

Governance, Institutions and Equity: Principles for substantive and procedural safeguards

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1.- Equity concept and framework

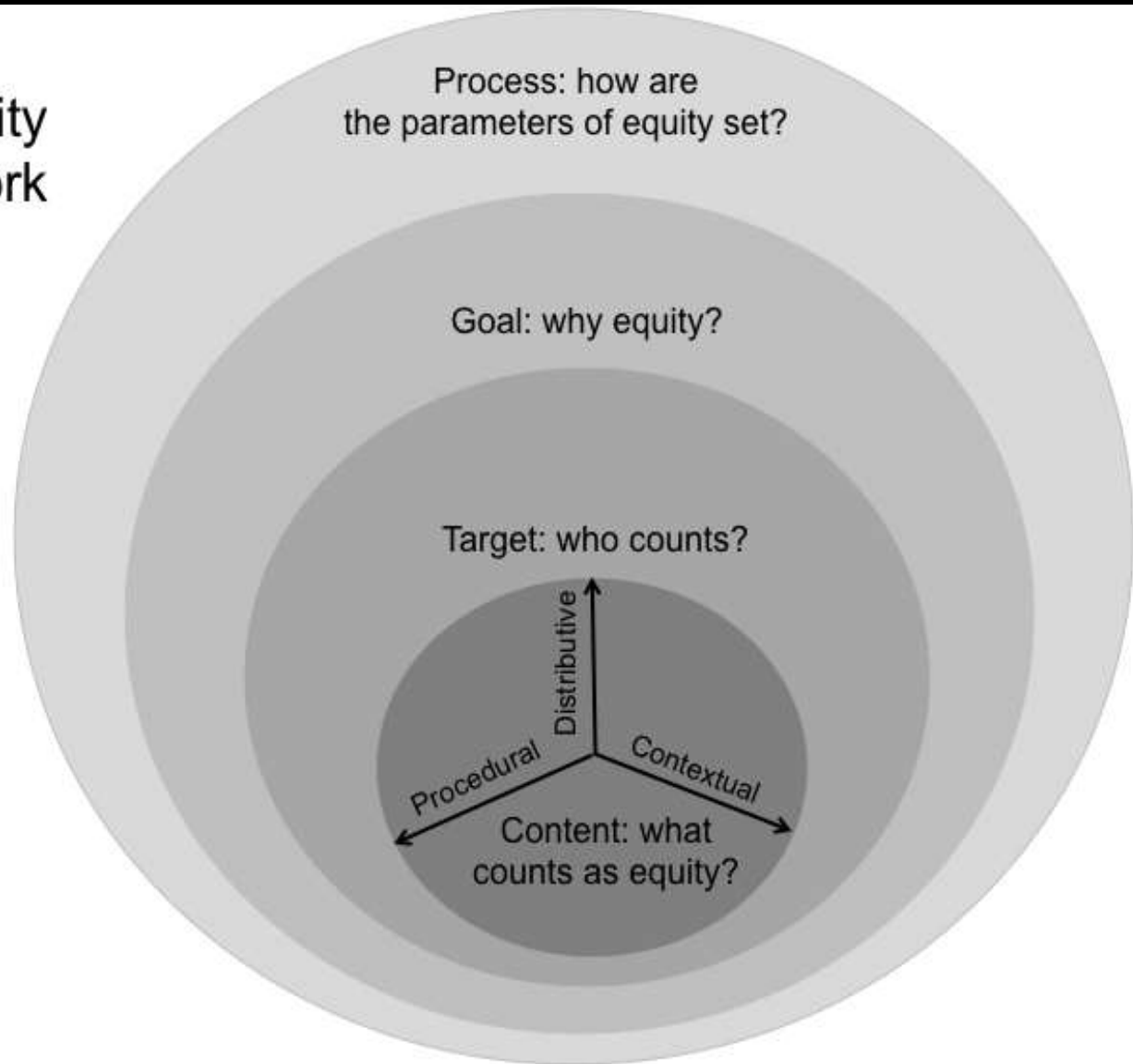


“If Justice is blind, Equity has her eyes wide open”

McDermott *et al* 2013

Justicia by Alfredo Ceschiatti,
Photo by Moro

The equity framework



McDermott *et al* 2013

Assessing equity in national legal frameworks for REDD+, Indonesia

- Parameter-setting of equity is controversial within governmental institutions.
- REDD+ equity goals and what should be equal, vary according to the legal instrument.
- Nested subjects of equity in Indonesia echos UNFCCC's focus on local communities.
- Contextual equity issues of capacities and forest tenure are still not well addressed.

(Ituarte-Lima, McDermott, Mulany 2014)

2.- Governance, Institutions and Compliance Mechanisms

- Governance and institutions understood in a context of interacting risks and opportunities posed by scaling-up biodiversity financing.**
- Compliance mechanisms and the concept of justiciability.**
- Courts and socio-ecological resilience: possibilities and limitations.**

Examples:

International: World Bank's Inspection Panel

**Regional: environmental dimensions of human rights,
Interamerican Commission and Court of Human Rights**

National (Mexico)

***Amparo* e.g. precedent in 2014 relevant for Green Products and Free Prior Informed Consent. Yet important challenges remain in the justiciability of tenure rights.**

2012 Reform on safeguards to the Forest Law will depend on adequate implementation.

3.- Principles for substantive and procedural safeguards

Discussion Paper: Safeguards for scaling-up biodiversity financing and possible guiding principles

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Background

Discussion Paper: CBD-COP11 Info.doc



Outcome CBD-COP 11:

- *requests* the CBD Secretariat to further develop the discussion paper on safeguards (UNEP/CBD/COP/11/INF7) based on comments of Parties and other stakeholders and requests WGRI5 to prepare a recommendation for the consideration by COP12.

3.1 Biodiversity financing and safeguards

Biodiversity Financing Mechanisms (BFMs)

- CBD Strategy for resource mobilisation (2008-2015)
- Areas of convergence and divergence on BFMs
- Safeguards as a means to address divergences and potential challenges in BFMs

Safeguards:

- Point of departure: existing laws and policies
- Distinction between substantive and procedural safeguards

3.2.- Safeguards: possible elements and guiding principles in BFM

Types of safeguards	Elements and Guiding principles			
	Biodiversity values for local livelihoods	People's rights, access to resources and livelihoods	Local and country-driven/ specific processes linked to the international level	Governance, institutional frameworks and accountability
Substantive safeguards	X	X	X	
Procedural safeguards		X	X	X

3. Safeguards and different types of BFM

- *Payment for ecosystem services (PES):* land and tenure rights e.g. access to medicinal plants as part of contractual provisions; FPIC of individual and collectives with assoc. rights and responsibilities.
- *Environmental Fiscal Reform:* reduce perverse incentives such as avoiding subsidies to unsustainable practices. PES are sometimes financed by an earmark fiscal reforms. E.g. Ecuador

3. Safeguards and different types of BFM

Biodiversity offsets (BO): Mitigation strategy includes local values of biodiversity. Approval or rejection of BO based on participatory assessments on the potential environmental, social and cultural impacts (e.g. using the CBD Akwe:kon guidelines).

- ***Markets for green products:*** synergies between biodiversity and fair trade criteria. E.g. Climate, Community and Biodiversity Alliance certification scheme.

International development assistance (ODA): although it may not be an innovative financing mechanism, it can provide seed money (e.g. PES) and lessons for various BFM.

4.- Concluding remarks

Assess equity dimensions
in the governance of
ecosystems

Safeguards need to respond
to specific but interacting
BFM's risks and
opportunities

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graph TD; A[Assess equity dimensions in the governance of ecosystems] --> C[Harmonisation of distinct BFM's safeguards]; B[Safeguards need to respond to specific but interacting BFM's risks and opportunities] --> C; C --> D[Guiding principles underlying safeguards in all BFM]
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Harmonisation of distinct BFM's safeguards

Guiding principles underlying safeguards in all BFM