

REDD+ safeguards in Indonesia Lessons from East Kalimantan

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Summary

- In 2015, East Kalimantan was selected as the pilot Forest Carbon Partnership Facility (FCPF) province in Indonesia. This required government agencies to comply with the World Bank's safeguards standards, which go beyond most reducing emissions from deforestation and forest degradation and enhancement of forest carbon stocks (REDD+) countries' legal and policy frameworks for community rights.
- In the context of the FCPF initiative, East Kalimantan has issued regulations, published formal documents (Indigenous Peoples framework and benefit sharing plan), and implemented a regional regulation for a feedback and grievance redress mechanism integrated with the National Public Service Complaint Management System (SP4N LAPORI).
- Customary rules and sanctions are used to regulate resource management and tenure arrangements at the community level, but the resolution of tenurial conflicts falls under government authority. A history of conflicts between communities and private companies has led to wide acceptance of the Social Forestry programme.
- Research participants perceived free, prior and informed consent (FPIC) to be the least challenging aspect of safeguards to comply with. This was due to the familiarity many non-governmental organizations (NGOs) working with communities have with FPIC. Challenges remain regarding the clarity of FPIC processes, and ensuring the participation of all communities that will be impacted by FCPF activities, and women in those communities.
- Research participants perceived the benefit sharing mechanism to be the most challenging aspect related to community engagement in the FCPF initiative. Incentives derived from results-based payments will be managed by the Environmental Fund Management Agency, and an intermediary organization has been developed to disburse incentives.

Introduction

In 2010, seven safeguards principles – the Cancun Safeguards – were introduced at the sixteenth United Nations Framework Convention for Climate Change (UNFCCC) Conference of the Parties (COP16). The principles would ensure that REDD+ “at a minimum, does not harm forest-dependent communities or the environment” (Lofts et al. 2021, v) and, ideally, promotes additional social and environmental benefits. As part of the process to access results-based payments, the UNFCCC requires that REDD+ countries develop safeguards information systems (SIS) to monitor and report their work towards the Cancun Safeguards.

The UNFCCC acknowledges countries' sovereignty by allowing them to interpret the Cancun Safeguards based on their existing legal and policy frameworks (see Morveli et al. 2023 for Peru). This leads to a wide variation in responsiveness to community rights. For example, not all countries recognize Indigenous Peoples as per international agreements such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) or International Labour Organization Convention No. 169. With REDD+ countries moving towards results-based payments, and different financial pathways opening up for carbon transactions, worries remain about the potential impact that REDD+ may have on forest-based communities.

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Indonesia started the Cancun Safeguards interpretation process in 2011, aiming to “develop the structure, mechanism, and institution for an information system for implementing REDD+ safeguards” (Pustanling 2013, 3). However, Indonesia’s legal system does not recognize Indigenous Peoples, and therefore, the wide scope of rights recognized for these groups internationally, instead recognizing customary (*adat*) communities³ (Tamara et al. 2022). The rights recognized for those communities, however, may be at odds with the safeguards guidelines and standards set under results-based payment agreements with multilateral organizations, and for trade under voluntary carbon markets.

East Kalimantan was selected as a pilot province for the Forest Carbon Partnership Facility (FCPF) initiative in Indonesia in 2015 and started its readiness phase in 2016. The initiative’s Emission Reductions Program Document (ERPD) and Emission Reductions Payment Agreement (ERPA) were completed in 2019. In Jambi Province the REDD+ readiness phase began in 2019 under the BioCarbon Fund Initiative for Sustainable Forests Landscapes (BioCarbon Fund ISFL). These initiatives have required government agencies to comply with the World Bank’s safeguards standards, which go beyond most REDD+ countries’ legal and policy frameworks for the rights of Indigenous Peoples and local communities (Sarmiento Barletti et al. 2021).

It is important to understand the impact of multilateral and other voluntary carbon market safeguards guidelines and standards on supporting REDD+ initiatives that aim to ‘do better’ regarding the rights of Indigenous Peoples and local communities. To do so, we carried out desk research and interviews with actors at different levels (national and subnational) in Indonesia to understand their perspectives on the design and implementation of safeguards, focusing on the initiatives in East Kalimantan and Jambi provinces. In this infobrief, we present an analysis of our research in East Kalimantan (see Liswanti et al. 2024 for the companion Infobrief on Jambi). We aim to provide evidence-based recommendations to support a REDD+ that benefits forests and the men and women who steward them.

3 *Adat* or customary communities are defined as “groups of people who have been living in a specific area for generations because of an ancestral connection and special relationship with the environment, and because of traditions that regulate economic, political and social arrangements and laws” (Law No. 32/2009). Indonesia recognizes customary community rights to land and forests (Constitutional Court Decision No. 35/PUU-X/2012 of May 2013) and rights under the Social Forestry Programme (see Tamara et al. 2022).

Methods

Our analysis is based on a literature review of Indonesia’s legal framework for community rights and interviews with specialists to understand the state of the recognition and protection of rights of customary groups and local communities in the context of REDD+ (Tamara et al. 2022). In 2022, we conducted interviews with REDD+ actors at the national level and in East Kalimantan to understand their perceptions of the challenges and opportunities that arose from their efforts to meet the World Bank’s safeguards requirements, and reviewed relevant documents to identify lessons from the implementation of safeguards in the province. Interviewees were categorized into three, non-exclusive types: those who implemented safeguards at the programme/project level; participants in the national safeguards interpretation process; and general REDD+ stakeholders. We designed a different semi-structured questionnaire for each type, although actors that fitted more than one type were interviewed using the questionnaires that responded to their experience. Interviews were carried out in Indonesian. We compared our findings with available project documents and other relevant reports. We conducted validation workshops in East Kalimantan (provincial) in 2022 (Liswanti et al. 2023) and at CIFOR-ICRAF’s headquarters (national) in 2023. The workshops included research participants and other stakeholders and interest groups (Evans 2023).

REDD+ safeguards in East Kalimantan

East Kalimantan Province is rich in natural resources, including timber, coal, gold, oil and natural gas, and has a variety of ecosystems, such as orangutan habitats, mangroves and peatlands (Hovani et al. 2018). Natural resource extraction is central to provincial revenue; in 2017, coal extraction contributed to 35% of the province’s gross domestic product (FCPF Carbon Fund ERPD Report 2016; Nofyanza et al. 2021). Oil palm is the main agricultural commodity, contributing 4.34% of GDP (East Kalimantan Province Plantations Office n.d.).

East Kalimantan has a total area of 127,346.92 km², with a population of 3,860,000 people in 2022, of which around 10% are indigenous Dayaks. Law No. 41/1999 on Forestry⁴ did not recognize customary forests as being separate from state forests. This left customary areas open to allocation for oil palm development, logging and other extractive activities (MoEF and the Provincial Government of East Kalimantan. 2019a). In 2011, former governor Awang

4 Law No. 41/1999 on Forestry was revised after the enactment of Constitutional Court Decision No. 35/2013 which acknowledges customary forests as areas within customary communities’ territories.

Faroek Ishak announced the Green East Kalimantan (*Kaltim Hijau*) initiative. *Kaltim Hijau* envisioned a green economic transition programme in the province, coordinated by the Regional Climate Change Council or *Dewan Daerah Perubahan Iklim* (DDPI), a multistakeholder platform comprising government agencies and non-governmental organizations. The East Kalimantan Plantations Office also promoted the adoption of sustainable plantation principles (Nofyanza et al. 2021), and a moratorium on new plantation, mining and forestry licenses was enacted to clarify land boundaries in the province (MoEF and the Provincial Government of East Kalimantan. 2019b). This clarification is important given the overlapping land claims between oil palm, mining and/or coal operations and communities (Urano 2014; Abram et al. 2017; Agrawal et al. 2018).

A legal basis for supporting the recognition of customary (*adat*) communities in East Kalimantan was developed under Provincial Regulation No. 1/2015, under which East Kalimantan's government would accelerate processes for the recognition of customary forest rights (MoEF and the Provincial Government of East Kalimantan. 2019b). In addition, schemes under the Social Forestry programme recognize the rights of customary communities to forests through extendable 35-year contract-based licenses (MoEF 2022). Communities now hold social forestry licenses for 224,860 hectares (ha) of forests in East Kalimantan (DDPI 2022).

Interviewees cited reasons for East Kalimantan being selected for the World Bank's FCPF initiative being the national government deeming the province to have the necessary institutional setup to participate in the programme; a supportive subnational policy framework; political will to support climate action; and support from development partners. The province set an emission reduction target of 22 million metric tons of carbon dioxide equivalent (MtCO₂e) for a total transfer of USD 110 million. While the readiness phase was coordinated by the existing multistakeholder platform (DDPI), the subnational-level Project Management Unit (PMU) led by East Kalimantan's provincial secretary coordinated the implementation of the FCPF programme. Four working groups⁵ were established, including one on safeguards coordinated by the East Kalimantan Provincial Forestry Office.

Safeguards implementation under the FCPF initiative

East Kalimantan had experience with REDD+ safeguards before the arrival of the FCPF initiative. The province's Social

and Environmental Standard for REDD+ (SES REDD+) was developed in 2012, based on the national PRISAI REDD+ (Steni et al. 2013) and SIS REDD+; both of the latter build on the Cancun Safeguards. SES REDD+ included a number of criteria and indicators that responded to the provincial context (MoEF and the Provincial Government of East Kalimantan. 2019c.). Early promotion and piloting of SIS REDD+ and PRISAI were also carried out in East Kalimantan, and the provincial government is required to report safeguards implementation on Indonesia's SIS REDD+ portal.

With the FCPF initiative, East Kalimantan must now comply with the World Bank's safeguards, which are more supportive of community rights than Indonesia's legal framework. The operationalization of safeguards guidelines that are more stringent than national interpretations of the Cancun Safeguards is a potential pathway for a rights-responsive REDD+ (Lofts et al. 2021; Sarmiento Barletti et al. 2021). Without these more demanding standards, safeguards may mean little change in the status quo in countries where Indigenous Peoples and local communities are not formally recognized or their rights are not fully promoted.

Different activities and regulations by governments in East Kalimantan can be linked to REDD+ safeguards. Provincial and district regulations such as Regional Regulation No. 1/2015 were issued for aspects related to Principle 3 of the Cancun Safeguards on respect for the knowledge and rights of Indigenous Peoples and local communities. Relevant formal documents and mechanisms developed as part of the FCPF programme, including a grievance redress mechanism, Indigenous Peoples framework and benefit sharing plan, have also been published. For Principle 4 of the Cancun Safeguards on full and effective participation of relevant stakeholders, the PMU has published reports on the multistakeholder forum for development planning (*Musrenbang*), operational procedures for conflict resolution, and conflict resolution reports from land-based sectors. A local regulation was enacted on a multisectoral web-based grievance mechanism called *Aspirasi Etam*,⁶ which was in use until 2021 when the Minister of State Apparatus Utilization and Bureaucratic Reform⁷ issued a regulation on the National Public Service Complaint Management System (SP4N LAPOR!).⁸

6 East Kalimantan Gubernatorial Regulation No. 69/2019 on Etam Aspiration Services

7 Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi

8 The SP4N LAPOR! grievance mechanism was established based on Presidential Regulation No. 76/2013 and Minister of State Apparatus Utilization and Bureaucratic Reform Regulation No. 46/2020. The Peoples' Online Aspiration and Complaints Service (LAPOR!) is designated under Presidential Regulation No. 95/2018 on Electronic-Based Government Systems.

5 Other working groups are on benefit sharing; monitoring, measuring and reporting; and planning and budgeting.

Free, prior and informed consent (FPIC)

FPIC – unevenly and with different criteria – is mandated by several guidelines for results-based payments and standards for voluntary carbon markets (Sarmiento Barletti et al. 2021). Although its outcome will depend on how consultation processes are implemented, the inclusion of FPIC in guidelines and standards is a positive development as it has the potential to promote both procedural and recognitional justice (Suiseeya 2016).⁹

Indonesia does not have a general regulatory framework for FPIC. Minister of Environment and Forestry Regulation P.70 of 2017 incorporated FPIC as part of SIS REDD+'s principles, criteria and indicators. The regulation, which is only applicable to activities under REDD+, states that "FPIC must be obtained prior to project implementation from customary communities and local communities" (MoEF 2017). The regulation does not provide any further description of what FPIC is or guidelines on how to implement it. As has been noted elsewhere in the region (Pham et al. 2015), an absence of regulatory frameworks on FPIC leads to widely different interpretations of how to carry it out.

FPIC is defined in East Kalimantan's FCPF guidelines as communities' rights to access information prior to the implementation of initiatives that would affect their territory, and finally to be able to consent to or refuse such initiatives. Organizers reported that they conducted FPIC processes at the village, district and provincial levels. They covered themes including the objective of FPIC; the FCPF programme in East Kalimantan; activities to support emission reductions; potential risks and plans to mitigate them; the safeguards framework; and the benefit sharing mechanism. In 2020, FPIC processes were carried out in 99 villages, but due to budget and time constraints, and Covid-19 restrictions we were unable to reach all 150 target villages. East Kalimantan strived for FPIC in a further 37 villages in 2021–2023 (Seputarfakta 2023), while FPIC would be carried out in the remaining 14 target villages in 2023 simultaneously with regional government and development partners' programmes and activities in the province (Diskominfo 2024).

Despite being perceived as the less challenging safeguard requirement by most interviewees, in part because it was considered a familiar practice by NGOs already working

with communities, some also noted some difficulties in conducting FPIC. Challenges included that information had to be delivered in a clear and culturally relevant manner, for instance by using non-technical language or non-written media such as video. They also noted challenges posed by the number of meetings that had to be carried out with each group undergoing an FPIC process, and of the effective participation of women and marginalized groups in such processes.

Land and resource tenure

Land conflicts in East Kalimantan have been largely driven by overlapping land claims, including with timber companies from the 1980s (Abram et al. 2017). The lack of clearly and formally recognized rights to customary forest areas led to the overlap of commercial land use licences with customary lands, often resulting in conflicts and/or dispossession. East Kalimantan needed to take steps in the form of more transparency and an accountable conflict resolution mechanism to guide the whole process of resolving and settling land conflicts (Fadli 2017).

Although interviewees noted barriers in the process by which customary communities obtain legal recognition, they also acknowledged the government's efforts through the Social Forestry programme. The programme aims to halt deforestation and address conflicts by recognizing community rights to manage forests and to develop sustainable livelihoods in and around them. Respondents from government agencies and NGOs noted the Social Forestry programme's effort to address the history of conflicts between communities and the private sector in the region by legally protecting community access to manage and use forests. Activities linked to the FCPF have placed emphasis on community access to forests and resources through the different social forestry schemes as a way to recognize community rights and support emission reduction goals through sustainable forest management.

Benefit sharing plan and distribution

Benefit sharing was perceived as the most challenging aspect related to the participation of communities in REDD+ by most interviewees. Negotiations between government actors at the national and subnational levels on the distribution of benefits has been challenging at times, and the system through which benefits of the emission reductions programme will be distributed has been modified several times. The Environmental Fund Management Agency or *Badan Pengelola Dana Lingkungan Hidup* (BPDLH) is the designated national-level institution managing the initiative's result-based payments, which will be transferred to beneficiaries based on their performance in implementing the emission reductions programme. A national NGO (Partnership Foundation) has been

⁹ Procedural justice refers to the ability of all individuals impacted by a decision to meaningfully participate in the decision-making process and its outcome. Recognitional justice requires that difference in cultures, lifeways and ways of knowing are recognized, respected and appropriately incorporated in policy processes from conception to design, implementation, and monitoring and evaluation.

appointed to distribute benefits at the community level (Prokal.co 2014). Both intermediary institutions are in direct coordination with the Ministry of Environment and Forestry. This mechanism constitutes a breakthrough in involving a government agency and non-governmental organizations in a benefit-sharing mechanism.

Incentives will be distributed to local communities, including *adat* communities, either through direct transfers to community institutions or through village governments depending on programme activities. To ease administrative requirements, the distribution process at the community level involves the Community and Village Government Empowerment Office (DPMPD) as supervisor responsible for implementing and supervising benefit sharing to and on behalf of beneficiaries. Communities are required to develop programme plans for activities that lead to emission reductions, such as alternative livelihoods, fire protection or forest monitoring (MoEF and the Provincial Government of East Kalimantan. 2021a).

Shares of benefits, which are based on performance allocation¹⁰, depend on calculations of the emission reductions of entities, including community groups, who register their activities for FCPF in the province's measurement, monitoring and reporting portal (BSP 2021). For unrecognized customary communities, the East Kalimantan Provincial Government and the World Bank agreed on a strategy to distribute benefits through their village authorities. That way they do not have to wait for legal recognition to receive benefits. It is also worth noting that the intermediary organizations taking part in the distribution of benefits to communities are not the same ones that participated in the multistakeholder network that supported the initiative's readiness and implementation phases, and have experience working with communities in East Kalimantan.

Lessons learned and recommendations

Most research participants indicated successes in complying with FCPF safeguards. They attributed this to the subnational government's political will being key to constructing the necessary enabling environment for better engagement with communities. East Kalimantan is the first Indonesian province to participate in the results-based payment programme, which the government understands as one of many pathways to fulfil its commitments to

¹⁰ The distribution of benefit sharing under the performance allocation is based on the ERPD and Gubernatorial Regulation No. 33/2021 on the Benefit Sharing Mechanism for the Land-based GHG Emission Reduction Programme.

low-carbon development. Multistakeholder collaborations under the DDPI have been key to the readiness and implementation phase of the FCPF initiative and the pursuit of low-carbon development in the province. Support from NGOs has been key to this work, including the provision of funding.

Our interviewees identified some challenges in the implementation of safeguards. The first related to efforts to include customary communities in the FCPF process. Attention is still needed, for instance, towards how barriers to community inclusion can be addressed as there were no specific measures for the inclusion of women and other marginalized groups in relevant participatory processes, such as through capacity development interventions or separate discussions with underrepresented community members. One NGO respondent suggested that time and budget limitations were a challenge to the implementation of such measures.

Second, there is a gender bias in the engagement process, despite FCPF requirements for gender-sensitive baselines and approaches for the social impact assessment and consultation process. Some research participants noted challenges in working towards the FCPF's gender-related requirements, which have been operationalized as an effort to include women and youth in FPIC processes. Participants also noted that gender mainstreaming efforts are not uniform in the province, as the government prioritizes technical support to men.

Third, our interviews revealed the different ways in which stakeholders understand the implementation of safeguards. These differences may also be due to the different intensity with which stakeholders have engaged with safeguards. For instance, those involved in the readiness phase and/or have participated in the FPIC process or the FCPF programme more generally are more informed about safeguards than those who were not. This is especially true for the government, which has a high staff turnover rate that challenges effective communication and knowledge transfer. Discussion forums for the dissemination of information could be a route to improve knowledge about the safeguards process and clarify the roles of different sectors concerning safeguard implementation. A legal decree at the subnational level is needed to formalize East Kalimantan's Safeguards Working Group, promote a shift away from perceptions of safeguards as 'extra' work, and promote improved cross-sectoral coordination.

Fourth, although the FCPF process has achieved reduced emissions, some barriers remain towards broader change regarding the respect and protection of customary groups in East Kalimantan, which despite progress still largely responds to national legal frameworks. Interviewees noted that the process to obtain a local regulation (*Peraturan*

Daerah or PERDA) – the first step for the recognition of customary forests – is still challenging, and communities need support from outside actors such as NGOs to undertake the process (see also Bedner and Arizona 2019). As the current benefit sharing arrangement includes a share for unrecognized communities, implementers must also ensure the accessibility of benefits to those communities.

Finally, the resolution of land conflicts must be strengthened for the FCPF programme to have a broader impact on land and forest governance. A respondent from a customary group organization noted the need to have a multilevel facilitation process as most customary groups are unable to engage with processes at different levels on their own.

Based on our findings we present lessons to support safeguard implementation at the subnational level:

- East Kalimantan can continue to build on previous experiences of REDD+ safeguards by supporting the capacity development of their staff to implement safeguards. For example, their experiences in implementing SES REDD+, PRISAI REDD+ and SIS REDD+ have resulted in a number of criteria and indicators that suit the provincial context.
- The safeguards standards of donor agencies and multilateral institutions can support national and subnational governments to ‘do better’. In Indonesia, this approach led to the inclusion of recognized and unrecognized customary communities in the benefit-sharing mechanism for the FCPF initiative. A reflexive and adaptive approach to assessing local capacity gaps would allow for an amendment in administrative rules to improve effectiveness, e.g., the requirements for intermediary organizations for payment distribution.
- NGOs have been crucial to the REDD+ process in East Kalimantan. They have provided technical support and funded some activities related to compliance with safeguards, including the FPIC process. Engaging NGOs in the whole process is important, including during the distribution of benefits to communities.
- There are disparities in capacities regarding safeguards among REDD+ actors. Increased communication and transparency across the initiative’s activities is needed for improved engagement with community rights and to nurture a perception of transparency among key non-government actors. This could include a series of workshops or developing a website platform to inform stakeholders about progress towards safeguards implementation, including a comparison between the FCPF’s safeguards and Indonesia’s legal frameworks for community rights, as well as the challenges that remain to be addressed.
- The REDD+ initiative can catalyse change towards community rights by promoting the clarification of land rights, including through the Social Forestry programme. Given the complexities in the process of

gaining legal recognition, communities need financial and legal support as well as the development of a policy framework to clarify rights (e.g., with regard to permit moratoria).

- Safeguards standards should include clearer guidelines and best practices for the inclusion of communities and other marginalized groups in the REDD+ process. These may include conflict resolution mechanisms; requirements to monitor safeguards implementation; guidelines for participatory processes; and capacity development to support safeguards implementation.
- There is a need for increased government funding, and ensuring that regional revenue and expenditure budgets use the tagging system to identify activities that allow for the merger of those between the FCPF and the government.

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