

# Traditional Knowledge and Free, Prior and Informed Consent in REDD+

A case study on Indonesia

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## Table of abbreviations

AMAN	Aliansi Masyarakat Adat Nusantara (The Indigenous Peoples' Alliance of the Archipelago)
CBD	Convention on Biological Diversity
COP	Conference of the Parties
CSO	Civil Society Organisation
ESMF	Environmental and Social Management Framework (BioCarbon Fund)
ESMP	Environmental and Social Management Plan (GCF)
ESP	Environmental and Social Policy (World Bank)
FCPF	Forest Carbon Partnership Facility (World Bank)
FFI	Flora and Fauna International
FPIC	Free, Prior and Informed Consent
GCF	Green Climate Fund
ILO 169	International Labour Organisation Convention No. 169, Indigenous and Tribal Peoples Convention, 1989
IPP	Indigenous Peoples Plan
LOI	Letter of Intent
MoEF	Ministry of Environment and Forestry
NGO	Non-Governmental Organisation
OP	Operational Policy (World Bank)
REDD+	Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
SES	REDD+ Social and Environmental Standards (UN-REDD)
SESA	Strategic Environmental and Social Assessment (FCPF)
SEPC	Social and Environmental Principles and Criteria (UN-REDD)
SIS-REDD+	Safeguard Information System for REDD+
PES	Payment for Ecosystem Services
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
UNGA	United Nations General Assembly
WB	World Bank

# 1 Introduction

The increasing threat of the impacts of climate change has led to the development of several international mitigation solutions to reduce greenhouse gas emissions, among them Reducing Emissions from Deforestation and Forest Degradation (REDD+). Initially introduced as a part of the carbon market, the solution was aimed at incentivising developing countries to reduce emissions from deforestation through results-based payments or carbon credits.<sup>1</sup> Officially starting off in 2007 at the Conference of the Parties (COP) in Bali, the negotiations leading to the establishment of REDD+ eventually emerged as an opportunity for “conservation as development”,<sup>2</sup> rather than a strict and technical focus on reducing emissions. Long histories of marginalisation of Indigenous peoples and negative experiences with similar schemes in the past led to significant participation and influence by Non-Governmental Organisations (NGOs) and Indigenous Peoples Organisations in the negotiations leading up to REDD+, advocating for strengthening rights considerations in this new initiative.<sup>3</sup> The results of their advocacy are highly visible in the provisions and policy documents of REDD+, but the implementation of these rights have proved to pose many challenges.<sup>4</sup> In addition, the growing emphasis on procedural rights may be argued to neglect the challenges of incorporating the interests of marginalised people and the uneven power relations inherent to engagement strategies.<sup>5</sup>

It is established that inclusive decision-making and the recognition of the rights of Indigenous peoples are “integral to successful forest adaptation”,<sup>6</sup> and although policy documents and guidelines appear promising in this regard, the implementation at the national and local level often falls short and poses risks for affected Indigenous peoples concerning access and rights to their ancestral territories, sustaining livelihoods and securing their procedural rights.<sup>7</sup> Free, Prior and Informed Consent (FPIC) has emerged as an important mechanism to protect the rights of Indigenous peoples in these contexts. However, scholars

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<sup>1</sup> Carbon credits are financial instruments that represent removal of carbon dioxide, which in turn can be sold at virtual financial marketplaces called carbon markets. Olawuyi, *The Human Rights-Based Approach to Carbon Finance* 2016). p.31

<sup>2</sup> Howell, “No RIGHTS–No REDD’: Some Implications of a Turn Towards Co-Benefits,” *Forum for Development Studies* 41, no. 2 (2014). p.254

<sup>3</sup> Especially negative experiences with the Clean Development Mechanism (CDM). Jodoin, *Forest preservation in a changing climate: REDD+ and indigenous and community rights in Indonesia and Tanzania* 2017).

<sup>4</sup> Howell, “No RIGHTS–No REDD’.”

<sup>5</sup> Boer, “Deliberative engagement and REDD+ in Indonesia,” *Geoforum* 104 (2019). p.171

<sup>6</sup> Intergovernmental Panel on Climate Change, “Summary for Policymakers,” 2022. p.23

<sup>7</sup> Raftopoulos, “REDD+ and human rights: addressing the urgent need for a full community-based human rights impact assessment,” *The International Journal of Human Rights* 20, no. 4 (2016).

have questioned to what extent Indigenous peoples actually gain influence through FPIC processes or whether it is simply a legitimizing step along the way for project implementers.<sup>8</sup> Nevertheless, FPIC remains an important mechanism in the context of REDD+ projects and has the opportunity to strengthen the position of Indigenous communities. In this regard, traditional knowledge may further reduce risks for local communities and has been recognized as key to sustainable management of forests.<sup>9</sup> By incorporating localized knowledge, decentralizing decision-making and allowing the communities to manage their own forests, multiple benefits can be achieved.<sup>10</sup>

With this in mind, this thesis seeks to address how the position of traditional knowledge in FPIC processes is expressed in the international REDD+ regime. A case study on Jambi province, Indonesia, serves to contextualise the issue to analyse the opportunities for affected communities to shape the projects they are participating in. Inherent to this approach is the understanding of FPIC as interlinked with decision-making, following the procedural rights that FPIC is based on.<sup>11</sup> As both a process and an outcome, FPIC has the potential to include Indigenous peoples and their knowledge in decision-making from the outset, strengthening their right to self-determination. Focusing on traditional knowledge, FPIC and the relationship between them, the purpose of this research is to enhance the understanding of how FPIC is understood as incorporating traditional knowledge in REDD+ projects and in this way may strengthen the position of Indigenous peoples.

## **1.1 Definitions and clarifications**

*Reducing Emissions from Deforestation and Forest Degradation* (REDD+) is an international mitigation scheme established under the *United Nations Framework Convention on Climate Change*.<sup>12</sup> The reduction of greenhouse gas emissions may be undertaken through various activities, including; reducing emissions from deforestation and degradation, conservation and

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<sup>8</sup> Dehm, *Reconsidering REDD+: Authority, Power and Law in the Green Economy* 2021).

<sup>9</sup> Principle 22, UNGA, "Rio Declaration on Environment and Development," 1992.

<sup>10</sup> Dooley, "Human rights and land-based carbon mitigation," in *Routledge Handbook of Human Rights and Climate Governance* ). p.376

<sup>11</sup> Razzaque, "A Stock-Taking of FPIC Standards in International Environmental Law," in *Environmental Rights: The Development of Standards*. p.219; Food and Agriculture Organization, "Free, Prior and Informed Consent: An indigenous peoples' right and a good practice for local communities," 2016. p.13

<sup>12</sup> United Nations, "United Nations Framework Convention on Climate Change," 1992. Overall objective as stated in Art.2: "to stabilize atmospheric concentrations of GHG at a level that would prevent human-induced actions from leading to 'dangerous interference' with the global climate system."

enhancement of forest carbon stocks, and sustainable management of forests.<sup>13</sup> Originating in international climate change negotiations, its implementation is first of all made possible by political relationships, where both bilateral aid agencies and multilateral development finance institutions negotiate agreements with governments in developing countries to implement REDD+.<sup>14</sup> Countries developing REDD+ activities are requested to develop national strategies and action plans preparing for the implementation of REDD+.<sup>15</sup> This initial phase is called REDD+ readiness and consists of establishing institutions, financial mechanisms and systems for measurement and reporting, assisted by international institutions providing funding, capacity-building or other types of support.<sup>16</sup> Participating countries may then receive results-based finance if compliant with the necessary systems.

Non-governmental voluntary carbon markets operate simultaneously to incentivize REDD+ projects, which may develop independently from national REDD+ programs. REDD+ projects aiming to sell carbon credits need to adhere to strict rules for carbon assessment and monitoring as laid out by voluntary standards, such as the Verified Carbon Standard or the Plan Vivo Standard that will be discussed in this thesis.<sup>17</sup> Primarily based on the local level, project-based REDD+ activities address drivers of deforestation in supply chains or work to incentivize through the generation of credits through Payment for Ecosystem Services.<sup>18</sup> This project-based approach is distinguished from jurisdictional REDD+ which is the country driven REDD+ programme. Both will be discussed in this thesis, as jurisdictional REDD+ has implications for REDD+ practice at the project level.

The understanding of the term *Indigenous peoples* in this thesis is based on the concept of self-identification, referring to communities based on traditional governance connected to their communal territorial ownership and management.<sup>19</sup> As there is no universal definition of the term Indigenous or who are to be identified as Indigenous peoples, their legal recognition varies depending on national legislation. In the context of Indonesia, the term *Masyarakat Adat* or

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<sup>13</sup> "Fact sheets: UNFCCC Negotiations," <https://redd.unfccc.int/fact-sheets/unfccc-negotiations.html>

<sup>14</sup> Carodenuto et al., "Practice-Based Knowledge for REDD+ in Vanuatu," *Society & natural resources* 35, no. 2 (2022).

<sup>15</sup> COP UNFCCC, "Decision 1/CP.16," 2010.

<sup>16</sup> Jodoin, *REDD+ and indigenous rights*.

<sup>17</sup> Schmitt and Mukungu, "How to Achieve Effective Participation of Communities in the Monitoring of REDD plus Projects: A Case Study in the Democratic Republic of Congo (DRC)," *Forests* 10, no. 9 (2019).

<sup>18</sup> Jodoin, *REDD+ and indigenous rights*.

<sup>19</sup> Fay and Denduangrudee, "An Uneven Path Toward Rights and REDD+ in Indonesia," 2018.

*Masyarakat Hukum Adat* is applied to describe Indigenous communities.<sup>20</sup> The diversity of this group in Indonesia has been used to neglect their status as Indigenous peoples, as reflected by the government when voting for the adoption of the UNDRIP.<sup>21</sup> The government claimed that the concept of Indigenous peoples was not applicable to Indonesia, and the recognition of the Indigenous rights of adat communities as defined under international law were thus rejected.<sup>22</sup> The recognition of adat status has been regarded as a mechanism to gain protection, but due to uncertainties and challenges across different governance levels in Indonesia, many REDD+ projects do not distinguish between Indigenous peoples and local communities. The rights of local communities will therefore occasionally be discussed in conjunction with the rights of Indigenous peoples.

To protect the rights of Indigenous peoples the principle of *Free, Prior and Informed Consent* (FPIC) was introduced in the 1989 ILO *Convention on Indigenous and Tribal Peoples in Independent Countries*.<sup>23</sup> It aims at ensuring that states make every effort to consult Indigenous communities in the context of development, land and resources.<sup>24</sup> The concept emerged as one of the most consistent elaborations of an authentic participatory process in a number of international human rights and environmental instruments.<sup>25</sup> The purpose is that affected communities can meaningfully participate in decisions directly impacting them, ensuring that these rights are respected and protected by states. In addition to safeguarding their rights and interests, FPIC is promoted as a means for Indigenous peoples to better shape REDD+ initiatives.<sup>26</sup>

The principle is further grounded in the 2007 *United Nations Declaration on the Rights of Indigenous Peoples* art.19, largely leaving the details of the process for individual states to determine.<sup>27</sup> Relevant to the case study, Indonesia has not ratified the 1989 ILO Convention but voted for the adoption of the UNDRIP, which as a declaration is not legally binding.

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<sup>20</sup> Jodoin, *REDD+ and indigenous rights*.p.90. As established by *adat* communities to describe their status as Indigenous Peoples during the First Congress of Indigenous Peoples of the Archipelago in 1999.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid. As established in UNDRIP and ILO 169.

<sup>23</sup> ILO, "Indigenous and Tribal Peoples Convention (No. 169)," 1989.

<sup>24</sup> Olawuyi, *The HRBA to Carbon Finance*. p.260

<sup>25</sup> Ibid. p.257, see ref.38

<sup>26</sup> Dehm, *Reconsidering REDD+*. p.338

<sup>27</sup> Mukisa et al., "Dissenting Voices in a Consenting Village: Lessons from Implementation of Free, Prior and Informed Consent at a Redd+ Pilot in Tanzania," *International Forestry Review* 22, no. 1 (2020).;UNGA, "United Nations Declaration on the Rights of Indigenous Peoples," 2007.Art.10, 11, 28 and 29



FPIC is derived from both procedural and substantive rights, and can be seen as a process including several practices ensuring the right to information, participation in decision-making and self-determination.<sup>28</sup> The latter establishes Indigenous peoples' right to "determine their political status and freely pursue their economic, social and cultural development."<sup>29</sup> As a right, self-determination is addressing Indigenous peoples' relation to the state. However, as this research adopts a critical approach by investigating the opportunities for social change, this relational aspect of self-determination is especially important. In this regard, Indigenous self-determination go beyond the relation to the state, and may also encompass other relations of domination.<sup>30</sup> Following this, self-determination through FPIC processes is not exclusively understood as a right aiming to alter the relation to the state, but also to other forms of domination, particularly the unequal relationship between traditional knowledge systems and Western scientific knowledge systems assumably inherent to the dominant REDD+ discourse.

This thesis adopts a broad understanding of the term *traditional knowledge*, where both local, Indigenous and traditional knowledge, customs, values or wisdom are considered part of this term. This understanding is adopted to address the nuances of how REDD+ activities and FPIC in particular may be considered to include this knowledge. Further, following the diversity of *adat* communities, it is clear that traditional knowledge in Indonesia cannot be generalized and will depend highly on the communities in question.

The term *empowerment* in this thesis is used to describe mechanisms that contribute to strengthening the position of Indigenous peoples or other affected communities in relation to other actors, such as NGOs, national or regional governments, and in describing their ability to define and shape REDD+ projects through their own traditions, values or practices. It is thus connected to the theoretical framework of Michel Foucault, emphasising the relationship between knowledge creation and different types of power, which will be discussed in detail in sections 2.2 and 5.<sup>31</sup>

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<sup>28</sup> Carodenuto and Fobissie, "Operationalizing Free, Prior and Informed Consent (FPIC) for REDD+: Insights from the National FPIC Guidelines of Cameroon," *Carbon & Climate Law Review* 9, no. 2 (2015).; Razzaque, "A Stock-Taking of FPIC Standards in International Environmental Law."

<sup>29</sup> UNGA, "UNDRIP".Art.3

<sup>30</sup> Kuokkanen, *Restructuring relations: indigenous self-determination, governance, and gender* (2019).

<sup>31</sup> Foucault and Gordon, *Power/knowledge: selected interviews and other writings 1972-1977* (1980).

## 1.2 Literature review

The human rights concerns in relation to REDD+ are connected to the more general debate on the impact of climate change mitigation solutions. Mitigation solutions affecting the use or access to natural resources are especially inclined to threaten the enjoyment of human rights, where increased competition for land or the undermining of tenure rights may contribute to escalate conflicts relating to land use or threaten Indigenous' relationships to their land.<sup>32</sup> The potential negative effects of REDD+ evolve around land grabs, land conflicts and violation of customary land rights, exploitative carbon contracts and corruption, marginalisation of Indigenous peoples and forest dwellers, increased poverty and disruption of traditional forest-based lifestyles, violence and persecution.<sup>33</sup> REDD+ initiatives may for example affect food security by reducing the availability of agricultural land or prohibiting Indigenous practices of shifting cultivation based on claims of unsustainability.<sup>34</sup> The latter is an example of how REDD+ may threaten traditional or Indigenous knowledge systems and values as the livelihoods of Indigenous peoples may be identified as drivers of deforestation or simply not part of the established techniques for protecting forests.<sup>35</sup>

These conflicts can be prevented by increasing the emphasis on rights, livelihoods and the benefits of local communities in REDD+ projects.<sup>36</sup> The right to FPIC has become an important mechanism in this regard, contributing to responsible development in Indigenous territories threatened by exploiting actors.<sup>37</sup> Although its implementation has proved to be difficult in many contexts, FPIC is increasingly being recognized and may have the potential to empower Indigenous peoples and local communities affected by REDD+ projects, especially by including traditional knowledge.

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<sup>32</sup> Savaresi, "Climate change and human rights: Fragmentation, interplay, and institutional linkages," in *Routledge Handbook of Human Rights and Climate Governance*.p.31; Jodoin, *REDD+ and indigenous rights*.

<sup>33</sup> Raftopoulos, "REDD+ and human rights."

<sup>34</sup> Bayrak and Marafa, "Ten Years of REDD+: A Critical Review of the Impact of REDD+ on Forest-Dependent Communities," *Sustainability* 8, no. 7 (2016).

<sup>35</sup> *Ibid.* p.12

<sup>36</sup> Alusiola, Schilling, and Klär, "REDD+ Conflict: Understanding the Pathways between Forest Projects and Social Conflict," *Forests* 12, no. 6 (2021).

<sup>37</sup> Raftopoulos and Short, "Implementing free prior and informed consent: the United Nations Declaration on the Rights of Indigenous Peoples (2007), the challenges of REDD+ and the case for the precautionary principle," *The international journal of human rights* 23, no. 1-2 (2019). p.88;Hein, *Political Ecology of REDD+ in Indonesia* 2019). p.154

### 1.2.1 Creating a “bottom-up approach”: FPIC, participation and traditional knowledge in REDD+

The potential negative impact on Indigenous communities led to the inclusion of FPIC in relation to REDD+ projects as a mechanism to protect Indigenous rights and their natural resources, as part of a set of social safeguards to be addressed by REDD+ implementers.<sup>38</sup> These safeguards are legally binding as established by UNFCCC decisions, but only address FPIC indirectly through reference to the UNDRIP, respect for the knowledge and rights of Indigenous peoples and local communities, and the full and effective participation of relevant stakeholders, in particular Indigenous peoples and local communities.<sup>39</sup> These safeguards will be addressed in detail in chapter 3. Following the requirement for social safeguards established by the UNFCCC, international agencies providing support for REDD+ implementation developed their own systems, including directions for effective participation and FPIC. The lack of a universally accepted definition of FPIC has led to various interpretations and requirements concerning FPIC, resulting in a complex set of directions for states, challenging its application.<sup>40</sup> Additionally, different countries may face various legal and institutional barriers to fully implement FPIC, but validation of FPIC at the national level is still a step forward to enhance participation and representation of Indigenous peoples.<sup>41</sup> It is however important that these are adapted to the specific context. Acknowledging the different histories and relationships between national authorities and Indigenous peoples, it is essential that distinct peoples have the opportunity to develop their roles in REDD+ according to their interests.<sup>42</sup> Establishing systems that respect FPIC should therefore be an overarching and continuous priority to ensure equitable implementation.<sup>43</sup>

The lack of effective participation of Indigenous peoples and local communities in the decision-making regarding REDD+ programmes and projects has increasingly been demonstrated through empirical findings.<sup>44</sup> These findings present different types of challenges

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<sup>38</sup> Raftopoulos and Short, "Implementing FPIC."

<sup>39</sup> COP UNFCCC, "Decision 1/CP.16", Appendix I, para. c, d.

<sup>40</sup> Gover, "REDD+, Identity Law and 'Free, Prior and Informed Consent'," in *The Impact of Climate Change Mitigation on Indigenous and Forest Communities: International, National and Local Law Perspectives on REDD+*.; Raftopoulos and Short, "Implementing FPIC."

<sup>41</sup> Carodenuito and Fobissie, "Operationalizing FPIC."

<sup>42</sup> Abate and Kronk Warner, *Climate change and Indigenous peoples: the search for legal remedies* 2013). p.163

<sup>43</sup> Ibid. p.163

<sup>44</sup> Raftopoulos, "REDD+ and human rights."; Freudenthal, Nnah, and Kenrick, "REDD and Rights in Cameroon: A Review of the Treatment of Indigenous Peoples and Local Communities in Policies and Projects " (2011); Espinoza Llanos and Feather, "The reality of REDD+ in Peru: Between theory and practice," *Forest Peoples Programme* (2011).

potentially undermining the right to self-determination, including lack of access to information and inclusive participation.<sup>45</sup> As deriving from these rights, the process of FPIC should address all these elements, ensuring affected Indigenous communities' participation and their freedom to pursue economic, social and cultural development on their own terms by incorporating their own knowledge.<sup>46</sup>

By engaging REDD+ and community-based monitoring experts through a case study on the Democratic Republic of Congo, Schmitt and Mukungu found that roughly 75% agreed that "FPIC and local institutional arrangements can be considered as prerequisites for the full and effective participation of communities in the monitoring process of REDD+ projects in the DRC."<sup>47</sup> Their study presented a perceived mismatch between the theoretical scope and the complex situation on the ground, highlighting the need for individual local solutions to REDD+.<sup>48</sup> The specific characteristics of the FPIC procedure may thus vary depending on the particular context, but should nonetheless be shaped by the "interest at stake for the Indigenous peoples concerned".<sup>49</sup> The survey showed that there are particularly three important aspects characterizing the full and effective participation of communities in the monitoring of REDD+ projects in the DRC: FPIC, recognition and consideration of traditional knowledge and community rights, and the involvement of community members in all steps of the monitoring process.<sup>50</sup>

The incorporation of traditional knowledge and institutions in REDD+ can limit the negative socio-cultural impacts of REDD+ and allow stakeholders in forest management to include sustainable traditional and Indigenous forest management practices.<sup>51</sup> Schroeder and González argue that incorporating Indigenous knowledge in REDD+ implementation will

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<sup>45</sup> Bayrak and Marafa, "Ten Years of REDD+."; Enrici and Hubacek, "Challenges for REDD+ in Indonesia: A case study of three project sites," *Ecology and society* 23, no. 2 (2018); Milne et al., "Learning From 'Actually Existing' REDD+: A Synthesis of Ethnographic Findings," *Conservation and Society* 17, no. 1 (2019).

<sup>46</sup> Raftopoulos and Short, "Implementing FPIC."; Villhauer, "Transforming REDD+ for Indigenous rights in Costa Rica," *Local environment* 26, no. 10 (2021).

<sup>47</sup> Schmitt and Mukungu, "Effective Participation of Communities: Case study on the DRC." p.8. As explained by Schmitt and Mukungu (p.2), community-based monitoring is involvement of communities in monitoring, reporting and verification of carbon and non-carbon benefits.

<sup>48</sup> *Ibid.* p.12

<sup>49</sup> Anaya, "Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, A/HRC/12/34," para.46

<sup>50</sup> Schmitt and Mukungu, "Effective Participation of Communities: Case study on the DRC."

<sup>51</sup> Bayrak and Marafa, "Ten Years of REDD+." p.12, referring to Asia Indigenous Peoples Pact, "REDD+ Implementation in Asia and the Concerns of Indigenous Peoples," 2010; Barnsley, "UNU-IAS Guide: Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD+): A Guide for Indigenous Peoples," 2009.

“increase its efficacy for protecting forests in a more holistic manner, while also respecting the rights of indigenous peoples to maintain their cultural, spiritual and political ties to their traditional territories.”<sup>52</sup> At the core of their argument is the idea that Indigenous knowledge systems and their ontology of territoriality can be complemented by global systems of knowledge formation, and in that way improve REDD+ outcomes, including both carbon and non-carbon benefits.<sup>53</sup>

Traditional knowledge has typically been dismissed in Western science and policy, illustrating the need to reconcile such different values and norms.<sup>54</sup> Within international law, traditional knowledge, innovations and practices are protected through the Convention of Biological Diversity and the UNDRIP, but the recognition of this knowledge as contributing to forest conservation has been slow within the REDD+ regime.<sup>55</sup> Following this, increased understanding of FPIC and the potential of traditional knowledge in this process is vital to understand how REDD+ initiatives can not only mitigate potential social risks, but create a “bottom-up” approach where Indigenous peoples are in control of their forests and potential REDD+ projects taking place there. In this way, there may be “significant value in strategically asserting cultural rights to promote greater inclusion of Indigenous peoples in forest carbon offset projects”.<sup>56</sup> As a continuous inclusive process, a focus on traditional knowledge in FPIC may thus be argued to enable Indigenous peoples and local communities to preserve their culture, but also gain influence and ownership of REDD+ projects. As transparency and accountability of national governments claiming to respect and protect Indigenous peoples’ rights continues to be a problem, the empowerment of affected communities through the inclusion of traditional knowledge may contribute to maintaining their traditions and culture.<sup>57</sup>

There are concerns that governments may use FPIC merely as tokenism, where relevant information, grievance mechanisms or time for internal discussion are not respected.<sup>58</sup> By providing participatory spaces, government agencies can claim legitimacy and accountability as a means to gain support for project implementation.<sup>59</sup> The process of FPIC should not be

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<sup>52</sup> Schroeder and González, "Bridging knowledge divides: The case of indigenous ontologies of territoriality and REDD+," *Forest Policy and Economics* 100 (2019). p.204

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid., United Nations, "Convention on Biological Diversity," 1992.Art.8(j)

<sup>56</sup> Dehm, *Reconsidering REDD+*. p.346

<sup>57</sup> Ibid.

<sup>58</sup> Asia Indigenous Peoples Pact, "REDD+ Implementation in Asia and the Concerns of Indigenous Peoples".

<sup>59</sup> Boer, "Deliberative engagement."

regarded as required steps along the trajectory of a project, but rather be understood as an integral part of a long-term deliberative exchange,<sup>60</sup> in which traditional knowledge is recognized and forms a crucial part.

If these participation processes are not full and effective, there is a risk that REDD+ activities come to serve the interest of powerful institutions, including government agencies, local elites or conservation organizations.<sup>61</sup> Those conducting FPIC need to recognize that “they constitute a certain way of conducting politics;” that may reinforce existing power relations or override the communities’ practices.<sup>62</sup> Engagement through FPIC processes may then be viewed as a powerful tool “in governing contemporary socio-environmental change.”<sup>63</sup> On a similar note, Julia Dehm claims there are several reasons to be concerned that FPIC is used for neoliberal imperatives of contractual certainty, rather than a commitment to Indigenous self-determination.<sup>64</sup> As FPIC is frequently discussed as a critical risk management strategy for implementers, it may threaten to undermine the normative commitment to self-determination that FPIC is built on.<sup>65</sup>

Further, the option of Indigenous peoples to actually oppose or withhold consent is not fully established, risking individuals or groups being framed as “uninformed”, where the lack of consent may be understood merely as a step along the way towards acceptance, ultimately delegitimising their decision and the knowledge it is based on.<sup>66</sup> Empirical studies demonstrate how powerful actors, such as governments or local elites, may use lack of consent to frame opposing voices as inappropriate or egoistic.<sup>67</sup> Continuing this, a community’s “inability” to make the “right informed choice” may be used to justify further “socialisation” or “education” of the community.<sup>68</sup> In this way, FPIC can ultimately be a mechanism to exercise the power to define and consequently to control while undermining traditional knowledge systems.<sup>69</sup>

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<sup>60</sup> Ibid.

<sup>61</sup> Bayrak and Marafa, "Ten Years of REDD+." p.7

<sup>62</sup> Boer, "Deliberative engagement."

<sup>63</sup> Peluso and Lund, "New frontiers of land control: Introduction," *The Journal of Peasant Studies* 38, no. 4 (2011); Boer, "Deliberative engagement." p.171

<sup>64</sup> Dehm, *Reconsidering REDD+*.p.337

<sup>65</sup> Ibid. p.345

<sup>66</sup> Ibid. p.345

<sup>67</sup> Howell, "'No RIGHTS–No REDD'.", Lounela, "Climate change disputes and justice in Central Kalimantan, Indonesia: Climate change disputes and justice," *Asia Pacific viewpoint* 56, no. 1 (2015).

<sup>68</sup> Dehm, *Reconsidering REDD+*. p.348

<sup>69</sup> Ibid.p.348

### 1.3 Research objective and questions

Despite criticism of FPIC, the presumption for this research project is that FPIC remains an important mechanism where an increased emphasis and recognition of traditional knowledge is central to empowering Indigenous peoples, contributing to a meaningful FPIC process where affected communities can have genuine influence. Considering the increasing recognition of FPIC within environmental and climate change law, including in the REDD+ regime, the prior and continued process of community consultations and participation throughout project activities may be argued to create opportunities for the inclusion of traditional knowledge. Following this, the objective of this research project is to contribute to the understanding of FPIC and traditional knowledge in REDD+, interpreting the relationship between them in order to analyse its potential to strengthen the position of Indigenous communities. This objective is guided by the overall research question:

*How is FPIC understood as incorporating traditional knowledge in REDD+ projects and may thus empower Indigenous communities?*

Additional research questions will further guide the research towards this overall objective:

- *How and to what extent are FPIC and traditional knowledge emphasised in REDD+ initiatives at different levels?*
- *To what extent is FPIC understood as and can be claimed to contribute to the inclusion of traditional knowledge in REDD+ projects?*
- *How can traditional knowledge in REDD+ projects empower Indigenous communities?*

## 2 Methodological approach

As an interdisciplinary research project, the aim is to interpret the principle of FPIC and traditional knowledge in different levels of the REDD+ regime and use this foundation to analyse its potential to empower Indigenous peoples. Consequently, this thesis adopts a critical approach, aiming to reflect on the potential of FPIC and traditional knowledge to bring about social change in the context of REDD+. Ethnographic studies on the implementation of REDD+ remain “unsynthesised across diverse sites and countries”,<sup>70</sup> underlining the need for further research on REDD+ and how it can adapt to the national and local level.<sup>71</sup> The case study serves

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<sup>70</sup> Milne et al., "Learning From 'Actually Existing' REDD+." p.85

<sup>71</sup> Bayrak and Marafa, "Ten Years of REDD+."; Jodoin, "The human rights of Indigenous Peoples and forest-dependent communities in the complex legal framework for REDD," in *Research Handbook on REDD-Plus and International Law*).

to answer to this issue, constituting an example of how the principle of FPIC may be adopted in the national level. Further, zooming in at the project level in Jambi province, the author sought to illustrate the application of FPIC in practice and how the position of traditional knowledge was presented in these contexts. The case study allowed the researcher to apply the theoretical framework to interpret and explore how FPIC and its relationship to traditional knowledge can be argued to provide empowerment of affected Indigenous communities.

To understand the position of FPIC and traditional knowledge in the REDD+ regime, the first part of the analysis is based on decisions, policies and frameworks addressing the social impacts of REDD+ activities. The REDD+ regime is of a particular transnational character, and the interpretation is conducted to illustrate this process and present the various understandings of FPIC and traditional knowledge. Next, the case study serves to contextualise these issues in the national and local contexts before moving on to the continued analysis in chapter 5, where the findings are analysed in the light of Foucault's concepts of power, exploring how the findings may present opportunities for empowerment and influence on the dominant discourse of the REDD+ regime. This is followed by a discussion on how these findings may add to the challenges of FPIC implementation and traditional knowledge identified in the literature review.

## **2.1 Data collection and methods**

Data were collected mainly through primary and secondary documents, such as reports, policies, and research articles. The documents were selected based on their purpose and source, meaning that documents meant to regulate or guide implementation of social safeguards by relevant actors were considered useful. Research articles and secondary sources of relevant national or regional regulations serve to contextualise REDD+ in Indonesia.<sup>72</sup> Throughout the analysis it was important to consider the purpose, context and intended audience for the documents.<sup>73</sup>

The following questions were used as a guide to analyse the documents:

- How is FPIC described?
- What elements of FPIC are most evident or stand out?
- What aim is it presented to have?

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<sup>72</sup> National and regional regulations related to REDD+ are important to understand the context in which REDD+ operates, but will not be addressed in detail due to accessibility issues.

<sup>73</sup> Bowen, "Document Analysis as a Qualitative Research Method," *Qualitative Research Journal* 9 (2009). p.38



- How does it emphasise Indigenous peoples' or local communities' ability to influence the decisions?
- Is traditional or local knowledge mentioned? In what way?
- Is traditional knowledge mentioned in relation to FPIC? How?

Semi-structured interviews with project coordinators and representatives of Indigenous communities were initially part of the planned data collection, but due to time constraints and challenges in accessing the relevant individuals, only one semi-structured interview was conducted. The purpose of the interviews was to get insight into implementation of FPIC at the project level and how traditional knowledge is emphasised in these projects. Through the interviews, the author aimed to investigate local ideas, experiences, and practices of FPIC as an international human rights norm.<sup>74</sup> Following the lack of interviews, the author decided to shift the focus of the thesis towards publicly available sources in order to analyse FPIC and traditional knowledge as an expression of discourse, where the interview served as a supplement.

## **2.2 Traditional knowledge as productive power**

Drawing on Arun Agrawal's concept of the creation of "environmental subjects", the analysis will investigate how the emphasis on and inclusion of traditional knowledge may challenge the dominant discourse within REDD+ and empower affected communities in relation to this knowledge system and in relation to other actors. Inspired by Henry Boer's work on power configurations shaping REDD+ in Indonesia, this issue will be discussed through Foucault's relational approach to power, where sovereign, discipline and productive power are interlinked and shifting.<sup>75</sup> Sovereign power denotes explicit rule from above, usually by the institutions of the state, where authority is maintained through the adoption and enforcement of laws.<sup>76</sup> Discipline on the other hand is exercised "over and through people and the individual body", where the purpose is to shape individuals to act according to certain standards through training and assessment.<sup>77</sup> In relation to FPIC processes at the local level, the concept of productive power is of particular interest to this research. This power is not held by social agents but

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<sup>74</sup> Sally Engle, "The potential of ethnographic methods for human rights research," *Handbooks of Research Methods in Law* series). p.141

<sup>75</sup> Boer, "Deliberative engagement." p.786;"Power, REDD+ and reforming forest governance in Indonesia," *Third world quarterly* 41, no. 5 (2020).

<sup>76</sup> "Power in REDD+ Indonesia." p.786

<sup>77</sup> *Ibid.* p.786

constructed through systems of knowledge and discursive practices, where the capacities of actors are socially produced.<sup>78</sup> In this way, power is exercised through social relations rather than through negative forms of oppression and can engage both “responsibilisation” and empowerment.<sup>79</sup> The creation of knowledge can thus be regarded as mobilisation and realization of power, constructing truths about appropriate new ways to govern.<sup>80</sup>

The integration of traditional knowledge can then be regarded as productive power opposed to the dominant REDD+ discourse and its inherent disciplinary character through “new truths” about governing REDD+ projects. Mobilising power to Indigenous peoples and local communities through FPIC may thus allow them to use their knowledge and shape REDD+ projects, where their knowledge systems are taking a larger part. This approach includes the normative assumption that FPIC and particularly participation in decision-making should enable Indigenous peoples and local communities to shape the projects they are taking part in, consequently strengthening Indigenous self-determination.

### **2.3 Limitations and ethical considerations**

To fully understand the impact of the rising rights consciousness in relation to REDD+ activities, extensive surveys and ethnography are necessary. This research project only answers to a limited part of this required understanding, but nonetheless seeks to contribute to the understanding of how human rights, and FPIC in particular, are understood, applied and may affect Indigenous communities.

Further, the initial aim of the interviews was to research how the Indigenous groups perceive the participatory processes of REDD+ projects. This would undoubtedly have added a more fruitful community-perspective to the research, but due to time, resource constraints, and inability to get in touch with the right contacts, this was not possible. Consequently, triangulation of the data was not possible to achieve. Additionally, the lack of knowledge of Bahasa limited the scope of the research, where for example government documents often where not available in English.<sup>81</sup> Luckily, project reports of local Payments for Ecosystem

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<sup>78</sup> Ibid. p.787

<sup>79</sup> Ibid. p.786; Lemke, "Foucault, Governmentality, and Critique," *Rethinking Marxism* 14, no. 3 (2002). p.53.

<sup>80</sup> Foucault and Gordon, *Power/knowledge*.

<sup>81</sup> E.g. regional government documents, such as the strategy and action plan (SRAP) of Jambi. Available in Bahasa at: <https://adriawanperbatakusuma.files.wordpress.com/2014/08/main-report-srap-redd-jambi-final2.pdf>. (Accessed 14.04.2022).

Services (PES) projects were available in English, providing data from the local level that were supplemented by the interview and news articles.

It follows from these limitations that the researcher must be especially transparent in argumentation, making sure to not overgeneralize or find what she wants to find.<sup>82</sup> In addition, the conclusions drawn from the discussion are not to be interpreted as an expression of Indigenous peoples' perceptions, and the analysis and findings must display sensitivity in portraying Indigenous peoples of REDD+ activities.<sup>83</sup> This is connected to awareness of the researcher's bias, being aware and transparent of preconceived assumptions that may affect the research. Further, ethical considerations regarding the interview were processed through an NSD application, ensuring that the interview subject received all relevant information about the project, their rights and opportunity to withdraw.

### **3 FPIC and traditional knowledge in the REDD+ regime**

FPIC can be found in various sources of law within national governments, multilateral, bilateral, and nongovernmental schemes, tools, and programs to support project-based and jurisdictional REDD+ activities.<sup>84</sup> This has resulted in a complex and fragmented set of regulations, policies, and guidelines on FPIC in the REDD+ regime, and the following sections will therefore only address documents that are directly or indirectly relevant to the case study following this chapter. Jurisdictional REDD+ developments are regarded as indirectly relevant because of their implications for project-based regulation by national governments. The different actors and policy documents illustrate the fragmented nature of the REDD+ regime, and the relations between these will be explained during the analysis.

#### **3.1 Human rights in the UNFCCC: The Cancun Safeguards**

The COP serves as the "supreme body" of the UNFCCC, where the adoption of decisions is to promote effective implementation of the treaty. In developing the framework for REDD+, the COP decisions were critical for the construction of legal norms to guide its implementation.<sup>85</sup> Through the Cancun Agreements in 2010, the Durban Platform in 2011, and the Warsaw framework in 2013, the COP adopted decisions that provide the requirements for jurisdictional REDD+ activities.

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<sup>82</sup> Nygaard, *Writing your master's thesis: from A to Zen* (2017).

<sup>83</sup> Ibid.

<sup>84</sup> Jodoin, *REDD+ and indigenous rights*.

<sup>85</sup> Ibid.

The Cancun Agreements can be seen as the beginning of introducing human rights concerns into the climate change negotiations, reflected in the preamble: “Parties should, in all climate-related actions, fully respect human rights.”<sup>86</sup> Concerning REDD+, the agreement specified that national REDD+ strategies must address relevant issues in a manner that ensures “the full and effective participation of relevant stakeholders, *inter alia*, indigenous peoples and local communities.”<sup>87</sup> Social safeguards were also adopted through the Cancun Agreements as part of seven non-mandatory safeguards addressing environmental and social risks relating to REDD+ initiatives. The safeguards refer to the objectives of “relevant international conventions and agreements”, which may be interpreted as an implicit reference to the human rights obligations of the UNFCCC parties.<sup>88</sup> Obligations under the UNFCCC should be interpreted in a supporting rather than a conflicting way with human rights, but not all Parties have ratified the relevant human rights treaties.<sup>89</sup>

Appendix I in Decision 1/CP.16 (Cancun Agreement) expresses the relevant safeguards in para. 2, stating that “the following safeguards should be promoted and supported”:<sup>90</sup>

(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;

(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;

By “noting” the adoption of the UNDRIP, the Cancun Agreement fails to address FPIC directly, but may be argued to do so indirectly. Overall, this safeguards regime is based on the voluntary participation of developing countries, leaving the details for each state to decide.<sup>91</sup> The Durban Platform provided some general guidance emphasising transparency and accessibility of information, but no specific or detailed requirements for how the safeguards should be addressed or respected.<sup>92</sup> The respect for national sovereignty is arguably also reflected through the phrasing of the safeguards by applying the word “*respect* for the knowledge and rights of

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<sup>86</sup> COP UNFCCC, "Decision 1/CP.16", para.8

<sup>87</sup> *Ibid.*, para.72

<sup>88</sup> Savaresi, "The legal status and role of safeguards," in *Research Handbook on REDD-Plus and International Law*. Referring to Decision 1/CP.16, Appendix I, para. 2(a).

<sup>89</sup> *Ibid.* p.142-145

<sup>90</sup> COP UNFCCC, "Decision 1/CP.16".Appendix I, para. c and d

<sup>91</sup> Jodoin, *REDD+ and indigenous rights*.

<sup>92</sup> COP UNFCCC, "Decision 12/CP.17," 2011.

indigenous peoples”, indicating an obligation not to infringe these rights, not to take active measures. The adoption of safeguards in national REDD+ implementation is thus highly dependent on national governments, but significantly shaped and influenced by international aid and support organisations.

Several international organisations and programmes part of REDD+ activities have developed guidelines for complying with the safeguards in relation to their support and funding, where the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD) and the Forest Carbon Partnership Facility (FCPF) are the two major actors. These guidelines and procedures serve to elaborate on the safeguards discussed in this section, including FPIC. The UN-REDD and the FCPF have been central in the development of REDD+ in Indonesia, and their approaches and guidelines to FPIC will be addressed here both to illustrate how the Cancun Safeguards are reflected through these actors and to understand the standards that have shaped REDD+ in Indonesia. It should be noted that the diverging safeguards adopted by these institutions result in countries being subject to different standards regarding the same activities, depending on which institution is handling the funding.<sup>93</sup>

### **3.2 Guidelines on FPIC in REDD+ support and funding institutions**

Concerning jurisdictional REDD+, readiness financing requires compliance with standards developed by the UN-REDD Programme and the World Bank’s FCPF.<sup>94</sup> The safeguards described in the previous section are translated into evaluative criteria constituting the UN-REDD Programme’s Social and Environmental Principles and Criteria (SEPC) and the FCPF’s Strategic Environmental and Social Assessment (SESA) guidelines.<sup>95</sup> The following is thus requirements for including FPIC in the national REDD+ process, which do not directly impose obligations relating to project-based REDD+, but indirectly through the national policies for REDD+ projects that will be discussed in the next chapter.

The UN-REDD is a knowledge and advisory platform channelling funding and support to national governments for the implementation of REDD+. In Indonesia, the UN-REDD Programme contributed significantly to funding and national reform components.<sup>96</sup> The World

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<sup>93</sup> Savaresi, "REDD+ and Human Rights: Addressing Synergies between International Regimes," *Ecology and society* 18, no. 3 (2013). p.6

<sup>94</sup> Gover, "REDD+, Identity Law and ‘FPIC’." REDD+ Readiness is discussed in the definitions section 1.1.

<sup>95</sup> Ibid.

<sup>96</sup> Boer, "Power in REDD+ Indonesia."

Bank (WB) and the Indonesian government concluded a readiness grant agreement in 2011 through the FCPF.<sup>97</sup> Indonesia was recipient of the FCPF's Readiness Fund until 2017, meaning that the following guidelines were applicable during the development of their jurisdictional REDD+ procedures. More recently, the Government of Indonesia entered an agreement with the WB's BioCarbon Fund which will be addressed in section 4.4.

### 3.2.1 UN-REDD Programme: Guidelines on Free, Prior, and Informed Consent

A human rights-based approach serves as the normative framework for the UN-REDD Programme and its Social and Environmental Principles and Criteria (SEPC).<sup>98</sup> Based on numerous human rights conventions and instruments, it follows from this approach that FPIC is required in relation to Indigenous peoples, and increasingly also in relation to forest-dependent communities.<sup>99</sup> Partner countries to the UN-REDD Programme "are required to develop consultation and participation plans for engagement of stakeholders", where FPIC is key to achieve its effectiveness.<sup>100</sup> The requirement to obtain FPIC is presented as a legal obligation of states developing national REDD+ programmes, both during developing their national strategies and in securing FPIC at community level.<sup>101</sup> These rights are specified and elaborated through the SEPC document and specific guidelines on FPIC.

The UN-REDD definition of FPIC is comprehensive, built on UNDRIP articles and elements of a common understanding of FPIC endorsed by the United Nations Permanent Forum on Indigenous Issues.<sup>102</sup> The guidelines provide a detailed procedure for developing national FPIC guidelines through review of existing mechanisms, ensuring public consultation of all relevant stakeholders. An FPIC Proposal should address capacity and information needs, determination of relevant actors in the FPIC process, a timeline, appropriate language, frequency of agreements and methods for verifying the process. It is in other words thorough and detailed, but nonetheless formulated as strong recommendations or encouragements, not legal requirements or obligations.

During participation "Special attention should be paid by partner countries to supporting community efforts to describe many of these items in their own terms, including traditional uses

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<sup>97</sup> Jodoin, *REDD+ and indigenous rights*.

<sup>98</sup> UN-REDD, "UN-REDD Programme Social and Environmental Principles and Criteria," 2012.

<sup>99</sup> "Guidelines on Free, Prior and Informed Consent," 2013. p.13

<sup>100</sup> Ibid. p.22

<sup>101</sup> Ibid. p.28

<sup>102</sup> Ibid. p.18

of their lands, territories and natural resources and community-based property rights.”<sup>103</sup> The purpose of this is however presented as to detect potential conflicting rights to land use, not to apply it to shape the FPIC process or project itself. Further, it should be noted that in relation to the requirement to inform, “information should: (...) Be delivered in a manner that *strengthens* and does not erode indigenous or local cultures;”<sup>104</sup> which can be interpreted as a way of maintaining these cultures through this process, including traditional knowledge.

The term *empowerment* is mentioned twice in the document, but only serves to describe what this process of participation could include in relation to FPIC and does not address whether this is an aim of the FPIC process.<sup>105</sup> Apart from this, the position of traditional or local knowledge or customs are passive, presented as something to be respected and protected throughout all stages but not integrated into the process of FPIC. It follows from these guidelines that FPIC is a means for Indigenous people to determine the outcome of decision-making, not only to be involved in the processes that affect them.<sup>106</sup> It can thus be argued that Indigenous or local communities may advocate for the inclusion of their traditional knowledge in decision-making in these consultations, but the UN-REDD Programme does not appear to encourage or explain how Indigenous peoples’ knowledge may benefit the FPIC process or the project itself, apart from conflict resolution.

### 3.2.2 The World Bank’s approach to social safeguards and FPIC

The FCPF calls on the promotion of the UNFCCC safeguards through the WB’s environmental and social policies, consisting of 11 Operational Policies (OPs).<sup>107</sup> OP 4.10 on Indigenous Peoples is of special interest for this inquiry and “requires the borrower to engage in a process of free, prior and informed *consultation*” with the affected Indigenous Peoples communities at each stage of the project, “in order to fully identify their views and ascertain broad community support”.<sup>108</sup> This also applies to the “commercial development of Indigenous Peoples’ cultural resources and knowledge”.<sup>109</sup> The definition of consultation is elaborated in a footnote and described as “a culturally appropriate and collective decision-making process subsequent to

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<sup>103</sup> Ibid. p.32

<sup>104</sup> Ibid. p.19[emphasis added]

<sup>105</sup> Ibid. p.43

<sup>106</sup> Wallbott and Florian-Rivero, "Forests, rights and development in Costa Rica: a Political Ecology perspective on indigenous peoples’ engagement in REDD+," *Conflict, Security & Development* 18, no. 6 (2018).

<sup>107</sup> World Bank, "Environmental and Social Policies,"

<sup>108</sup> "Operational Policy 4.10," 2005 (2013)., para.1 and 6(c)[emphasis added]

<sup>109</sup> Ibid., para.19

meaningful and good faith consultation and informed participation regarding the preparation and implementation of the project. It does not constitute a veto right for individuals or groups.”<sup>110</sup> The last sentence underlines their choice of the word *consultation*, as compared to consent, and may be understood as emphasising the sovereign right of the state to control natural resources.

Acknowledging that Indigenous Peoples are closely tied to their land, forests, water, wildlife and other natural resources, it is stated that the borrowing state pays particular attention to “(d) Indigenous Peoples’ natural resources management practices and the long-term sustainability of such practices”, but it is not specified how.<sup>111</sup> Projects should include a Social Assessment where baseline information about the communities should be gathered in order to conduct a culturally appropriate process of free, prior and informed consultation.<sup>112</sup>

Lastly, para. 22 provides a list of strategies the Bank may support on a member country’s request, including initiatives designed to incorporate their perspectives in the design of development programs to make more inclusive programs, providing benefits, capacity building or to “support the development priorities of Indigenous Peoples through programs (...) developed by governments in cooperation with Indigenous Peoples:”.<sup>113</sup> The opportunity of Indigenous peoples and local communities to influence local projects are thus mentioned, but not encouraged and should nonetheless be in cooperation with the government.

The project plan should also include an Indigenous Peoples Plan (IPP) that, among other things, includes a framework for ensuring free, prior and informed consultation.<sup>114</sup> Further, the respect for Indigenous peoples’ rights and their full and effective participation is mentioned in several of the OPs.<sup>115</sup> The policies thus offer clear commitment to most elements of the FPIC, but may be argued to undermine the right to self-determination to some extent by not including *consent* as such.

The WB adopted a new Environmental and Social Framework (ESF) applicable from October 2018, and the two systems will run in parallel for an estimated seven years.<sup>116</sup> This

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<sup>110</sup> Ibid., fn.4, para.10

<sup>111</sup> Ibid., para.16

<sup>112</sup> Ibid., Annex A

<sup>113</sup> Ibid., para.22

<sup>114</sup> Ibid., para.10

<sup>115</sup> OP 4.01 on Environmental Assessment, in particular paras. 14 and 15, OP 4.04 on Natural Habitats, in particular para. 10, OP 4.12 on Involuntary Resettlement, in particular para. 7 and OP 4.36 on Forests, in particular paras. 11 and 12

<sup>116</sup> World Bank, "ESPs".



framework presents ten Environmental and Social Standards (ESSs), providing specific guidance on how to reduce environmental and social risks and impact of projects the WB supports through its funding.<sup>117</sup> Applicable to all new Investment Policy Financing projects, this includes the BioCarbon Fund where the Indonesian province Jambi is running a program for sustainable landscape management.<sup>118</sup> The details of Jambi's Environmental and Social Management Framework based on this new framework will be addressed later on, but some updates are relevant to include here.

In contrast to the previous Social Policies based on the OPs, the new Framework addresses Free, Prior and Informed Consent, as compared to the previous *consultation*. It specifies that there is no universally accepted definition of FPIC and presents their own understanding for the purpose of Environmental and Social Standard 7 "Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities".<sup>119</sup> In addition to the participatory guidelines described in the Social Policy, the FPIC is also meant to involve "Indigenous Peoples' (...) representative bodies and organisations and, where appropriate, other community members;" and provide sufficient time for decision-making processes.<sup>120</sup> Most interestingly, it is stated that meaningful consultation will also allow for "effective participation in the design of project activities or mitigation measures that could potentially affect them either positively or negatively."<sup>121</sup> The inclusion of this sentence may be interpreted as acknowledging the influence of affected communities to a greater extent than before, where they may actually have an active role in shaping the activities.

The updated version of the WB's safeguards may be understood as a result of the increasing recognition of FPIC in REDD+. Despite the inclusion of FPIC in their new environmental and social framework, the WB can be argued to present a somewhat restrictive approach with particular focus on *consultation* and perceiving the ascertainment of *consent* as the central requirement following from FPIC, rather than as an on-going participatory process. It is nevertheless an improvement from the previous framework, for example by explicitly stating the opportunity for affected communities to participate in the design of project activities.

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<sup>117</sup> "World Bank Environmental and Social Framework," 2016.

<sup>118</sup> "ESPs".

<sup>119</sup> "WB ESF". p.80

<sup>120</sup> Ibid.

<sup>121</sup> Ibid. p.79

### 3.3 FPIC in the Green Climate Fund

The Green Climate Fund (GCF) is the largest climate fund in the world, consisting of numerous partners including banks, development finance institutions, UN agencies and civil society organisations (CSOs). GCF is mandated to support developing countries to raise and realize their Nationally Determined Contributions (NDCs).<sup>122</sup> Indonesia receives support for several projects and programmes under the GCF, among them results-based payments (RPBs) for REDD+ results for 2014-2016. The financing is planned to last until 2025. According to the GCF Policies, funding proposals are required to provide reports on how environmental and social safeguards are met.<sup>123</sup> The GCF does not provide a specific policy for FPIC, but both the Indigenous Peoples Policy and the Environmental and Social Policy will be addressed here to understand their approach to FPIC and traditional knowledge. These policies apply to all projects under the GCF.<sup>124</sup>

GCF-financed activities are guided by several guiding principles, including Indigenous peoples and human rights. The former specifically refers to the right to FPIC as of particular importance, as set forth in the UNDRIP, which is required in applicable circumstances.<sup>125</sup> It is also stated that GCF-activities will “respect and *preserve* indigenous culture, including the indigenous peoples’ rights to lands, territories, resources, knowledge systems, and traditional livelihoods and practices.”<sup>126</sup> Further, the “activities will support the full and effective participation of indigenous peoples (...) and recognize their contribution to fulfilling the GCF mandate”.<sup>127</sup> The GCF stands out in this regard compared to the policies previously discussed by additionally aiming to *preserve* Indigenous culture and knowledge systems and recognize their contribution. The latter is not to be assumed as a direct reference to traditional knowledge as such, but as the contribution of participation of Indigenous peoples in general.

Accredited entities are required to develop environmental and social management plans (ESMPs), including screening of project activities and potential impact on Indigenous peoples. Where necessary, the ESMP should also take into account the impact on cultural integrity, Indigenous knowledge and skills. These elements are not referred to as something to include,

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<sup>122</sup> "Green Climate Fund: About GCF," <https://www.greenclimate.fund/about>.

<sup>123</sup> GCF, "Environmental and social safeguards (ESS) report for FP130: Indonesia REDD-plus RBP for results period 2014-2016," <https://www.greenclimate.fund/document/environmental-and-social-safeguards-ess-report-fp130-indonesia-redd-plus-rbp-results-period>

<sup>124</sup> "Revised Environmental and Social Policy," 2021. 3.2(5)

<sup>125</sup> Ibid. IV.Guiding Principles,(q)

<sup>126</sup> Ibid. IV.Guiding Principles,(q),[emphasis added]

<sup>127</sup> Ibid. IV.Guiding Principles,(q)

but rather something that should be respected. It is in other words an obligation to refrain from infringing these rights, not to take active measures. Relating to all affected or potentially affected communities, the GCF requires consultation in “a manner that facilitates the inclusion of local knowledge in the design of the activities”,<sup>128</sup> implying that local knowledge should have influence on the project.

According to the Indigenous Peoples Policy, accredited entities of the GCF will prepare an indigenous peoples plan (IPP) appropriate to the project and circumstances. Thorough documentation of the FPIC process is required to describe the process of information disclosure, consultation, participation and agreements with Indigenous peoples.<sup>129</sup> It is noted that FPIC comprises both an outcome and a process to be included in project design, implementation and expected outcomes.<sup>130</sup> It is further specified that FPIC “should be viewed as a process that both allows and facilitates indigenous peoples to build and agree upon a collective position”. Stating that respect for FPIC is a necessary and inherent cost of project development, Indigenous people interested in being involved in project design and implementation may require additional resources for training. The elaborate explanations make it clear that the GCF dissociates from the notion of FPIC as a “step along the way”. As part of FPIC, meaningful participation should build on “existing customary institutions and decision-making processes utilized by indigenous peoples, and are designed together with the concerned communities.”<sup>131</sup> It is also mentioned that addressing issues that may arise can *strengthen* Indigenous peoples and project agreements.<sup>132</sup> The IPP may also include, where applicable, a focus on ensuring the continuation of “livelihood activities key to the survival of these communities and their traditional and cultural practices.”<sup>133</sup> Providing broader development opportunities for Indigenous peoples’ are recommended where opportunities exist.<sup>134</sup> A number of programs are mentioned as options, among them safeguarding Indigenous knowledge and strengthening capacity to “prepare, implement, monitor, and evaluate development programmes and interact with the mainstream economy”.<sup>135</sup>

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<sup>128</sup> Ibid. IV.Guiding Principles, 5.2(18)f

<sup>129</sup> GCF, "Operational Guidelines: Indigenous Peoples Policy," 2019,p.10,17

<sup>130</sup> Ibid. p.17

<sup>131</sup> Ibid. p.14

<sup>132</sup> Ibid.p.14

<sup>133</sup> Ibid.p.10

<sup>134</sup> Ibid.p.27

<sup>135</sup> Ibid.p.27

In summary, the GCF gives due consideration to both FPIC and traditional knowledge. The latter is often presented as something to be protected rather than utilized for the benefit of the project, but also presented as something that should be included in the consultative processes and design of activities. This creates a detailed elaboration of the role of Indigenous peoples and local communities in the process of meaningful consultations and FPIC, where their influence is presented as integral to project activities.

### **3.4 Conclusion**

It is clear from the previous sections that FPIC is firmly established in the REDD+ regime, but the perceptions of its objective and content is varying to some degree. Except for the safeguards in the Cancun Agreements, the developed guidelines and procedures following the COP decisions are in general quite detailed and thorough. The GCF arguably stands out by emphasising the contribution of affected communities to a greater extent, which can be seen as a result of the increased emphasis on Indigenous peoples' rights and position within climate change discussions. This development can also explain the more thorough approach by the GCF in general, as both the UN-REDD SEPC, FPIC guidelines and the WB's OP were published in 2013. Still, the WB's comparatively restrictive approach to FPIC in the new framework may be understood as an expression of the continued tension between economic interests as pursued by national sovereignty and the rights of Indigenous peoples. Further, traditional knowledge is generally not directly connected to FPIC, with the exception of UN-REDD's statement of delivering information in a manner that strengthens Indigenous or local cultures and the GCF's focus on meaningful participation as co-designed with concerned communities, including traditional institutions.

The UN-REDD Programme, the FCPF and the GCF have all influenced and continue to influence the development of REDD+ in Indonesia. To analyse this impact in detail is beyond the scope of this thesis. Nevertheless, following the theoretical approach of Foucault where the creation of knowledge can be seen as a relational process, these policies have ultimately led to creating "truths" about what REDD+ should be in Indonesia and consequently how FPIC and traditional knowledge are incorporated into it.<sup>136</sup> This will be discussed further in chapter 5 after addressing the Indonesian REDD+ context in detail in the following chapter.

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<sup>136</sup> See section 2.2.

#### 4 Case study: REDD+ in Indonesia

The dedicated leadership in Indonesia in the pursuit of REDD+ attracted both considerable attention and funding from multilateral agencies and donor countries.<sup>137</sup> The most significant share of support and funding was provided by the Norwegian International Climate and Forest Initiative (NICFI) enabled through the Letter of Intent (LOI) with the Government of Norway. The LOI specified that all relevant stakeholders, including Indigenous peoples, local communities and civil society “should be given the opportunity to fully and effectively participate in the design of REDD+”.<sup>138</sup> This contributed to considerable progress in developing jurisdictional REDD+, which were seized as an opportunity by CSOs and Indigenous Peoples Organisations to advocate for the rights of affected communities.<sup>139</sup> Especially the Indigenous rights organisation Aliansi Masyarakat Adat Nusantara (AMAN) was an important actor representing Indonesia’s Indigenous peoples, advocating for their rights and strengthening local capacities.<sup>140</sup> Consequently, REDD+ developments in Indonesia have contributed to extend participatory rights to Indigenous Peoples and local communities, but whether these newly recognized rights will be respected and implemented remains uncertain.<sup>141</sup>

In addition to incentivising emissions reductions, REDD+ is aimed at addressing systemic problems through reforming forest administration through the establishment of relevant agencies, strategies and systems.<sup>142</sup> This has also included trials of FPIC processes in selected areas through the UN-REDD Programme,<sup>143</sup> illustrating the procedural hurdles and challenges concerning engagement of affected communities in Indonesia.<sup>144</sup> Criticism from stakeholders have revolved around inadequate information, quality of representation and recognising customary rights to forests.<sup>145</sup> In general, REDD+ projects’ impact on Indigenous peoples and local communities in Indonesia have varied significantly, where it is identified a gap between the commitments to rights and their implementation in the projects.<sup>146</sup> Few projects

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<sup>137</sup> Jodoin, *REDD+ and indigenous rights*.

<sup>138</sup> Ibid. p.98, referring to "Letter of Intent between the Government of the Kingdom of Norway and the Government of the Republic of Indonesia on Cooperation on reducing greenhouse gas emissions from deforestation and forest degradation ", (26 May 2010).

<sup>139</sup> Jodoin, *REDD+ and indigenous rights*. p.91

<sup>140</sup> Ibid. p.91

<sup>141</sup> Ibid. p.114

<sup>142</sup> Boer, "Power in REDD+ Indonesia."

<sup>143</sup> No available English sources, reports in Bahasa available here: <https://www.un-redd.org/partner-countries/asia-pacific/indonesia>(Accessed 17.03.2022)

<sup>144</sup> Boer, "Deliberative engagement."

<sup>145</sup> Ibid.

<sup>146</sup> Jodoin, *REDD+ and indigenous rights*. p.156

distinguish between Indigenous and non-Indigenous communities in the implementation of their activities, even as most projects are set up in areas connected to *adat* communities.<sup>147</sup> The special characteristics and knowledge systems of *adat* communities are thus not recognized.

In general, the development of REDD+ in Indonesia has made considerable progress, but continued dependence on natural resources, decentralization processes and weak governance continue to challenge the outcome of these developments.<sup>148</sup> Different actors present diverging views on the future of REDD+ in Indonesia, where it has been argued that REDD+ has evolved into a form of results-based aid rather than a market-based instrument for conservation.<sup>149</sup> Either way, REDD+ and its impact on Indigenous communities in Indonesia are still highly relevant. The next section presents the political background in Indonesia, creating context for the evaluation of the position of FPIC and traditional knowledge in REDD+ at the national (4.2 & 4.3), sub-national (4.4) and project levels (4.5).

#### **4.1 Political background**

Following the resignation of President Suharto in 1998, Indonesia was subject to democratic reforms and decentralization processes that significantly changed the political landscape, but the national government had a weak position due to separatist movements.<sup>150</sup> This created confusion, leading to increased competition over natural resources at the local level, where Indigenous peoples' territories were often taken over by forest industries, palm oil plantations and mining concessions.<sup>151</sup> The government favored private sector companies focused on heavy extraction of natural resources, leading to historically high deforestation rates and discrimination of Indigenous peoples. It is in this context that the implementation of REDD+ became an opportunity for broad reform through its inclusiveness and commitment to public consultation, both in relation to forest governance and procedural and substantive rights of Indigenous peoples.<sup>152</sup> Today, overlapping land and environmental law still cause challenges about which laws apply and consequently who is entitled to the land in question.<sup>153</sup> These challenges have resulted in large areas of the forest estate being subject to limited government

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<sup>147</sup> Ibid. p.158

<sup>148</sup> Dwisatrio B., "The context of REDD+ in Indonesia: drivers, agents and institutions," 2021.p.1

<sup>149</sup> Ibid. p.85

<sup>150</sup> Hein, *PE*.

<sup>151</sup> Fay and Denduangrudee, "Rights and REDD+ in Indonesia"; Hein, *PE*.

<sup>152</sup> Fay and Denduangrudee, "Rights and REDD+ in Indonesia".

<sup>153</sup> Butt and Lindsey, *Indonesian Law*, 2018.

oversight, ultimately remaining “in de facto control of private interests.”<sup>154</sup> With the lack of legal recognition, Indigenous’ territories are vulnerable to powerful actors such as mining or palm oil industries threatening their relationship to the land and followingly their self-determination. These challenges have also been visible in Jambi province, where the expansion of both palm oil and conservation areas are maintaining a conflictive and contradictory process.<sup>155</sup> As will be discussed in section 4.5, conservation areas may create opportunities for Indigenous people to manage their historically owned land.

Jambi became a REDD+ pilot province of the National REDD+ Agency in 2013 and has developed its own provincial REDD+ Strategy.<sup>156</sup> This strategy included arguments in favour of strengthening the rights of local and Indigenous communities, but many of these are not implemented due to the need to involve national scale authorities.<sup>157</sup> Jambi is thus lacking the authority to establish a complementary scale of regulation, but has successfully constructed “REDD+ as a new scale of meaning in order to attract donor investments”.<sup>158</sup>

## 4.2 National regulations

Although included in the National REDD+ Strategy (discussed in 4.3 below), FPIC is not regulated through Indonesia’s laws and regulations. Regarding REDD+, the moratorium policy of the Ministry of Environment and Forestry (MoEF) is the backbone of the deforestation and forest degradation reduction program, with large mitigation potential.<sup>159</sup> However, a number of underlying weaknesses of the policy remain unaddressed, among them the inclusion of social forestry licenses, making it difficult for communities to access forests within the moratorium areas.<sup>160</sup> Consequently, Indigenous communities with connections to the land may be excluded from these areas.

However, the allocation of social forestry licences through the agrarian reform has enabled Indigenous communities to obtain management rights of their forests, securing the land from being subject to exploitive industries. Participation and transparency are mandated through the presidential regulation for the agrarian reform, but the fails to mention Indigenous

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<sup>154</sup> Luttrell et al., "Lessons for REDD+ From Measures to Control Illegal Logging in Indonesia. Working Paper 74," 2011.

<sup>155</sup> Hein, *PE*. p.56

<sup>156</sup> *Ibid.* This policy document is not discussed due to lack of English version.

<sup>157</sup> *Ibid.* p.111

<sup>158</sup> *Ibid.* p.111

<sup>159</sup> Dwisatrio B., "REDD+ in Indonesia". p.69

<sup>160</sup> *Ibid.*

peoples as subjects to the reform.<sup>161</sup> Most REDD+ projects in Indonesia have been set up in areas used by adat communities, but their access to land is often licenced through *hutan desa* (forest village), rather than legal recognition of adat rights to the forests.<sup>162</sup> Villages may apply for *hutan desa* status, which grants the community management of a state forest area for 35 years by the MoEF.<sup>163</sup> This is a form of social forestry intended to encourage community involvement in forest management and promote alternative livelihood opportunities.<sup>164</sup> *Hutan adat* (customary forest) status may also be granted through the social forestry licences to recognized Indigenous peoples, but institutional hurdles have challenged the obtaining of these.<sup>165</sup> As an alternative, the status as *hutan desa* enables Indigenous peoples to manage the forests they have historically claimed and managed as their ancestral domain.<sup>166</sup> Nonetheless, management plans of the local communities with *hutan desa* status must be approved by the forestry service for the communities to keep their *hutan desa* license,<sup>167</sup> ultimately maintaining the state's control over Indigenous territories and thus undermining their right to self-determination.

According to article 28I(3) of the Indonesian Constitution “The cultural identity and rights of traditional communities are to be respected in line with the development of the times and civilisation”, and further specified in Article 18B(2), the state is required to recognize and respect customary law (adat) communities and their traditional rights.<sup>168</sup> Some regional governments have re-established former traditional governance structures and adat rights, but these are easily ignored as they require recognition by state law to be protected in practice.<sup>169</sup> The right to protection requires the traditional communities to be formally recognized by their local governments, many of whom have been unresponsive to these requests.<sup>170</sup> Historically, the rights of Indigenous peoples have been ignored, where local resistance has been met with state-sanctioned violence and criminalization.<sup>171</sup> Further, conditioned on “the development of

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<sup>161</sup> Ibid. p.76

<sup>162</sup> Jodoin, *REDD+ and indigenous rights*. p.158

<sup>163</sup> "SESA Document: Jambi," 2019. As exemplified through the projects discussed in section 4.5.

<sup>164</sup> Ibid., see 5.3.3 for details on other social forestry opportunities.

<sup>165</sup> Jodoin, *REDD+ and indigenous rights*.

<sup>166</sup> KKI WARSI, "The Bujang Raba Community PES Project," 2015.

<sup>167</sup> Interview.

<sup>168</sup> Butt and Lindsey, *Indonesian Law*. p.20; "The Constitution of The Republic of Indonesia," 1945 (reinst. 1959, rev. 2002).

<sup>169</sup> Butt and Lindsey, *Indonesian Law*. p.20

<sup>170</sup> Ibid. p.127

<sup>171</sup> Fay and Denduangrudee, "Rights and REDD+ in Indonesia".



the times and civilisation”, the position and protection of Indigenous communities are dependent on other interests of the state, implying opportunities for the state to neglect these rights provisions.

An important landmark ruling of the Indonesian Constitutional Court in May 2013 interpreted that adat forests exist as a standalone form of forest tenure and are therefore owned by Indigenous Peoples and not the state.<sup>172</sup> Filed by activists in the Indigenous rights organisation AMAN, the momentum created by REDD+ likely contributed to the outcome. Despite equivocal response from the MoEF, the ruling has been followed up in the operationalization of jurisdictional REDD+ in Indonesia and may have potential to ensure the rights of Indigenous peoples and local communities.<sup>173</sup> However, district governments were given the power to recognise the continued existence of customary owners and have been generally unwilling to exercise it.<sup>174</sup> Further, CSOs have advocated for an Indigenous Peoples Bill to be passed by the government, aiming to secure rights protection concerning territory, natural resources, development, spirituality and culture, education, health and to traditional knowledge.<sup>175</sup> This Bill can have significant impact for Indigenous peoples affected by REDD+ activities. Under the name “Draft Law on Customary Law Communities” the Bill made it to the national legislation program for 2020-2024, but further developments are still uncertain.<sup>176</sup>

It should be noted that according to national regulation 36/2009 regarding REDD+, agencies implementing REDD+ have to support community empowerment.<sup>177</sup> The regulation also proposes the use of existing social standards of the voluntary carbon markets, such as the Climate Community and Biodiversity Standard (CCBS) and Plan Vivo (4.5.1).<sup>178</sup> However, the Ministry of Finance opposed the regulation, hindering it from entry into force.<sup>179</sup>

The MoEF enacted a new regulation on REDD+ in 2017, repeating the need for activities to respect the rights of local communities and the right to FPIC of Indigenous and local communities, as established in the 2013 National Strategy.<sup>180</sup> This regulation also provides

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<sup>172</sup> Jodoin, *REDD+ and indigenous rights.*, p.116, referring to decision 35/PUU-X/2012, Constitutional Court of the Republic of Indonesia, 16 May 2013.

<sup>173</sup> Ibid. p.116

<sup>174</sup> Filer, Mahanty, and Potter, "The FPIC Principle Meets Land Struggles in Cambodia, Indonesia and Papua New Guinea," *Land (Basel)* 9, no. 3 (2020).

<sup>175</sup> Dwisatrio B., "REDD+ in Indonesia". p.75

<sup>176</sup> Ibid. p.75. No access to this document in English.

<sup>177</sup> Hein, *PE*. p.106, Art.14 in Ministry of Forestry, "No. 36 Menhut-II," 2009.

<sup>178</sup> Hein, *PE*.

<sup>179</sup> Ibid.

<sup>180</sup> Ibid., p.108, referring to ministerial regulation P.70/MENLHK/SETJEN/KUM.1/12/2017.

the basis of SIS-REDD+, which will be addressed in detail later. Nevertheless, the legal character of REDD+ related regulations remains weak and is often challenged by other influential policies such as the Master Plan for Acceleration and Expansion of Economic Development 2011-2025, where Jambi province should become a major “oil palm plantation node”.<sup>181</sup>

The development of funding institutions was the last thing to be developed in the methodological framework for the full implementation of REDD+, leading to the establishment of an agency for environmental funds (BPDLH) in late 2019.<sup>182</sup> The regulations fail to address social safeguards and are lacking an explicit unit for multi-stakeholder representation, where civil society has urged the government to accommodate representation of civil society, Indigenous and local communities.<sup>183</sup>

A 1999 decentralization law aimed at delegating power to regional governments “as they better understood the needs and challenges of their areas” was reversed by the Omnibus Bill enacted in late 2020.<sup>184</sup> This has raised several concerns relating to environmental protection, weakening the requirements for environmental assessments, creating risks for further deforestation and environmental damage.<sup>185</sup> Further, the Bill is unclear which affected communities will be involved and the public’s opportunity to file an objection against licences is removed,<sup>186</sup> leaving affected Indigenous and local communities with less protection.

In general, the forest sector has seen significant developments opening up political spaces for CSOs advocating for social and environmental justice concerns,<sup>187</sup> but there are shortcomings in the implementation of clear procedural standards ensuring participation of local, affected communities. The lack of approval of the Indigenous Peoples Bill may be argued to illustrate these challenges in ensuring a legal framework to maintain participation of Indigenous peoples in decision-making.<sup>188</sup>

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<sup>181</sup> Ibid. p.109

<sup>182</sup> Dwisatrio B., "REDD+ in Indonesia". p.79

<sup>183</sup> Ibid. p.82. Following the LOI with the government of Norway, an announced payment of \$56 million were planned to be transferred to the BHDH, but the government of Indonesia terminated the LOI September 2021 due to lack of payment. Prior to the termination, the governments were engaged in discussions regarding a legal agreement for the transfer. "Indonesia terminates agreement with Norway on \$1b REDD+ scheme," *Mongabay*, 10.09.21; "Indonesia ends deforestation pact with Norway, citing non-payment," *Reuters*, 11.09.21.

<sup>184</sup> Dwisatrio B., "REDD+ in Indonesia". p.36

<sup>185</sup> Ibid. p.36

<sup>186</sup> Ibid. p.37

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

### 4.3 National REDD+ strategy

This section addresses the presentation and position of FPIC and traditional knowledge in the National REDD+ Strategy of Indonesia. This was published in 2012 by the REDD+ Task Force, which was the responsible government institution at the time. According to the National Strategy, REDD+ implementation in Indonesia is based on five principles. One is “Fairness”, where it is stated that implementation is based on “equality for all and human rights in forest management”.<sup>189</sup> It should be noted that there is no requirement for central or regional government to protect or respect the rights in the REDD+ safeguards.<sup>190</sup>

The National Strategy lists steps to be taken to reduce GHG emissions from land-based sector, where the prioritization of conservation based on local customs and practices is mentioned.<sup>191</sup> This is also emphasised under “Conflict Resolution”, where the application of local customs and practices should be taken advantage of to resolve conflicts.<sup>192</sup> This includes to “involve communities in all processes” and “Formulate alternative models for natural resource related conflict resolution based on the fulfilment of human rights as stipulated in international human rights conventions and national legal instruments that have adopted human rights principles.”<sup>193</sup> Traditional knowledge is thus acknowledged to a limited extent, but the lack of FPIC adoption in national legal instruments and recalling the conditional nature of Constitutional article 28I(3), the credibility of these recommendations are surely weakened.

FPIC is referred to in relation to strategies for stakeholder participation, “2. Increasing understanding, awareness, unity of perception, agreement, and support among all concerned parties of the importance of implementing REDD+ with recourse to the principle of FPIC; this process will require effective communication strategies adapted to local conditions”. The purpose of FPIC is presented as “to ensure fairness and accountability for indigenous and local peoples whose lives and rights will be affected by REDD+ activities.”<sup>194</sup> The application of the protocol involves consultation with the relevant Indigenous peoples, local communities, and other members of the public affected.<sup>195</sup> Further, the consultation aims to seek consent, where complete, unbiased and easily understood information is meant to create leeway for broad

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<sup>189</sup> Indonesian REDD+ Task Force, "REDD+ National Strategy," 2012.

<sup>190</sup> Dwisatrio B., "REDD+ in Indonesia", p.95

<sup>191</sup> Indonesian REDD+ Task Force, "REDD+ National Strategy". p.20

<sup>192</sup> Ibid. p.20

<sup>193</sup> Ibid. p.20

<sup>194</sup> Ibid.

<sup>195</sup> Ibid. p.28 [emphasis added]

consensus. The agreement made is decided upon through “legal mechanisms, indigenous law practices, or local traditions and habits”.<sup>196</sup>

In relation to the formulation of evaluation procedures and implementation of safeguards;

“The REDD+ Agency applies evaluation procedures and safeguards on the basis of local values through the following; a. FPIC procedures, information systems and mechanisms, along with a safeguards framework that ensures public access; b. Procedures and information systems that assure acknowledgement of the right of the public to land and forests that accommodates not only formal legal recognition, but also indigenous law rights and historical claims”.<sup>197</sup>

The National Strategy thus sets out an approach considerate of Indigenous peoples’ rights and their participation, with particular focus on the issue of consent through consultations providing agreement and support from the affected communities. Traditional knowledge can be said to be included through conflict resolution and the agreement with the community being based on indigenous law practices or local tradition and habits, while conservation based on local knowledge is mentioned but not elaborated on. The former is thus connecting traditional knowledge to the consultation processes of FPIC, indicating that these knowledge systems may have influence in these processes. Further, the implementation of REDD+ safeguards requires an information system known as SIS-REDD+, to which we now turn to address the details of Indonesia’s approach for compliance with the Cancun Agreements.

#### 4.3.1 SIS-REDD Indonesia

The Environmental Standardization Center (*Pustanling*) developed a Safeguards Information System (SIS-REDD+) which was launched as Indonesia’s REDD+ Safeguards by Regulation of MoEF No. 70 in 2017.<sup>198</sup> This consists of seven principles based on the Cancun Safeguards, where principles 3 and 4 are of relevance to Indigenous peoples, each with their own criteria and indicators. The process of developing the safeguards system initially included the process of PRISAI (Principles, Criteria, and Indicators for REDD+ Safeguards in Indonesia) in parallel with SIS, which contained stronger and more detailed elaboration on rights and FPIC

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<sup>196</sup> Ibid. p.28

<sup>197</sup> Ibid. p.30

<sup>198</sup> Directorate General of Climate Change, "Safeguards Information System for REDD+ in Indonesia: Moving towards an Operational SIS-REDD+," 2015; Dwisatrio B., "REDD+ in Indonesia".

especially.<sup>199</sup> If implemented, this would have strengthened government efforts to fulfil Indigenous and local community rights, but the SIS was eventually favoured, offering more general arrangements for rights recognition.<sup>200</sup>

In line with the Cancun safeguards, Principle 3 states that “REDD+ activities shall respect indigenous and local communities’ rights through actions appropriate to the scale and context of implementation.”<sup>201</sup> This includes requirement of efforts to obtain FPIC of affected Indigenous peoples and local communities, and documentation of the process of consultation.<sup>202</sup> By referring to “efforts” and “documentation”, the participatory aspects of FPIC is not emphasised, nor is the consent itself, indicating a rather narrow understanding of the potential of FPIC to include meaningful participation where affected communities may have influence. Further, criteria 3.4 sets forth that the value of traditional knowledge shall be recognized by REDD+ activities, and that commercial use shall be compensated where appropriate, but does not connect this to FPIC.<sup>203</sup> Principle 4 “Effectiveness of stakeholder participation” is based on Safeguard 4 from the Cancun Safeguards but does not refer to Indigenous peoples or local communities, although these groups are stated as of particular importance in the original safeguard and also referred to in the National Strategy.<sup>204</sup> FPIC is not mentioned in relation to this principle, nor is traditional knowledge.

In this way, the SIS-REDD+ presents FPIC as a necessary step and tool to respect the rights of Indigenous peoples and local communities. By not connecting it to the overall goal of stakeholder participation, it may be interpreted that the “process of consultation” is a non-comprehensive participatory process with the single aim of legal compliance. Traditional knowledge is not connected to this process of consultation but presented as something to be protected through the recognition of its value, indicating a rather passive role. SIS-REDD+ thus departs from the National Strategy by not emphasising local traditions and habits.

The SIS-REDD+ may be argued to present a similar understanding of FPIC as the WB, emphasising the outcome rather than the continued process of community involvement. Although FPIC shall be respected and based on community consultations in line with local

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<sup>199</sup> "REDD+ in Indonesia". p.78;Centre for Standardization and Environment, "Principles, Criteria and Indicators for a System for Providing Information on REDD+ Safeguards Implementation (SIS-REDD+) in Indonesia," 2013.

<sup>200</sup> Dwisatrio B., "REDD+ in Indonesia". p.79

<sup>201</sup> Directorate General of Climate Change, "SIS-REDD+".

<sup>202</sup> Ibid. p.40

<sup>203</sup> Ibid. p.40

<sup>204</sup> Ibid. p.41

values, the specific requirements may be argued to create much room for interpretation for project implementers. By not adopting the stronger rights language of the PRISAI, the final regulation addressing safeguards in Indonesia may thus be a result of the business-friendly approach and policies of the government, as illustrated by the new Omnibus Law and the lack of addressing social safeguards in the 2019 regulations establishing an agency for environmental funding.

Following the pursuit of developing jurisdictional REDD+ in the provincial levels, the Jambi Sustainable Landscape Management Project (J-SLMP) funded by the WB's BioCarbon Fund has been introduced to reduce emissions from the forest and land use sector. An Emissions Reductions Program (ERP) was proposed by the Government of Indonesia to address deforestation by addressing governance issues, aimed at providing payments for emissions reductions in the future. The following section addresses the Environmental and Social Management Framework (ESMF) guiding its implementation in Jambi.

#### **4.4 REDD+ in Jambi: Environmental and Social Management Framework**

Building on Jambi's Strategic Environmental and Social Assessment (SESA),<sup>205</sup> an ESMF was developed to support the implementation of the ERP.<sup>206</sup> The ESMF serves as an instrument to assess and manage potential risks and impacts under the project, setting out principles, rules, guidelines, and procedures for follow-up. As mentioned earlier, this framework is based on the WB's new Environmental and Social Framework (ESF) applicable from 2018. According to the framework, FPIC is built on engagement at the community level and iterative consultations.<sup>207</sup> The process and its application are described in detail in the Indigenous Peoples Planning Framework (IPPF) provided as an annex.

Following the phrasing of WB's OP 4.10, government agencies are required to "engage a process of free, prior and informed consultations" before implementing activities affecting Indigenous peoples, but this is also extended to other vulnerable groups.<sup>208</sup> These consultations serve the purpose of providing opportunities for affected communities to express concerns and views, exploring ways to implement the project culturally and socially acceptable, while also

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<sup>205</sup> "SESA Document: Jambi". "SESA Document: Jambi". The SESA was not included in the analysis due to its purpose of assessing risks, not setting out requirements for addressing them.

<sup>206</sup> Republic of Indonesia, "Environmental and Social Management Framework Document - Jambi Province on the BioCF ISFL Framework," 2019.

<sup>207</sup> Ibid.

<sup>208</sup> Ibid. IPPF, p.144

enabling decision-making processes based on local or customary mechanisms.<sup>209</sup> This may include traditional mechanisms or institutions as well. Referring to the UN-REDD Programme's presentation of FPIC, the IPPF presents a detailed explanation of the elements of FPIC that is to form the base of further activity implementation.<sup>210</sup> In contrast to other FPIC procedures, the iterative process of free, prior and informed consultations is here separate from the ascertaining of FPIC.

The activity of Indigenous peoples is referred to as a driver of deforestation, where the optimising of Indigenous knowledge and participation in forest management is suggested to address this issue.<sup>211</sup> On the other hand, it is also stated that traditional land use systems can preserve important forest functions and contribute to the aim of reducing emissions, but not referred to in relation to participation.<sup>212</sup> "Local wisdoms" in managing pests are to be implemented into the environmental management plan, where the mainstreaming of such local knowledge is to be supported by the ERP.<sup>213</sup> "Gain from local knowledge" is also mentioned in relation to initial response of fire management.<sup>214</sup> It should be noted that Jambi's SESA refers to local wisdoms as relevant to forest management, but rather as a benefit for Indigenous people, not the objective of the project.<sup>215</sup>

Similar to the National Strategy and SIS-REDD, a narrow interpretation of FPIC as a requirement of the consent itself is also visible in the ESMF of Jambi's ERP, but still presents a more process-based focus, emphasising the *iterative* character of the consultations leading up to consent. It may also be argued that traditional knowledge can influence the decision-making through its focus on enabling decision-making based on local and customary mechanisms. By acknowledging the potential of traditional land use systems to preserve important forest functions and thus contribute to the overall aim of reducing emissions, while also aiming to mainstream local knowledge of pests, the position of traditional knowledge is more evident in the ESMF than in the National Strategy and SIS-REDD policies.

The outcome of the ERP is yet to be discovered but is likely to impact project-based REDD+ activities through institutional strengthening and development of policies and

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<sup>209</sup> Ibid. IPPF, p.161

<sup>210</sup> Ibid. IPPF, p.163

<sup>211</sup> Ibid. p.125

<sup>212</sup> Ibid. p.154

<sup>213</sup> Ibid. p.17

<sup>214</sup> Ibid. p.17

<sup>215</sup> "SESA Document: Jambi". "SESA Document: Jambi". p.113

regulations for sustainable land use, but also through private sector partnerships.<sup>216</sup> Hence, the following two examples of project-based REDD+ initiatives are not directly influenced by this policy, but nevertheless serves to contextualise REDD+ at the local level, conducted as Payments for Ecosystems Services (PES) projects.

#### **4.5 Community level PES projects in Jambi**

An estimated number of between thirty and fifty REDD+ projects are carried out in Indonesia, where Jambi has been a central province since the initial stages of REDD+ implementation.<sup>217</sup> These project-based REDD+ activities may be led by government officials at the provincial or district level, but most are established by NGOs or corporations to generate carbon credits, either to ensure finance for forest conservation initiatives or simply to make profit.<sup>218</sup>

Nongovernmental certification programs providing carbon credits have developed standards required for validation and verification of REDD+ projects, including guidelines on FPIC. The projects chosen for this study are certified through the foundation Plan Vivo, and it is thus the requirements and guidelines for this particular PES scheme that will be discussed. Two community PES projects in Jambi will serve as examples of REDD+ on the ground, both of which have agreements with Plan Vivo which provides certificates for carbon credits generated by the communities through their activities. These may in turn be sold to provide economic benefits for the communities. For the purpose of this case study, the project sites of Durian Rambun and Bujang Raba were chosen based on their shared connection to Plan Vivo, focus on community participation and accessibility of information about the projects.

The analysis of the projects is based on four official documents on each project, which will be supplemented by insights from the interview. These are annual reports, Project Design Documents (PDDs) and validation reports required by Plan Vivo.<sup>219</sup>

##### **4.5.1 The Plan Vivo Standard and requirements for FPIC**

The objectives of Plan Vivo are relieving poverty through sustainable livelihoods, restoring and protecting environments to help protect communities against climate change, and to build local capacity through the transfer of knowledge, skills and resources.<sup>220</sup> Their model requires active

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<sup>216</sup> Republic of Indonesia, "ESMF Jambi".

<sup>217</sup> Jodoin, *REDD+ and indigenous rights*.

<sup>218</sup> Ibid.

<sup>219</sup> The PDDs provided the most relevant information for reference, while annual and validations reports were read to create context and gain insight to the projects in general. See table of reference for full list.

<sup>220</sup> Plan Vivo, "Webpage: What We Do," <https://www.planvivo.org/what-we-do>



participation and community ownership, where participants take a leading role through the help of facilitators.<sup>221</sup> The project should thus demonstrate community ownership through meaningful participation in the design and implementation of land management plans that address local needs and priorities.<sup>222</sup>

Plan Vivo certification requires project compliance with their *Project Requirements* and *Methodological Requirements*.<sup>223</sup> According to the requirements, all stakeholders that could influence or be affected by the project must be identified, including identification of Indigenous peoples or local communities with rights to land and resources in the area, which then must be included in an FPIC process.<sup>224</sup> The affected communities are to be included in negotiations regarding the conditions for the design, implementation, monitoring and evaluation of the project.<sup>225</sup> The FPIC process is described as a continuous process that should be addressed at key stages in the project development and re-confirmed periodically. What they term Stakeholder Analysis, Participatory Design, Project Agreements and the Grievance Redress Mechanism are to be regarded as key components of the FPIC process. Further, there must be an agreement between the participants and the coordinator of the project according to the principles of FPIC. The coordinator is often a representative of the NGO or other entity facilitating the project. In the participatory design, the participation of primary stakeholders is aimed at ensuring that “their concerns and aspirations are consistently understood and considered” in order to define the Project Logic.<sup>226</sup>

It follows from these documents that FPIC is presented as a crucial part throughout the projects where community participation has an active role, especially through the development of land management plans. Nevertheless, the contribution of knowledge or practices of Indigenous peoples or local communities are not emphasised, nor is the protection of these knowledge systems except for its reference to international human rights treaties. In this regard, it is stated that Plan Vivo projects are to uphold the specific rights of Indigenous peoples as recognized in the UNDRIP and the ILO 169, illustrating how external non-state actors may serve to protect these rights in the absence of national regulations.

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<sup>221</sup> "The Plan Vivo Standard," 2013.

<sup>222</sup> Ibid., p.14

<sup>223</sup> Plan Vivo, "Validation and Verification Requirements,"

<sup>224</sup> "Project Requirements," newest update. p.6

<sup>225</sup> Ibid. p.10

<sup>226</sup> Ibid. p.9. Project Logic refers to a description of how the project will generate Carbon, Livelihood and Ecosystem Benefits. p.14

#### 4.5.2 Durian Rambun

“Community Forests for Climate, People, and Wildlife: Hutan Desa Durian Rambun, Jambi” is a REDD+ project located in the hutan desa Rio Kemunyang in the district Merangin in Jambi province. The objective of the project is sustainable forest management, conservation and improving the well-being of the village community consisting of Indigenous Malay-speaking people.<sup>227</sup> The project is supported mainly by three NGOs, where Flora and Fauna International (FFI) is the coordinator and link to the Plan Vivo Foundation, and local partners Lembaga Tiga Beradik (LTB) and Rimbawan Muda Indonesia (RMI) have provided support on technical services, socialisation of REDD+, participation and developing the PDD required by Plan Vivo. The LTB and FFI also assisted the village communities in submitting their request for the hutan desa licence.<sup>228</sup>

In presenting REDD+ to the Durian Rambun village government and community, FPIC was introduced by RMI to explain the proposed project process and eventually reach a PES agreement with their consent.<sup>229</sup> Apart from this, FPIC is not referred to, indicating a rather narrow understanding of FPIC as a legal requirement rather than an on-going participatory process. However, elements of FPIC may be reflected through the reports’ focus on different types of participation. For example, community-wide participation is stated as the key approach in project design and implementation, constituting the foundation for decision-making and management.<sup>230</sup> The village forest institution has the overall responsibility for these processes, taking lead through adat chiefs and village government officials. Regular community meetings with the full participation of women and younger generations are to form the base of the project’s decision-making and management.<sup>231</sup>

Forest patrol and monitoring of the protected areas are made possible by training of community members, implying that traditional knowledge of ecosystem conservation is not included or at least not regarded as sufficient. Apart from the central role of traditional or customary institutions such as the village government, traditional knowledge, customs or values do not seem to be an integrated part of the project. Nevertheless, the high level of community

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<sup>227</sup> Flora and Fauna International, "Project Design Document: Community Forests for Climate, People, and Wildlife Hutan Desa Durian Rambun, Jambi," 2014.

<sup>228</sup> Ibid.

<sup>229</sup> Ibid.

<sup>230</sup> Ibid.

<sup>231</sup> Ibid., p.16

ownership and broad community participation may be argued to enable opportunities for influence.

#### 4.5.3 Bujang Raba

Located on the island Sumatra in Jambi Province, the Bujang Raba PES project's objective is to achieve sustainable forest management by local Indigenous people in five villages. Drawing on local wisdom and Indigenous institutions, with the support of new technical capacities through their facilitator WARSI, they aim to control internal and external drivers of deforestation. The five villages make up a larger traditional adat village, but their management rights to the land are established through a hutan desa license.

Already in 2000, WARSI worked on promoting a village conservation agreement with the local communities, marking the starting point of what became a community PES project to support REDD+ objectives. The project documents do not refer to the principle of FPIC directly, but several elements may be argued to reflect parts of the FPIC process as required by the Plan Vivo.<sup>232</sup> This includes an initial REDD+ planning dialogue with the communities, community consultation for the project design, reaching agreements with the communities and continuous joint-planning in the development of land management plans.<sup>233</sup> The latter is conducted through monthly meetings held by the Village Forest Communication Forum consisting of representatives from the five villages, facilitated by WARSI. In addition, a saving-and-loan association managed by women serves to secure their inclusion in planning and implementation of activities, recognizing their contribution to the project's objectives.<sup>234</sup> Regarding the role of facilitators, it was emphasised in the interview that the community itself is the coordinator of the project, and the NGO serves as support through capacity-building and organising when the community needs assistance.<sup>235</sup>

Further, the availability and sharing of information both from the community and the facilitators were set forth as important to enable the communities to understand how the REDD+ activities affected their lives.<sup>236</sup> FPIC at the project level was discussed in relation to initial consultation and community dialogue, where the interviewee especially emphasised the

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<sup>232</sup> Confirmed in the interview.

<sup>233</sup> KKI WARSI, "PDD: Bujang Raba".

<sup>234</sup> United Nations Environmental Programme and Convention on Biological Diversity, "Best Practices in Gender and Biodiversity: Pathways for multiple benefits," 2022., p.82; KKI WARSI, "PDD: Bujang Raba".

<sup>235</sup> Interview.

<sup>236</sup> Ibid.

importance of providing sufficient information, making sure the communities understand the proposed activities, but also to manage expectations.<sup>237</sup> Focusing on the need to restore and sustain local forests, the potential economic benefits from the PES scheme was deliberately presented to the local villages as a bonus rather than an anticipated outcome.<sup>238</sup>

Agroforestry is part of the project activities, based on local knowledge and technology practiced over hundreds of years.<sup>239</sup> Further, traditional slash and burn cultivation is to be abandoned, where capacity-building and funding is regarded as needed to “drive uptake of sustainable practices”.<sup>240</sup> Traditional knowledge, laws and customs are referred to in relation to risk analysis, where the conservation-oriented nature of the traditional knowledge or wisdom is regarded as compliant with the project.<sup>241</sup> Further, the Village Forest Council and the Customary Forest Council consisting of community members are responsible for the management of forest areas through their authority and local knowledge. These are traditional institutions supervising the forest activities where “deep local knowledge of ecosystems” is referred to as a social and cultural asset for forest conservation.

Participatory processes as elements of FPIC are evident throughout the project activities in Bujang Raba, where traditional institutions and practices are integrated into the management. However, it is not described in detail how traditional conservation practices are applied, making it difficult to establish how these are shaping the project. The traditional knowledge and practices of Indigenous peoples are thus presented as part of the projects, although often as complementary activities providing community benefits or serving a specific purpose, with the exception of the Forest Councils’ oversight of the management of forests.<sup>242</sup>

As community-based projects, both projects in Durian Rambun and Bujang Raba seem to focus primarily on participation in decision-making and project planning, but do also make clear their commitment to informing, consulting and considering the concerns and interests of the local communities, in addition to their consent through the PES agreements. Although the descriptions of community participation and considerations of ensuring full and effective participation of vulnerable groups illustrate their adherence to the elements of FPIC, general

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<sup>237</sup> Ibid.

<sup>238</sup> Ibid.

<sup>239</sup> KKI WARSI, "PDD: Bujang Raba", p.7

<sup>240</sup> "Annual Report Update," 2020., p.9

<sup>241</sup> "PDD: Bujang Raba", p.47

<sup>242</sup> Arwida et al., "Community participation as REDD+ safeguard," (2017).

conclusions cannot be drawn solely on this information, as that would require more extensive information and details on the providing of information and how community members' interests or concerns have influenced the decision-making and project planning. However, the project documents provide an understanding of how the elements of FPIC and traditional knowledge are perceived at the project level. As compared to other levels, the primary focus of these projects appears to be on the role of community members in decision-making and planning of the projects, not the consent itself. Traditional knowledge appears to be present in decision-making in Bujang Raba, although not referred to in relation to FPIC.

Plan Vivo's understanding of FPIC as both a continuous process and an outcome is arguably reflected at the project levels. This was confirmed in the interview, where the FPIC process was presented as including several meetings with various groups of the community, including elderly, youth and women.<sup>243</sup> In the context of Indonesia's complex forest governance system and the lack of effective regional regulations on FPIC, the responsibility to meet FPIC requirements seem to be left to project implementers such as NGOs. This was also discussed during the interview, where the interviewee confirmed the lack of regulations, but referred to the "safeguards" as their guideline and requirement for ensuring FPIC.<sup>244</sup>

## **5 Further analysis: power expressions in the REDD+ regime**

The following chapter aims at answering the additional research questions posed initially, applying Foucault's understanding of power to analyse how FPIC and traditional knowledge can provide opportunities for influence and may strengthen the position of Indigenous peoples. The analysis serves to summarize the key findings from previous chapters but also to understand how these perceptions of FPIC and traditional knowledge can be understood as expressions of power or create opportunities for empowerment. Lastly, this will be connected to the overall context of REDD+ in Indonesia.

The theoretical framework of Foucault allows for a complex analysis of neoliberal forms of government, where power is not solely exercised through direct intervention, but also through indirect techniques for controlling individuals.<sup>245</sup> In this way, strategies for making individuals or groups of individuals "responsible" may thus function to create new

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<sup>243</sup> Interview.; Arwida et al., "Community participation as REDD+ safeguard".

<sup>244</sup> Interview.; Dwisatrio B., "REDD+ in Indonesia". p.79

<sup>245</sup> Lemke, "Foucault, Governmentality, and Critique." p.59

“environmental subjects”.<sup>246</sup> For example, disciplinary practices such as FPIC or participation as indirect techniques can require Indigenous communities in REDD+ projects to internalise particular pro-environment norms and values, consequently making them self-govern according to these.<sup>247</sup> Disciplinary power thus judges according to the norm, in other words the standard behaviour that determines what behaviour is “normal” or “abnormal”.<sup>248</sup> In contrast, but not contrary, productive power is exercised through social relations and constructed through systems of knowledge.<sup>249</sup> The capacities of subjects or groups of individuals are thus socially produced.<sup>250</sup> Interestingly, this process can engage both “responsibilisation” and empowerment of subjects, where these may engage in strategic relationships through contribution in decision-making.<sup>251</sup>

Within this framework, different forms of power are produced through discourse, knowledge and the presentation of “truths”.<sup>252</sup> Following this, participation in decision-making through an FPIC process can enable strategic relationships where Indigenous communities are contributing to the creation of knowledge, “truths” and discourses about the REDD+ projects they are participating in. The creation of “new truths” about REDD+ projects where traditional knowledge is contributing to a larger part may thus be understood as empowerment, where Indigenous communities are part of the knowledge creation ultimately guiding their behaviour.

This framework enables an analysis of the power relations expressed in the documents previously discussed. Not only does it identify power relations within project sites, but also how the creation of knowledge, the “truth” about REDD+ projects, is shaped by powerful actors such as international organisations or government agencies. The strengthening of FPIC through traditional knowledge can therefore be seen as delegating power or empowerment, where Indigenous communities are better able to shape the knowledge creation, social relations and contexts they are “disciplined” into. The analysis thus seeks to identify to what extent these documents present “opportunities for empowerment” through the inclusion of traditional knowledge in decision-making of FPIC processes. Empowerment is thus understood as

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<sup>246</sup> Ibid.; Agrawal, "Environmentality: Community, Intimate Government, and the Making of Environmental Subjects in Kumaon, India," *Current anthropology* 46, no. 2 (2005).

<sup>247</sup> Boer, "Power in REDD+ Indonesia." p.786

<sup>248</sup> Taylor, *Michel Foucault: Key Concepts* 2014). p.32

<sup>249</sup> Boer, "Power in REDD+ Indonesia."

<sup>250</sup> Ibid. p.787

<sup>251</sup> Lemke, "Foucault, Governmentality, and Critique." p.53;Boer, "Power in REDD+ Indonesia." p.787

<sup>252</sup> Foucault and Gordon, *Power/knowledge*; Boer, "Power in REDD+ Indonesia."

increasing the ability to define “truth” about the social context the subject is operating in, ultimately strengthening self-determination, altering the power relations inherent to REDD+.<sup>253</sup>

This approach is motivated by the notion that traditional knowledge has historically, and still is, dismissed in Western science.<sup>254</sup> However, the increasing awareness of the crucial role of Indigenous peoples and their distinct relationship with their land in the context of climate change has undoubtedly affected the policy documents addressed in this thesis. Consequently, a relational approach to power allows the researcher to analyse whether the current REDD+ regime may enable the empowerment of Indigenous peoples through traditional knowledge and FPIC, or whether disciplinary power remains dominant by creating “disciplined” rather than empowered subjects.

Considering the limitations of the data collection, the following analysis should not be regarded as representative of the Indigenous peoples of Durian Rambun, Bujang Raba or Indonesia in general. The projects are solely used as examples to illustrate how FPIC and traditional knowledge may be reflected at the project level and what opportunities for empowerment might be available through the participatory processes as presented in the documents.

### **5.1 The relationship between FPIC and traditional knowledge**

Across the levels of REDD+, the documents discussed do not emphasise traditional knowledge in relation to the FPIC process except for the inclusion of traditional or customary institutions, as reflected in GCF’s definition of meaningful consultation or the WB’s new framework emphasising the role of representative bodies or organisations.<sup>255</sup> The National Strategy’s mentioning of indigenous law practices and local tradition and habits as part of the foundation for FPIC should also be noted, but interestingly this is not addressed in the SIS-REDD+.<sup>256</sup> However, this presents traditional institutions as part of decision-making. Dependent on the facilitators, this may create opportunities for including traditional knowledge through Indigenous representatives and their practices. This is particularly visible at the project level, where traditional institutions manage the planning and activities. This observation is not surprising as the projects are community-based, but still pose an example of how traditional knowledge or customs may be included in an on-going participatory process.

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<sup>253</sup> See 1.1 on FPIC.

<sup>254</sup> Schroeder and González, "Bridging knowledge divides."

<sup>255</sup> GCF, "IPP Guidelines". p.14; World Bank, "WB ESF". p.60

<sup>256</sup> Indonesian REDD+ Task Force, "REDD+ National Strategy". p.28

By adopting a broad understanding of traditional knowledge, the content or understanding of FPIC may impact the possibilities for its inclusion. For example, the process-based perceptions as reflected by the UN-REDD, GCF and Plan Vivo emphasising the continued process of consultations and participation, can create opportunities for empowerment through the inclusion of Indigenous views, practices or interests. Compared to the narrower understanding of FPIC as mainly the issue of consent, as reflected by the WB and SIS-REDD+, this understanding of FPIC may present more space for affected communities to influence the process, but also to be “disciplined” into the REDD+ discourse to a greater extent through engagement. The latter can serve as an example of the productive power of NGOs in the context of REDD+, where their relation to the local communities allows them to create knowledge about what the project will be. However, traditional knowledge is generally presented as included in project activities apart from the FPIC process. The following section will therefore address the more general presentation of traditional knowledge within REDD+ policy documents in order to later discuss how this might strengthen FPIC processes.

## **5.2 The position of traditional knowledge**

With a few exceptions, the position of traditional knowledge is presented as rather passive within the different governance levels of REDD+. In other words, traditional knowledge should be protected and respected through recognition and acknowledgement, but is generally not referred to as an integral part of decision-making, with the exception of including traditional institutions. This is arguably an explicit expression of the power disparity between the dominant discourse within REDD+ as compared to traditional knowledge systems.

Plan Vivo’s focus on community ownership is visible in the project sites of Durian Rambun and Bujang Raba, where traditional or newly formed village institutions form the foundation for planning and management.<sup>257</sup> In Bujang Raba, the “local wisdoms” of the Indigenous community is presented as part of project activities, both in restoring ecosystems and in agroforestry, although additional technical capacities facilitated by WARSI is needed to meet the project’s objective. The latter can be seen as an example of “disciplinary inclusion”, where new technical capacities of local villagers show the internalization of new ways of restoring their forests. On the other hand, combining traditional and new capacities for

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<sup>257</sup> In Durian Rambun, a village forest institution (LDPHD), including adat chiefs and village government provide support and oversight, in addition to the village customary institution as part of the village government. Flora and Fauna International, "PDD: Durian Rambun". p.10,16. In Bujang Raba, traditional institutions include the Customary Village Council, while the newly formed Village Forest Councils were created to supervise the community forests. KKI WARSI, "PDD: Bujang Raba". p.12.



conservation enables the Indigenous communities to shape the project activities through their traditional knowledge, ultimately taking part in shaping the “truth” about the REDD+ project.

The GCF stands out by additionally aiming to preserve traditional knowledge, while also emphasising the contribution of participating Indigenous communities. By acknowledging their contribution, the position of Indigenous communities is arguably presented as stronger in this policy document compared to most others. This understanding of Indigenous communities as active and contributing participants is arguably only visible in the Plan Vivo and project documents. With this view, Indigenous communities are presented as holders of productive power able to shape the social relations and content of the project activities in question. In this way, if FPIC processes included traditional knowledge to a greater extent, the knowledge held by Indigenous communities would be understood as relevant and central to the projects, enabling the process of FPIC to strengthen Indigenous self-determination.

At the national and regional level, the position of traditional knowledge is more evident in Jambi’s ESMF than the National Strategy and SIS-REDD policies, by acknowledging the potential of traditional land use systems to preserve important forest functions and thus contribute to the overall aim of reducing emissions, in addition to the mainstreaming of local knowledge of pests. This is an example of “responsibilisation”, where local institutions are planning and managing project activities, but may on the other hand also constitute an arena to exercise productive power, creating opportunities to shape the capacities of Indigenous people according to their own interests inherent to their knowledge.

Apart from this, conflict resolution and fire management seem to be the areas in which traditional knowledge is regarded as contributing to project objectives. Traditional institutions and customs for conflict resolution can thus be argued to be regarded as central in the management of REDD+ projects and may thus create spaces for influencing the “truth” about these activities and their position in the project. It is however clear that traditional knowledge is thought to serve a specific and pre-determined purpose within the projects. As compared to the analysis in the previous paragraph, this defined purpose of traditional knowledge is an expression of the productive power of project implementers, shaped by the REDD+ discourse in itself.

This power is also exercised in the determination of which activities are allowed within a REDD+ project, where for example traditional practices of shifting cultivation are to be

abandoned.<sup>258</sup> This surely exemplifies “disciplination” of Indigenous communities, consequently resulting in the internalisation of new norms inherent to the REDD+ regime. The prohibition of these practices is thus an explicit expression of the power to define, where traditional knowledge systems are dismissed in the name of the objective of reducing emissions. In this regard, elements of traditional knowledge appear to be cherry-picked to serve a specific purpose within REDD+, consequently creating restricted opportunities for empowerment.

### **5.3 Power in the Indonesian REDD+ context: opportunities for empowerment?**

It follows from this that FPIC is most often not understood as contributing to the inclusion of traditional knowledge but may nonetheless create participatory spaces where traditional knowledge may be incorporated into REDD+ activities and projects. The findings also underline the challenges identified concerning the fragmented and various directions for social safeguards in REDD+ activities, leaving the outcomes uncertain depending on the facilitating actor. Consequently, the power to define the position of traditional knowledge seems to be highly dependent on the project implementer and the affected communities in question.

As community-based projects, participation is naturally an integral part of the PES projects in Jambi, but these may still be argued to be expressions of the FPIC process at the local level, illustrating how the right to information, self-determination and participation in decision-making may function in practice. The Durian Rambun and Bujang Raba projects can in this way be examples of how community-based projects engage Indigenous peoples through their own knowledge systems and may influence “the ways of governing” REDD+ activities. On the other hand, the selectivity of what knowledge is “proper” in relation to the projects shows how project implementers may be regarded as actors of the REDD+ discourse, ultimately defining what knowledge or practices are allowed. The NGOs can be said to contribute to “disciplinary inclusion” and ultimately shape the opportunities for empowerment of affected communities. The absence of formal governance structures in Bujang Raba underlines the power of the NGOs in this regard.<sup>259</sup>

The GCF and Plan Vivo documents may be understood as creating space for empowerment, as compared to the more restricted approach of the FCPF, National Strategy and SIS-REDD. The suggested use of existing social standards of voluntary carbon markets by

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<sup>258</sup> Bayrak and Marafa, "Ten Years of REDD+." p.12;KKI WARSI, "Annual Report Update". p.9;Republic of Indonesia, "ESMF Jambi". p.125

<sup>259</sup> KKI WARSI, "PDD: Bujang Raba". p.13

national regulation 36/2009 exemplifies the power of external and sometimes international actors in the context of the securing rights of affected communities in REDD+ projects.<sup>260</sup>

The acquirement of the hutan desa status can be understood as an act of productive power by communities themselves, as it gives the community protection from other external actors, consequently changing the social relations. The facilitator's role is evident in this regard through their support of the communities in the process of acquiring hutan desa status, assisting in securing their management rights.<sup>261</sup> This demonstrates the political struggle of Indigenous peoples, where the recognition of adat rights to land is challenged by reluctant governments. In addition, the absence of adat ownership to the land means that the MoEF still remains in power over historical Indigenous land, ultimately regulating which activities should be allowed.<sup>262</sup> This is an expression of sovereign power, where the activities of the local communities with must be approved by the forestry service for the communities to keep their hutan desa license,<sup>263</sup> exemplifying their "disciplinary inclusion" and defined role in the green economy of the REDD+ regime.

The power struggles of Indigenous peoples in Indonesia are also reflected in constitutional article 28I(3). Setting forth that traditional communities' cultural identity and traditional communities should be respected "in line with the development of the times and civilisation", their protection is conditional in relation to development objectives.<sup>264</sup> Considering the history of Indigenous peoples' marginalisation in Indonesia and the continued pursuit of economic development, this article does not offer sufficient protection nor opportunities for empowerment. Recent developments such as the Omnibus Bill and the developments towards an Indigenous Peoples Bill illustrate this tension as well.

In summary, the Indonesian REDD+ context presents rather limited space for Indigenous communities to exercise productive power, but project implementers may facilitate activities or participatory spaces that create opportunities for empowerment. In this way, traditional knowledge may shape projects, both through traditional institutions, mechanisms, and practices that are regarded as appropriate. Their self-determination is thus restricted. The forestry service on behalf of the MoEF and the project implementers introducing the project to

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<sup>260</sup> Ministry of Forestry, "No. 36 Menhut-II".

<sup>261</sup> KKI WARSI, "PDD: Bujang Raba".p.14; Flora and Fauna International, "PDD: Durian Rambun"., p.15

<sup>262</sup> This is view is also held by AMAN as referred to in Siscawati et al., "Overview of forest tenure reforms in Indonesia," 2017. p.11

<sup>263</sup> Interview.

<sup>264</sup> Jodoin, *REDD+ and indigenous rights*. p.91;"The Constitution of The Republic of Indonesia". "The Constitution of The Republic of Indonesia".

the communities determine these restrictions, but are in turn also “disciplined” by the overall REDD+ discourse.

It should be underlined that “disciplinary inclusion” and empowerment are not contradictions per se. The participatory spaces required by the REDD+ policies, including the National Strategy and the SIS-REDD+, facilitated and enabled by project implementers, are creating both opportunities for empowerment and for “defining” the position of Indigenous communities and to what extent traditional knowledge is included in the projects. In this way, project implementers can be said to distribute a certain amount of productive power to affected Indigenous and local communities. This highlights the non-oppressive character of productive power as exercised by project implementers, and that these actors are directed and shaped by the broader power structure of both the Indonesian government and the REDD+ regime in general. The issue is not the power exercised by project implementers, but the discourse that defines their actions, ultimately shaping the social relations constituting the projects and the “truth” about REDD+ projects, where traditional knowledge is restricted. In light of the struggles of Indigenous people in Indonesia concerning legal recognition and acquisition of land rights, facilitating NGOs such as WARSI rather enable the strengthening of Indigenous communities through their inclusive approach. It illustrates the strengthening of Indigenous communities through participation in decision-making, but this is nonetheless limited to the “appropriate” ways of including these communities and their alternative knowledge systems.

## **6 Discussion**

Following the analysis, the discussion seeks to elaborate on how including traditional knowledge in the FPIC process has the potential to empower Indigenous communities and why such development is beneficial. As reflected in Schmitt and Mukungu’s case study on the DRC, project examples such as the Bujang Raba serve to illustrate the possible ways of conducting REDD+ projects and how traditional knowledge may be integrated, ultimately contributing to the knowledge production that constitutes the REDD+ discourse. Within the FPIC process, traditional institutions may serve the purpose of empowering Indigenous communities through their contributions in shaping the REDD+ project according to their interests. Further, the analysis in section 5.2 illustrates how traditional knowledge is included in REDD+ in general and may empower Indigenous communities. By including traditional knowledge in the FPIC process, the recognition and acknowledgment of Indigenous peoples’ contributions in REDD+ projects can empower Indigenous communities in several ways. First, by applying their own knowledge, values and norms, they are explicitly contributing to creating the project and

activities they are included in, taking part in the creation of the social relations surrounding them, as compared to being “disciplined” into a set way of governing REDD+ projects. Strengthening self-determination through traditional knowledge thus alters the power relations within these projects, consequently empowering Indigenous communities. Second, the integration of traditional knowledge, both apart and separate from FPIC, is empowering in the sense that it preserves these distinct cultures. With the theoretical lens of Foucault, power and knowledge are closely intertwined, and it follows from this that the existence and practice of alternative knowledge systems challenge the dominant discourse. Following this, stressing the understanding of FPIC as a continued participatory process, traditional knowledge in various forms should be included in the process of FPIC to a greater extent, enabling Indigenous communities to shape and define the activities they are participating in throughout all stages of project implementation.

As reflected in previous chapters, different international institutions and national governments have created the idea of what FPIC and traditional knowledge should be in REDD+. This development can be seen as a process of continued knowledge production where different actors contribute to shaping norms, including Indigenous peoples’ organisations such as AMAN.<sup>265</sup> This constellation of social relations has the ability to emphasise traditional knowledge to a greater extent within the FPIC process, and could in this way challenge the existing power relations currently evident in the REDD+ regime. For example, the approach of GCF and Plan Vivo can be argued to present opportunities for greater inclusion of traditional knowledge and may in this way contribute to an understanding of FPIC and participatory spaces that enables Indigenous peoples’ empowerment. This can challenge the passive position of traditional knowledge systems inherent to the REDD+ regime and may prevent the right to self-determination being undermined by neoliberal agendas. The establishment of FPIC as a requirement within REDD+ contributes to the inclusion of traditional knowledge to some extent, but has a long way to go in addressing the inherent power disparity between these knowledge systems, underlining the lack of application of traditional knowledge to decolonise REDD+.<sup>266</sup> In the meantime, non-governmental actors such as the Plan Vivo and facilitating NGOs contribute to providing knowledge of how it can be included, hopefully paving the way for a “disciplinary inclusion” that emphasise Indigenous and traditional knowledge, practices and values to a greater extent in the future, ultimately enabling Indigenous empowerment.

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<sup>265</sup> See 4.1.

<sup>266</sup> Villhauer, "Transforming REDD+."

Connecting the findings and analysis to the discussion introduced in the literature review, it is evident that the potential of traditional knowledge in REDD+ is restricted, especially within the process of FPIC. The challenges presented in the literature review are complex and context specific, underlining that there is no “one size fits all” for effective participation in REDD+.<sup>267</sup> Nevertheless, increased opportunities for influence through the FPIC process as previously discussed illustrate how Indigenous peoples’ may be empowered in these contexts. As an established requirement within REDD+, FPIC has the potential to strengthen Indigenous communities to a greater extent than it appears to do. Following this line of argumentation, greater emphasis and inclusion of traditional knowledge, both as part of and separate from the FPIC process, could strengthen the position of Indigenous peoples in several ways and answer to some of the challenges identified initially. Surely, to introduce obligations regarding the inclusion of traditional knowledge on national governments or project implementers are ambitious considering the lack of political will and the strong economic incentives inherent to the market-based approach of REDD+. Nevertheless, the policies shaping the REDD+ discourse could go a long way in emphasising the role of traditional knowledge and acknowledging the contributions of Indigenous peoples to a much greater extent.

By recognizing and strengthening the contribution of traditional knowledge, Indigenous communities affected by REDD+ would be more likely to develop their roles in projects according to their interests.<sup>268</sup> Regarding the risk of affected communities being framed “uninformed” as a result of their non-consent, strengthening the position of traditional knowledge in FPIC may contribute to *negotiation* to a greater extent, rather than socialisation justified by the “lack of common sense to consent”. As already discussed, inclusion in the REDD+ regime necessitates a certain “disciplinary inclusion”, but the extent to which Indigenous communities can influence decision-making and shape the projects is significant for several reasons. For example, increased emphasis on traditional knowledge may reduce the risk of FPIC being applied for neoliberal imperatives as identified by Dehm, moving the understanding away from merely a risk management strategy. Traditional knowledge may in this way support the normative commitment to self-determination that FPIC is built on.

On the other hand, to capitalize on traditional knowledge through its inclusion in REDD+ activities may pose new challenges. For instance, the implementation of systems for

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<sup>267</sup> Schmitt and Mukungu, "Effective Participation of Communities: Case study on the DRC."; Bayrak and Marafa, "Ten Years of REDD+."; Carodenuto and Fobissie, "Operationalizing FPIC."

<sup>268</sup> Abate and Kronk Warner, *Climate change and Indigenous peoples*.

sharing of benefits arising from REDD+ activities has proven to be difficult,<sup>269</sup> and the inclusion of traditional knowledge could in this way enable project implementers or other powerful actors to economically gain from REDD+ projects without reciprocating the value of Indigenous communities' contributions. However, as the commercial use of traditional knowledge is to be protected through international law and REDD+ policies in general, the inclusion of traditional knowledge could also increase the pressure to develop robust systems for benefit-sharing.<sup>270</sup>

As the introduction of REDD+ activities in Indigenous territories necessitates a certain degree of "disciplination", the inclusion of traditional knowledge could be criticised to support the continued domination over Indigenous peoples. As discussed in the analysis, Indigenous self-determination is restricted by taking part in REDD+ and as both a result and product of market-based forces and thus the dominant discourse, its inherent power structure would surely continue to limit Indigenous activities. However, the struggles of Indigenous peoples in Indonesia exemplify how REDD+ may in fact provide opportunities for protecting their land from exploiting actors or the overall drivers of economic development in itself. It is thus important to stress the effective participation in FPIC processes and the ability of Indigenous communities to shape the projects according to their own knowledge and interests, preventing these mechanisms being used to legitimise project implementation.

Increased emphasis and inclusion of traditional knowledge systems in the FPIC process could in this way contribute to decolonising REDD+, supporting and enabling the ability of affected communities to shape and define the projects they are participating in.<sup>271</sup> Acknowledging the histories of marginalisation of Indigenous peoples in Indonesia and other parts of the world, it is only reasonable that these communities are able to define and determine their roles and contributions in the REDD+ regime, especially considered their minimal contribution to GHG emissions. It is no question whether Indigenous peoples have interest in restoring their forests, but the REDD+ regime cannot be a tool to make Indigenous peoples bear disproportionate burden.<sup>272</sup> In order to ensure social justice, it is vital that Indigenous peoples have the necessary power to determine their own development in these contexts. The potential

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<sup>269</sup> Godden, "Benefit-Sharing in the REDD+ Regime: Linking Rights and Equitable Outcomes," in *The Impact of Climate Change Mitigation on Indigenous and Forest Communities: International, National and Local Law Perspectives on REDD+*; Jodoin, *REDD+ and indigenous rights*. p.156

<sup>270</sup> E.g. "Decision XIII/18.," 2016. elaborating on art.8(j) of the Convention of Biological Diversity.

<sup>271</sup> Villhauer, "Transforming REDD+."

<sup>272</sup> Ibid.; International Union for Conservation of Nature, "Indigenous Peoples and REDD-plus: Challenges and opportunities for the engagement of indigenous peoples and local communities in REDD-plus," 2010; "COP26 Strengthens Role of Indigenous Experts and Stewardship of Nature," (2021).

of traditional knowledge to enhance the productive power of Indigenous communities affected by REDD+ activities and thus strengthen their position is therefore answering to power disparities both at the local level and in a general sense to their long histories of marginalisation. It is thus the responsibility of powerful international and national actors to develop norms, mechanisms and safeguards that strengthens Indigenous self-determination and answers to this injustice rather than the continued existence of the evident power disparities reflected in REDD+ policy documents.

## **7 Conclusion**

It is evident throughout the analysis that FPIC is generally not understood as incorporating traditional knowledge, except for the emphasis on traditional institutions. This provides limited space for empowerment through these processes, which can be understood as an explicit expression of the power disparity between Western knowledge systems as compared to the traditional knowledge systems of Indigenous peoples. With the exception of GCF and Plan Vivo, traditional knowledge is presented as passive, something to be protected, rather than shaping the projects or contributing to the objectives of REDD+ initiatives through the FPIC process. In the absence of effective national and regional regulations in Indonesia, the role of project implementers appears to be especially decisive, where facilitating NGOs can play a crucial role by enabling inclusive and continued participatory spaces. Nevertheless, REDD+ policies should advocate for greater inclusion of traditional knowledge systems in FPIC in order to enhance opportunities for empowerment, self-determination and Indigenous rights in general.

The limited data collection of this study necessarily eliminates generalization, but nonetheless serves to underline the lack of emphasis on traditional knowledge in FPIC perceptions and the overall REDD+ regime, illustrating the power relations threatening to undermine Indigenous peoples' right to self-determination. Nevertheless, the more inclusive approach as exemplified by the GCF, Plan Vivo and Bujang Raba may point towards a promising development. In this way, FPIC as an established legal requirement can pave the way for greater empowerment of Indigenous peoples in the future where traditional knowledge systems have a stronger impact.



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