



World Bank National Dialogue with Indigenous Peoples in Nepal Kathmandu, March 20-21, 2014 Summary

On March 20-21, 2014, the World Bank held a national dialogue with Indigenous Peoples in Kathmandu, Nepal. This dialogue was part of a global series of meetings being held to support the review and update of the World Bank's environmental and social safeguard policies. It also served as an opportunity to address broader development issues of interest to Indigenous Peoples in the country. The participants were invited to the dialogue in close coordination with Indigenous Peoples communities (see list of participants).

The dialogue was guided by the following questions:

1. Indigenous Peoples dialogue and the World Bank
2. Development strategies for Indigenous Peoples relevant to Nepal
3. Lessons learned from the policy implementation in Nepal
4. Specific issues that have been suggested for consideration in the context of the safeguard review and update process
5. Brainstorming for the Indigenous Peoples advisory council

Several presentations were made by World Bank staff relating to the questions. Below is a summary of key comments, observations and recommendations made by one or more participants during the dialogue. In keeping with previous dialogues of this nature, comments are not attributed by name in the summary report.

1. Indigenous Peoples dialogue and the World Bank

- Participants noted that they would make a written submission on their concerns and issues related to the Bank. A participant said that, while ***the engagement with the Bank clearly has some positive aspects, they had different positions regarding other issues involving the Bank***, such as the Khimti-Dhalkebar Transmission Line Project.
- While it is often said that ***OP 4.10 is a good policy that supports Indigenous Peoples, participants did not have this impression on the ground***. Before signing any project financing agreement with the government, the Bank should confirm whether or not Indigenous Peoples are present in the project area and if so, that they have been duly consulted.
- ***The Bank should have a policy for most vulnerable groups such as Dalits***, not just for Indigenous Peoples.

2. Development strategies for Indigenous Peoples relevant to Nepal

a) *What is the vision of Indigenous Peoples for achieving sustainable development in Nepal?*

- The vision and aspirations expressed by Indigenous Peoples in Nepal include: ***Self-determination, identity and dignity of Indigenous Peoples should be respected; ownership and customary rights to lands, territories and traditional knowledge should be recognized.*** Ethnic diversity should be regarded as an opportunity, rather than a challenge.
- Indigenous Peoples are presumed to be poor or under-developed at the outset. In reality, they are ***marginalized through disadvantages in education and language and lack of recognition of their lands and traditional knowledge.*** For example, many natural protected areas were established by the government in the 1970s on Indigenous Peoples' territories.
- Mainstream development views trees as a commodity, whereas Indigenous Peoples see them as spiritual. There is a big difference in the understanding of development. The Bank should consider Indigenous Peoples' ***spiritual values*** as a contributor to sustainable development. The Bank should consider intangible assets, not only tangible ones. Global institutions, including the World Bank and the Asian Development Bank, often objectify Indigenous Peoples. This is a misinterpretation of who Indigenous Peoples are.
- Nepal's Indigenous Peoples' vision is not limited to economic development: they wish to ***participate in state mechanisms and policy making.*** Until Indigenous Peoples are able to be represented in state and local political mechanisms, nothing will change economically, socially or culturally. The Bank should play a catalyst role in making government accountable for the political, economic and social rights of Indigenous Peoples.

b) *What are the critical issues related to full and effective participation of Indigenous Peoples in the development of Nepal?*

- Indigenous Peoples are excluded not only from economic development, but also from formulation of development plans. ***Recognition of Indigenous Peoples as a legal entity*** is key to economic growth of indigenous communities.
- Not just equality but equity is important. ***Affirmative action*** is needed.
- Community perception based on ***Casteism*** affects participation of Indigenous Peoples and other marginalized groups in project development and outcomes. Participation of Indigenous Peoples from the start of planning, including engineering design, is important.
- Elites in Casteism capture local resources, hampering participation of Indigenous Peoples and Dalits in economic development.
- ***Indigenous Peoples' traditional knowledge and practices are not recognized as contributing to economic growth*** by the government. For example, "Matwaali", an indigenous liquor, cannot be sold in the market. There are many dimensions of Indigenous Peoples' knowledge and practices that are not captured in economic growth.
- ***Tourism, such as Himalayan trekking, handicrafts and herbal dyes, should benefit the local communities.*** Currently, all resources are brought from Kathmandu. Government should provide funding and a legal framework, so that local Indigenous Peoples communities can take part in economic growth. Because of the Forest Act and National Park Act, indigenous communities have lost access to traditional local resources.

- Globalization goes two ways: it is important not only to localize global goods; indigenous knowledge also should be globalized.
- Indigenous Peoples' health knowledge is not recognized as a health option by the government. Because of **lack of education**, Indigenous Peoples have no access to the government's incentive system.
- Valuable Indigenous Peoples' traditional knowledge, such as medicinal practices, is not documented. It should first be documented, and then **the government should strategically market traditional knowledge through subsidies and policies**. A one stop window should be established for the promotion of Indigenous knowledge, instead of many different government agencies.

c) *How can we involve Indigenous Peoples in a more effective way in the planning and implementation of World Bank programs?*

- Currently, project design is communicated to Indigenous Peoples in a top-down direction, whereas it should go the other way. The **needs assessment** in the Indigenous Peoples communities should be done first, and then the project design should follow to respond to the communities' needs.
- **Access to information** – The Bank's country program needs to be more transparent, accessible and inclusive.
- **Full participation in all key stages** – Indigenous Peoples communities should participate in the project from the initial stage, at the decision-making level. Effective participation in design and monitoring stages is key. It is also important to involve Indigenous Peoples communities in the project steering committee. Project management should be responsive to Indigenous Peoples' concerns.
- It is also important to consider the **mechanisms and processes for effective participation**.
- **Benefit sharing** – The Bank should incentivize participation through benefit sharing, and encourage Indigenous Peoples to participate in the whole process as beneficiaries.
- **Financial resources** – Financial resources need to be allocated and audited to ensure Indigenous Peoples' participation.
- Indigenous Peoples' **skills and capacities** are important to be able to participate in the planning process.
- **Governance of Indigenous Peoples communities** – Indigenous Peoples' traditional structure has been spoiled and weakened by NGOs, which establish new structure for project purposes. It should also be noted that the governance system of Indigenous Peoples' institutions is not necessarily inclusive and democratic.

3. Lessons learned from the policy implementation in Nepal

- **International obligations** – While Nepal is a signatory of ILO 169 and UNDRIP, the country's situation and national sovereignty issues are being used as an excuse to violate Indigenous Peoples' rights. The Bank should review the country's laws before signing any financing agreement.
- **Constitution** – Nepal is still in the process of drafting a new constitution and there is still no consensus on identity-based federalism. While Nepal has ratified ILO 169, there is no

mechanism to implement it. It is important for global institutions like the World Bank to take concrete and strong steps to positively influence this situation.

- While the Bank sets a high target for poverty reduction and shared prosperity, it should not be just an actor, but undertake a **catalyst role** so that the country takes more responsibility for its international obligations.
- **UNDRIP** – Awareness and understanding of UNDRIP in the Bank is very limited. The Bank should raise awareness of this UN declaration, from the management level down to lower level staff.
- **Local grievance redress mechanism** – Even if there is a grievance redress mechanism at the Bank’s country office, it is not easily accessible and transparent to project affected communities. Grievance redress mechanisms at the local level should be considered to monitor project implementation on the ground. **Third party and community participatory monitoring** should be considered.
- **Information disclosure and Inspection Panel case** – Regarding the Khimti-Dhalkebar Transmission Line Project, access to project information has been very difficult, even for lawyers. Both the implementing agency and the country office were not cooperative regarding information disclosure. In the Inspection Panel case, Bank management seems to be trying to justify itself, rather than sitting with project affected communities in open dialogue.
- It should be acknowledged that **Indigenous Peoples are rights holders**, rather than stakeholders.
- **Lack of Capacity to undertake social assessment** – In general, staff assigned to carry out social assessment lack capacity to identify the social issues of the affected communities in an effective way. Also, regardless of whether project impact is positive or negative, the affected communities do not have capacity to enable effective participation in the social assessment. The validity of data also should be improved.
- The social assessment should consider the varying circumstances and implications in terms of land or water, and focus on the people whose livelihood directly depends on natural resources, such as fishermen. **The challenge in project implementation is that community members may have different views on the project.** The community leaders should try to understand everyone’s view and achieve consensus.
- **Staffing of the country office** – The Bank’s country office should enhance staffing from Indigenous Peoples communities for better implementation of the Indigenous Peoples policy.
- **Mother tongue** – Regarding communication with Indigenous Peoples, the mother tongue should be respected, rather than the local language.
- **Gender** – Gender should cut across the issues.

4. Specific issues that have been suggested for consideration in the context of the safeguard review and update process

This session was devoted to obtaining participants’ opinions regarding some specific issues that have been raised in the context of the safeguard review and update process. The issues are: rights to lands, territories and resources; gender and other marginalized groups; and Free, Prior and Informed Consent (FPIC). The participants were requested to consider the relevance of the issues to Nepal, to cite specific examples in Nepal and their background, and to make recommendations for the Bank’s consideration.

a) Rights to lands, territories and resources

Relevance of the topic to Nepal

- Indigenous Peoples' identity, spirituality, culture and cosmic vision.
- Traditional skills, knowledge, technology, livelihood and world view.
- Indigenous Peoples still politically, socially, economically and culturally marginalized.
- Continued displacement of Indigenous Peoples from ancestral domain and lands.
- Contemporary development – economic centered paradigm – ignores Indigenous Peoples' self-determined sustainable development.
- Sacred symbols and the sense of sovereignty (self) and attachment.
- Indigenous Peoples as stewards and inherent sovereign rights holders.
- Lands, territories and resources are imbued with Indigenous Peoples' history, oral tradition and ancestral actions, through which sacred relationships are maintained with the ancestors and sovereignty is established over the lands.

Specific examples in Nepal

- Kipat system: collectively owned lands.
- Koshi Barrage.
- Sardu Watershed Project, Dharan.
- National parks and protected areas.
- Road expansion project.
- Majhi Indigenous Peoples' displacement.

Recommendations for the Bank

- **Fully comply with international instruments of collective rights**, particularly UNDRIP, ILO Convention 169, Convention on Biological Diversity (CBD) 8 (J), UNFCCC Cancun Agreement on Safeguards, paragraph 72 and Nepal Treaty Act, 1991, Article 9.
- Shift from welfare approach to **rights-based approach**.
- **Conduct extensive and in-depth study on land injustice** prior to project intervention.
- **Facilitate World Bank member countries to comply with the safeguards policies.**
- **Ensure access of Indigenous Peoples to benefits and revenues.**

b) Gender and other marginalized groups

Relevance of the topic to Nepal

- Continued application of Casteism as a tool of social exclusion in Nepal. Principles of Casteism marginalize, discriminate against and exploit Indigenous Peoples, Dalits, Madhesh, Muslims, disabled persons, backward region, third gender and LGBT.

- Marginalized groups lack access to:
 - recognition of identity, citizenship and property rights.
 - education, health, resources, decision making power in state organs.

Specific examples in Nepal

- Gender related violence, superstitious mentality, e.g., witchcraft, dowry system, domestic violence, menstruation as unclean act, and citizenship rights through the mother.
- Women, Dalits, Madhesh, Muslims and other marginalized groups face different challenges.

Recommendations for the Bank

- **Gender and other marginalized groups should be addressed separately.**
- The international obligations that Nepal signed should be monitored and enforced by the Bank.
- The Bank's development programs and projects should **pay special attention to marginalized groups.**
- Issues of Indigenous Peoples and marginalized groups should not be regarded as problems, but as potential contributors to nation building and empowering diversity.
- Regarding **Dalits, the World Bank and the Asian Development Bank should have a policy to address development issues of Dalits at the South Asian sub-regional level.** Dalit communities wish to initiate a dialogue with the Bank.
- For **Terai Madhesh:**
 - the government must allocate the annual budget of 51 percent for the people of Madhesh proportionate to its population.
 - the people below the poverty line must be identified in all 75 district of Nepal.
 - vocational education through polytechnical institutes should be provided to people whose income is below the poverty line.
 - general awareness should be raised through mass communication; redundant laws should be amended in favor of Indigenous Peoples.
 - the government and the Bank should promote the employment of **the peoples of Terai Madhesh in different industries and enterprises.**

c) Free, Prior and Informed Consent (FPIC)

Relevance of the topic to Nepal

- Consultation with Indigenous Peoples should be conducted in good faith.
- Indigenous Peoples' institutions (NEFIN, IPOs and traditional institutions) should be brought into the process. Their traditional systems and mechanisms should be respected.

- Nepal is in a state building process. A root cause of Nepal’s internal conflict in the past is that Indigenous Peoples were ignored. Involving Indigenous Peoples’ institutions in the process should be considered as a lesson learned for the Bank.
- Mandatory international obligations as well as national laws relating to Indigenous Peoples need to be considered when conducting consultations with Indigenous Peoples.

Specific examples

- Khimti Transmission Line project.
- Likhu-4 Project.

Recommendations

- **A distinct policy for Indigenous Peoples should be maintained.** Other marginalized groups, e.g., Madhesh, Dalit, should be addressed separately.
- FPIC is the special right of Indigenous Peoples, not others. The concept of “broad community support” is secondary. The Bank’s **free, prior and informed consultation should be replaced by FPIC.**
- The Bank should **clearly define the parameter of the consultation.** So far, all international organizations, including the Bank, have no clear parameters. The suggested parameters include:
 - consult in advance of key decisions.
 - be inclusive, representative and accessible by offering opportunities for informed inputs, and not just for the sake of consultation. Indigenous Peoples’ inputs should not be considered as advice only.
 - inform Indigenous Peoples about the results of the consultation process.
- It should be clear that “consent” does not always mean “yes”, but can sometimes mean “no” or “wait until Indigenous Peoples make a decision.” **The mechanism and process of “consent” should be set by the Bank.** Otherwise “FPIC” would complicate and confuse not only the Bank, but also the indigenous communities.
- A good example of FPIC is a project in Morang: a proposed landfill site in an indigenous village was canceled as a result of FPIC. NEFIN supported this process.
- UN-REDD has already a **guideline on how to implement FPIC.** So, as a UN specialized agency, the Bank should not have a problem in introducing FPIC. NEFIN is finalizing its FPIC guideline. This can be used for the Bank’s consideration.
- **Grassroots projects will have no problem with FPIC,** in which communities are by definition well consulted and consent can be obtained. **The problem lies in large scale projects,** which are centrally decided by policy makers and ministries, and which do not involve or consult indigenous communities in the planning and implementation.
- Also, it needs to be considered how to operationalize FPIC when **unequal power differences exist among indigenous communities** or benefits are not shared equally.

5. Brainstorming for Indigenous Peoples Advisory Council

- The participants noted that they would need to consult with other Indigenous Peoples organizations in the country, should the Bank consider establishing such a council in the future. Also, the rules and processes of the council would need to be clarified, as well as the impact it would have on Bank decision making and its access to Bank projects and programs.