strategies and economic activities, through CFM, might generally be more acceptable to governments, though of course this depends on whether this would conflict with other economic activities (such as large-scale industrial logging or conversion to agro-industrial crops) which the state would consider to be of higher national - or some other – priority.

4.3 Rights to self-determination in international agreements and norms

Agreement	Text (with relevant clause number)
United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas	3.1 Peasants and other people working in rural areas have the right to determine and develop priorities and strategies to exercise their right to development.
	9.1 Peasants and other people working in rural areas have the right to form and join organizations, trade unions, cooperatives or any other organization or association of their own choosing for the protection of their interests, and to bargain collectively. Such organizations shall be independent and voluntary in character, and remain free from all interference, coercion or repression.
	9.3 States shall take appropriate measures to encourage the establishment of organizations of peasants and other people working in rural areas, including unions, cooperatives or other organizations, particularly with a view to eliminating obstacles to their establishment.
Declaration on the Right to Development	1.2 The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.
International Covenant on Economic, Social and Cultural Rights	1.1 All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
<i>and</i> International Covenant on Civil and Political Rights	1.3 The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.
Provisions relating specifically to indigenous peoples	

Agreement	Text (with relevant clause number)
UN Declaration on the Rights of Indigenous Peoples	3. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
	5. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.
	9. Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

5. Rights to Consultation

5.1 Meaning

Again, there is no clear or agreed definition in the UN system of what consultation involves or consists of, even though the term appears frequently in its documents. The concept has been tested most closely in relation to indigenous people's issues. The UN Declaration on the Rights of Indigenous Peoples refers to it in five substantive clauses whilst Article 6(1) of ILO Convention 169 concerning indigenous peoples stipulates that governments should: "*Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly*".

The specific meaning of 'consultation' has nevertheless remained much open to interpretation, as did the concept more broadly applied to 'non-indigenous' communities. Often the term 'meaningful' precedes the word consultation, thus emphasising that the process of informing and gathering opinions from other parties should result in the possibility of changes in any previous intentions or policies – otherwise the consultation is meaningless or merely tokenistic. The 1997 New Zealand Ministry of Justice's Guide for Consultation with Māori noted that "*Consultation is not just a process of exchanging information. It also entails testing and being prepared to amend policy proposals in the light of information received, and providing feedback.*"¹⁶

The term 'in good faith' often follows 'consultation'. Article 6(2) of the ILO 169 specifies that "*consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.*" This reflects the concern that a simple process of informing a community of an intended course of action, and 'listening' to the response, could for example be a use of 'consultation' as a means of legitimising a pre-determined outcome, without any real prior willingness to change the course of action as a result.

In 2010, ILO's Committee of Experts on the Application of Conventions and Recommendations assessed in detail the meaning of consultation in the context of Convention 169. The Committee concluded that:

"It was the intention of the drafters of the Convention that the obligation to consult under the Convention was intended to mean that:

(1) consultations must be formal, full and exercised in good faith; there must be a genuine dialogue between governments and indigenous and tribal peoples characterized by communication and understanding, mutual respect, good faith and the sincere wish to reach a common accord;

(2) appropriate procedural mechanisms have to be put in place at the national level and they have to be in a form appropriate to the circumstances;

(3) consultations have to be undertaken through indigenous and tribal peoples' representative institutions as regards legislative and administrative measures;

¹⁶ Supreme Court of Canada, 2004

(4) consultations have to be undertaken with the objective of reaching agreement or consent to the proposed measures.”¹⁷

The Committee also noted that:

“It is clear from the above that pro forma consultations or mere information would not meet the requirements of the Convention. At the same time, such consultations do not imply a right to veto, nor is the result of such consultations necessarily the reaching of agreement or consent.”¹⁸

The closely related term ‘free prior and informed consent’ (FPIC, which occurs in six substantive clauses in UNDRIP) is also helpful in understanding the meaning of consultation, especially as it applies to indigenous people. The required consent from indigenous people (such as, per UNDRIP, for any projects or policies which impact their territories) should not involve any form of manipulation or coercion (i.e., be ‘free’), should involve consultation conducted sufficiently in advance of any authorization or commencement of activities (‘prior’) and should be based on the potentially affected people being provided with complete, objective, accessible, clear, consistent, and accurate information, delivered in the local language and in a culturally appropriate format (‘informed’).¹⁹ However, it should be noted that that the consultation is not and end in itself (as once encapsulated by the World Bank-proposed modification of the term to ‘free prior and informed consultation’²⁰) but is part of a process in which those being consulted have the right to accept or decline the proposal.

The European Commission has published a set of Principles and minimum standards for its own consultations which also provide helpful guidance on key elements of a meaningful consultation process.²¹

Taking into account the definitional work undertaken by ILO and others, a process of genuine consultation means a process that:

- is formal, full, exercised in good faith and through mechanisms appropriate to the circumstances and allow for constant feedback before during and after the process;
- involves the government or local authorities;
- is clear about who is being consulted, why and how, the precise scope and timeline of the consultation, and what the outcomes will be;
- involves genuine dialogue between the government and those being consulted;
- involves mutual respect and the intent (objective) to reach a common accord;
- can be undertaken through representative institutions, especially where major policy changes are being considered;
- occurs at a stage *before* decisions and can serve to influence those decisions;
- is transparent, based up full provision of all relevant information, including about how outcomes will be made available at every stage.

¹⁷ ILO, 2011

¹⁸ ILO, 2011

¹⁹ FAO, 2016b

²⁰ MacKay, 2005

²¹ EC, 2002

Whilst, other than for indigenous peoples, the international basis for a right of communities to consultation is limited, the general approach and standards set out above provide some guidance on what consultation should actually consist of.

5.2 Relevance to community forests

The existence of consultative processes can be very important in the development and maintenance of community forests. Despite being of proven benefit in sustaining or increasing tree cover in many countries, the policy presumption for areas intended to be retained (especially those with extensive natural forests) or put under forest cover remains mostly the extractive exploitation of timber for most of the area, and more or less strict state-run conservation in most of the rest. In very few countries has CFM been tested and accepted at scale, and in most it tends to be treated with scepticism or is outright opposed by the authorities.

Whether at the national policy level or in terms of designation and allocation of specific areas of forest or land, CFM tends to be an afterthought at best. Where many forest communities lack specific tenure rights (such as most of Africa, parts of southeast Asia and undesignated indigenous lands in Latin America), the option of CFM might not even be considered.

Processes of meaningful consultation with such communities might be critical in changing this situation. Such consultation might relate to circumstances involving:

- Determination of national or sub-national policy, regulations and norms related to CFM;
- Determination of use of specific areas of forests or potentially afforested land for CFM, or otherwise, where communities already inhabit them or have some legitimate claim over or association with them.
- Determination of *what type* of conditions might apply (such as potential size and location, management regime, governance structures etc.) where community control can or will become possible.
- In the specific case of indigenous people, consultation must be undertaken where any projects or policies might have an impact on their territories.

5.3: Relevant rights to consultation in international agreements and norms

Agreement	Text (with relevant clause number)
United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas	2.3 States shall consult and cooperate in good faith with peasants and other people working in rural areas through their own representative institutions, engaging with and seeking the support of peasants and other people working in rural areas who could be affected by decisions before those decisions are made, and responding to their contributions, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.

	<p>5.2 States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to:</p> <ul style="list-style-type: none"> (a) A duly conducted social and environmental impact assessment; (b) Consultations in good faith, in accordance with article 2 (3) of the present Declaration; (c) Modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas. <p>10.1 Peasants and other people working in rural areas have the right to active and free participation, directly and/or through their representative organizations, in the preparation and implementation of policies, programmes and projects that may affect their lives, land and livelihoods.</p> <p>10.2 States shall promote the participation, directly and/or through their representative organizations, of peasants and other people working in rural areas in decision-making processes that may affect their lives, land and livelihoods; this includes respecting the establishment and growth of strong and independent organizations of peasants.</p>
<p>FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security</p>	<p>3B. These principles of implementation are essential to contribute to responsible governance of tenure of land, fisheries and forests:</p> <ul style="list-style-type: none"> 6. Consultation and participation: engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes. <p>4.10 States should welcome and facilitate the participation of users of land, fisheries and forests in order to be fully involved in a participatory process of tenure governance, inter alia, formulation and implementation of policy and law and decisions on territorial development, as appropriate to the roles of State and non-state actors, and in line with national law and legislation.</p>

	<p>7.3 Where States intend to recognize or allocate tenure rights, they should first identify all existing tenure rights and right holders, whether recorded or not. Indigenous peoples and other communities with customary tenure systems, smallholders and anyone else who could be affected should be included in the consultation process, consistent with paragraphs 3B.6 and 9.9.</p>
	<p>8.9 States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages.</p>
	<p>20.2 States should develop through consultation and participation, and publicize, gender-sensitive policies and laws on regulated spatial planning. Where appropriate, formal planning systems should consider methods of planning and territorial development used by indigenous peoples and other communities with customary tenure systems, and decision-making processes within those communities.</p>
UNFCCC, Cancun Agreements	<p>Appendix 1, Article 2:</p> <p>When undertaking the activities referred to in paragraph 70 of this decision [REDD+], the following safeguards should be promoted and supported:</p> <p>(d) The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, in the actions referred to in paragraphs 70 and 72 of this decision.</p>
Provisions relating specifically to indigenous peoples	
Agreement	Text (with relevant clause number)
UN Declaration on the Rights of Indigenous Peoples	<p>32.2 States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.</p>

ILO Convention 169	<p>6.1 In applying the provisions of this Convention, governments shall:</p> <p>(a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;</p> <p>(b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them.</p>
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6. Territorial rights

6.1 Meaning

Territorial rights can be said to be a composite of the right of *jurisdiction*, the right to the territory's *resources* and the right to *control borders*.²² In United Nations parlance, 'territorial rights' typically refers to the rights of states. (It is also a term applying in commercial law wherein private companies agree to work within specific geographical limits).

In the sense in which it is used in this report, it relates more generally to those rights applied at the sub-national level in relation to defined areas of forest or land. The right of jurisdiction relates to the ability of communities to determine what rules apply within the defined area. Clearly, this right applies only to defined areas of human activity, normally as set out in relevant (community forest) legislation. Typically, it would apply to the forest management regime (though probably within state-determined parameters), and possibly to benefit-distribution rules, governance structures and sanctions applied within the community for non-compliance.

The right to the territory's resources typically involves an exclusive right to use and benefit from the biotic or other above-ground resources, including wood, plants and wildlife. Below-ground resources such as minerals would typically remain the property of the state. Some rules of non-exclusivity might also apply to water bodies within the territory, especially where these also act as a resource to neighbouring or downstream populations. Typically, there might be state-determined rules regulating *how much* of any given resource can be exploited at any given time (such as would be expressed in government-approved community forest management plans), or obligations to regenerate or create new resources (such as in replanting). In some cases, community forests as defined in this report might involve some form of resource-sharing, such as in transitional arrangements with private landowners.

The right to control borders applies only in a limited sense in relation to community forests. In cases of better practice, the borders of the 'territory' will have been determined through a participatory process in which the community itself determines where the boundaries are (often in agreement with neighbouring communities or other landusers), and the 'border' operates primarily to determine the area within which exclusivity of resource use pertains. It might involve restrictions on whether outsiders can settle within the area. It would not necessarily convey any control over rights of access or passage through the area, though there might be attempts to enforce such restrictions if it is felt that resource exclusivity might otherwise be compromised.

6.2 Relevance to community forests

'Territorial rights' are clearly a key set of rights in relation to CFM and without them any formal form of community-based forest management is likely to be very difficult. In practice, such rights are usually achieved through tenure agreements of one kind or another – ranging from outright ownership, to specific territorial designation (such as for indigenous peoples' territories), to what are effectively formal leasing arrangements from governments (such as applies in some countries in Africa) or other (weaker) arrangements such as designation within formal but non-legally binding land use plans or zoning.

²² Miller, D., 2012

The strength of the tenure tends to be a key factor in determining the outcomes of community forests. As the leading Dutch forestry research and think-tank organisation Tropenbos has noted in a study on the outcomes and conditions for success of CFM, “*Tenure insecurity is detrimental to livelihood and conservation objectives. Under certain conditions, the formalization of community rights to forests can help to achieve conservation and livelihood objectives, while also increasing local people’s self-determination.*”²³ Key conditions for success of tenure formalisation are the ability of communities to drive the process and the willingness of other actors to respect them and the government to enforce them. That said, there can also be a case for “good enough” tenure rights: DRC might be a case in point, where community forests are issued only as a ‘concession’ by the state to the applicant community, but nevertheless confer sufficient security that communities have been very keen to obtain them.

Resource rights can also play a very important role. Unfortunately, in practice, CFM has tended to be more restrictive than allowing exclusive right over *all* forest resources. For example, a 2011 assessment found that, despite some form of recognized community tenure rights in 45 forest countries surveyed (comprising 90% of the world’s forest area), “only 15 countries afforded communities commercial timber rights.”²⁴ Such restrictions can severely hamper the viability of community forests as a profitable and sustainable opportunity for communities.

6.3 Relevant ‘territorial’ rights in international agreements and norms

Agreement	Text (with relevant clause number)
United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas	5.1 Peasants and other people working in rural areas have the right to have access to and to use in a sustainable manner the natural resources present in their communities that are required to enjoy adequate living conditions, in accordance with article 28 of the present Declaration. They also have the right to participate in the management of these resources.
	5.2 States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to: <ul style="list-style-type: none"> (a) A duly conducted social and environmental impact assessment; (b) Consultations in good faith, in accordance with article 2 (3) of the present Declaration; (c) Modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas.

²³ Kusters, K and de Graaf, M., 2019

²⁴ MacQueen, D., 2013

17.1 Peasants and other people living in rural areas have the right to land, individually and/or collectively, in accordance with article 28 of the present Declaration, including the right to have access to, sustainably use and manage land and the water bodies, coastal seas, fisheries, pastures and forests therein, to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.

17.3 States shall take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law, recognizing the existence of different models and systems. States shall protect legitimate tenure and ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed. States shall recognize and protect the natural commons and their related systems of collective use and management.

17.4 Peasants and other people working in rural areas have the right to be protected against arbitrary and unlawful displacement from their land or place of habitual residence, or from other natural resources used in their activities and necessary for the enjoyment of adequate living conditions.

18.1 Peasants and other people working in rural areas have the right to the conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage.

18.5 States shall protect peasants and other people working in rural areas against abuses by non-State actors, including by enforcing environmental laws that contribute, directly or indirectly, to the protection of the rights of peasants or other people working in rural areas.

<p>FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security</p>	<p>3A.1.1 States should:</p> <ol style="list-style-type: none"> 1. Recognize and respect all legitimate tenure right holders and their rights. They should take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not; to refrain from infringement of tenure rights of others; and to meet the duties associated with tenure rights. 2. Safeguard legitimate tenure rights against threats and infringements. They should protect tenure right holders against the arbitrary loss of their tenure rights, including forced evictions that are inconsistent with their existing obligations under national and international law. 3. Promote and facilitate the enjoyment of legitimate tenure rights. They should take active measures to promote and facilitate the full realization of tenure rights or the making of transactions with the rights, such as ensuring that services are accessible to all.
	<p>3.2 Non-state actors including business enterprises have a responsibility to respect human rights and legitimate tenure rights.</p>
	<p>4.4 Based on an examination of tenure rights in line with national law, States should provide legal recognition for legitimate tenure rights not currently protected by law... All forms of tenure should provide all persons with a degree of tenure security which guarantees legal protection against forced evictions that are inconsistent with States' existing obligations under national and international law, and against harassment and other threats.</p>
	<p>7.3 Where States intend to recognize or allocate tenure rights, they should first identify all existing tenure rights and right holders, whether recorded or not. Indigenous peoples and other communities with customary tenure systems, smallholders and anyone else who could be affected should be included in the consultation process, consistent with paragraphs 3B.6 and 9.9. States should provide access to justice, consistent with paragraph 4.9 if people believe their tenure rights are not recognized.</p>
	<p>8.2 Where States own or control land, fisheries and forests, the legitimate tenure rights of individuals and communities, including where applicable those with customary tenure systems, should be recognized, respected and protected, consistent with existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments.</p>

	<p>8.3 Noting that there are publicly-owned land, fisheries and forests that are collectively used and managed (in some national contexts referred to as commons), States should, where applicable, recognize and protect such publicly-owned land, fisheries and forests and their related systems of collective use and management, including in processes of allocation by the State.</p>
	<p>8.7 States should develop and publicize policies covering the allocation of tenure rights to others and, where appropriate, the delegation of responsibilities for tenure governance. Policies for allocation of tenure rights should be consistent with broader social, economic and environmental objectives. Local communities that have traditionally used the land, fisheries and forests should receive due consideration in the reallocation of tenure rights.</p>
	<p>8.9 States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages.</p>
	<p>20.2 States should develop through consultation and participation, and publicize, gender-sensitive policies and laws on regulated spatial planning. Where appropriate, formal planning systems should consider methods of planning and territorial development used by indigenous peoples and other communities with customary tenure systems, and decision-making processes within those communities.</p>
<p>FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security</p>	<p>8.1 States should facilitate sustainable, non-discriminatory and secure access and utilization of resources consistent with their national law and with international law and protect the assets that are important for people’s livelihoods. States should respect and protect the rights of individuals with respect to resources such as land, water, forests, fisheries and livestock without any discrimination. Where necessary and appropriate, States should carry out land reforms and other policy reforms consistent with their human rights obligations and in accordance with the rule of law in order to secure efficient and equitable access to land and to strengthen pro-poor growth. Special attention may be given to groups such as pastoralists and indigenous people and their relation to natural resources.</p>

	<p>8.10 States should take measures to promote and protect the security of land tenure, especially with respect to women, and poor and disadvantaged segments of society, through legislation that protects the full and equal right to own land and other property, including the right to inherit. As appropriate, States should consider establishing legal and other policy mechanisms, consistent with their international human rights obligations and in accordance with the rule of law, that advance land reform to enhance access for the poor and women. Such mechanisms should also promote conservation and sustainable use of land. Special consideration should be given to the situation of indigenous communities.</p>
<p>International Treaty on Plant Genetic Resources for Food and Agriculture</p>	<p>5.1 Each Contracting Party shall, subject to national legislation, and in cooperation with other Contracting Parties where appropriate, promote an integrated approach to the exploration, conservation and sustainable use of plant genetic resources for food and agriculture and shall in particular, as appropriate:</p> <p style="padding-left: 40px;">d) Promote in situ conservation of wild crop relatives and wild plants for food production, including in protected areas, by supporting, inter alia, the efforts of indigenous and local communities.</p>
<p>African Charter on Human and Peoples Rights</p>	<p>21.1 All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.</p>
	<p>21.5 States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.</p>
<p>International Covenant on Economic, Social and Cultural Rights</p> <p><i>and</i></p> <p>International Covenant on Civil and Political Rights</p>	<p>1.2 All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.</p>
<p>Universal declaration of human rights</p>	<p>17.1 Everyone has the right to own property alone as well as in association with others.</p>
<p>Provisions relating specifically to indigenous peoples</p>	
<p> </p>	

Agreement	Text (with relevant clause number)
UN Declaration on the Rights of Indigenous Peoples	10. Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.
	25. Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
	<p>26.1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.</p> <p>26.2 Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p> <p>26.3 States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.</p>
	27. States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.
	29. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

ILO Convention 169	<p>14.1 The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.</p> <p>14.2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.</p>
	<p>15.1 The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.</p>
	<p>17.1 Procedures established by the peoples concerned for the transmission of land rights among members of these peoples shall be respected.</p> <p>17.3 Persons not belonging to these peoples shall be prevented from taking advantage of their customs or of lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belonging to them.</p>

7. Rights to livelihoods/economic development

7.1 Meaning

Many definitions of livelihoods exist. One used as a working definition by the United Nations Development Programme, and broadly shared by development organisations such as Care and Oxfam²⁵ derives from 1992, and is:

“A livelihood comprises the capabilities, assets (including both material and social resources) and activities required for a means of living. A livelihood is sustainable when it can cope with and recover from stress and shocks and maintain or enhance its capabilities and assets both now and in the future, while not undermining the natural resource base.”²⁶

In the broad sense in which the term is used here, and in particular as applied to poor countries, the term also relates to the right to *development*, a term for which the definition has also spawned a huge body of literature. As reflected in the UN’s Human Development Index, development relates to the attainment of a long and healthy life, knowledge and a decent standard of living.²⁷ This reflects the wide understanding that *“people and their capabilities should be the ultimate criteria for assessing the development of a country, not economic growth alone”*.²⁸ Increasingly, freedom and equity have been considered a characteristic of development, which *“must be judged by its impact on people, not only by changes in their income but more generally in terms of their choices, capabilities and freedoms; and we should be concerned about the distribution of these improvements, not just the simple average for a society.”*²⁹

7.2 Relevance to community forests

The generation of livelihoods and promotion of sustainable development can be an important argument in favour of CFM. According to the UN FAO, close to 1.6 billion people rely on forest resources for their livelihoods.³⁰ The World Bank has noted that *“Forest resources directly contribute to the livelihoods of some 90 percent of the 1.2 billion people living in extreme poverty.”*³¹ Forest-based livelihoods can be provided through other means, but those in commercial logging tend to be poorly paid, dangerous and unsustainable³², whereas commercial plantations tend to be highly mechanised and capital intensive. Forest management orientated primarily towards conservation of biodiversity or environmental services is often claimed to generate employment and livelihoods, though the evidence suggests this is moderate at best (in jobs such as park rangers, tourist guides,

²⁵ Carney, D, et al, 1999

²⁶ UNDP, undated, a.

²⁷ UNDP, undated, b.

²⁸ UNDP, undated, b.

²⁹ CGD, 2012

³⁰ FAO, 2015

³¹ World Bank, 2002

³² RFUK and Forests Monitor, 2007

and the hospitality sector)³³, whereas many livelihoods more widely can be compromised or destroyed through restrictions on forest and land use.³⁴

The distributional aspects of a ‘right to development’ as implied in the definition above can also be important, and is supported in various international texts. Community forests typically generate much more equitable income within society as a whole compared to, say, commercial logging or strict nature conservation. Studies have shown that CFM can generate very significant benefits locally.³⁵ As noted at the start of this report, CFM typically implies equitable distribution *within* the community as well.

7.3 Relevant rights to livelihoods/economic development in international agreements and norms

Agreement	Text (with relevant clause number)
United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas	3.1 Peasants and other people working in rural areas have the right to determine and develop priorities and strategies to exercise their right to development.
	5.2 States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to: <ul style="list-style-type: none"> (c) Modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas.
	11.3 States shall take appropriate measures to promote the access of peasants and other people working in rural areas to a fair, impartial and appropriate system of evaluation and certification of the quality of their products at the local, national and international levels, and to promote their participation in its formulation.
	13.3 States shall create an enabling environment with opportunities for work for peasants and other people working in rural areas and their families that provide remuneration allowing for an adequate standard of living.

³³ See for example, Brockington et al, 2006

³⁴ See for example, Pyhälä, A et al, 2016

³⁵ See for example BCCFA, 2015

	<p>16.1 Peasants and other people working in rural areas have the right to an adequate standard of living for themselves and their families and to facilitated access to the means of production necessary to achieve them, including production tools, technical assistance, credit, insurance and other financial services. They also have the right to engage freely, individually and/or collectively, in association with others or as a community, in traditional ways of farming, fishing, livestock rearing and forestry and to develop community-based commercialization systems.</p>
	<p>16.4 States shall take all appropriate measures to ensure that their rural development, agricultural, environmental, trade and investment policies and programmes contribute effectively to protecting and strengthening local livelihood options.</p>
<p>FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security</p>	<p>15.6 Where States choose to implement redistributive reforms, they should develop policies and laws, through participatory processes, to make them sustainable. States should ensure that policies and laws assist beneficiaries, whether communities, families or individuals, to earn an adequate standard of living from the land, fisheries and forests they acquire and ensure equal treatment of men and women in redistributive reforms. States should revise policies that might inhibit the achievement and sustainability of the intended effects of the redistributive reforms.</p>
<p>Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity</p>	<p>5.2 Each Party shall take legislative, administrative or policy measures, as appropriate, with the aim of ensuring that benefits arising from the utilization of genetic resources that are held by indigenous and local communities, in accordance with domestic legislation regarding the established rights of these indigenous and local communities over these genetic resources, are shared in a fair and equitable way with the communities concerned, based on mutually agreed terms.</p>
<p>International Treaty on Plant Genetic Resources for Food and Agriculture</p>	<p>5.1 (Culture/livelihoods/territory) Each Contracting Party shall, subject to national legislation, and in cooperation with other Contracting Parties where appropriate, promote an integrated approach to the exploration, conservation and sustainable use of plant genetic resources for food and agriculture and shall in particular, as appropriate:</p> <p>d) Promote in situ conservation of wild crop relatives and wild plants for food production, including in protected areas, by supporting, inter alia, the efforts of indigenous and local communities.</p>
<p>African Charter on Human and Peoples Rights</p>	<p>21.1 All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.</p>

	<p>21.5 States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.</p>
	<p>22.1 All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.</p>
<p>Convention on the Elimination of All Forms of Discrimination against Women</p>	<p>14.2 States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:</p> <p>(a) To participate in the elaboration and implementation of development planning at all levels;</p> <p>(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment</p>
<p>International Covenant on Economic, Social and Cultural Rights</p> <p><i>and</i></p> <p>International Covenant on Civil and Political Rights</p>	<p>1.2 All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.</p>
<p>International Covenant on Civil and Political Rights</p>	<p>11.1 The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.</p>
<p>Provisions relating specifically to indigenous peoples</p>	
<p>Agreement</p>	<p>Text (with relevant clause number)</p>

UN Declaration on the Rights of Indigenous Peoples	<p>21.1 Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p>
	<p>23. Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development.</p>
ILO Convention 169	<p>7.1 The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.</p> <p>7.2 The improvement of the conditions of life and work and levels of health and education of the peoples concerned, with their participation and co-operation, shall be a matter of priority in plans for the overall economic development of areas they inhabit. Special projects for development of the areas in question shall also be so designed as to promote such improvement.</p>

8. Women's rights

8.1 Meaning

Equal rights for women and men is embedded in the 1945 Charter of the United Nations and several key agreements which followed including the 1948 Universal Declaration of Human Rights, and the two subsequent International Covenants that entered into force in 1976, on Civil and Political Rights, and Economic, Social and Cultural Rights.³⁶ In 1979, the UN adopted the Convention on the Elimination of All Forms of Discrimination against Women, which defined the meaning of discrimination against women as:

“Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”³⁷

In the parlance of the UN, women's rights relate to overcoming the forms of discrimination set out in this definition.

8.2 Relevance to community forests

The role of women in CFM can be essential both in terms of satisfying their economic needs, but also in ensuring that CFM is successful and effective. This is because:

- Women may have a specific reliance on forest products, including fuelwood and non-timber forest products, food stuffs, medicinal and cultural purposes;
- Women typically have particular responsibility for subsistence and family-related resources - whereas men might typically focus on cash-generating resources;
- Women may hold specific knowledge about forest resources;
- Some forest resources (including specific tree species) may customarily have gender-specific exploitation or management rights attached to them.³⁸

One of the consequences of this is that the establishment of community forests may be the only, or at least the most effective, means of validating the full range of forest products and services. Typically, for example, when natural forests are allocated for commercial logging, men may benefit from wages earned in exploiting timber, but non-timber forest products normally managed by women are effectively attributed a zero value, and possibly destroyed by logging operations. Related to previous section on livelihoods, management involving non-timber forest products, usually by women, can diversify the local economy and tends to create more jobs.³⁹ The specific knowledge of forest resources held by women can be lost where forest management becomes dominated entirely by wood.

³⁶ UN OHCHR, 2014

³⁷ UN, 1979

³⁸ FAO, undated

³⁹ Christian, J, undated.

Overall, women may have different preferences to men as to the purpose and management of the forest – perhaps, for example, preferring to ensure that firewood resources are managed more conservatively for families’ own benefit, rather than liquidating them more quickly for cash returns.⁴⁰

It has been found for both Nepal and India that community forest groups “with a high proportion of women in their executive committee (EC)—the principal decision-making body—show significantly greater improvements in forest condition in both regions.”⁴¹

Whilst the need to respect the rights of women can thus serve to strengthen the case for community forests and improve the quality of it, there can still be a need to promote women’s rights *within* CFM. Research suggests that women’s participation in formal CFM in many countries, including Cameroon, Kenya, Tanzania, Uganda and Liberia, “remains subject to local norms which marginalise women and focus power, decision-making roles and social status on men.”⁴² Similar problems have been noted in Mexico.⁴³

In order to overcome these problems, specific and very proactive measures may need to be taken to ensure that women’s rights to participate in and benefit equitably from community forest management. For CFM to genuinely serve the interests of the community and to fulfil their full potential, women have to play an equal role right from the inception of the initiative, in applications to the government, overall governance, mapping and inventorising of resources, management planning, allocation of tasks and roles, marketing, training, distribution of benefits etc.

8.3 Relevant women’s rights in international agreements and norms

Agreement	Text (with relevant clause number)

⁴⁰ Leone, M, 2013

⁴¹ Agarwal, B, 2009

⁴² RFUK, 2019

⁴³ Gaworecki, M., 2018

<p>United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas</p>	<p>4.2 States shall ensure that peasant women and other women working in rural areas enjoy without discrimination all the human rights and fundamental freedoms set out in the present Declaration and in other international human rights instruments, including the rights:</p> <ul style="list-style-type: none"> (a) To participate equally and effectively in the formulation and implementation of development planning at all levels; (e) To organize self-help groups, associations and cooperatives in order to obtain equal access to economic opportunities through employment or self-employment; (f) To participate in all community activities; (g) To have equal access to financial services, agricultural credit and loans, marketing facilities and appropriate technology; (h) To equal access to, use of and management of land and natural resources, and to equal or priority treatment in land and agrarian reform and in land resettlement schemes; (i) To decent employment, equal remuneration and social protection benefits, and to have access to income-generating activities.
<p>FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security</p>	<p>8.9 States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages.</p> <p>20.2 States should develop through consultation and participation, and publicize, gender-sensitive policies and laws on regulated spatial planning. Where appropriate, formal planning systems should consider methods of planning and territorial development used by indigenous peoples and other communities with customary tenure systems, and decision-making processes within those communities.</p>
<p>Convention on the Elimination of All Forms of Discrimination against Women</p>	<p>14.2 States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:</p> <ul style="list-style-type: none"> (a) To participate in the elaboration and implementation of development planning at all levels; (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment.
<p>International Covenant on Economic, Social and Cultural Rights</p>	<p>3. The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.</p>

Provisions relating specifically to indigenous peoples	
Agreement	Text (with relevant clause number)
UN Declaration on the Rights of Indigenous Peoples	22.1 Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
	44. All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

9. Rights to culture and traditional knowledge

9.1 Meaning

This is one of the broad set of rights assessed in this report that has been least defined and generally least supported in international agreements. Although one of the fundamental human rights agreement is entitled the International Covenant on Economic, Social and *Cultural Rights*, the text actually has little to say about culture in the sense of “*The distinctive customs, achievements, products, outlook etc. of a society or group; the way of life of a society or group*”.⁴⁴ Wikipedia defines cultural rights as:

“Human rights that aim at assuring the enjoyment of culture and its components in conditions of equality, human dignity and non-discrimination. They are rights related to themes such as language; cultural and artistic production; participation in cultural life; cultural heritage; intellectual property rights; author’s rights; minorities and access to culture, among others”.⁴⁵

The meaning and extent of culture – and rights to it - has most clearly been recognised in the context of indigenous peoples. Article 31 of UNDRIP states that indigenous people have the right to:

“maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.”

In relation to the right to practise and revitalize cultural traditions and customs, UNDRIP further notes that:

“this includes the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.”

The inclusion of Article 8(j) in the Convention on Biodiversity (CBD, see below) is generally held to have been a significant step forward in the international recognition of how “*knowledge, innovations and practices of indigenous and local communities*” is relevant to “*the conservation and sustainable use of biological diversity*” (noting that this is *not* limited only to indigenous people). Clearly, as much of the world’s biodiversity is found in forests, most of them inhabited by people, there is thus a clear connection between cultural rights and forest protection. A specific working group set up by the CBD to develop the content of Article 8(j) determined in 2009 that rights conferred to protect knowledge can include:

⁴⁴ SOD, 1993

⁴⁵ Wikipedia, 2019

“Rights to all components of the biocultural heritage associated with the traditional knowledge — including rights over the biodiversity, customary laws, cultural and spiritual values and lands and waters traditionally occupied or used by indigenous and local communities.”⁴⁶

Biocultural heritage in turn has been defined as:

“The knowledge, innovations and practices of Indigenous and local communities which are often collectively held and are inextricably linked to traditional resources and lands and waters traditionally occupied by indigenous and local communities; including the diversity of genes, varieties, species and ecosystems; cultural and spiritual values; and customary laws shaped within the socio-ecological context of communities”⁴⁷

9.2 Relevance to community forests

A view on the relationship between forests and culture that is repeated many times over in similar ways by indigenous leaders is that *“the forest as an integral element of nature that corresponds to the integrity of the cultural personality of the tribe.”*⁴⁸ UNDRIP notes the important role that culture and cultural practices can play in environmental sustainability, recognising *“that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment”*.

Article 31 of UNDRIP reproduced above provides helpful insight into culture and cultural practices of *any* communities, particularly traditional ones but not necessarily just indigenous people, that might apply in relation to land and forest management. The wording of some clauses in the UN Declaration on the Rights of Peasants suggests that similar rights should apply to non-indigenous people as indigenous people. Article 20.2 of the Declaration on the Rights of Peasants (see below) refers specifically to the need for states to promote and protect *“traditional knowledge innovation and practices of peasants and other people”* working in forest management.

Cultural practices and traditional knowledge can be important in:

- forest management and protection (including in ‘sacred forests’ and other culturally important areas)
- forest cultivation systems (such as rotational slash-and-burn farming), transplanting, enrichment etc
- forest resource and forest-land allocation (ie, within communities, and inter-generationally)
- agroforestry systems
- fire management,
- forest ecosystem services’ maintenance, including watershed management
- forest wildlife management
- understanding of complex forest ecosystems, and specific species within in them.

In some, perhaps many, cases the retention of culture values and traditional knowledge could only be achieved through CFM, where communities themselves are able to design the management of a given area of forest around their customary practices and traditional knowledge. As such values and

⁴⁶ CBD, 2009

⁴⁷ CBD, 2005

⁴⁸ Saway, V, undated

knowledge are often passed on only orally⁴⁹, it can be important that inter-generational continuity of presence in and on the land is maintained, and this can often only be ensured through security of tenure. As these practices and knowledge are likely to apply to a very specific area and specific resources, it is important that the very geographical definition of the area is determined by the community.

The erosion and loss of traditional knowledge and practices has “*often had very serious negative consequences for the well-being of local and indigenous communities, and for forests, associated ecosystems, their biodiversity, and capacity to produce environmental goods and services on a sustainable basis*”.⁵⁰ Failure to recognise the cultural aspect and role of forests - particularly how such practices may have fundamentally shaped biophysical forest landscapes⁵¹ – can result in perverse policy prescriptions.⁵² Although it has been much lip-service and tokenistic engagement, promoters of the current major forest policy globally - REDD+ - have repeatedly stated that “*indigenous peoples, traditional knowledge in forest management is key to success.*”⁵³

9.3 Rights to culture and traditional knowledge in international agreements and norms

Agreement	Text (with relevant clause number)
United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas	18.1 Peasants and other people working in rural areas have the right to the conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage.
	20.2 States shall take appropriate measures to promote and protect the traditional knowledge, innovation and practices of peasants and other people working in rural areas, including traditional agrarian, pastoral, forestry, fisheries, livestock and agroecological systems relevant to the conservation and sustainable use of biological diversity.
	26.1 Peasants and other people working in rural areas have the right to enjoy their own culture and to pursue freely their cultural development, without interference or any form of discrimination. They also have the right to maintain, express, control, protect and develop their traditional and local knowledge, such as ways of life, methods of production or technology, or customs and tradition.

⁴⁹ Parotta et al, 2016

⁵⁰ Parotta et al, 2016

⁵¹ See for example, Posey, D.A., 1985.

⁵² Agnoletti, M and Santoro, A., 2014

⁵³ UNDP, 2011

	<p>26.3 States shall respect, and take measures to recognize and protect, the rights of peasants and other people working in rural areas relating to their traditional knowledge and eliminate discrimination against the traditional knowledge, practices and technologies of peasants and other people working in rural areas.</p>
<p>FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security</p>	<p>5.3 States should ensure that policy, legal and organizational frameworks for tenure governance recognize and respect, in accordance with national laws, legitimate tenure rights including legitimate customary tenure rights that are not currently protected by law; and facilitate, promote and protect the exercise of tenure rights. Frameworks should reflect the social, cultural, economic and environmental significance of land, fisheries and forests.</p>
<p>UNFCCC, Cancun Agreements</p>	<p>Appendix 1, Article 2:</p> <p>When undertaking the activities referred to in paragraph 70 of this decision [REDD+], the following safeguards should be promoted and supported:</p> <p>(c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples;</p>
<p>Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity</p>	<p>6.2 2 In accordance with domestic law, each Party shall take measures, as appropriate, with the aim of ensuring that the prior informed consent or approval and involvement of indigenous and local communities is obtained for access to genetic resources where they have the established right to grant access to such resources.</p>
<p>International Treaty on Plant Genetic Resources for Food and Agriculture</p>	<p>9.1 The Contracting Parties recognize the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centres of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world.</p>

	<p>9.2 The Contracting Parties agree that the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including:</p> <p>a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture.</p>
Convention on Biological Diversity	<p>8. Each Contracting Party shall, as far as possible and as appropriate:</p> <p>(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.</p>
	<p>10. Each Contracting Party shall, as far as possible and as appropriate:</p> <p>(c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;</p> <p>(d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced.</p>
<p>Convention on the Rights of the Child</p> <p><i>and</i></p> <p>International Covenant on Civil and Political Rights</p>	<p>30. In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.</p>
African Charter on Human and Peoples Rights	<p>22.1 All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.</p>
International Covenant on Economic, Social and Cultural Rights	<p>15.1 The States Parties to the present Covenant recognize the right of everyone:</p> <p>(a) To take part in cultural life.</p>

Provisions relating specifically to indigenous peoples	
Agreement	Text (with relevant clause number)
UN Declaration on the Rights of Indigenous Peoples	11.1 Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
	12.1 Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
	24.1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals.
	31. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
	32. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
ILO Convention 169	8.2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognised human rights. Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle.

13.1 In applying the provisions of this Part of the Convention governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

10. Conclusions and recommendations

10.1 Conclusions

International agreements provide much legal, declaratory and normative support for the promotion of community forests, by underpinning all of the key rights on which it rests. The strength of these does vary, but a strong case clearly emerges when the relevant clauses of the agreements are taken together in combination. Governments can greatly improve their compliance with and implementation of such agreements (especially those with greater direct relevance, such as the Declaration on the Rights of Peasants) but expanding the political and physical space available for community forest management. Possibly the strongest arguments come in terms of rights to livelihoods and development where, in theory, the state can have a common interest in ensuring that resources are optimally managed.

10.2 Recommendations

The contents of this report indicate that there are many possibilities for using the relevant clauses of numerous international agreements, declarations and standards to support arguments and campaigns to increase the acceptance and implementation of CFM. Inevitably, as a sovereign issue of land and resource management, how or whether CFM is accepted will depend on national policy and legislation. Thus, the primary challenge would be to have forest policy or legislation revised or adapted. This requires engagement with the relevant decision makers. How and by whom this is best done varies enormously from country-to-country. In some cases, forest or natural environment policy might already allow, in principle, for CFM, but the specific regulations or procedures have not been developed and adopted, and hence the policy remains unimplemented. Advocacy for policy or regulatory changes might be more effective when conducted by or in conjunction with potential practitioners of CFM who are the primary holders of the rights described in this report.

Some basic recommendations for NGOs wishing to promote CFM are:

- Understand the **relevant national policy and legislation** well. This can include provisions specifically for forestry, environment, conservation/protected areas, land tenure and rural development.
- Assess whether the **policy and legislation is compliant with the texts of the agreements** set out in this report
- Where this has not already been done, **consult deeply** with groups, organisations and peoples who would or could actually be engaged in CFM or wish to develop it.
- Develop an **advocacy strategy** for how to convince the relevant decision-makers to change policy or legislation, or to implement it better. This should include a thorough 'stakeholder analysis' showing who has what interests in either promoting CFM, or opposing it. The advocacy strategy should include tactics and specific outcomes (such as communications, articles, blogs, social media etc.) targeted as appropriate to the various stakeholders. Citing the relevant international texts can be persuasive in such communications.

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International Agreements

The full texts of the agreements (English language versions) referred to in this report can be found at the following locations:

United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (2018)

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