



**Review and Update of the World Bank's Environmental and Social Safeguard Policies
Phase 2
Feedback Summary**

Date: November 28, 2014

Location: Kathmandu, Nepal

Audience: Civil Society Organizations (CSOs), private sector and Indigenous Peoples

Overview and Key Issues Discussed: Hydropower projects; non-discrimination (disability, Dalit and Gender); labor; capacity building; FPIC; and alternative approach in ESS7.

Specific Feedback from Stakeholders
1. General Comments
<p><i>Clarifications</i></p> <p><i>Comments and recommendations</i></p> <ul style="list-style-type: none"> • The World Bank's commitment is to end poverty. But the question is whose poverty, and whose sustainable development. Most of the electricity to be generated from the Bank and other donors' hydropower projects in Nepal are set to be exported abroad or away from the people to whom the river belongs, and it has not contributed and will not contribute to ending poverty or result in sustainable development of affected communities. Lack of employment opportunities is forcing people to leave the country, which could have been corrected by setting up industries in the areas where electricity is to be produced to generate employment. There is a need to focus on how to use the end-product <i>inter alia</i> to alleviate poverty of affected people by creating opportunity for gainful employment through industrialization, for electrification of transportation, to liberate homemakers from indoor pollution by availing electricity for cooking, and so forth. • This consultation is just "a show," and the Bank is not actually serious about consultation with CSOs. A four-hour meeting to discuss such serious issues is not sufficient and can hardly be considered a consultation. The participant rejected the proposed Framework as it is not pro-poor or pro-environment, and only benefits capitalists and the private sector. The Bank's Poverty Alleviation Fund has not been utilized for the poor. The Bank's policies and conditionalities are infringing on the sovereignty of the country. It continues to dictate state policy for promoting privatization. The Bank has increased electricity tariffs and decreased the electrification in rural areas. • Nepal ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2010. The country must implement it, and this is also applicable to the Bank. While there are different kinds of disabilities, the Bank should arrange physical conditions of the project to accommodate such disabilities. According to WHO, 20 percent of the poor are disabled. There are 63 million disabled people in developing countries. Disability is an issue that cuts across Indigenous Peoples, women, Dalit and other groups. While persons with disabilities face discrimination in education, health and employment, they should be treated equally with other people; special clauses are provided in the interim constitution. If disabled people are neglected, the Bank's goal of ending poverty will not be achieved.

<ul style="list-style-type: none"> • The Framework lacks a section on disability – the issue is treated only in footnotes. It should be more clearly outlined in the main text of the Framework. Disability is also not discussed in the MDGs. • It is very positive that the Bank invited Dalits to the consultations. There are 210 million Dalits in South Asia and they are the poorest and most discriminated against in both Nepal and India. The majority of Dalits have no access to land. Dalits are invisible in the Framework, and should be clearly referred to in the document. They need to participate in the decision-making and resources must be provided. The 2010 IEG report claims the failure of 300 forest projects. The Bank should let the stakeholders lead the project. Otherwise, it will fail. • The language used in the Framework is still broad and disaggregated. The reference to vulnerable groups such as women, children and LGBT should be brought up into the main text. The Bank should hold an expert group meeting on gender issues to facilitate more in-depth discussions on mainstreaming gender concerns in the Framework. The Bank policy on gender should be mandatory. • The Framework should be aligned with the national government system. • While the issues of Indigenous Peoples and biodiversity are connected, they should be defined in the same standard. Issues of how to share the responsibilities for conservation and use of resources that belong to the Indigenous Peoples are important. • It should be clarified what resources will be available to projects to assist with implementation of environmental and social measures. • The Framework cannot be applied to all developing countries in the same manner, including the compliance with ESCP. The least developed countries need to be assisted. • The Framework will not be effectively implemented if there is no guidance and stakeholder participation. • The time allocated for the consultations is not enough. The Bank should give us more opportunities to make comments.
<p>2. A Vision for Sustainable Development</p> <p>N/A</p>
<p>3. World Bank Environmental and Social Policy</p> <p><i>Comments and recommendations</i></p> <ul style="list-style-type: none"> • Risk classification is subject to the discretion of the World Bank and based on subjective criteria. The classification criteria should be objective and transparent. There should be no room for subjective interpretation of an expert or a group of experts. • Improved monitoring mechanisms must be put in place.
<p>4. Environmental and Social Standard 1 (ESS1): Assessment and Management of Environmental and Social Risks and Impacts</p> <p><i>Comments and recommendations</i></p> <ul style="list-style-type: none"> • The scope of ESS1 is wide, and covers every possible aspect. It is easy to be broad in scope vis-à-vis comments, but difficult to deliver to the satisfaction of everyone. ESS1 does not provide a standardized reporting format for delivery. It is difficult to prepare a comprehensive report to the satisfaction of everyone including Bank reviewers. • To avoid delays, cost overrun and potential conflict, it would be better to streamline the EAs of the Borrower in compliance with ESSs prior to the approval by the Borrower rather than after approval.

5. Environmental and Social Standard 2 (ESS2): Labor and Working Conditions
<i>Comments and recommendations</i>
<ul style="list-style-type: none"> • The prohibition of child labor and forced labor and the promotion of occupational health and safety will not work without freedom of association. • There is no mechanism to monitor labor issues among contractors. Neither the Bank nor the government cares once contracts are signed. Contractors must be covered by the Framework. • To circumvent labor laws, it is common practice in Nepal to employ migrant workers. As nationals of another country, the laws do not apply to them in the same manner. Fundamental human rights are not ensured for migrant workers. At the same time, this causes high unemployment in the local population. This should be addressed in the Framework.
6. Environmental and Social Standard 3 (ESS3): Resource Efficiency and Pollution Prevention
<i>Comments and recommendations</i>
<ul style="list-style-type: none"> • Chemical fertilizer that causes disability should be controlled.
7. Environmental and Social Standard 4 (ESS4): Community Health and Safety
N/A
8. Environmental and Social Standard 5 (ESS5): Land Acquisition, Restriction on Land Use and Involuntary Resettlement
N/A
9. Environmental and Social Standard 6 (ESS6): Biodiversity Conservation and Sustainable Management of Living Natural Resources
<i>Comments and recommendation</i>
<ul style="list-style-type: none"> • It should be explicitly defined to what extent (spatial dimension) critical habitats should be conserved. If they are to be conserved at the national scale with net gain concept, then some issues could be unresolved and exploiting full scale hydropower potential in Nepal would not be conceivable.
10. Environmental and Social Standard 7 (ESS7): Indigenous Peoples
<i>Clarification</i>
<ul style="list-style-type: none"> • Clarification was sought on the update of the concept of “Indigenous Peoples Advisory Council.”
<i>Comments and recommendations</i>
<ul style="list-style-type: none"> • The move from “FPIConsultation” to “FPIConsent” was appreciated. • “Alternative approach” is a very dangerous idea. Indigenous Peoples have no access to the Board and cannot influence its decision. • The Framework should be aligned with ILO169, UNDRIP, Convention on Biodiversity (CBD) and other international guidelines and commitments. The Bank has the responsibility and ability to implement these international instruments. No human rights or lives should be subject to any conditions. • Indigenous Peoples should be included in the monitoring and evaluation process. • In the Framework, Indigenous Peoples should be referred to as “rights holders”, rather than “stakeholders”. • Development for Indigenous Peoples should be based on their identity and should not be imposed by the government or the private sector. Human rights of Indigenous Peoples should be respected. • A dedicated session with Indigenous Peoples was appreciated. But more time to review and comment on the Framework was requested. Indigenous Peoples leaders will consult with their community members including women, and will send the Bank written comments.

<ul style="list-style-type: none"> • The Maji community’s livelihood is fishery. Downstream impact on Indigenous Peoples caused by hydropower projects needs to be addressed. The community has been severely affected by such projects, evicted from their ancestral land and lost family and language. The Bank should understand the full impact of resettlement. When it comes to the government’s own project, the situation is worse and involves political parties, criminals and corrupt bureaucrats. They are the creators of corruption. The Bank’s assistance should be given directly to Indigenous Peoples and it should be in the form of grants, rather than loans. • Further specific issues including compensation, consultation and Inspection Panel were raised related to the Kimti-Dhalkebar transmission line project, and the Melamchi water resource project.
<p>11. Environmental and Social Standard 8 (ESS8): Cultural Heritage</p>
<p><i>Comments and recommendations</i></p> <ul style="list-style-type: none"> • The Bank should clarify how ESS8 will address the intangible heritage of Indigenous Peoples.
<p>12. Environmental and Social Standard 9 (ESS9): Financial Intermediaries</p>
<p>N/A</p>
<p>13. Environmental and Social Standard 10 (ESS10): Information Disclosure and Stakeholder Engagement</p>
<p><i>Comments and recommendations</i></p> <ul style="list-style-type: none"> • It should be clarified how to determine the stakeholders and how to implement stakeholder engagement at the ground level.