

ESSENTIAL RIGHTS FOR COMMUNITY FOREST MANAGEMENT



**Friends of
the Earth
International**

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Image: Amelia Collins, Friends of the Earth International.



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OUR VISION

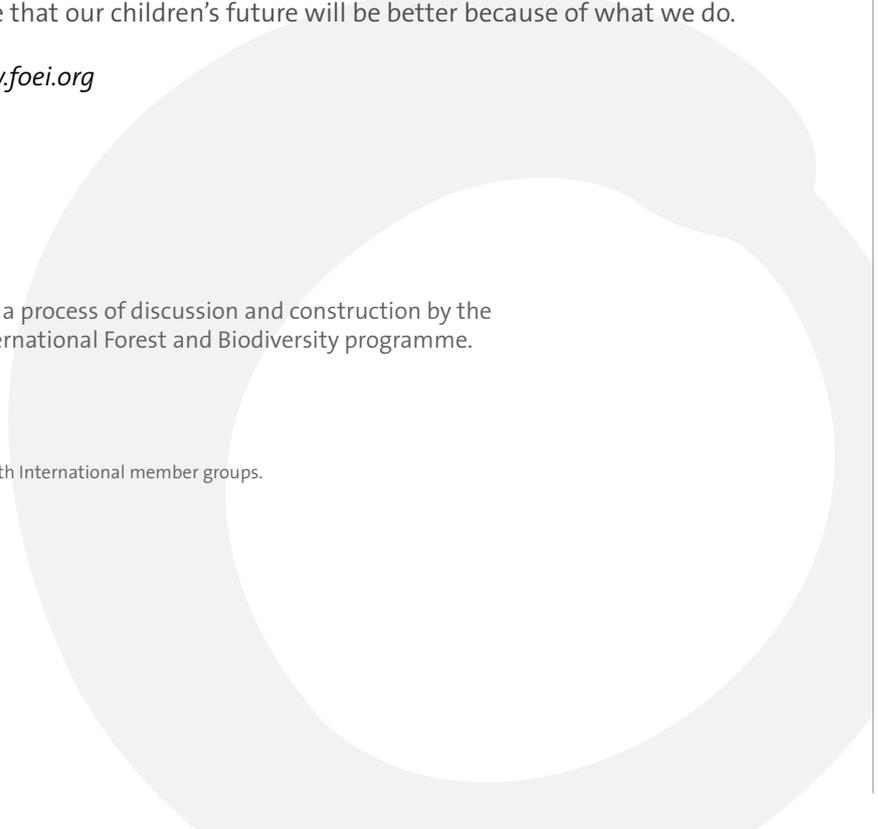
Our vision is of a peaceful and sustainable world based on societies living in harmony with nature. We envision a society of interdependent people living in dignity, wholeness and fulfilment in which equity and human and peoples' rights are realised. This will be a society built upon peoples' sovereignty and participation. It will be founded on social, economic, gender and environmental justice and be free from all forms of domination and exploitation, such as neoliberalism, corporate globalisation, neo-colonialism and militarism. We believe that our children's future will be better because of what we do.

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This text is the result of a process of discussion and construction by the Friends of the Earth International Forest and Biodiversity programme.

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INTRODUCTION

This paper presents Friends of the Earth International's (FoEI) perspectives on the rights that we think are essential for community forest management (CFM). Through this practice, local communities and Indigenous Peoples¹ have a better chance of enjoying an improved quality of life, as conditions in their territories will be better and allow for the continued existence of their cultures. CFM cannot be fully developed without rights. When we talk about enforcement of these rights vis-à-vis forests, the same is also applicable to biodiversity, agroecology and specific ecosystems.

The struggle for justice and the realisation of rights is an essential part of FoEI's agenda. We defend rights in different international, national and local spaces. We have published a number of papers that include rights as part of our demands, and we carry out countless struggles in all our local and national organisations.

Rights ensure protection of aspects of life that are extremely important for Peoples, while strengthening necessary systemic change. Consequently, we regard the realisation of rights as an important tool to put an end to various forms of oppression, while simultaneously enabling the realisation of justice and equity—both within communities and in society at large.

Therefore rights must be guaranteed and thus protected by States. These include the right to territory, the right to life, the right not to be criminalised, and the right for the decisions of Indigenous Peoples and local communities on territorial management to be respected. We consider rights to be inherent to Peoples, and therefore they exist regardless of any formal State recognition. Of course, all States and international bodies should have the obligation to respect them.

But reality shows us that the opposite is taking place: land rights are not respected; nature is being increasingly turned into a commodity; living conditions for many

Indigenous Peoples and local communities are steadily worsening; corporations enjoy impunity, while those defending territories are harassed, injured, and in many cases murdered with total impunity. In many countries, it is almost regarded as a crime to defend forests, peoples' rights and ways of life that are closely linked with Nature; these actions put lives in danger.

With awareness of this situation, in this paper we analyse and focus on the specific rights related to CFM. In many cases, these are complementary to other Human Rights that we consider to be established rights, and therefore we do not mention them herein; however it goes without saying that they must be fully respected and complied with. This paper is divided into six chapters. The first chapter lists some of the threats to these rights. The second chapter discusses rights and necessary conditions for their realisation. Chapters three and four analyse internal and external conditions required, and implications for peoples' rights in each of them. Chapter five describes some of the features of these rights; and finally, chapter six includes some additional demands.

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THREATS TO RIGHTS

This paper outlines all the rights that we believe peoples practicing CFM should enjoy. On the one hand, this is to ensure they can live in their territories, and be able to control their lives and preserve their cultures—which involve living in harmony with the ecosystems they inhabit. On the other hand, this would enable them to continue fulfilling the role of traditional caretakers and guardians of Nature, which ensures their ability to remain in their territories.

Some of these rights are already recognised in international law (Declaration on the Rights of Indigenous Peoples, International Labor Organization (ILO) Convention 169, several decisions by the Committee on World Food Security, the Convention on Biological Diversity (CBD), Human Rights treaties and agreements, among others). Some States have adopted a number of these rights into their national legislation; however there are huge gaps in implementation. Other rights have not yet been recognised at any level. For FoEI, it is essential to fight for international, national and local recognition and implementation of these rights, in alliance with popular movements and organisations.

Beyond the mere formulation of these rights, States need to change their development models and stop promoting policies and projects that threaten both peoples and Nature. The current mode of development, the pursuit of profit in every sphere of life, and violations of peoples' rights need to be abandoned. Consequently, States should ban, or at least impose strong restrictions on the development of new projects that focus on:

- Financialization of Nature (FoN), which entails further commercialisation, commodification and codification of Nature;
- Agrocommodities that promote the expansion of the industrial agricultural frontier;
- Tree and monoculture plantations;
- Industrial logging;
- Industrial biomass production for energy generation;
- Mining;
- Oil exploration and drilling;

- Infrastructure developments such as highways, high-speed trains and mega bridges;
- Real estate developments that threaten biodiversity, Indigenous Peoples' territories and local communities;
- Hydroelectric dams and other energy projects that strip Indigenous Peoples and local communities of their territories and/or displace them;
- Tourism. Many tourism projects are detrimental to the environment and to communities. Moreover, many tourism projects are imposed on communities, affecting their CFM;
- Land use planning and legislation. The absence of Indigenous Peoples and local communities in decision-making on issues that could affect their territories is striking, given that many community lands are part of a watershed and/or ecosystem. Disrupting these ecosystems can undermine the sustainability of the territory and therefore the forest;
- Fisheries. Large scale fisheries projects, such as salmon farms, are developed on the coasts of rivers and seas, potentially affecting communities' territories;
- Militarisation;
- Imposition of protected areas on the territories of Indigenous Peoples and local communities;
- Any initiative to protect forests, biodiversity and ecosystems that results in the loss or erosion of Indigenous Peoples' and local communities' rights, or the loss of control over their territories.

Without these threats and pressures (all of which are drivers of Human Rights violations), it is more likely that peoples' rights will be better respected than they are today.



Image: Friends of the Earth International.

RIGHTS AND CONDITIONS

CFM provides many benefits to Indigenous Peoples and local communities: a healthy environment; Nature's bounty that is used for food, healthcare, clothing and housing; landscape beauty that contributes to improved emotional health; and spaces for spiritual practices, among other benefits. It offers the opportunity not only to preserve forests and biodiversity, but also makes territories safer from the impacts of weather events and so-called natural disasters. At the same time, it can support sustainable and solidarity economies and equitable social relations. In addition, it is now a widely established fact that areas under CFM practices have greater biological diversity and healthier ecosystems than those protected under traditional schemes, such as national parks. Meanwhile, society as a whole benefits from all of the above.

However, for Indigenous Peoples and local communities to be able to use and enjoy all these benefits, some internal and external conditions must be secured:

- **Internal conditions:** Within the community, conditions that facilitate internal stability need to be established. These include organisation and decision-making processes, participation of all sectors in those processes, and a positive relationship with ecosystems, and therefore favourable conditions for the preservation of Nature. Meeting these internal conditions both depends on, and facilitates the demand for rights that ensure the development of CFM. These internal elements are described in the following chapter (Chapter 3);

- **External conditions:** Both states and international institutions are required to ensure those external conditions. As it is so important that these conditions be met, Friends of the Earth International believes they should be guaranteed as rights. This analysis is included in Chapter 4.

It is the State's obligation to guarantee the conditions to adequately develop CFM, and therefore fully implement and respect peoples' rights. This obligation is known as the fiduciary duty of States to protect peoples' rights, including the right to manage forests within their territories. This also involves States refraining from acting in ways that are inconsistent with these rights, or that affect these rights

and the well-being of communities. Consequently, these conditions must be regarded as rights of Indigenous Peoples and local communities. These rights are based on traditions and customary practices; therefore their authority does not derive from any State's recognition, but rather from that history, legitimacy and practice.

The State must ensure the necessary conditions to develop CFM without any problems. This will determine the implementation of Indigenous Peoples' inherent rights. To ensure justice and equity, all sectors of the community should be entitled to these rights (immigrants, women, youth, members of minority spiritual groups or religions, etc.). All of this should take place without violating the autonomy of Indigenous Peoples and local communities. They are the ones who ultimately need to make the decision to engage in CFM in a broadly participatory manner, and also oversee its implementation. By implementation, we mean how will CFM be developed—including everything from decision-making to benefit sharing (if there are any benefits)—and how this will be carried out.

If these conditions are met and implemented, the degree of protection of communities' rights will be strengthened, and consequently, so will CFM. At the same time, efforts to protect forests and biodiversity will be reinforced, and communities and the public in general will enjoy better living conditions.



Image: CEIBA/Friends of the Earth Guatemala

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INTERNAL CONDITIONS

Some of the desirable internal conditions at the community level include:

3.1. Community organisation

Community organisation should legitimately represent the interests of Indigenous Peoples and local communities. This means it should be based on their customs and traditions. All members of the community should participate equally in building that organisation. That includes those who have immigrated for different reasons and are already part of the community. It also includes women, youth and any other group that is part of that community. This process of building organisation should take place without coercion, pressure, influence or control from any entities outside of the community.

Clearly, different forms of organisation must be recognised and respected. These are usually based on world-views, and traditional knowledge and practices that can differ from one community to another. This is because territories under CFM reflect diversity—not only biological diversity but cultural diversity—and therefore, the forms of organisation might adopt different expressions. Some of them might even be dissimilar when compared with each other. In some cases, we will be confronted with circumstances or situations that are not desirable or even acceptable when viewed from other perspectives. Even in these cases, respect must be afforded to all the actors' forms of organisation.

We must highlight that community organisation is an essential element to ensure political control of the territory and the full exercise of other rights.

We have identified other important elements of community organisation, which include the following:

- Decision-making must be based on traditional ways, uses and customs. Experience from various CFM initiatives indicates that it is important to have an accountability mechanism in place that ensures, among other things, inclusiveness as a basic principle in decision-making;

- Decisions must be made on who will exercise leadership in the defence of the community's rights and interests, and how they will do so. Usually, decisions on who will exercise leadership are made by consensus and according to customs and traditions. It is important to include women and youth;

- Establishment of culturally appropriate internal mechanisms of prevention, detection and resolution in the face of potential acts of corruption. In the same way, they should prevent any group or elite from taking over decision-making processes;

- Establishment of inclusive governance structures for CFM with a clear mandate, bylaws and structures that ensure responsible management and equitable benefit-sharing, based on a shared view of the community and development strategies;

- Establishment of structures that represent the community vis-à-vis external actors, including nomadic communities, neighbouring communities, civil society and government authorities, among others;

- The will of the entire community to implement CFM, and hence a collective decision and position about the uses given to the forest and how these should be developed. This decision involves communities' knowledge about the different processes that maintain ecosystem stability;

- Women must be fully and equally included in decision-making processes as well as in the use, access to, and control of the territory. As mentioned above, this inclusion should encompass all sectors of the community (immigrants, youth, members of minority spiritual groups or religions, Indigenous Peoples living amongst local communities). Their inclusion must be full and equitable.

Regarding the inclusion of women in decision-making processes: We are aware that many societies are patriarchal. These societies exclude women and violate their rights in many ways. Based on FoEI's political understanding of system change, the struggle for gender justice is key, as well as dismantling patriarchy.

In the case of this and other rights, contradictions can be found within some local communities' or Indigenous Peoples' customary practices and traditions; for instance, women may not be not allowed to participate in decision-making processes. However, it is essential that women's rights are fully and effectively recognised.

We know that patriarchy promotes systematic oppression of women, as well as exploitation, violence and inequality. Usually, this system is maintained through social rules and traditions, and through the economic, political and social power dynamics between men and women. We know that patriarchy often goes hand in hand with capitalism.

At FoEI, we believe we can enhance CFM by advancing gender justice; and by fighting against the system of oppression—rooted in patriarchy, capitalism and colonialism—that allows for the exploitation of our bodies, communities, forests and Nature. This can be achieved, among other ways, through recognition and visibility of the role and capacities of women and other vulnerable groups, taking into account the history of oppression and injustice they suffered as a social group. Women play a fundamental role in communities and in CFM processes.

All of this is a work process that we must take on as part of the struggle against patriarchy, and for fair and equitable societies.

3.2. Respect for, and promotion and strengthening of, the community's culture and spirituality:

The respect for, and promotion and strengthening of, the community's culture and spirituality is related to:

- Cultural elements closely tied to territory and through which collective knowledge is built. Examples of these elements include: seeds (free access and exchange), medicinal plants and other resources, and world-views;
- The collective nature of Indigenous Peoples' societies and local communities;
- The inherited social, cultural and agricultural practices—including CFM—that the older generations pass on to new generations;
- Preservation of traditional knowledge; including language, customs, traditions and spirituality, all of which are constantly evolving.

3.3. Generation of local livelihoods

The generation of livelihoods relates to:

- The use of Nature's bounty found in the territory, according to the customary practices of Indigenous Peoples and local communities; this allows them to generate food, clothing, medicine, timber and spaces to live, among other things;
- Respect for, and promotion and strengthening of communities' knowledge about CFM;

- Shared views and strategies about the kind of development or ways of living that communities wish to promote; also shared views about the benefits resulting from CFM as part of these ways of living;

- Recognition of traditional knowledge passed down from one generation to the next, in order to build systems to care for, manage and preserve forests. This traditional knowledge must be recognised as scientific knowledge, and be respected.



Image: COECOCEIBA/Friends of the Earth Costa Rica



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EXTERNAL CONDITIONS

These external conditions are rights that must be guaranteed by the State.

4.1. Right to self-determination or autonomy

This right is related to the fact that Indigenous Peoples and local communities can make their own decisions freely, without any type of coercion or pressure. This right involves the effective informed participation of all members of the community in the necessary decisions regarding anything that affects their territories, customs and traditions.

If autonomy is to be respected, States must enshrine it as a core principle in any regulation governing CFM. The criteria developed by communities themselves are what makes Community Forest Management truly of the community. These criteria are as valid as those developed by Western culture, which often uses techniques and proposals that are quite harmful to forests.

The right to self-determination helps create the conditions wherein Indigenous Peoples or local communities can make independent decisions and put them into practice. Such conditions can include:

- States must recognise and respect internal leadership, and the ways used to determine this leadership;
- States must recognise and respect community- and tradition-based legal frameworks for conflict resolution, including when they are applied to events that the national State considers to be crimes.
- Communities establishing spaces for consultation and discussion where they can make decisions and exercise their right to self-determination.
- States must recognise the ways in which Indigenous Peoples and local communities manage their territories, according to their customs and traditions. The State should recognise not only these community-based legal frameworks, but also the fact that the communities themselves are the authorities and governments in their territories. This State recognition must be based on national laws that are themselves based on international regulations that recognise this autonomy.

Image: Amelia Collins, Friends of the Earth International.

This recognition can also take place at local authority level, which can facilitate the need to adapt to and respect the particular features and conditions of a territory, country or municipality. In order to recognise this autonomy, some States introduce requirements. Such requirements might take into account various factors, notably including that the community: self-identifies as Indigenous People; maintains a sense of belonging and relationship with a cohesive sociocultural group; uses traditional governance structures; has its own territory or clear territorial claim; and preserves its own governance institutions and legal structures, which are strictly respected by its members.

4.2. Rights to territory

There are three important factors that contribute to maintaining control over territories: access to land, as examined in this chapter; access to decision-making processes, as discussed above; and practicing traditions and customs that ensure a sustainable use of Nature, which we will also address in this chapter.

Indigenous Peoples and local communities have the right to rely on their territories, have them demarcated by the State, and have them safeguarded from any attempts by third parties to appropriate or use them. This is one of the most important rights, and many people have been killed defending it. Land rights are key and at the centre of many of the struggles that communities are carrying out. We believe this right should be recognised without delay; because without land, CFM cannot be exercised to benefit all other life in the territory. It is important that no land disputes over the same territory exist or arise among several Indigenous Peoples, local communities or other communities.

The right to territory and control over it entails:

- Collective land titles that ensure greater security over territory and therefore the deployment of traditional sustainable practices.³ These titles must be valid forever, in perpetuity;
- The right to free access, control and use of the territory, especially for CFM where forests are located. Many times, this also involves using the wildlife that is part of territories and forests. This use of territories and forests will be carried out following community traditions and customs;
- State guarantees for, and enforcement of, the right to enter and manage forests and biodiversity according to the customs and traditions of communities;

- Communities having the right to regulate the entry of people coming from outside their territory;
- The right to make decisions regarding the management of the territory, following customs and traditions. These decisions must be based on a consultation process that should be free of any type of external pressure and conducted before the activity takes place. The consultation process must also entail providing all necessary information to the people, and must follow community customs and traditions to ensure broad participation and discussion by the entire community, in their own language;
- The right to special protection of cultural and spiritual areas;
- The right to stay in the territory, so that communities are not evicted or relocated through mechanisms or policies, such as REDD, ‘protected areas’, or infrastructure projects. Consequently, in keeping with their right to self-determination, communities will have the right to say no to any given investment coming from outside the community.

We have identified two situations worth highlighting in regards to territory. The first one is related to conservation areas and community territories, and the second is related to collective titles over territories.

Regarding conservation areas, our starting point is that no new conservation areas can be established in the territories of Indigenous Peoples and local communities without their explicit consent. In the same vein, those conservation areas should not overlap with community territories. Use and conservation practices are already in place in these territories, and they provide better protection than in areas preserved through national parks.

If, after internal decision-making processes, the community itself decides that their territory should be part of a conservation area subject to State legislation, there is no problem—since that decision is part of their right to self-determination. In such a decision and in subsequent negotiations with the State, restrictions on the use of the territory can be established, as well as the development of activities, including cultural and spiritual activities. However, it is worth noting that indigenous and community-conserved areas are a category now broadly recognised by international bodies, including the Convention on Biological Diversity.⁴

As for land titles, there is a discussion about whether they should be collective or private. In the case of Indigenous

Peoples, titles are traditionally collective, and at the internal level, each family or social group has a certain area to use; meanwhile there are areas for the collective use of the entire community. In some countries, Indigenous Peoples and local communities are having discussions about private titles, due to the belief that they provide more well-being. However, in some situations lands have been lost, communities have been divided and conflicts have arisen. The belief in the primacy of the individual can be seen as a value promoted by the dominant capitalist development model.

Another problematic situation we have encountered is that, even if a community has titles for its territory, the State still holds rights to the underground space or subsoil. Many times, States will grant subsoil concessionary rights to mining or oil companies, thereby rendering the community's rights to the land void, in practical terms. This situation is difficult, and the struggle for rights that include the subsoil is extremely important; as it is completely illogical to have rights to land that can be affected by activities that ultimately override these rights.

4.3. Right to well-being

We understand community well-being to mean communities' quality of life and the State's obligation to these communities (and the rest of society) to provide public services and work toward the improvement of their quality of life. This is part of respecting communities' rights to self-determination. We do not use the term "development," as it can be identified with the dominant model that prioritises profits and individual well-being, rather than meeting needs that lead to an improvement in communities' quality of life. As such, we have identified the following rights as being essential to communities' well-being:

- The right to carry out their own economic activities with solidarity;
- The state guarantees enforcement of communities' rights to enter and manage traditional territories, including forests and biodiversity, according to traditions. This can also encompass the right to exchange or sell products made from various forest goods, in order to satisfy and improve the quality of life of the community;
- The right to carry out activities that generate economic profit, such as the development of handicrafts or the sale of other products;
- CFM must be done in a traditional way, that is, without compromising the ecological balance of the area. Note that this operates on the assumption that CFM is a group of community practices that preserve forests in a better way than the 'protected areas' we see today. Therefore, in principle, there is no place for activities that solely focus on profit;



Image: Roza. Shifting cultivation of cassava in the Amazon rainforest in Brazil. Image: CENSAT - Friends of the Earth Colombia

- The right to have State support for any development needed, as the community decides;
- The right to have public services provided by the State as an obligation,
- right to policies that allow for participation in the national economy, such as recognition of collective enterprises, and ways to pay taxes that are adapted to and appropriate for communities.
- The right to receive investments for appropriate infrastructure—always based on community agreement. This could include, for instance, creating access roads to the community, between communities or within territories; building schools, health centres or recreation spaces; and other infrastructure.
- The State's duty to provide necessary incentives—including economic incentives—for the community to refrain from changing the use of forests and territories

ostensibly in pursuit of better living conditions. These State incentives cannot represent, or be based on, proposals that focus on compensation, commodification, financialisation or reification of Nature. Far from being solutions, these measures have detrimental impacts on Nature and create problems both in the territories where these plans are developed and in other territories. In the case of State incentives, the source of resources must be clear from the outset.

All of the above should always occur according to the community's traditions and ways of life, and with the explicit agreement of the community. In addition, the needs of different members of the community must be taken into account, including women, members of different ethnicities, those with fewer resources and members of non-dominant religions, for instance.

Communities might receive funds from mechanisms such as REDD or extractive corporations. FoEI believes that these resources perpetuate the problems that cause biodiversity loss, and compound the causes that generate climate change—as in the case of REDD or any other type of mechanism or tool based on FoN. Similarly, funds from corporations enable greenwashing, which then allows them to continue with their destructive and unsustainable activities. In both cases, accepting these funds would facilitate the violation of the rights of other communities where the activities that destroy biodiversity and forests take place.

However, it is important to understand and respect the right to self-determination; one must be able to interpret multiple contexts that could explain why a community might make the legitimate choice to get involved in such a project. Such contexts may include, for instance, the absence of the State, or situations of need or scarcity generated by States themselves in many cases. On this point, it is important to remember that many communities—after getting involved in such projects with false, insufficient or distorted information—end up backing out, denouncing or withdrawing from the project.

In any case, we believe we must fight for CFM to become peoples' central source of livelihood and well-being. Therefore, CFM has to be recognised and respected by States, as mentioned throughout this paper.

4.4. Right to decide on proposals from entities outside of the communities

Many times, different actors arrive and propose different projects to communities. Many of these projects have negative impacts on communities and their territories.

Faced with these proposals, communities can either reject the proposal from the beginning or enter an internal process to make a decision.

Community decisions should always be made on the basis of prior information that the community can analyse autonomously. This might require convening experts on specific issues who can provide technical knowledge to the community, so that they can make decisions on the best course of action. To that end, the community must have the necessary economic resources, if applicable, to be able to hire the experts—who, in turn, should be people the community trusts.

Once the community has analysed the information and used broad participation mechanisms, it will make the decision according to their customs and traditions. This may take more time in some cases and communities than others. The terms and timelines of a community must always be respected.

If the community ultimately makes the decision to say no, this decision must be respected. Similarly, if a community does not want to enter into a process to make a certain decision, that must be respected.

This decision-making process differs widely from so-called consultations that take place in several countries. These consultations take place at a fast pace, via mechanisms that put pressure on and coerce communities; and if communities decide against allowing activities in their territories, this decision is not respected.

Establishing a protocol or regulation that respects and favours community decision-making regarding a project (for example a proposal for timber, mining or oil extraction, which might originate with the State, companies or non-governmental organisations) could involve the following:

- First of all, respecting the right of peoples to avoid being contacted;
- The right to establish no-go zones in their territories: the right to determine that certain activities will never be allowed in their territories (or for long and clearly defined periods);
- In the absence of the former, the community has the right to processes that seek their Free, Prior and Informed Consent (FPIC). We identify the following elements which must be fulfilled by this type of process:
 - Self-identification as a community;
 - Balanced representation;

- All the necessary information must be provided and shared before making a decision. The information should be in the language of the community that will be consulted;

- This information must be analysed following the processes defined by the community. States must play a role in ensuring information is analysed (including possible contracts) and provide the necessary conditions for this to take place. That is, if the information is explained in technical language, States must ensure the necessary conditions for the community to have trusted experts explain and analyse that technical information. If that does not happen, an unacceptable power dynamic will be created;

- Once the information has been analysed, the community will make the decision they deem to be best, following their customs and traditions. All groups that are part of the community must participate in this decision, meaning that all members and minority groups must be included;

- Any decision by the community must be unconditionally respected;

- No threats, coercion or any type of pressure can be exerted during the process. The internal pace of each community must be respected;

- Different follow-up mechanisms must also be defined to make sure the decisions and conditions of the community are respected;

- The entire consultation process must take place in the language of the community. Oral communication, which is usually predominant in communities, must be respected; and the necessary conditions for this to take place must be ensured;

- In cases of proven procedural violations or tampering with the results and guarantees, the process shall automatically be rendered null;

- It is recommended that the community—with support from the State—determine a maximum number of processes in which they will be involved within an established timeframe. This is important, because these processes normally are quite long, involve a lot of effort and can be exhausting. If a community needs to respond to this kind of process too often, its cohesion is eroded. This is an automatic violation of the rights of Indigenous Peoples and local communities to have internal processes without interference. It is important to take into account the fact that companies sometimes use the tactic of repeated and excessive processes to break the will of a community;

- Any project that is opposed, or met with resistance from Indigenous Peoples—and where as a result of this resistance, community leaders or any members of the community have been intimidated, abused in any way, or murdered—must be automatically canceled.

4.5. Cultural rights

Cultural rights include the following:

- Recognition of the community's language;

- Education in their own language and in a culturally appropriate way;

- Spiritual rights: Spirituality entails deep and complex considerations that are based on multiple values, and in many cases a spiritual connection with the territories. This guarantees that forests will be used in a way that is respectful of and preserves Nature, rather than only responding to human needs or ambitions.

4.6. Right to protect traditional knowledge

This aspect is extremely important, given the connection between biological and cultural diversity—a relationship that has allowed for the sustainable use of Nature and its preservation. It involves:

- The right to reject patents, breeder rights and other forms of intellectual property over seeds and biological diversity, as well as over elements of communities' cultures and ancestral practices;

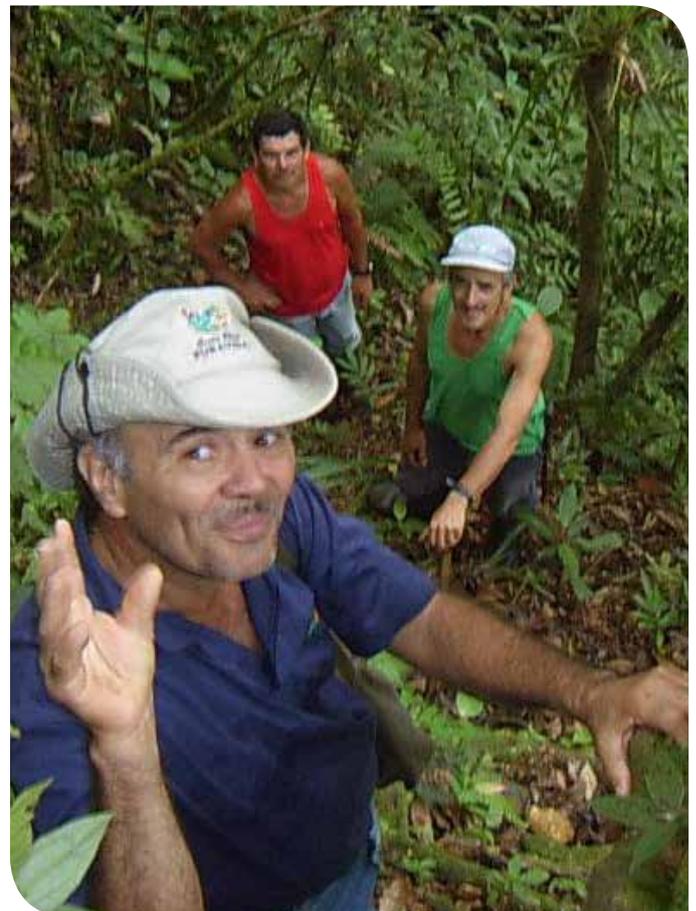


Image: COECOCEIBA/Friends of the Earth Costa Rica

- The right to reject the entry of scientists and other people who gather information for companies;
- Respect for the collective nature of traditional knowledge that derives from the collective nature of Indigenous Peoples' societies and local communities;
- Respect for the hereditary nature of some of the social, cultural and agricultural practices that older generations pass on to younger generations, which are encompassed in traditional knowledge;
- The community's right to use its traditional knowledge without the risk of harassment, threats or persecution by the State or any other actor. This means that any seed-related legislation that criminalises the use of peasant seeds and promotes their privatisation, or that criminalises the ancient practice of seed exchanges, lacks legitimacy and should not be passed.
- They are interdependent and indivisible: all of these rights are connected, so if the validity or recognition of one is denied, the rest are at risk;
- They are unalienable: they cannot be bought, sold or transferred, and no one can be deprived of these rights;
- They cannot be waived: nobody can waive their rights, and if they do so, the act is null.
- They are imprescriptible—lasting forever;
- They are collective: it is the peoples as a collective who are the rights-holders;
- They are based on culture, traditions and practices of Indigenous Peoples and local communities, and therefore they are historical;

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FEATURES OF PEOPLES' RIGHTS

The rights analysed above ensure CFM. They share some common features, including:

- Their authority derives from community traditions, rather than from laws or any other forms of State power. Nonetheless, States have the obligation to protect these rights;
- They are universal: they apply to all people who are part of the local community or Indigenous People; and at the same time, they apply to all communities or Indigenous Peoples in the same situation;
- They evolve but do not recede. They are progressive, pursuant to new circumstances and progress/improvements that benefit local communities and Indigenous Peoples. For example, there have always been claims to territory and therefore to the right to territory. This is still a valid claim, but at the same time, the right to territorial management has emerged in recent years—that is, the management of territories according to the rules and traditions of each community and Indigenous Peoples. This is not a property right, but rather represents a form of community tenure that goes beyond the right to use resources and is closely linked to life itself;
- Communities derive specific rights from the aforementioned general rights. For instance, the right to the free use of resources found in their territories can result in the right to use a particular language, or the right to carry out cultural, spiritual or religious activities;
- Different communities can share the same rights. For instance, traditional knowledge of certain plants can be shared by different communities. This traditional knowledge is a right that must be protected, and when this traditional knowledge is shared, these communities also share this right.

CONCLUSIONS

We reiterate that CFM is not just a forest management modality; through the practice of CFM, the rights of Indigenous Peoples and local communities are also defended and strengthened. When we speak of enforcing these rights in relationship to forests, the same is true for biodiversity, agroecology and specific ecosystems. We believe that these rights can be applied to any territory.

When interpreting and enforcing all the aforementioned rights, we must not forget that they are interlinked, and adhere to the principles of universality and indivisibility. Should any conflict arise with a specific right while enforcing another one, evolutionary, systematic and comparative criteria must be used to interpret and analyse the situation. Accordingly, we acknowledge that the focus of human protection has shifted from the individual to the collective/community, as the evolution of Human Rights Law clearly shows. It has therefore been accepted that, given that our societies live in communities, collective rights should prevail over individual rights—since they safeguard the life of the community and in community.

We acknowledge that when we talk about rights, this automatically involves the legal-judicial angle. However this discussion is, above all, a political one. It is not only about creating new laws that define what rights are and regulate how they can be enforced; because if we regulate all activities through laws, we will simply confirm the supremacy of a dominant legal framework. In many ways, this is very different from the customary rules found in the experiences of coexistence and enforcement of justice practiced by different peoples. These rights represent a tool that can not only strengthen collective control over resources, but also add a new perspective to local communities' and Indigenous Peoples' struggles in general.



Image: COECOCEIBA/Friends of the Earth Costa Rica

NOTES

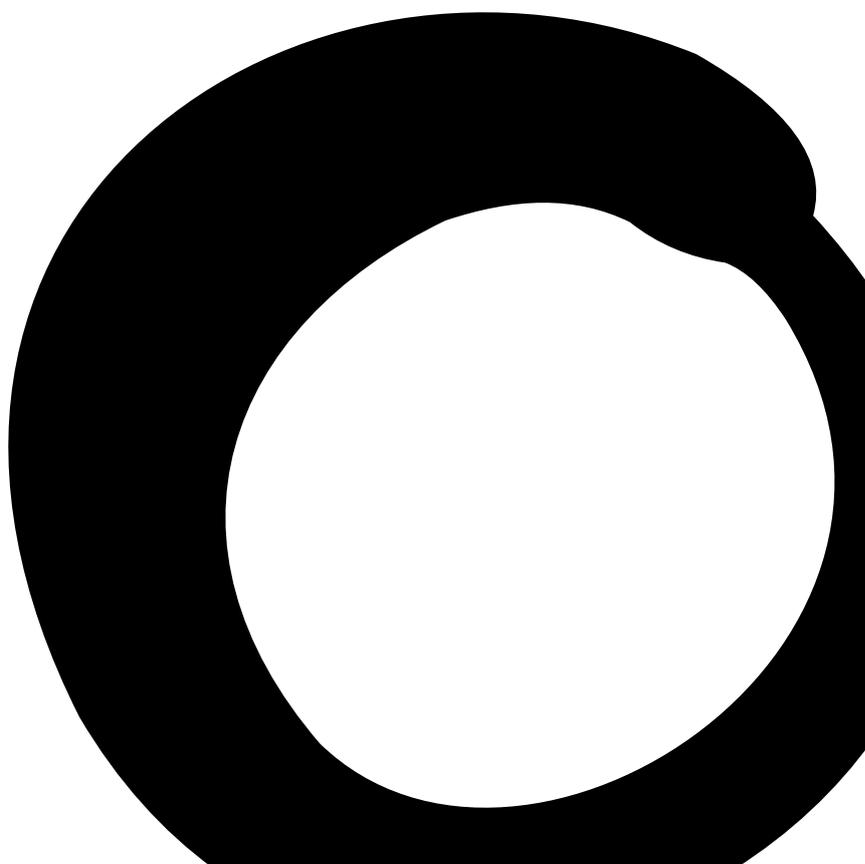
1. In line with the definition of the Convention on Biological Diversity, by “local communities” we mean all communities that have developed a longstanding association with the territories and waters where they have traditionally lived and coexisted. Therefore, we at FoEI also recognise all communities that have been established relatively recently, but that have developed a close relationship with their territories and forests. Rubber tappers in Brazil are one example. We are aware that the concept of community forest management covers a broad variety of practices that correspond to a broad diversity of communities. This means that we do not leave out communities that might not fit the definitions established by international conventions. We believe all of them are entitled to the rights discussed in this paper.

2. See Baltodano, Javier; Community forest management: an opportunity to preserve and restore vital resources for the good living of human societies, FoEI; 2018; page 9.

Also: <https://www.iflscience.com/environment/land-managed-by-indigenous-peoples-have-the-greatest-levels-of-biodiversity/>

3. Research on 69 CFM cases involving experiences in three continents indicates that land tenure and clarity around tenure rights are the two important successes of CFM experiences. Furthermore, having certainty regarding the boundaries of the territory being managed avoids conflicts with other owners; enables better knowledge of the resource and the establishment of maps and other useful tools; and contributes to building communities’ confidence on tenure.”; Baltodano, Javier; op. cit page 9

4. <https://news.mongabay.com/2018/12/global-agreement-on-conserved-areas-marks-new-era-of-conservation-commentary/>



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