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Sustainable Land Policy Based on Robust FAO Guidelines

By Benjamin Luig, expert for agricultural and land policy at MISEREOR, the German Catholic Bishops' Organisation for Development Cooperation

Against the backdrop of a spurt in large-scale investments in land (often termed "land grabbing,") the German federal government, the political opposition and development NGOs are united in their stand that robust Food and Agriculture Organisation (FAO) guidelines on responsible governance of land and other natural resources could provide a suitable policy framework for protecting and strengthening the land rights of the rural poor. How should such guidelines be formulated to serve as a basis for a sustainable land policy?

Background

The FAO VGs – Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources (working title) – did not emerge as a direct response to land grabbing. They build on a resolution of the International Conference on Agricultural Reform and Rural Development (ICARRD) of 2006, which was aimed at improving access to land and tenure security for the poor. The Guidelines thus address a key requirement for hunger alleviation and sustainable rural development. However, in the current context of a wave of large-scale land investments, many hope the VGs will serve as an instrument to check land grabbing.

The Guidelines are termed "voluntary" and are in themselves not binding under international law. However, they explicitly refer to the human rights obligations of states under international law and thereby offer a definitive interpretation of the existing regulatory framework. The demand for access to land and other resources primarily derives from the human rights to food and housing.

Moreover, the VGs, enjoy a high degree of legitimacy due to the inclusive character of the drafting process. The "zero draft" of the Guidelines was drawn up after 15 consultations, which included active participation from farmers, fisherfolk, pastoralists and the landless. The "zero draft" itself and subsequent drafts were also made available to civil society and policy makers for comment. The United Nations Committee on Food Security (CFS), which has strong representation from global civil society, is responsible for adopting the VGs. The Guidelines also acquire a more binding character because apart from describing existing obligations, they are able to provide guidelines for governments on how to fulfil these obligations and integrate the affected groups in the policy process.

Discussion

Dubious Land Investment Deals

It would be hard to dispute that a policy framework is urgently required for large-scale land acquisitions. Advocates of such investments refer to win-win effects since large investors infuse urgently required capital that leads to job creation and investments in infrastructure. However, it is important to note that no sound study has been able to clearly establish such a win-win scenario, irrespective of the favoured development model. On the contrary, there are recurring reports of the displacement of local communities, marginalization and miscalculations. During the investment processes, the affected local communities are not consulted at all or, if they are, it is late in the process.

Negotiations are not documented in writing and parliaments are seldom involved. The few known contracts are astonishingly short and vague. Provisions relating to tax revenues, food security, social standards, environmental standards, education and local processing are either entirely absent or fleetingly referenced. Land grabbing, quite obviously, is first and foremost a governance issue. Governments rarely think of the welfare of the affected local population. The affected communities have no means of enforcing their rights. Investors often benefit from corruption and a lack of transparency. The VGs must therefore formulate clear guidelines for protecting the land rights of poor local groups and for ensuring transparency and oversight.

Inadequate Land Policies

The land policy context further compounds large-scale land acquisitions. Apart from formal ownership of land (land that is privately owned or owned by the state), customary tenure and other forms of unregistered community ownership also exist. This often results in conflicting ownership claims and extreme legal uncertainty. Land tenure systems are based on social and cultural norms that vary from region to region. This must be taken into account during any land reform. Issues relating to land are also generally characterized by unequal power structures. Consequently, the unilateral allocation of private land titles and the development of a land market tend to result in structures that facilitate land investments with negative impacts. Small rural producers, for instance, often find it difficult to access land markets due to a lack of capital and information. In such situations, local elites benefit through speculation and corruption. The goal of putting land to its most productive use via the market consequently is not achieved. The *de facto* absence of a land policy is largely responsible for the disastrous consequences of large-scale investments. Frequently there is a lack of instruments for ensuring legal security (transparency, harmonization); land administration (land registry, cadastre, soil analysis, land taxation); land use plans; conflict solutions (redistribution, floor/ceiling definitions). Therefore, the VGs must be seen as guidelines towards an active land policy with a special focus on securing and strengthening land rights for poor and vulnerable groups.

Conclusions

The VGs offer a great opportunity to subject large-scale land investments to intensive monitoring and to facilitate transparency and regulation. Going beyond those benefits, they can also lay the foundation for a sustainable land policy. The important principles to consider here would be:

1. Participation and transparency

No large-scale land investments should be permitted without Free, Prior, Informed Consent (FPIC). The VGs must define what is meant by free (e.g. neutral moderation, consultations that are not financed by the investor); prior (time frame for the affected communities for internal consultation processes); and informed (the facts must be clearly disclosed by the investor and in writing). Beyond FPIC, every investment must be comprehensively monitored on the basis of the written promises made by the investor.

2. Enabling framework and active land policy

Active land policies must encompass mechanisms for regulation (e.g. ceilings on land ownership or minimum environmental standards for land use and conservation). In countries that display highly inequitable land distribution and food security in rural areas, land redistribution that favours land-poor rural populations is recommended.

3. Coherence

The VGs must also reflect the extra-territorial obligations of governments. Industrial nations must ensure that companies within their jurisdiction uphold human rights in foreign direct investments in land. A first positive step by the German federal government in this direction would be to prepare a catalogue of investors from its own country.

4. Prioritization

The VGs should be recognized as internationally accepted norms for land and resource use. Other initiatives that do not follow a human rights approach -- for instance the Principles for Responsible Agricultural Investments (PRAI) proposed by the World Bank -- should restrict themselves to using the VGs as a basis for more precisely defining the conditions for agricultural investments. The German government must resist all attempts by the G20 to delink the PRAI from the VGs and the CFS.

This position paper was first published by MISEREOR and is available in German language [here](#).

For the draft of the FAO Voluntary Guidelines, please see <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

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POLICY & RESEARCH

Prospects for Environmental Peacebuilding in the Himalayan Region

In light of the upcoming water crisis in the Greater Himalayas, the ecc-platform has reported several times about the need to foster a regional perspective in the region to promote sustainable peace and stability (see, 5/2010 and 2/2011 editions). Michael Renner, senior researcher at the Washington, D.C.-based Worldwatch Institute and renowned conflict resource expert, directed some attention to potential opportunities for environmental peacemaking in the region. In a recently published report on behalf of the Norwegian Peacebuilding Resource Centre, Renner outlined a number of opportunities for cooperation and dialogue such as environmental monitoring and data sharing, water conservation measures, ecosystem stewardship, disaster diplomacy and the concept of peace parks.

The further development of concepts such as joint ecosystem stewardships or peace parks in the Himalayan region may yield some promising benefits for the entire region. The parks can serve as an instrument of transboundary dialogue and peacemaking between hostile or uneasy neighbours. To this end past efforts -- for example, in the disputed region of the Siachen Glacier -- can be reconsidered and filled with new political momentum. Proposals such as a joint science centre for glaciology and hydrology in Pakistan and India, with third-party participants and sponsors, can also contribute to jointly tackling the challenge of climate change and disaster prevention.

However, as Renner pointed out, the region is characterized by highly uneven national monitoring capabilities, which is one reason for preventing countries such as Afghanistan from engaging in a regional water dialogue. In addition, a number of initiatives have not been able to develop their full potential for sustainable peace and stability due to overall political relations between countries such as Pakistan and India or China and India. Accordingly, Renner concludes: "A key question is whether existing initiatives can be sustained, scaled up and broadened." From a peacebuilding perspective this is not only a

key question for the governments of the region, but also for the international community. (*Dennis Taenzler*)

For the study, "Water and energy dynamics in the Greater Himalayan region: opportunities for environmental peacebuilding," by Michael Renner, please see [here](#).

For past contributions regarding the topic, please see [here](#) and [here](#).

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Infrastructure Projects and Civic Participation in South America: the Case of the Belo Monte Dam

Brazil's huge hunger for energy led the Brazilian government to approve the construction of the third largest dam in the world – right in the middle of the Amazon region. However, the Belo Monte dam, planned as a flagship project to showcase Brazil's development, is increasingly becoming a problem: Tens of thousands of indigenous peoples will have to be relocated. Environmental organizations are up in arms against the project and now there has been a flurry of court cases. In late September a court halted construction, citing the threat to four unique ornamental fish species. In October, a court ruled the dam project was unconstitutional because local indigenous groups were not consulted. This was a victory for activists like Erwin Kräutler, a bishop of Austrian origin, who was awarded the Alternative Nobel Prize for his work against the Belo Monte dam in 2010.

The Brazilian project is representative of the growing conflict on the South American subcontinent between economic development and resource use on the one hand, and the protection of indigenous peoples and biodiversity on the other. Recently a large dam project in Chile was similarly stopped. A road construction project backed by Bolivian President Evo Morales that was to cut through a rainforest region was met with repeated protests from the local indigenous population in recent months. In Peru a law now ensures the participation of local indigenous communities in decision-making processes related to mining, deforestation or oil and gas exploration projects that may affect their livelihoods. This could be an important step toward achieving greater acceptance for such projects, thereby playing a role in conflict prevention.

In the case of the Belo Monte dam, the problem lies primarily in how constitutional rights are implemented or not, specifically as they pertain to participatory decision-making mechanisms. A paper by the German Institute for Global and Area Studies (GIGA) asserts that rule of law is deficient in Brazil, particularly in the Amazon region, and that this hinders civil society participation. The court rulings against the project consequently offer the country an opportunity for a more equitable reconciliation of stakeholder interests. Rather than focusing on Brazil's technological maturity, the international community will be watching to see how the country is able to meet its responsibility of balancing human rights and nature conservation with economic development. That would be the country's true flagship project. (*Stephan Wolters*)

For further information please see [here](#).

The GIGA paper "Der Belo Monte Staudamm: Paradebeispiel für eine erfolgreiche Zivilgesellschaft in Brasilien?" ("The Belo Monte Dam: Prime Example of Successful Civil Society in Brazil?") is available [here](#).

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"Connecting Europe" – A Renewable Pathway for European Solidarity?

These days, numerous commentators are warning that the financial crisis is threatening decades of European integration. With an overdue initiative for a new infrastructure network, the European commission is trying to get back in the driver seat of the debate on Europe's future to 2020 and beyond. The prospects are not so bad. The proposal of an infrastructure package presented on 19 October comprises guidelines for key sectors such as transport, energy and innovative communications technologies (ICT.) Moreover, it also includes a new budgetary instrument, the so-called Connecting Europe Facility, to enable the EU to implement its "Europe 2020 Strategy".

"Connecting Europe", as the Commission labels this initiative, should be funded with €50 billion from the EU's 2014-2020 budget. In order to attract private money, the Commission proposes the introduction of project bonds as a new category of securities to attract the investment in infrastructure projects that would otherwise not be feasible. "The Connecting Europe Facility and the Project Bond Initiative are a perfect demonstration of the value added that Europe can provide. [...] We are closing the missing links in Europe's infrastructure networks that otherwise would not be built," outlined José Manuel Barroso, European Commission president. In a pilot phase from 2012-2013, the initiative will start with a contribution of €230 million from the EU budget aimed at mobilizing private investment of up to €4.5 billion.

With about €9 billion used to meet the 2020 energy and climate objectives, in principle, the initiative can help to foster the low carbon energy transformation needed. It aims at building a new momentum of energy solidarity between Member States by completing the internal energy market, linking isolated regions to the European network and assisting renewables to develop and compete with traditional energy sources. Among the priority projects in the renewable section are the Northern Seas offshore grid to integrate electricity generated in the North Sea, the Baltic Sea and neighbouring waters, as well as north-south electricity interconnections in western and central and southern Europe.

However, the guidelines for the energy sector do not only identify trans-European priority corridors for renewable energies, but also include gas and oil as part of the CO2 transport infrastructure. Environmental groups already questioned the risk-sharing approach related to the carbon capture storage technology. In addition, the concept of project bonds is subject to hotly contested debates. It remains to be seen to what extent next steps by the EU will help to provide new perspectives for European solidarity. (*Dennis Taenzler*)

For the full report on "Connecting Europe", please see [here](#).

For the guidelines on energy, please see

http://ec.europa.eu/energy/infrastructure/strategy/doc/com_2011_0658.pdf

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Turkey's Water Policy in the Context of International Cooperation

Water is crucial for social and economic development. Turkey has always been characterised by political tensions with its neighbours and by generally limited water availability, making the allocation of water an important and potentially discordant issue. However, significant changes in Turkey's water policy have occurred throughout the past

three decades. The book, "Turkey's Water Policy – National Frameworks and International Cooperation," offers a broad perspective on Turkey's water policy, documenting the reforming of its national water policy framework and assessing the stage of cooperation on transboundary water issues. The scope of this edited volume goes beyond the Euphrates and Tigris river basin, and also considers Turkey's other transboundary rivers, which are often neglected.

The contributions to this publication underline that Turkey's current national water regime faces growing environmental concerns. They also examine the international criticism of insufficient transboundary water cooperation. However, the analysis also reveals the importance of Turkey's wish to join the European Union as it has adopted an ambitious body of EU water law. To understand Turkey's position on international water law, the contributors to the book show that Turkey's national policies and the socio-economic circumstances that impact water resource management need to be considered. Triggered by the EU Water Framework Directive and other reforms following the eligibility criteria to join the EU, a few participatory elements in water resource decision-making have been introduced. However, these elements do not satisfy the demands of a new generation of civil society and non-governmental organisations. They demand the protection of civil rights and freedom, along with environmental issues. Together with academics, intellectuals and professional organizations, they view with scepticism the government's course of infrastructure-centred river basin development, which has social and environmental costs.

In this context, transboundary water cooperation becomes an important issue and demands careful analysis of achievements and shortcomings to date. The authors point to the necessity of exchanging reliable data among riparian countries to jointly monitor water use and quality, as well as to jointly plan infrastructure. A key step toward integrative water management is the establishment of joint platforms for all riparian countries in each river basin to develop sustainable projects for water-related development fields such as agriculture, energy, nature protection and health. A real challenge lies ahead as this requires coordination among twelve neighbouring countries toward common water policy targets. (*Elsa Sterner*)

Further information on the book "Turkey's Water Policy – National Frameworks and International Cooperation" edited by Aysegul Kibaroglu (OKAN University, Turkey), Waltina Scheumann (German Development Institute), and Annika Kramer (adelphi) can be found at: www.springer.com/alert/urltracking.do?id=L1d2ea0M884f89Saefb27c

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CONFERENCE REPORTS

A Policy Action Plan to Minimize Land-related Conflict Risks in Africa

The "dramatic trends in large acquisitions of land by multinationals for agricultural purposes as they seek to assure food security for industrialized nations", as former Botswanan president, Festus Mogae, put it, took centre stage at the High-Level Forum on Land-Based Foreign Direct Investments in Africa in Nairobi, Kenya, on 4-5 October. It was organized by the Land Policy Initiative (LPI), which is comprised of the African Development Bank (AfDB), African Union Commission (AUC) and the United Nations Economic Commission for Africa (UNECA). Participants adopted the Nairobi Action Plan, which aims to check the negative repercussions of large-scale land-based investments.

As part of that plan, they agreed to promote assessments of large-scale investments in land, including poverty and gender impacts; and to establish a monitoring and reporting mechanism.

At the conference, the Kenyan Minister for Lands, Mr. James Orengo, pointed to a structural reason for current challenges; namely the excessive fragmentation of land in Africa, coupled with the increasing use of marginal lands. These factors have led to serious land degradation and low productivity, and, ultimately, to “high competition for the dwindling resources and eruption of violent conflicts”.

Dr. Kamal El Kheshen, Vice President of the AfDB, suggested two avenues of intra-continental cooperation in order “to ensure that the contracting countries truly benefit from them”. First, he pledged AfDB’s support to African countries in reviewing land deal proposals, in conducting cadastral studies, and in implementing environmental best practices, among others. Second, he spelled out ways to strengthen the Land Policy Initiative, for example by establishing and administering a regional land registry, and by providing institutional support and training on land reform and administration for African countries.

El Kheshen also expressed his support for the voluntary guidelines of the Food and Agriculture Organization and called them a good starting point to which both investors and governments should adhere. If African countries follow his advice and properly implement the measures agreed upon in the Action Plan, we will likely see increased transparency in land deals and less negative repercussions for the local population.
(Stephan Wolters)

For the Nairobi Action Plan, please see [here](#).

For the speech by Dr. Kamal El Kheshen, please see [here](#).

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Conflict-sensitive Climate Adaptation – Considerations for COP17

In preparation for the UN Climate Conference COP17 in December, the African Centre for the Constructive Resolution of Disputes (ACCORD) in Durban, South Africa held a two-day expert seminar on 15 & 16 September, to identify issues and recommendations for ensuring that adaptation to climate change is conflict-sensitive. Policy makers, practitioners and scientists presented new research on the linkages between climate change and conflict in Africa, and analysed various tools, policies and approaches to ensure the prevention of conflicts arising from not only climate change but also from adaptation efforts.

A key issue that emerged from the seminar is the way livelihoods and the management of natural resources in Africa are linked. For climate adaptation projects to strengthen communities, vulnerable groups (such as women) and countries against climate change, the way people make their living and get their food needs to be protected and strengthened. An important way to do that is to improve natural resource management by adapting practices for managing resources (such as land, water and coastal regions) and to introduce new, sustainable ways for people to make a living. For instance, in order to prevent conflict, natural resource management cannot be a top-down approach, but will need to include and consult with communities. There is also a wealth of traditional knowledge about the management of resources and conflicts at a community level. In

Africa, where people have adapted to climate changes for thousands of years, this knowledge and experience needs to be captured to improve the management of resources and conflicts and to feed into early-warning systems.

As the discussions during the seminar indicated, conflict-sensitive climate change adaptation is at the core of existing and future work in the fields of development, the environment and peace. Given that the linkages between climate change and conflict are complex, and operate at different scales across time and space, it is clear that there is a need for different scientific disciplines to work together on research. This should also include local knowledge from communities who have already shown resilience. It is also clear that policy makers across different ministries, and even between countries and regions need to work together, to develop plans for adaptation that are conflict-sensitive. Funding and practical work in development, the environment and peacebuilding cannot operate in silos as these fields are already highly interconnected, and need to become even more so, if we are to prevent conflicts resulting from climate change or adaptation. Funding for climate change adaptation should be at the core of the environment-development-peace triangle, where issues of livelihoods, conflict resolution, natural resource management, human rights and gender are situated. (*Salomé Bronkhorst, ACCORD*)

For the original report in full length, please see [here](#).

For the report "Climate Change and the Risk of Violent Conflicts in Southern Africa" by Uppsala University, please see <http://urn.kb.se/resolve?urn=urn:nbn:se:uu:diva-154049>

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Climate Diplomacy in Perspective – From Early Warning to Early Action

What does climate diplomacy look like in practice? What is its added value? And what are the challenges it is best suited to address? To find answers to these questions, the German Federal Foreign Office, supported by adelphi, invited representatives from international organisations such as the EU, the Organization for Security and Cooperation in Europe (OSCE), and the United Nations (UN) as well as over 30 countries for a two-day conference called "Climate Diplomacy in Perspective – From Early Warning to Early Action" on 10-11 October.

In working groups on water diplomacy, food security and coastal stability, common themes and questions quickly emerged: The value and danger of securitising the climate change discourse was a prominent issue. On the one hand, the securitization of issues such as transnational water sharing can raise threat perception to a level that makes it very hard to tackle and may even foster conflict. On the other hand, participants noted that framing climate change as a security challenge might help to finally create the political leverage needed for far-reaching action.

Another common theme was the complexity and linkage of challenges. Although covering different aspects, in each working group challenges quickly coalesced into complex systems with multiple feedback loops such as the water-food-energy-nexus. The same point was underlined in discussions around complex emergencies and crises, such as the 2010 floods in Pakistan.

However, the discussion did not stop at an analysis of challenges. The working groups developed many suggestions of what climate diplomacy could and should look like. One shared recommendation was that the complexity of and links between issues require sectoral policies and institutions to reach beyond their traditional, thematic and even geographic focus. In regard to cross border water cooperation for example, this means that regional political institutions are often better suited than water institutions because of their broader mandate and focus. Where classic diplomacy and regional cooperation do not work, for example because national governments are blocking these efforts, participants proposed that informal diplomacy, track II initiatives and cooperation on lower administrative levels such as municipalities can provide alternatives. (*Lukas Ruettinger*)

The conference website is available at <http://climatediplomacy.org/home/dok/43544.php>

For further information about the initiative of the German Federal Foreign Office on climate change and security, please see [here](#).

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UPCOMING EVENTS

Upcoming events are also regularly published at <http://www.ecc-platform.org/>.

"Water Security: Progress in Theory and Practice" in London, UK (4 November)

Organized by ICID.UK and the UEA Water Security Research Centre, this seminar aims to shed light on new thinking on the theory and practice of water security policies and strategies. It is the follow-up to a seminar on water security held in February 2011. Interdisciplinary in nature, this seminar is targeted at scientists from related research areas and practitioners alike.

For more information, please see [here](#).

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"Climate 2011: Climate Change and Disaster Risk Management", online conference (7-12 November)

This on-line conference focuses on climate change and disaster risk management. It will introduce the latest findings from scientific research, showcase projects and initiatives in this field, and discuss current challenges and identify opportunities. The conference targets researchers and political decision-makers as well as representatives from international organizations and non-governmental organizations. It is organized by the Research and Transfer Centre "Applications of Life Sciences" of the Hamburg University of Applied Sciences.

For more information, please see <http://www.climate2011.net/en/start>

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"Collaboration Skills for Environmental Professionals" in Sausalito, CA (6-8 December)

This three-day training aims to help environmental professionals acquire advanced skills in collaboration; multi-party negotiation; conflict prevention; management and resolution; meeting facilitation; and alternative dispute resolution. It is organized by the U.S. Institute for Environmental Conflict Resolution.

For more information, please see <http://www.ecr.gov/Training/Courses.aspx?id=2>

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IN BRIEF

GRAIN and the Right Livelihood Award, REDD+ and women in Asia, a documentary on the Maldives and the fight against climate change, a call for papers on water security, and resource exploitation and human rights abuses in Africa

The non-profit organization [GRAIN has been selected as one of four recipients of the 2011 Right Livelihood Award](#), also dubbed the Alternative Nobel Prize, for "their worldwide work to protect the livelihoods and rights of farming communities and to expose the massive purchases of farmland in developing countries by foreign financial interests", as the jury put it. The ceremony will take place in Stockholm on 5 December.

With a focus on Asia, a new report, [Getting REDD+ Right for Women](#), analyses barriers and opportunities for women's participation in the program "Reducing Emissions from Deforestation and Forest Degradation (REDD+)". Commissioned by USAID, it was prepared by Women Organizing for Change in Agriculture and Natural Resource Management (WOCAN) and the United States Forest Service.

The new documentary ["The Island President"](#) tells the story of Maldives President Mohamed Nasheed, and his fight for the survival of what is considered the lowest lying country on earth against the backdrop of rising sea levels in a changing climate. The documentary has won the people's choice award at the Toronto International Film Award.

Platform London has published a new study entitled ["Counting the Cost: Corporations and Human Right Abuses in the Niger Delta"](#). It examines the role of Shell in human rights abuses committed by Nigerian government forces and other armed forces throughout the last decade.

The Institute for Environment and Human Security at United Nations University has published the [WorldRiskReport 2011](#). The report assesses the societies' vulnerability to natural hazards. The focus of this year's report is on governance and civil society.

The University of Oxford has released [a call for papers for its conference on Water Security, Risk and Society](#), set to take place in April 2012. Abstract submissions will be accepted until 18 November, 2011.

The Guardian has released a new video showcasing the ongoing abuse of civilians in the mines of eastern Democratic Republic of Congo. Entitled ["Congo: Blood, Gold and Mobile Phones"](#), the film reveals how resource exploitation in the region is coupled with violence and forced labour.

In a new study entitled ["Forest Carbon, Cash and Crime"](#), Global Witness examines corruption risks in the forest sector with respect to the program Reducing Emissions from Deforestation and Forest Degradation (REDD+). It finds that a well-designed governance

system is key to addressing the risks of corruption and criminal involvement posed by REDD+.

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