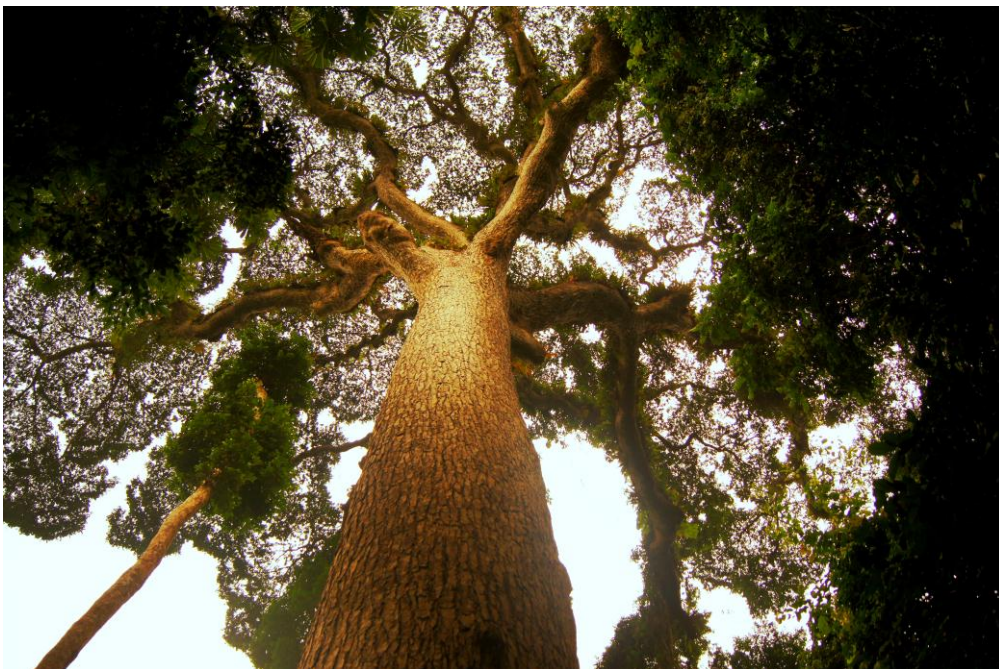# NATURAL JUSTICE

Rights-Based REDD+ Dialogue

REPORT

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Contents

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Acronyms

ABS	Access to Genetic Resources and Benefit-Sharing
BCP	Biocultural community protocol
CBD	Convention on Biological Diversity
CCBA	Climate, Community and Biodiversity Alliance
COP	Conference of parties
CSO	Civil Society Organisation
FCPF	Forest Carbon Partnership Facility
FIP	Forest Investment Programme
FPIC	Free, prior and informed consent
GEF	Global Environmental Facility
LC	Local community
MRV	Monitoring, reporting and verification
IP	Indigenous Peoples
REDD+	Reducing emissions from deforestation and forest degradation
REL/RL	Reference emissions level/reference level
R-PP	Readiness preparation proposal
SADC	Southern African Development Community
SBI	Subsidiary Body for Implementation
SBSTA	Subsidiary Body for Scientific and Technical Advice
SES	Social and Environmental Standards
SIS	Safeguard Information System
SPEC	Social and Environmental Principles and Criteria
USAID	United States Agency for International Development
UNFCCC	United Nations Framework Convention on Climate Change
UN-REDD	United Nations REDD Programme

Executive Summary

The Rights-Based REDD+ Dialogue brought together over twenty participants from Botswana, Kenya, Mozambique, Namibia, South Africa, Zambia and Zimbabwe, to share knowledge and experiences on REDD+ from a rights-based perspective. The dialogues were held on the 12th and 13th November, 2012 in Cape Town, South Africa.

The main aims of the dialogue were first, to develop a critical understanding of reducing emissions from deforestation and forest degradation (REDD+) safeguards and the main safeguard standard initiatives. Secondly, to exchange knowledge and experience regarding regional and national REDD+ readiness activities with a focus upon the social safeguards and provide space for civil society organisations to highlight current challenges and opportunities. Thirdly, to synergise links between the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity, and to consider the relevance of biocultural community protocols to REDD+.

This report outlines the main outcomes of the dialogue based upon a framework of common themes relevant to a rights-based REDD+ approach, and the challenges and opportunities within each theme are discussed. The approach was iterative and therefore the thematic outcomes are not exhaustive, rather they reflect issues that arose in various discussions throughout the dialogue. The main themes include the role of REDD+ stakeholders, safeguard standard initiatives, free, prior and informed consent, full and effective participation, land and resource rights, equitable benefit sharing, safeguard compliance and harmonisation with the Convention on Biological Diversity.

Issues of concern that arose during the dialogue included the limited participation of communities within the ongoing national REDD+ readiness activities, and the lack of appropriate information which severely limits their ability to make informed decisions. The diversity of standard initiatives under development and their complexity, although well-intentioned, could increase a communities reliance upon external players. Current standards do not have sufficient grievance and compliance mechanisms, and there has been minimal gender awareness within the majority of REDD+ debates and actions to date. Existing insecure and unclear land tenure could result in negative REDD+ impacts upon communities. Communities are often unaware of their rights, and even though rights may be enshrined at international or national levels they may not be enforced.

Opportunities that may arise through the REDD+ process include greater community participation and representation at international and national levels, positively influencing the design of safeguard tools, the possibility to call for increased rights within REDD+ and within national processes such as the writing of constitutions. There is also the possibility of adapting best practice from other continents for the African context, and for communities and civil society organisations to call for independent monitoring of safeguard implementation and REDD+ in general.

A post-dialogue analysis of the potential of biocultural community protocols to address the rights-based concerns raised during the dialogue was undertaken. The analysis suggests that, within the context of REDD+, biocultural community protocols, if implemented through appropriate processes, may have the potential to address some of the key challenges which indigenous peoples and local communities may face during REDD+ project implementation in their territories. However, a biocultural community protocol is no panacea, but it could enhance the capacity of communities to articulate their values, customs and rights if they decide to engage with the REDD+ mechanism.

REDD+ Dialogue Objectives

The objectives of the Rights-Based REDD+ Dialogue were to:

- Develop a critical understanding of reducing emissions from deforestation and forest degradation (REDD+) safeguards and the main safeguard standard initiatives.
- Exchange knowledge and experience regarding regional and national REDD+ readiness activities with a focus upon the social safeguards and provide space for CSO representatives to highlight current challenges and opportunities.
- To synergise links between the United Nations Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (CBD), and to consider the relevance of biocultural community protocols (BCPs) to REDD+.

Background

Reducing Emissions from Deforestation and Forest Degradation (REDD+)

The 195 Parties to the United Nations Framework Convention on Climate Change (UNFCCC) agree to cooperate to limit average global temperature increases and the resulting climate change, and to cope with inevitable impacts. In 1997 the Kyoto Protocol was adopted, this legally binds developed country Parties to emission reductions, the first commitment period is five years and ends in December 2012. The second commitment period is eight years from 2013 to 2020.

REDD+ originated from a proposal by Costa Rica and Papua New Guinea in 2005. Two years later in 2007, Decision 1/CP.13 (the Bali Action Plan) was adopted which included reducing emissions from deforestation under mitigation actions.

In 2009 Progress was made in the REDD+ negotiations at the conference of parties (COP) 15, and issues such as scope, guiding principles, safeguards and a phased approach to REDD+ were clarified. Decision 4/CP.15 provided methodological guidance and *requested* developing countries to identify drivers of deforestation and degradation, and activities that result in reduced emissions, increased removals or stabilisation of forest carbon stocks, and also to establish forest monitoring systems. Furthermore, COP encouraged the development of guidance for the engagement of IPLCs in monitoring and reporting. The main outcome of COP15, the Copenhagen Accord was taken note of by the COP.

REDD+ Safeguards

A year later at COP16, the 'Cancun Agreements' were drafted and largely accepted by the COP. In decision 1/CP.16 REDD+ is addressed under Chapter III C: 'Policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries'.

Paragraph 70, e*ncourages* developing country Parties to contribute to mitigation actions in the forest sector by undertaking the following activities:

a) Reducing emissions from deforestation;
b) Reducing emissions from forest degradation;
c) Conservation of forest carbon stocks;

d) Sustainable management of forests;
e) Enhancement of forest carbon stocks;

Paragraph 72 *requests* Parties, when developing and implementing their national strategies to address *inter alia*, drivers of deforestation and forest degradation, land tenure issues, forest governance issues, gender considerations and the safeguards, ensuring the full and effective participation of relevant stakeholders, inter alia indigenous peoples and local communities.

Appendix 1 to the agreement, specifies that when undertaking the activities in paragraph 70 the safeguards should be promoted and supported.

REDD+ Safeguards

a) That actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements;
b) Transparent and effective national forest governance structures, taking into account national legislation and sovereignty;
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;
e) That actions are consistent with the conservation of natural forests and biological diversity, ensuring that the actions referred to in paragraph 70 of this decision are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits;[1]
f) Actions to address the risks of reversals;
g) Actions to reduce displacement of emissions.

[1]Taking into account the need for sustainable livelihoods of indigenous peoples and local communities and their interdependence on forests in most countries, reflected in the United Nations Declaration on the Rights of Indigenous Peoples, as well as the International Mother Earth Day.

(FCCC/CP/2010/7/Add.1)

The Cancun Agreements also requested developing countries to develop a national strategy, a national forest reference emission level and/or forest reference level (REL/RLs), a transparent national forest monitoring system, and a system for providing information on how the safeguards are being addressed and respected.

REDD+ Safeguard Information System

In 2011 the outcomes of COP17 included decision 12/CP.17 which concerns guidance on systems for providing information on how safeguards are being addressed and respected, commonly referred to as a Safeguards Information System (SIS). In this decision COP *agreed* that the system provide transparent and consistent information that is accessible by all stakeholders, build upon existing systems, and that Parties provide a summary of information throughout implementation of REDD+ activities. Furthermore, it was *agreed* that the SIS respect gender considerations. The COP *requested* the Subsidiary Body for Scientific and Technological Advice (SBSTA) to consider the timing and frequency for the summary information presentations and to consider the need for further guidance on transparency, consistency, comprehensiveness and effectiveness

(FCCC/CP/2011/9/Add.2).Parties intending to access results-based finance will require a SIS in addition to actions which are fully measured, reported and verified (Decision 2/CP.17 para 64).

Recent submissions to the UNFCCC concerning the SIS have raised the following issues:

- The role of SIS could help promote sustainability of REDD+, transparency and guard against unintended social and environmental consequences.
- The types of information could include: an assessment of national SIS; stakeholders affected by REDD+ and their participation; measures to implement and monitor safeguards at the local level; laws, policies and regulations in place to implement the safeguards; effectiveness of legal frameworks; indicators of traditional knowledge; dispute resolution and grievance mechanism.
- The collection of SIS could include direct engagement of indigenous peoples and local communities (IPLCs) affected by REDD+; parallel reporting by IPLCs; the SIS cold benefit from and build upon existing reporting structures within human rights treaties and the CBD.

REDD+ Safeguard Standard Initiatives

Currently there are various initiatives developing guidance and policies to operationalize and facilitate implementation of the REDD+ safeguards, the main initiatives are:

- UN-REDD: Social and Environmental Principles and Criteria (SPEC) – voluntary guidance.
- Forest Carbon Partnership Facility (FCPF): adopted a Common Approach to Environmental and Social Safeguards for Multiple Delivery Partners, which is based upon several World Bank safeguard policies, including Indigenous Peoples (OP/BP.4.10) – mandatory.
- Climate, Community and Biodiversity Alliance (CCBA) and CARE: REDD+ Social and Environmental Standards (REDD+ SES) – voluntary.

Multilateral bodies, the Forest Investment Programme (FIP) and the Global Environmental Facility (GEF), are both active in REDD+, and although they have some specific REDD+ policies they tend to rely on the policies of implementing agencies.

Thematic Outcomes of the Rights-Based REDD+ Dialogue

The social safeguards encompass a variety of cross-cutting themes, which arose repeatedly in presentations, panel discussions and questions. Thus, rather than report on specific sessions of the dialogue, reporting has been organised into the main themes which are relevant to rights-based REDD+ and specifically the social safeguards.

United Nations Framework Convention on Climate Change

The evolution of REDD+ within the UNFCCC and key issues for COP18 Doha were presented by David Lesolle, from the University of Botswana.

Challenges

- Methodological challenges, such as devising the reference scenario, and monitoring, reporting and verification (MRV).
- Governance challenges, including participation, land tenure, and carbon rights.

Figure 1. David Lesolle discussing the evolution of REDD+.

- Lack of trust within Parties between governments and civil society and between Parties, especially the developed and developing nations.
- The exclusion and relative silence of civil society within the UNFCCC.
- Difficulties encountered by civil society organisations (CSOs) to reach negotiators, especially if they are presenting alternative perspectives to those which dominate the negotiations.
- Influencing the dominant value system within existing REDD+ structures, which focus on the monetary value of carbon, how can alternative perspectives especially those concerning non-monetary values be effectively raised?

Opportunities

- Enhance and clarify key messages and frame them in a way so that they cannot be discarded, for example, "fighting poverty" will be an aim all support.
- CSOs can make submissions to the UNFCCC, often they react to existing proposals, there is also the opportunity to make new submissions.
- Develop an on-line community of scientists and other experts to support negotiators.
- Advocate for gender equality within the UNFCCC.
- Promote the inclusion of African dry forests in REDD+ through evidence-based arguments, including: forest definitions; deforestation rates; low opportunity costs; link to biodiversity, especially the uniqueness of the Big Five (elephant, leopard, lion, black rhino and Cape buffalo) which are restricted to savannah environments.
- The Southern African Development Community (SADC) REDD+ Network is an informal and voluntary network, it can assist to connect CSOs to SADC.

REDD+ Safeguard Standard Initiatives

A summary of the main REDD+ safeguard standard initiatives by Cath Traynor opened the safeguards session. The UN-REDD approach to safeguards, stakeholder engagement and Free, Prior, Informed Consent (FPIC) was presented by Anne Martinussen, a consultant for stakeholder engagement within the UN-REDD programme. Soikan Meitaiki, the indigenous peoples (IP) representative for Anglophone Africa within the FCPF presented the World Bank and FCPFs approach to safeguards.

Figure 2. Soikan Meitaiki discussing the Forest Carbon Partnerships Facility approach to safeguards.

Challenges

- IPs have a number of concerns with the World Bank Operating Policy 4.10 Indigenous Peoples, especially with regard to resettlement issues. IPs are currently engaging directly with governments to raise these issues.

- The World Bank and its Delivery Partners, the FCPF should adopt FPIC: currently they only require consultation not consent, ongoing discussions with UN-REDD to harmonise approaches may improve this.
- The safeguard guidelines are extremely complex, ordinary people won't be able to interpret them, thus NGOs, external consultants, and possibly lawyers, will be

Figure 3. Cath Traynor introducing the REDD+ safeguards and standard initiatives.

required to assist in their interpretation – this may not be to the benefit of communities, as it makes them more rather than less reliant upon outsiders.
- The diversity and complexity of the safeguard standards makes it difficult for communities to engage effectively in REDD+
- The safeguards are extensive, it is possible that project developers won't be able to include all of them, as small-scale project developers may lack the financial resources for capacity building, baseline development, etc. Within the biofuels roundtable, specific safeguards relevant to particular projects were selected for development, as addressing all safeguards within all projects was deemed financially unfeasible. IPLCs could select the most relevant safeguards to them and utilise these to demonstrate the impact of REDD+ projects – there needs to be give and take to attract financial investment.
- The numerous guidelines are a problem, 'the low hanging fruit now hangs quite a bit higher'.
- Governance structures of the UN-REDD, FCPF – representation of civil society.

Opportunities

- UN-REDD SEPC is a tool which a country implementing REDD+ can adapt to suit their specific needs.
- The various REDD+ standard initiatives are tools, they can also be weapons used by CSOs and IPLCs to check that government and REDD+ project developers are designing and implementing REDD+ programmes and projects accordingly.
- Time should be taken to develop the REDD+ safeguard standards properly – they need to be strong if they are to be effective.
- Clear conflict resolution and grievance mechanisms are required within all the safeguard standards.
- At the global level, IPs and CSOs are represented within UN-REDD and decisions are made by consensus, thus if IPs and/or CSOs defer, decisions are not reached. The power of consensus is important as it shows the spaces CSOs and IPs can utilise.
- Nationally within country UN-REDD programmes, IPs and CSOs tend to be represented in the National Steering Committees.
- FCPF provides funds for capacity building for CSOs.

National Sovereignty

Zambia progress with its national UN-REDD Programme was presented by Vitor Chiiba, Forestry Department. Discussions following the presentation raised some issues related to national

Figure 4. Victor Chiiba discussing national REDD+ activities in Zambia under the UN-REDD Programme.

sovereignty of REDD+ programmes. Susanne Wallenöffer from SADC presented a regional REDD+ approach for SADC, which facilitates and supports national REDD+ initiatives.

Challenges

- Developing country governments want to access REDD+ funds, therefore they are fulfilling the REDD+ readiness preparation proposal (R-PP) template and "ticking boxes" rather than developing an approach that is specifically suited to a countries particular needs

Opportunities

- International conventions are interpreted through the nation state. Legal proceedings can be initiated if the government is not implementing programmes effectively, e.g. the United States Agency for International Development (USAID) initiated court proceedings against the Zimbabwean government in order to make the government implement the Campfire programme to higher standards.
- Clarify the human rights obligations the state already has to its citizens, and use these as a basis for safeguard implementation.
- Where current legislation and forest laws are insufficient to deal with REDD+, new policies and regulations will need to be developed – these offer opportunities to integrate IPLCs rights and gender issues.
  - In Mozambique a REDD+ Decree is being developed to address deficiencies in current laws, it contains a specific safeguards section but does not refer to different gender roles.
- Where countries are developing their constitutions, this process can be used to call for enhanced rights for IPLCs:
  - Zambia is currently reviewing its constitution and the issue of IPs, land tenure and rights are being discussed.
  - A new chapter has been written for the Zambian constitution addressing ecosystems and benefit sharing mechanisms – REDD+ should align with these.
  - Kenya passed its constitution in 2010: IPs are referred to as a minority group IPs can take advantage of these and other legal reforms in the context of REDD+.
- Best practices experience from REDD+ implementation in other countries can be contextualised and adapted for African countries:
  - Zambia is adapting positive lessons from Brazil for integration into the Zambian REDD+ strategy.

Roles of REDD+ Stakeholders

Challenges

- Governments role within REDD+ is complex, they will report to the UNFCCC regarding greenhouse gas emission reductions, and report to funders such as the World Bank, FCPF, and the UN-REDD Programme. The government will also be responsible for putting in place

legal frameworks for REDD+, concerning the REDD+ safeguards they must ensure that FPIC and full and effective participation for IPLCs takes place. The government may also want to attract REDD+ project developers to implement REDD+. They will liaise with these developers and possibly sign agreements for REDD+ feasibility studies and project implementation. Given these roles, can governments also be the regulator?

- Governments should advise on the governance framework, land tenure and land rights.
- Within national REDD+ readiness activities, short-term external consultants have been widely utilised: greater emphasis needs to be given to capacity building of nationals.
- Giving power to communities so they are custodians for their own resources and not victims in international processes.

Opportunities

- CSOs have a role to play to ensure that the REDD+ safeguards are positive.
- IPLCs and CSOs should be represented on national REDD+ steering committees.
    - o The Zambia Civil Society Climate Change Network sits on the National Steering Committee for REDD+ in Zambia.
    - o Centro Terra Viva is part of the REDD+ Working Group in Mozambique.
- Governments role is to put in place appropriate instruments to ensure that the safeguards are implemented effectively.
- CSOs have a role to play in raising awareness of the broader context of REDD+, the UNFCCC, the commodification of carbon, payment for ecosystem services, etc.
- CSOs roles could include enhancing the understanding of REDD+ issues and impacts within communities.

Free, Prior, Informed Consent

The REDD+ Readiness session gave an opportunity for CSO representatives from five countries to raise issues relating to whether IPLC rights were being respected in national REDD+ readiness activities and voluntary sector REDD+ project implementation. Numerous issues relating to free, prior, and informed consent (FPIC) and full and effective participation were discussed.

Challenges

- Government does not always recognise the local authority of IPs, and in some cases governments have weakened IP structures, by favouring certain IP individuals. Therefore, it is difficult to ensure FPIC as the structures that are meant to ensure consultation have already been weakened and are not always functioning effectively.
- FPIC is intended to empower communities, however, sometimes the process is skewed.
- REDD+ is full of jargon, it needs to be simplified so that the likelihood of stakeholders being fully informed is increased.

Figure 5. Anne Martinussen and Soikan Meitaiki.

Opportunities

- To be fully informed, IPLCs require information which will allow them to evaluate the costs and benefits of REDD+ projects at the livelihood level.
- Social and environmental impact assessments are required before REDD+ project implementation, so that their impacts can be evaluated before the decision on whether to give or withhold consent is made.

Figure 6. Delme Cupido facilitating the CSO perspectives session.

- IPLCs need to be provided with enough space and information to interrogate the REDD+ Process – REDD+ project developers may seek to sign off carbon rights rapidly and thus apply pressure.
- A 'cooling off' period should be written into any REDD+ contracts, so that the community can reflect on their decision and if they so desire, change their minds and withdraw from the process within a given time period.

Full and Effective Participation

Regina dos Santos examined whether the REDD+ safeguards can promote womens' rights to forest resources and REDD+ benefits using Mozambique as a case study during the REDD+ safeguards session. During the REDD+ readiness session, the CSO perspectives presentations and following discussions raised many issues concerning participation.

Challenges

- Lack of gender awareness:
    - In the Mozambican REDD+ R-PP, women are only mentioned once.
- Lack of specificity:
    - In the Mozambican REDD+ R-PP, the language used is vague, for example regarding women "empowerment" is mentioned but no mention of how this will be achieved.
    - The National Programme Document refers to "other stakeholders" and does not explicitly mentions IPLCs.
- Gender inequity during stakeholder consultations:
    - In Mozambique, REDD+ consultations, tended to be dominated by elder men, the proportion of women is generally well below 40% (even though they make up over 50% of population).
- Many women who attend stakeholder consultations, do not participate fully and effectively:
    - In Mozambique, women attended meetings but often did not contribute towards discussions.
- IPLCs need to be part of the process from the beginning – in the past many policies have been devised with no IP representation: IPs will disown such policies.

- Full and effective IP participation in the development of the Kenyan R-PP and readiness activities has not been achieved, due to:
  - IPs not included at the inception of REDD+
  - Insufficient funds available to enable adequate IP dialogue in REDD+.
  - The final R-PP document does not indicate any changes made due to comments received.
  - IPLC involvement has been limited to specific areas: e.g. fire management.
  - Stakeholders are not clearly defined.
  - REDD+ decision-making bodies do not include IP leaders.
- IPLC and CSO participation within REDD+ readiness activities has generally been as the recipient of some information, not full participation, e.g. Zambia.

Opportunities

- Examine the design of the stakeholder consultation process and determine where exclusion takes place – alter the process so that women are included from the start.
- REDD+ stakeholder consultation meetings should be organised to enhance women's full and effective participation by, e.g. being held at suitable locations (e.g. close to their farms) and at suitable times of the day (i.e. not during meal preparation times).
- Enhance specificity within REDD+ programme documents so that stakeholders are clearly defined, and IPLCs, gender, rights are addressed clearly.
- Specific measures should be developed to reflect stakeholder inputs: e.g. track changes in documents and/or before and after tables showing where and how changes have been incorporated.
- Capacity building is required for IPLCs so that they can negotiate effectively throughout the REDD+ process.

Figure 7. Moses Nyoni, Allan Chuamba, Joram Useb, Regina dos Santos and Soikan Meitaiki providing CSO perspectives.

Land and Resource Rights

Challenges

- Lack of recognition of different land use systems within countries:
    - The Zambian National Programme Document fails to recognise that Western Province has a totally different land system to the rest of the country.

Figure 8. Vhalinavho Khavhagali discussing REDD+ from the community perspective during the role play.

- Unclear tenure is a driver of deforestation. The drivers of deforestation and degradation will be discussed within the UNFCCC by SBSTA in 2013.
- Land rights and allocation issues need to be addressed prior to REDD+ implementation, or gender inequality could be exacerbated.
- Carbon rights must be addressed within the context of other land and resource rights.
- Experience to date in Mozambique, has shown that where communities do not have ownership rights, there is little incentive to manage and communities feel insecure that their resources may be taken by the government.
- In Mozambique, a move towards centralization has resulted in some community lands being re-demarcated at the national level.
- Rights may be written down – but they may not be recognised in practice:
    - Mozambique, demarcation of community land: community land with low value were demarcated, however, where community land had high tourism value the process stalled.
    - The Lower Zambezi, the rights to a healthy environment were ignored so that mining could go ahead despite community objections.
- REDD+ may involve loss and exclusion from land: access to forests and their products often represents a coping strategy during difficult times and also for poorer households, the curtailment of forest access could have negative impacts on these important livelihood coping strategies.
- IPLCs and CSO may not be informed of government plans for land use.

Opportunities

- Constitutions recently finalised or under development in some African countries may address some of the land and resource rights issues that are arising under REDD+.
- REDD+ has highlighted the need for IPLC land tenure security.
- Community Based Natural Resource Management is a good way to decentralize forest management – although there are many caveats.

Equitable Benefit Sharing

Challenges

- Clear resource rights are a precondition – unclear rights may hurt communities.

- Communities may not recognise benefits to which they are legally entitled.
- Previous examples of benefit sharing in natural resource management, illustrates that governments often take a portion of the benefits: e.g. in some cases of trophy hunting in Namibia, the government collects 30% of revenues.
- Governments may plan to receive all revenues and then redistribute – however, actions may not be fully transparent. CSOs are developing tools to enhance transparency in this area.
- IPLCs may be viewed as custodians of natural resources, however, they may not be part of the decision-making process which determines how these resources are utilised and benefits distributed.
- How to ensure that IPLCs are the main beneficiaries of REDD+?

Figure 9. Wally Menne facilitating the safeguarding the safeguards session.

Opportunities

- Existing benefit sharing models can provide lessons for REDD+:
  - In Mozambique, 20% of timber revenues go to local communities (LCs).
  - The REDD+ Decree being developed in Mozambique states that 80% of revenues will go to LCs.
- In Zimbabwe, community-private partnerships are being explored as ways for communities to have greater involvement in and benefit from activities in their geographic areas.

Safeguard Compliance

Challenges

- Well-intentioned guidelines may have unexpected detrimental impacts upon IPLCs. Experience with timber certification standards, e.g. the Forest Stewardship Council, has demonstrated that such systems give legitimacy to the global timber, pulp and paper industry.
- Who will the safeguards benefit? IPLCs or investors?

Opportunities

- Safeguard compliance needs to be assessed by independent parties.
- Nations will need to respect safeguards to access funding – this may be a way to make a nation implement the safeguards, i.e. economic incentive for compliance.
- CSOs need to develop systems to monitor REDD+ and its impacts.

Harmonisation with the Convention on Biological Diversity

Valinavho Khavhagali, Biodiversity and Climate Change, Department of Environmental Affairs, South Africa and *Itchell Guiney*, Department of Agriculture, Forestry and Fisheries, South Africa discussed links between the UNFCCC and CBD and the status of REDD+ in South Africa.

Challenges

- UN structures makes linking climate change and biodiversity difficult during implementation, as climate change funds should not be used for biodiversity and vice versa.

Opportunities

- Mapping environmental projects including those under the UNFCCC and CBD will assist in policy alignment considerations and linking e.g. adaptation and mitigation activities.
- Within the CBD there has been a lot of work concerning cultural heritage and associated safeguards, there is a clear link and applicable lessons for the UNFCCC.

REDD+ within Complex Landscapes

Challenges

- The emergence of REDD+ has favoured forests over other ecosystems such as grasslands, wetlands and mangroves – these other ecosystems are important for a variety of reasons and should not be relegated in landscapes debates.

Bio-cultural Protocols as a Community-based Response to REDD+?

Gino Cocchiaro and *Lassane Koné*, from Natural Justice introduced BCPs and discussed their relevance to the REDD+ social safeguards.

Biocultural community protocols are community-led instruments that promote participatory advocacy for the recognition and support for ways of life based on the customary and sustainable use of biodiversity, according to standards and procedures set out in customary, national and international laws and policies. BCPs are bottom-up, rights-based instruments that enable IPLCs and their local institutions to affirm their rights to self-determination in ways commensurate with their values, customary laws, and traditional institutions. Through the BCP process communities can explore their needs and future development aspirations. Recent developments in international law support BCPs: the 2010 Nagoya Protocol on Access to Genetic Resources and Benefit-Sharing (ABS) requires prior and informed consent of IPLCs for access to traditional knowledge and genetic resources held by them, and support for the development of community protocols for ABS by IPLCs. Decisions made by the latest CBD COP11 further support the development of BCPs, for example, decision X1/14 Article 8(j), para 8. urges financial support for communities to develop their own BCPs so they can engage in national and international dialogues concerning the CBD. Furthermore, the initial tasks for the first phases of work on Article 10, will include identification of best practices, to promote the use of BCPs to affirm and promote customary sustainable use in protected areas.

Community experience with BCPs in Africa have highlighted different aspects of the BCP process:

- In Ghana, communities have used the BCP process to strengthen their customary institutions and community organisations to respond in culturally appropriate ways to the threat of an illegal gold mine.
- In Kenya, diverse communities have mobilised themselves around the BCP process in response to a multi-billion dollar mega-infrastructure project in Lamu. They called for their

existing rights to be upheld and emphasised procedural issues such as rights to information and participation.

- Traditional health practitioners in South Africa developed a BCP to address unauthorised use of traditional knowledge and the overharvesting of medicinal plants by outsiders. The traditional healers used the BCP to engage proactively with a local cosmetic company interested in their traditional knowledge.

Figure 10. Rights-Based REDD+ Dialogue participants.

Post-Dialogue Analysis: The Potential of Biocultural Community Protocols to Address REDD+ Safeguards Challenges

Biocultural Community Protocols generally outline the core ecological, cultural and spiritual values and customary laws relating to a communities traditional knowledge and resources, based upon these clear terms and conditions relating to access to the communities knowledge and resources are specified. Communities that may be impacted directly or indirectly by REDD+ could include a section within the BCP that addresses specific REDD+ issues of concern.

A post-dialogue analysis was carried out by Natural Justice, this analysis compares the issues raised within the main rights-based and social safeguard themes identified during the dialogue against potentials for these to be addressed through a BCP process. Within the context of REDD+, BCPs implemented through appropriate processes (e.g. endogenous, inclusive, and empowering), may have the potential to address some of the issues raised within the safeguards dialogue, these are presented in Table 1.

Table 1. REDD+ safeguard issues raised during the dialogue that may be addressed by a biocultural community protocols approach.

United Nations Framework Convention on Climate Change
• BCPs could be a tool through which the traditional and customary values of forests could be effectively articulated within the REDD+ mechanism.
• BCPs could provide a comprehensive understanding of the rights referred to in the UNFCCC,

	Safeguards namely UNDRIP and will engage government and other stakeholders to secure community wellbeing.
REDD+ Safeguard Standard Initiatives	
	• BCPs provide a platform for effective engagement of IPLCs affected by REDD+ projects to engage with the safeguard standard initiatives on their own terms. • BCPs could fill some gaps in current safeguard standards: For example the World Bank, FCPF, does not currently respect and recognize the statutory and customary rights of indigenous peoples to land, territories and resources.
National Sovereignty	
	• REDD+ safeguards will be adapted to suit national circumstances: BCPs could be defined as a prerequisite for REDD+ projects within national level guidelines.
Roles of REDD+ Stakeholders	
	• The BCP process and final outcome document would enhance the influence of IPLCs within interactions with a variety of REDD+ stakeholders and also be a movement towards equalising power relationships between REDD+ impacted IPLCs and outside REDD+ stakeholders. • The BCP process could establish a platform of collaboration using a multi stakeholder partnership (MSP) approach, including holding regular consultative meetings.
Free, Prior, Informed Consent	
	• Indigenous peoples have a collective right to self-determination, this includes the right to determine the consultation and decision-making process: BCPs offer a way to outline this process. • FPIC is a right and guarantees IPLCs a decisive voice at every stage of the REDD+ project process: BCPs could be used to leverage this right and to ensure that once consent to engage in REDD+ is given, that FPIC continues throughout the lifespan of REDD+ activities. The right to FPIC is a rights-based principle representing a particular expression of the right to self-determination. • IPLCs can specify that timelines are to be mutually agreed and thus, ensure that they have sufficient time to consider engagement with REDD+ projects, this is an important element of 'free' in FPIC. • As part of the BCP process communities may engage a trusted facilitator to assist in deliberations and development of the BCP, a neutral facilitator can contribute towards the 'free' in FPIC. • The 'informed' element of FPIC, which entails that sufficient information is provided in a timely manner for IPLCs, could be explicitly mentioned in REDD+ protocols, to ensure that elements such as social and economic risks, costs and benefits at community level, and community legal obligations and penalty clauses are addressed. • BCPs are devised and produced by communities themselves, this would help to reduce the jargon in REDD+ and make the intentions of IPLCs regarding REDD+ projects clear and concise to those within their own communities and well as to outsiders. This is an essential component of 'informed' part of FPIC. • BCPs can include details of IPLC traditional leadership and decision-making structures. The 'consent' element of FPIC includes that IPLCs participate through their own representatives and structures and BCPs could effectively articulate these. A BCP provides a tool around which dialogue between IPLCs and REDD+ stakeholders can take place in good faith – an essential element of consent.

- Consent is based on collective considerations reached through customary processes of dialogue, deliberation and agreement – the agreement of every community member is not required. The BCP which articulates customary procedures can clarify how the process of consent is to be reached within a particular community, *before* negotiations take place.

Full and Effective Participation

- As part of the BCP process, IPLCs themselves define their community. This is an important component of clarifying stakeholders, which many REDD+ readiness documents have been found to lack.
- Full and effective participation includes representation in REDD+ processes, mechanisms and committees at all levels, from community to global level. The BCP offers an opportunity for IPLCs to articulate their representation.
- Full and effective participation includes respect for IPLC rights and traditional knowledge as referred to in Safeguard (c). Traditional knowledge is a common component of BCPs, and in addition traditional innovations and governance that have conserved forests and biodiversity in IP territories can also be described. Furthermore, inter linkages between IP culture, spirituality, customary laws, traditional knowledge and biodiversity can also be documented within BCPs. Including these elements in a BCP will enhance the full and effective participation of IPLCs and their engagement in REDD+ processes.
- The BCP could address the lack of gender awareness, as it is designed to be an inclusive process. BCP Committees would comprise of women, elders and the youth
- BCPs are a tool of legal empowerment and capacity-building to engage in negotiation with external actors.

Land and Resource Rights

- IPLCs can articulate their collective rights to land and forests resources within the BCP. Rights to carbon could also be included.

Customary rights

- Communities can describe their customary uses and management of forest resources within BCPs and thereby express the value of forests through their biocultural values that have conserved them.
- The BCP can be a statement of intention from communities to continue to use and preserve the forest where they live.

Equitable Benefit Sharing

- BCPs could clarify customary rights to land and resources, clear rights are a pre-condition for equitable benefit sharing.
- The BCP process can include the provision of legal awareness of IPLC rights, and enable communities to more effectively negotiate equitable benefit sharing mechanisms.
- BCPs provide an opportunity for communities to articulate that they expect to be part of the benefit sharing decision-making process from the start and not just recipients of REDD+ benefits.
- BCP could increase communities interaction with REDD+ developers.
- BCP could include a section addressing the issue of carbon rights and ownership from the communities perspective.
- BCPs can be used to ensure that IPLCs are the main beneficiaries of REDD+.

Safeguard Compliance

- BCPs can be used by communities to affirm their rights to appropriate complaint and

grievance mechanisms to ensure that the safeguards are complied with during all phases of REDD+.
• Within BCPs communities can outline their role to monitor and evaluate REDD+ project on their terms, and they could recommend indicators that are of relevance to their livelihoods.

Transparent and Effective Governance

• The BCP could strengthen the governance architecture by empowering the traditional authorities.
• The BCP provides a clear mandate for community leadership to engage with external stakeholders.
• The process of developing a BCP can also strengthen the traditional system of resources management.
• The BCP could be an effective tool to map the local dynamics, and areas of interest from a community perspective, for example mapping could include identification of areas of local resource use, sacred sites, etc.

Harmonisation with the Convention on Biological Diversity

• The CBD enumerates and supports various human rights relevant to REDD+ activities, including rights related to identity, procedural rights, land, protection of life and livelihoods.
• The BCP could emphasize the particular elements/rights of relevance to the REDD+ safeguards standards initiatives.

International laws, policies and conventions supporting IPLC rights

• BCPs can assist communities to draw on laws to asset their substantive and procedural rights under international laws.
• The BCP document can be a short compilation of relevant international instruments pertaining to IPLCs rights in an accessible language.

Risk management

• Ensuring FPIC and full and effective participation of IPLCs from the start of REDD+ activities is one way to reduce the risks associated with REDD+ project implementation at the community level, the BCP could be a tool that contributes towards reducing the risks of REDD+.
• As the BCP clarifies the engagement process between the community and various REDD+ stakeholders, it can reduce the risks of REDD+ for governments, and project developers engaging with REDD+ implementation at the local level.

Biocultural community protocols offer the potential for communities to examine, clarify and communicate their customary values to external actors, however, BCPs are not a panacea. Challenges regarding the development and utilisation of BCPs include the following:

- The outcomes of BCPs are linked to the integrity of the process and tools of community engagement.
- BCPs can be used by communities to advocate for their rights including FPIC, however, this may not be achieved until more fundamental changes within the law and governance take place at the national level.

- The potential for external impact is affected by government legislation, and government endorsement at the local and national level of the BCP is required if it is to be a strong tool for legal empowerment.

The Way Ahead

The main outcomes of the Doha Climate Change Conference, COP18.

The Doha Climate Change Conference was held two weeks after the REDD+ Dialogues, these negotiations resulted in the "Doha Climate Gateway" decisions, the main outcomes were:

- A second commitment period for the Kyoto Protocol. However, fewer countries are participating, they have only agreed to reduce their overall emissions by at least 18% below 1990 levels in the eight year period (2013-2020). These countries which include the European Union and Australia, represent less than 15% of global greenhouse gas emissions, and the emissions reduction commitments are insufficient to keep global warming below the 2°C limit, and the expected warming is estimated to be 3.3 $^\circ$C. Countries signing up for the second commitment will revisit their targets in 2014. The second commitment period has been criticised as it contains "loopholes" such as the carry-over of emissions allowances not used in the first period, which could undermine the environmental integrity, however, some countries have signed a declaration not to purchase these units. The second commitment period does signal continuity and a rules-based regime that is legally binding.
- Agreement to consider the creation of an international mechanism for loss and damage. e.g. an institutional mechanism to address loss and damage from extreme weather and slow onset climate impacts in developing countries. However, the language does not cover direct compensation.
- The need for a plan for long-term finance is reiterated, however, no firm commitments on scaling up finance towards the agreed US$ 100 billion a year were forthcoming. Climate finance pledges, amounting to approximately US$10 billion were made by some European countries. Developed countries also encouraged to provide climate finance between 2013-2015 at the same levels during the fast-start period.
- Developed countries are urged to increase the ambition of their emission reduction targets and a work programme will be established to clarify pledges.

During COP18 progress on REDD+ was rather limited, as a disagreement on emissions verification resulted in a stalemate. Norway suggested an "independent, international verification process, undertaken by experts", some developing countries, including Brazil, noted that Annex 1 countries are not subject to such a stringent verification process, and they suggested a continuation of the International Consultation and Analysis (ICA) process, which includes the Consultative Group of Experts, whose balance favours developing rather than developed countries. Papua New-Guinea promoted a "REDD Committee" to house future REDD talks, the aim being to create a standardised REDD+ product within the UNFCCC.

Regarding REDD+, SBSTA agreed to:

- Continue to develop methodological guidance for national forest monitoring system.

- Continue considering the timing and frequency of summary information on how REDD+ safeguards will be addressed and respected.
- Continue considering drivers of deforestation and forest degradation.
- Encourage sharing of information on how drivers being addressed.
- A work programme on results-based finance, with the aim to scale up and improve the effectiveness of finance for REDD+ activities.
- SBSTA will consider how non-market based approaches, e.g. joint mitigation and adaptation could be developed and report at COP19.

SBSTA will continue to refine the REDD+ text under its remit in 2013, and it will also work on methodological issues related to non-carbon benefits and their incentivisation. The Subsidiary Body for Implementation (SBI) will initiate a process to address issues of support for REDD+ activities and coordination and support will be improved.

The REDD+ Dialogues brought together a variety of REDD+ experts and practitioners, Natural Justice hopes to develop and build upon this network in 2013. Together with the Heinrich Boell Foundation and the Open Society Initiative for Southern Africa, Natural Justice hopes to host another dialogue in the early part of 2013, to further develop and refine the safeguards issues raised, to explore the potential of BCPs in REDD+ impacted communities, and to develop initiatives to positively influence the REDD+ mechanism and safeguards so that benefits to IPLCs are maximised.

Appendices

Appendix 1: Participants List

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Monday 12th November 2012

Time	Activity
9.00 – 9.15	**Welcome, Introduction and Aims** *Kulthoum Omari,* Heinrich Böll Foundation *Delme Cupido,* Open Society Initiative for Southern Africa *Gino Cocchiaro,*Natural Justice
9.15 – 9.45	**Participant Introductions**
	CONTEXTUALISING REDD+ SESSION Facilitator:*Tigere Chagutah,* Heinrich Böll Foundation
9.45 – 10.20	**The Evolution of REDD+ within the United Nations Framework Convention on Climate Change & Key Issues for COP18 Doha** *David Lesolle*, University of Botswana
	REDD+ SAFEGUARDS SESSION *Facilitator: Kulthoum Omari,* Heinrich Böll Foundation
10.20 – 10.30	**A Summary of REDD+ Safeguards and Standard Initiatives** *Cath Traynor*, Natural Justice
10.30 – 10.50	**Can the Safeguards Promote Women's Rights to Forest Resources and REDD+ Benefits?** *Regina dos Santos*, Centro Terra Viva, Mozambique
10.50 – 11.20	Break
11.20 – 11.50	**UN-REDD approach to safeguards, stakeholder engagement and FPIC** *Anne Martinussen*, UNDP-REDD Programme
11.50 – 12.15	**Perspectives form the Indigenous People's Representative for Anglophone Africa, Forest Carbon Facility Programme** *Soikan Meitaiki, Mainyoito Pastoralist Integrated Development Organisation*
12.15 – 12.45	**Is there a Danger of REDD+ Safeguards Legitimising International Markets that put Forest Communities and Biodiversity at Risk?** *Wally Menne,* Timberwatch South Africa
12.45 – 13.45	Lunch
	REDD+ READINESS SESSION: REGIONAL & NATIONAL ACTIVITIES Facilitator: David Lesolle
13.45 – 14.15	**The SADC Regional REDD+ Programme** *Susanne Wallenöffer*, Southern African Development Community
14.15 – 15.00	**National Level Safeguard Implementation: Progress and Challenges** *Victor Chiiba*, Forestry Department, Zambia
15.00 – 15.30	Break
	REDD+ READINESS SESION: CSO PERSEPCTIVES Facilitator: Delme Cupido, Open Society Initiative for Southern Africa
15.30 – 17.30	**REDD+ Readiness: Are Community Rights Being Respected?** *Moses Nyoni*, Civil Society Climate Change Network, Zambia *Regina dos Santos*, Centro Terra Viva, Mozambique *Allan Chaumba*, Zimbabwe Environmental Law Association *Joram |Useb*, Indigenous Peoples of Africa Coordinating Committee *Soikan Meitaiki, Mainyoito Pastoralist Integrated Development Organisation*
17.30 – 20.00	Group Dinner

Tuesday 13th November 2012

| Time	Activity
9.00 – 9.45	**Synergising International Conventions: Linking UNFCCC to the CBD** *Valinavho Khavhagali*, Biodiversity and Climate Change, Department of Environmental Affairs, South Africa *Itchell Guiney*, Department of Agriculture, Forestry and Fisheries, South Africa
9.45 – 10.30	**REDD+ Scenario** *Gino Cocchiaro & Cath Traynor,* Natural Justice
10.30 – 10.45	Break
10.45 – 11.30	**REDD+ Scenario Report Back**
11.30 – 12.45	**Bio-cultural Protocols as a Community-based Response to REDD+?** *Gino Cocchiaro* & *Lassane Koné*, Natural Justice
12.45 – 13.00	**Concluding Remarks and Close** *Kulthoum Omari,* Heinrich Böll Foundation *Delme Cupido,* Open Society Initiative for Southern Africa
13.00 – 14.00	Lunch
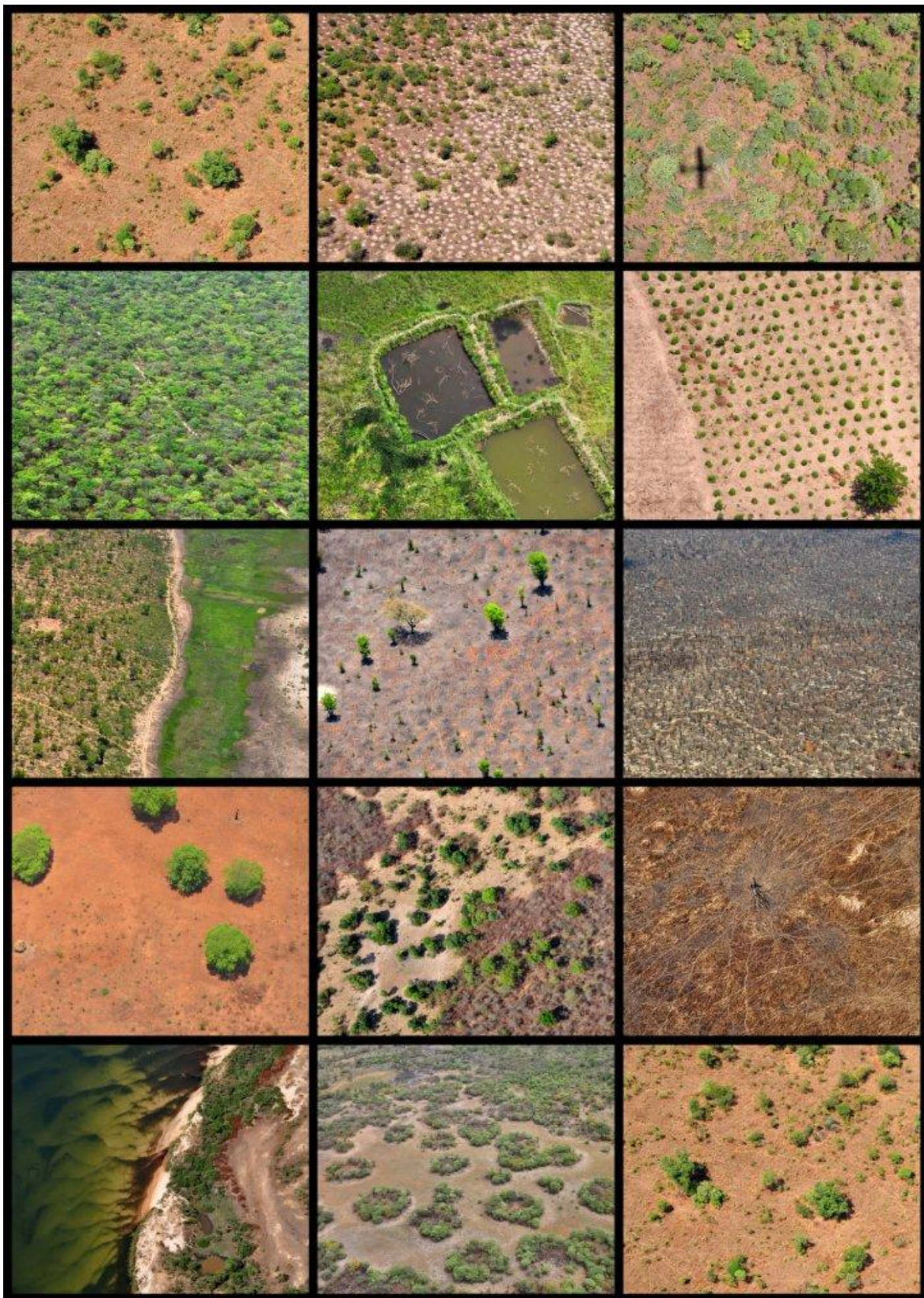
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