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Why Safeguards Cannot Prevent Human Rights Abuses Within Tropical Forest Carbon Offsetting Programs

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California's Air Resources Board suggests that its proposed Tropical Forest Standard (TFS) would prevent human rights and indigenous sovereignty abuses associated with incorporating tropical forests into international carbon markets by requiring that jurisdictional programs demonstrate adherence to safeguards. They argue that such a requirement differs from the process used under REDD+ pilot projects, some of which have harmed communities that live in and around the tropical forests and depend on these forests for their well-being.[i] Yet safeguards, while useful for pointing to the *kinds* of abuses an intervention may create, have historically proven incapable of preventing these abuses. Evidence from REDD+ projects that have relied on these third-party certified safeguard processes, years of experience with projects sponsored by international financial institutions required to adhere to social and environmental safeguards, and the first efforts to carry out jurisdictional REDD+ programs all support this conclusion. The following lays out a few primary concerns with the assumption that harms of tropical forest offsetting can be addressed by safeguards.

Safeguards are only effective when those implementing them want them to be. Safeguard processes can reveal weaknesses and points of conflict, but whether these will be recognized and taken seriously depends entirely on whether those directing the program are interested in addressing these issues, and able to do so *en route* to the ends they seek. Documenting that different groups have had a chance to participate and voice their opinions can be enough to greenlight a project.

The World Bank's failure to adhere to its own environmental and social safeguards – despite having dozens of staff working on these issues and redress mechanisms in place – illustrates how safeguards are only as strong as their users' respect for the values they represent.[ii] Other development banks have also struggled to follow their own safeguards.[iii]

Safeguards are rules or institutions that seek to "avoid, minimize, or mitigate adverse environmental and social impacts" (Larsen and Ballesteros 2013).

Third-party certification limitations. The TFS currently calls for third-party certifiers to ensure that jurisdictions have followed appropriate safeguard procedures in the design and implementation of their plans to reduce deforestation. While this may seem an adequate means of addressing concerns about jurisdictional leaders who are willing to undermine the well-being of their citizens, it is not: these certifiers are paid by those same leaders, and certified to do their work by the bodies that make their income from the generation of carbon credits.[iv] They have every incentive to argue that the safeguard system in place is adequate and functioning when they conduct their audits. The complexity of the politics and power dynamics on the ground in these regions makes it unlikely that auditors, carrying out audits across entire states over just a few days, are likely to recognize problems.

"There is pressure on auditors to approve their clients' methodologies in order to maintain a good relationship and not compromise future work opportunities….this design flaw in carbon markets is difficult to address as long as the project developer pays for and can choose the auditor" (Kollmuss et al. 2008, p. 62).

Tokenism and box-ticking. Safeguards focus on ensuring that "representatives" of particular groups commonly left out of decision-making are included in planning and implementation of efforts to reduce deforestation. In practice, however, such participation under safeguards is commonly tokenistic,[v] whereby one person is selected to represent a vast number of individuals, and may not even be elected by those individuals to represent them. "Women," for instance, or "indigenous peoples" must be represented. At the scale of jurisdictions, then, this leaves out huge numbers of people who may be affected by these

> *"Social protections, like any legal reforms, are easily fettered, stymied, manipulated, and circumvented" (Ribot and Larson 2012).*

programs. While there is a public comment period required through these safeguards efforts, there are many barriers to affected communities voicing their opinions through these mechanisms, let alone having jurisdictional leaders respond to these concerns. States and institutions that must deal with these safeguards often see these as a "box-ticking" exercise to be outsourced to consultants – a hoop that must be jumped through, rather than a genuine opportunity to make programs more effective and equitable.[vi]

Free, Prior, Informed Consent (FPIC) Challenges. How can these programs claim fully "informed consent" from forest-dependent communities given REDD+'s complexity and strangeness? Forest carbon, additionality, leakage, and permanence, for instance, are typically measured in a black box to which these communities are not given access. The extreme uncertainty around carbon markets also make it difficult for communities to know what they can expect from participating in these projects. In addition, "Free, Prior, Informed Consent" requirements generally only apply to indigenous peoples whose land and autonomy is legally recognized by the state, while many communities that depend on forests do not meet these qualifications.

Jurisdictional upscale won't resolve these challenges. Instead, the upscaling of these efforts are poised to exacerbate these challenges. At larger jurisdictional scales, stakeholders become more diverse, while funding increases will enhance the incentive for jurisdictions to act against the will of those affected. Some jurisdictions may be *less* concerned about international approval than many REDD+ project developers have been: project developers that have continued to support REDD+ efforts until now are often doing so more for their human and environmental, rather than monetary, interest, given the weakness of voluntary carbon markets. Jurisdictional governments in these parts of the world are not known for protecting those that depend on forests for their livelihoods. Instead, they are often led, or controlled by, the wealthiest individuals in the jurisdiction – individuals who have made their wealth precisely from deforesting enterprises.[vii] Jurisdictions within the Governor's Climate and Forests Task Force, such as Cross River State in Nigeria, illustrate that jurisdictional governments are not guaranteed to be better for forest dependent communities, or more likely to adhere to safeguards, than REDD+ project developers.[viii]

Benefit sharing remains unresolved and safeguards don't address all issues. Despite years of discussion about who ought to and will receive funding through REDD+, benefit-sharing mechanisms in jurisdictional REDD+ remain largely unresolved. The long history of corruption and clientelism in the politics of many of these states leaves doubts about whether forest-dependent individuals affected by these programs will receive benefits. There are also more subtle negative impacts created by these programs that safeguards cannot reveal or protect against. These include such phenomena as motivational crowding out, in which a shift to being paid for conservation undermines other motivations for conservation, and shifts in governance institutions to be upwardly accountable, rather than responsive to local needs.

In sum, safeguards serve to allay the concerns of investors more than they do to address the concerns of local people. California's reputation would remain at risk as a result of promoting the TFS, even with its safeguard requirements. In the case that the state decides to integrate tropical forests offsets into California's cap and trade program, it will be poorly prepared to understand or address the abuses likely under these programs in these remote places with long histories of exploitation and power imbalances.

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[i] Sarmiento Barletti and Larson, "Rights Abuse Allegations in the Context of REDD+ Readiness and Implementation."
[ii] "Leaked Report Says World Bank Violated Own Rules in Ethiopia."
[iii] Andersen et al., "The Effectiveness of the Safeguards in Place for Three Highway Projects in Bolivia"; Redwood, "Managing the Environmental and Social Impacts of a Major IDB Financed Road Improvement Project The Case of the Santa Cruz – Puerto Suárez Highway in Bolivia."
[iv] Seyller et al., "The 'Virtual Economy' of REDD+ Projects."
[v] Krause and Nielsen, "The Legitimacy of Incentive-Based Conservation and a Critical Account of Social Safeguards"; Ribot and Larson, "Reducing REDD Risks."
[vi] Withey, "Politics as Projection in REDD+."
[vii] Nolen, "Highway of Riches, Road to Ruin."
[viii] Asiyanbi, "A Political Ecology of REDD+."