



## Review and Update of the World Bank's Safeguard Policies Consultation Feedback Summary

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**Venue:** World Bank, Washington, DC (video recording and transcript available on the consultation [webpage](#))

**Total Number of Participants:** 70

### Feedback from Stakeholders

#### 1. What works well in the current safeguard policies?

- **Standards/Mandatory Guidance.** There are certain benchmarks within the existing safeguard policies that are very clear and work well. Affected communities can tell whether there is policy compliance, what the requirements are for consultation, and for land-for-land compensation. In addition, the current policies have detailed requirements, which makes it easy to advocate concerning specific issues and safety protection norms.
- **The safeguards regime is seen as best practice internationally.** The Bank policies safeguard people and the environment from possible harm. They carry a special value because they have helped to raise standards and expectations globally for the protection of people and the environment. The policies of the Bank and IFC have been broadly replicated by multilateral development banks, by the Export Credit Agencies, by the private sector and in the Equator Principles Banks. The Bank remains the primary agency in terms of ideas in this regard; it has done a great service to the world at large, and strengthening the Bank's policies will lead to a cascade of replications.
- The policies **promote more responsible lending and sustainable outcomes.**
- **A stand-alone Indigenous Peoples Policy.** The Bank should maintain a separate Indigenous Peoples policy and not have it collapsed into a vulnerable peoples policy.
- **A stand-alone Involuntary Resettlement Policy.** The strengths of the existing involuntary resettlement policy include the provision requiring consultation and the provision of alternative resettlement options for affected families. That provision should be maintained. There is also a provision in the existing policy that concerns provision of security for people who are going to be impacted by the project, even if their own governments do not recognize the land rights.

## 2. What is not working in the current safeguard policies?

- **Policy Gaps.** There are some important gaps in the safeguards policies, including the absence of Labor Standards, gaps in human rights (safeguards do not comply with international human rights law), addressing the global commons, particularly oceans (they are still just country based). Other gaps are: excluding some vulnerable groups from the overall scope of safeguards; ignoring the significant role people with disabilities could play in the development process; no requirement to address unique needs of children, resulting in projects with detrimental impacts on them; inadequate protection of natural habitats; and no recognition of the right to Free, Prior and Informed Consent for Indigenous Peoples.
- **Application Across Instruments.** Having different safeguards/policies for investment loans, development policy-based lending, lending under the Program for Results instrument, and technical assistance leads to evasive behavior.
- The safeguard policies are not applied to all investment lending, and this results in a multiplicity of standards.
- **Unclear Definitions.** There is no text that clearly offers a succinct definition of Category A Projects. Current definitions of “Indigenous Peoples” are difficult to capture all sectors of vulnerable populations. “Indigenous Peoples” is simultaneously too broad and too narrow a term to be universally applicable; in some contexts the idea applies but the title is problematic, in others the title is applicable but the idea is less necessary.
- **Uneven Evaluation of Country Systems.** Evaluating country systems on the basis of laws is not enough. It must be evaluated on implementation. Lack of binding requirements on the land, territory and resource rights of Indigenous Peoples is a concern.
- **Lack of Government Capacity, Monitoring and Evaluation, Implementation Support.** Counterpart agencies do not have needed capacity/desire/incentive to implement effectively and Bank is not doing adequate due diligence. Weak environment and social regulation at country level and local level.
- **Not Enough Implementation Support.** There are also problems around implementation with respect to investment lending, where the Bank recognizes that the safeguard policies should apply. For example, the Bank is not strictly applying the policy on Indigenous Peoples across countries; and there has been a failure to apply safeguard policies to recurrent expenditures within investment lending. Additionally, implementation is lagging mainly due to inadequate consultation with Indigenous Peoples, taking Indigenous Peoples’ views into account, monitoring of impacts and evaluation of results.
- **Safeguards Supervision Process Not Working.** The evaluation from the Independent Evaluation Group (IEG) and the Inspection Panel case have shown that this aspect of the policies needs strengthening.
- **Lack of Staff Incentives.** There is no clear application of prior reviews and recommendations and no incentives for staff to effectively use safeguards as they see them as ‘slowing’ disbursement.
- **Inconsistent Implementation Quality and Application.** Environmental Impact Assessments are not consistent in terms of scope or quality. There is lack of guidance and maximum discretion applied to defining a project’s area of influence. There are different standards applied to activities on the ground with comparable risks. Social assessment is done by consultants without sufficient capacity.
- **Risks to Affected People.**
  - Indigenous Peoples’ social assessment mechanism does not account for self-government/self-determination
  - Resettlement policy does not expressly prohibit involuntary resettlement/forced assimilation
  - Present lack of consultation with Indigenous Peoples

- Bank's failure to focus on risks to affected people after assessment and during implementation for displaced/affected people
- Environmental Assessment lacks social assessment
- There are no dispute mechanisms for affected people
- **Information and Consultations.** A general lack of proper and 'meaningful' consultation. There is a confusion due to wildly different consultation vs. consent standards among multilateral development banks. Organizing meetings, workshops of 2-3 hours, is mistakenly called consultation. Information does not reach impacted communities; groups of people are being excluded from development process (i.e., persons with disabilities) and the process is not always transparent.
- **Involuntary Resettlement Policy.** The World Bank is lagging behind the Asian Development Bank (ADB) in terms of some key areas of the involuntary resettlement policy. For example, it only requires restoration of living standards of displaced people to pre-existing levels. ADB is now considering provisions to improve the welfare of the affected population. Lack of data, especially the fact that there has been no independent study evaluating performance or the impact of involuntary resettlement, how it actually resonates on the ground, and whether its implementation is successful or not, makes it very difficult to determine whether involuntary resettlement actually works in general.
- **The Inspection Panel** has not been able to do its job as effectively as it needs to and the Bank needs to address this.
- **Human Rights.** There is not a policy to require the necessary human rights due diligence to ensure the Bank does not fund (directly or indirectly) violations of human rights. Instead of using human rights impact assessment, the Bank is using social assessments.
- **Climate Change.** There are no clear guidelines as to how climate change is assessed. No assessment of climate change impact of the WBG's non-energy portfolio and not enough assessment of energy portfolio.
- **Inadequate Assessment and Valuing of Ecosystems.** The International Bank for Reconstruction and Development (IBRD)/the International Development Association (IDA) safeguards do not adequately account for technological advancements to assess and value ecosystem goods and services.
- **The World Bank Performance Standards** are not working, and the process by which they were adopted was flawed. While there are important lessons to learn from the International Finance Corporation (IFC), the model (as a whole) does not work for ensuring robust social and environmental protection. The IFC model over-relies on self-reporting and it is not the right way to go. There has to be an institutional system for monitoring to ensure that the safeguards are being implemented. IFC Performance Standards' policy space is very different than that of the public sector where the World Bank works.

### 3. Recommendations on how to improve policies/review process

- **Scope of Review.** The integrated safeguards framework needs to cover all WBG lending instruments, otherwise it does not deserve to be called "integrated". The scope of the safeguard policies' application should be expanded to all lending and non-lending activities (i.e., grants), including Development Policy Lending (DPLs) and Program for Results (PforRs). The Environmental Assessment policy should be strengthened to categorize and assess all types of Bank operations.
- It will be important to broaden the safeguards to include other important potential impacts of Bank projects. Put in place some more expeditious procedures than the Inspection Panel, but retain the latter.
- **Consideration of Existing Studies.** The Safeguards Review explicitly needs to address the findings and recommendations of some

important reviews that have taken place such as the Extractive Industries Review, the World Commission on Dams, the learning review of the implementation of the Indigenous Peoples Policy, and the Justice for Forest Reports that came out this year. There are many lessons that have already been identified that need to be taken into account by this review. The policies should embrace existing tools/experiences from other agencies that work.

- The World Bank should be seen as a global public institution and should set minimum standards as a global public good.
- It is important to look at **upward harmonization** and any other strengthening to prevent harm. Key to go beyond “do no harm” to “net positive impact”, and improve thematic coverage.
- Stress the collaboration between staff in borrower governments and at the Bank to come up with solutions for local problems. Identify clear standards that are applied consistently to activities on the ground, regardless of the approach used to “move money”.
- **Application Across Instruments.** Apply mandatory safeguards to all types of lending and non-lending activities with third-party verification and adequate disclosure. Do not look at OP 10.0: Investment Lending Reform as it is not an appropriate or acceptable framework for the safeguard policies update. The safeguards should provide clear benchmarks that affected communities can see have been met (i.e., requirement of consultation during environmental assessment).
- **Implementation.** Develop comprehensive supporting materials and guidance and make it so that any person with a basic undergraduate degree in language arts can understand how to use safeguards. Ensure that the application of clear standards to all Bank activities provides consistency and clarity for borrowers and sets example for all lenders. The integrated framework should include mandatory procedures or binding guidance. Give priority to making sure policies are implemented.
- **Change the staff incentive system** so as to make it rewardable for Bank staff to implement safeguards effectively in projects. Consider employing more safeguards experts who can influence poorly designed projects/safeguards. Build more ways to work together (e.g., working groups) to build relationships, and find solutions. Use safeguards to avoid lending legitimacy to projects/governments that run afoul of international law/standards and best practices. Align key definitions with other standards (e.g., critical natural habitats/IFC PSG).
- **Shift focus more toward monitoring and supervision.** Put more people on the ground at project sites.
- **Define key terms in the safeguards**, such as poverty and household. Expand definition of full-costing and pricing of all externalities.
- Associated facilities (project area of influence) must be expanded to facilities necessary for a project to function.
- Screening process of policy proposals should take into consideration areas raised by stakeholders that are currently not addressed.
- Should have clear, detailed template for Environmental Impact Assessments for consultants.
- **National Systems.** Reconcile safeguards with national systems.
- **Supervision.** Ensure resources for supervision and capacity building. Need to have project site visits more often to ensure that project affected communities have information so they can monitor and know who to contact if problems exist.
- **Capacity for Implementation.** Modernize standards using new information and best practices. Significant expansion of support for capacity building in national environment ministries. Build capacity at all levels to effectively implement measures.
- **Indigenous Peoples Policy.** Maintain the stand-alone policy. Reform the policy to include Indigenous Peoples’ Free, Prior and Informed Consent (FPIC) for any activities substantially affecting their lands, territories or resources, or affecting their human rights. FPIC should be “consent”, not consultation leading to broad community support. Ensure that the policy is in line with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and other applicable international standards, especially with regard to FPIC. Strengthen the policy to provide

a foundation of self-determination and self-government, and recognize that Indigenous rights are NOT subsidiary or secondary to rights of countries. Ensure collective and pre-existing rights to land, territories, and natural resources are reflected in policy. Shift focus more toward monitoring and supervision. When contemplating Indigenous Peoples Plan it would be important to require not only a social assessment but also a legal, economic, political and technical assessment. Ensure that consultations with Indigenous Peoples be conducted in indigenous languages at the grassroots level. Include this process in the planning at the World Conference on Indigenous Peoples.

- **Involuntary Resettlement Policy.**

- Rather than just making sure resettlement does no harm, treat it as a project itself to improve standard of living in communities and to improve access to health services, transport and education. This should be a requirement for all Category A projects with resettlement impacts.
- Shift the focus from compensation to participatory development and benefit sharing. Involuntary resettlement should only occur in “exceptional circumstances,” and this should be in accordance with international law requirements, the United Nations’ Basic Principles on Development-Based Evictions and no resettlement of Indigenous People should occur without FPIC. “Exceptional Circumstances” is defined in the UN Basic Principles (para 21) as: “(a) authorized by law; (b) carried out in accordance with international human rights law; (c) undertaken solely for the purpose of promoting the general welfare...”
- A general welfare justification must be clearly demonstrated, including through distributional cost-benefit analysis.
- A mechanism should be established for people to challenge the decision to proceed with the project.
- Required procedures to ensure that any proposed project that causes displacement triggers a robust and participatory process of exploring alternatives that would avoid or truly minimize displacement and respond to people’s development priorities.
- A Displacement and Resettlement Risk and Impact Assessment should be conducted prior to project approval; such an assessment should be conducted with full participation of affected people. Adequate housing should be guaranteed after resettlement and to ensure this objective is met, the policy should contain the following requirements: provision of a minimum amount of monetary compensation that is sufficient to access alternative adequate housing OR provision of adequate housing, according to the preference of the household.
- “Replacement cost” should only be used as the basis for compensation for lost assets when the amount exceeds the minimum threshold. Accessible residential housing and moving assistance must be provided to persons with disabilities, the infirm and the elderly. Resettlement sites should be as close as possible to previous locations and fulfill the criteria for adequate housing according to international law (CESCR).
- The overall objective should be to improve the living standards and level of income of the displaced above their pre-project levels. Loss of income during transition periods until income is restored should be addressed through social safety nets. Asian Development Bank’s Safeguard Policy Statement (2009) calls for compensation for loss of income, in addition to livelihood restoration support.
- An adequate budget and financing for resettlement should be based on a sound economic analysis. The budget must be based on Resettlement Risks and Impact Assessment and sound economic analysis conducted by Bank project economists.
- Outcome indicators tied to objectives and linked to baseline surveys and impact assessment should form the basis of monitoring and evaluation. Independent evaluations conducted on resettlement outcomes should be reported in Project Completion Reports.
- Without an enforceable right to remedy, there is no real accountability. The new policy should guarantee the right to an effective

remedy, including the right to reparations, for people who have suffered human rights violations and other harms. Should be stipulated in loan agreements, with mechanism in place to address instances where borrower is unwilling to provide remedy.

- **Social Issues/Inclusion.**

- Resolve to strengthen and expand safeguards to prevent poverty and exclusion. Bank should stand as facilitator of the “inclusiveness” process. Adjust to new themes – labor, public health, country systems, etc. – while staying relevant and fulfilling operational mandates.
- Tap into existing organizations, groups working with communities to ensure information is distributed to all parties. Work directly with representative institutions as authorities on expressing communities needs and human rights; ensure stronger representation of women.
- Establish a wider array of partnership with Development Policy Operations; pursue a clear, universal standard on accessibility throughout all lending investment operations as well as policy and country services; create clear indicators on inclusive development for compliance of borrowers.
- Safeguards should mandate no child labor in Bank projects with accompanying measures to remedy situations where child labor is found; resettlement plans should be required to include measures providing for access to education for resettled children; environmental and social impact assessments should assess direct and indirect impacts of projects on children.
- Stress a non-discrimination policy which prevents discrimination on the basis of race, color, ethnicity, sex, age, sexual orientation and gender identity, language, religion, political or other opinion, property, birth, disability or other status; and which safeguards the rights of persons with disabilities and ensures they benefit from development interventions.

- **Consultation.** Strengthen the engagement with vulnerable, voiceless groups, groups that are displaced from their territories, promote early stage citizen participation and enhance consultation with partners at country/local levels. There should be a more interactive platform for sharing information with civil society on the ground.

- **Human Rights.** Adopt safeguard policies aligned with international human rights obligations. Undertake and require borrowers to undertake human rights due diligence for all activities, and ensure that effective mechanisms are in place to implement these policies and address potential adverse human rights impacts. Include mandatory human rights impact assessments in the environmental assessment policy. Clear prohibition of forced evictions, as prescribed and defined by international law: “permanent or temporary removal against the will of individuals, families or communities from their homes or land, which they occupy, without the provision of, and access to, appropriate forms of legal protection.” Require human rights impact assessment at all stages of project design and implementation, and when a human rights assessment shows that there is a risk, there should be a trigger to send the project discussion back to the drawing board to discuss alternatives, including the no-project alternative.

- **Natural Resources/Natural Habitats.** Prohibit financing of industrial harvesting in intact forests. Conduct a review of existing definitions of critical natural habitat in development bank safeguards, assess areas of consistency, inconsistency. Define “critical natural habitat” to include ecosystems that provide critical ecosystem services, e.g., fresh water, climate mitigation and adaptation, wild food sources. Safeguards should preclude operations in critical habitats unless the operation has a positive conservation benefit. Evaluation of natural capital and ecosystem services should take place during assessment (with economic and social assessments). There should be integration of provisions on specific threats (e.g., invasive species) and specific ecosystems (coastal, high seas). Marine ecosystems deserve special assessment and special protective safeguards, like forest ecosystems.

- **Assessments.** OP 4.01 should encompass Social/Environment risk assessment and management for all Bank financial instruments (Development Policy Loans, Program for Results, Use of Country Systems, Financial Intermediaries) to ensure effective outcomes.
- **Safeguards must be mandatory,** they must be detailed and fall within the jurisdiction of the Inspection Panel. It's very important in order for safeguards to be effective that they are not turned into voluntary guidance. A broader scope of safeguards (to include labor, gender, human rights, etc.) needs to fall under jurisdiction of Inspection Panel with clear guidelines for how to submit grievances.
- Effective post approval, monitoring and evaluation systems must be in place to actually address issues not only up front before approval of a project but to be able to really know what the impacts of projects are and how safeguards have been implemented.
- The costs of implementing safeguards, as the IEG put it, are far less than the benefits. The Bank can look at the safeguard not as a transaction cost but rather as an instrument to create benefits.
- The Indigenous Peoples networks from Northeast India have asked the Bank to include OP 7.60 in the review because of a number of definitional areas, ie. What is definition of disputed areas. They would like the Bank to commission an independent assessment, executed in all disputed areas. The Asian Development Bank has also started to review its framework related to disputed areas, so these networks would like the Bank's commitment to ensure this is included in this review process.
- The approach laid out in the scoping paper quite clearly wants to move away from "prescriptive" to an approach that will have environmental management systems, and work with borrowers towards this. This same approach was adopted in the IFC Performance Standards. There is value in an integrated safeguard policy, and in working with borrowers to strengthen their systems, however the Bank should retain the minimum standards approach that is in both international law and in current standards. Relying on the fact that more countries have laws is not sufficient, especially if depending on a country-system type of approach. It's the implementation of the law that makes a difference. The success of the Performance Standards is because these standards occupy a very different policy space than the public sector the World Bank works in. If the Bank abandons its clarity and minimum standards, it will be ignoring its role in the international legal system. What's at risk in the review is not the perception that the Bank will weaken its policies, and that there will be a fight over words. The risk is that the Bank will weaken its policies, and it will no longer be viewed as a leader in environmental and social development policies.
- A possible model for the approach that the World Bank could take is the Performance Standards of IFC. On one hand, in terms of thematic coverage, there are areas in which the IFC Performance Standards are better, and they're going further than what the Bank has. There are also important areas that are not addressed. For example, the IFC is not delivering on climate change. The IFC over-relies on self-monitoring and self-reporting, and that may not work. The Bank has to have an institutional system to monitor and ensure that safeguards are being implemented. It will be a dilution to shift from Bank oversight to the sort of IFC type of operation with self-reporting and self-evaluation.
- The notion of a principles-based approach may be good in theory but ultimately the way it was done in investment lending reform was to abandon previously mandatory requirements and turn them into non-binding guidance. For example, many of the factors that contribute to whether supervision is done well are not adequately addressed in the guidance provided for the investment lending reform.
- While it's very important to have a risk management system, the Bank needs to retain its minimum standards and prescriptive measures.
- **Dilution is about words.** It would be a dilution to shift from mandatory requirements of the "must" or "shall" category to guidance or to things that involve the word "may" instead of "must." It's a dilution to delete requirements, steps, timings.
- **What doesn't work in the framework is the discussion about harmonization.** Harmonization can result in a race to the bottom if you

harmonize with the lowest common denominator or move from mandatory standards to non-mandatory standards. It would be important to look at other Multilateral Development Banks, including the Asian Development Bank, and European Bank for Reconstruction and Development. Areas would include: the disclosure requirement period, responsibility for ensuring compliance with requirements throughout the cycle of a project or sub-project, the requirement to have binding language pertaining to environmental and social standards in all contracts and agreements as well as clear limits on any definition of business confidentiality.

#### 4. How the Bank can better support borrowers in their efforts to strengthen their systems and institutions with respect to environmental and social safeguards practices to yield more sustainable results on the ground.

- Often the World Bank's detailed policies and the collaborative efforts that happen on the ground in trying to implement the policies between the government and the Bank can help national governments determine how to implement their own laws.
- Important to create a globally class-leading safeguards framework in WBG that can set an example for other institutions and countries.
- Clarify the roles of countries and Bank within any operation.
- Civil Society is a very important actor in getting the laws implemented in any country. Supporting active citizenry in countries should be a focus of the Bank.
- Expand indigenous civil society to increase capacity of affected individuals to engage in safeguard processes.
- **Clear Standards.** Provide clear rules and procedures in the safeguards that borrowers must follow, accompanied by guidance notes to help them with the implementation; and ensure clear standards consistent with borrowers' international human rights obligations and a set of minimum environmental and social standards that borrowers cannot deviate from. Provide resources to support capacity building to implement standards.
- **Capacity Building and Compliance Building.** Focus on more capacity building for implementing agencies on importance of safeguards and how to implement the policies effectively. Build institutional local/national capacity for policy implementation and provide technical assistance. Most countries have laws or norms in their constitutions, but are weaker in terms of how to operationalize laws and policies. Help build capacity on key issues, reward good performance on key safeguards issues, and promote legislative reform domestically.
- Provide more resources for safeguard implementation.
- **Accountability for Public and Private Sequencing.** The Bank safeguard policies should provide more accountable standards for the proper sequencing of public and private investments to ensure best outcomes. Strict institutional assessment should indicate the extent of public sector strengthening required prior to private sector investment.
- **Assessments.** Key to provide diverse (in scope and sector) good examples of Environmental and Social Impact Assessments for those borrowers not working with large budgets or that do not have long history of multilateral lending.
  - On **climate variability assessments** — Independent Evaluation Group found that of the 9 dams recently financed by the World Bank Group (since the Strategic Framework on Development and Climate Change), only 3 explicitly assessed impacts of climate change and project economics. Appropriately scaled hydro-climatic variability assessments must be required to simulate future hydrological variability trends and their impacts on investments' economic viability.
  - On **environmental flows assessments** — Increasing storage capacity and constructing cascade dams to regulate river flow both offset climate risk to the developer, but they aggravate tensions with downstream users, as larger storage capacity generally mean greater impacts. Environmental flows assessments must therefore require benchmarks to assure maintenance of optimal

downstream ecosystem and community health, and to achieve optimal balance between environmental flows maintenance and infrastructure operation.

- On **cumulative impact assessments** — Requirements and quality standards for cumulative impact assessments (CIAs) should be clarified, for example, as a pre-requisite for the construction of any large dam in either a regional power pool or a river with multiple planned projects, including cascade dams and multiple reservoirs. CIAs must necessarily include the impacts of associated facilities and transmission lines. The IFC's recent guidance on cumulative impacts is not an acceptable approach to strengthening cumulative impact.
- On impact assessment — strengthen monitoring systems for that.
- **Integrated Resource Management.** The Bank safeguards should require an integrated resource management approach to risk assessment of hydroelectric dams that balances resource efficiency with new generation options.
- **Oceans and estuaries.** Large dams and flow alteration can have impacts on estuaries, which serve as important elements of coastal and marine ecosystems. As foreshadowed in the Bank's environment strategy, which highlighted the high rate of biodiversity loss, the Bank is launching an important partnership to address ocean ecosystem degradation. To complement not undermine the biodiversity and ocean protection goals of the environment strategy, the revised safeguards should strengthen measures to avoid and reduce impacts on estuaries.
- **Country Ownership/Country Systems.** Promote country ownership and strengthen country systems, but clarify the roadmap for strengthening and using country systems, with transparent, accountable, predictable and common benchmarks and greater support. It is possible that in some low-risk cases relying on national systems would be more efficient. However, in other cases relying on national systems may result in a much slower process. Using country systems is a long-term process, needs many resources, a lot of thought, and it is not a fast solution.
- **Harmonization.** Promoting harmonization would involve committing to policy coherence and coordination with other multilateral institutions working with the borrowers on the same issues.
- **Assist borrowers to adopt,** implement and enforce the United Nations Declaration on the Rights of Indigenous Peoples and other international law obligations. Use legal language in policies, do not avoid human rights terms, for example.
- **Help borrowers attain their commitments in key social areas,** including human rights. **Conversely** anticipate and prevent more effectively human rights violations and support borrowers in complying with their own international human rights obligations and domestic laws on rights.
- **Protecting-Affected Communities.** Question should be how to protect affected communities from environmental and social harm, not just how to support borrowers. Provide social and legislative support for borrowers to overcome possible political hardships in these areas.
- **Independent Monitoring and Evaluation.** Enshrine and separately fund routine independent monitoring and evaluation of resettlement and compensation for resettlement.
- **Transparency.** Apply transparency mandates to provide borrowers with all relevant information prior to decision-making process. Increase transparency and accountability and promote civil society participation in development decisionmaking.
- **Natural Habitats.** Clearer definition of “critical natural habitat” and simple, systematic process for identifying it using existing data, tools and examples, e.g., Integrated Biodiversity Assessment Tool (IBAT) for business.

## 5. Recommendations on the Emerging Areas

### CLIMATE CHANGE

- Because climate change is pervasive and cuts across many areas, it will be important to ensure that climate change is addressed in all of the relevant areas that it needs to be addressed, in addition to any specific qualifications/restrictions/standards that need to be in place.
- Important that the climate change impacts are identified and assessed upstream. This assessment should be comprehensive and include accounting, prioritizing, drivers, resource efficiency. Important to harmonize with national climate plans, projects and programs both in the mitigation and the adaptation context.
- In some specific areas related to climate, such as in the context of energy, marine ecosystems and forests, prescriptive restrictions should be in place.

### DISABILITY

- The Bank should consider the integration of disability in the policies. The basis should be the United Nations Convention on the Rights of Persons with Disabilities. The Bank was a key player in the negotiation process before this Convention was ratified by the United Nations.
- Recognize that disability is a socio-economic issue, casting a big burden on society. Disabled people should be playing a key role in the development process of their societies, and Bank projects are a significant platform for enhancing opportunities to integrate persons with disabilities and to change the negative stigma that society usually puts on them. Projects sponsored by the Bank should focus on social inclusion and ensure that there is no stigmatizing and stereotypes of persons with disabilities in society.
- There is a need for systematic integration of persons with disability in Bank projects. A first step to do so is to make sure that everything the Bank does in terms of consultation processes and operations is accessible and based on the indicators of inclusive development.
- The socio-economic added value of disability mainstreaming is a key issue that resonates with the main mission of the World Bank as an organization that works on alleviating poverty. According to data provided by the World Bank, United Nations and World Health Organization, the proportion of persons with disabilities in the overall global population is 10 to 20 percent.
- It would be important to secure sufficient funds on the basis of socio-economic inclusion for people with disabilities throughout overall lending investment operations, and to ensure effective monitoring process to oversee and evaluate borrowers' improvement in implementation of inclusive development policies.
- Creating wide array of incentives for borrowers to ensure commitment to disability rights and inclusive development will be key.

### FREE, PRIOR AND INFORMED CONSENT (FPIC)

- The policy on Indigenous Peoples should be kept as a stand-alone policy and clearly contain Free, Prior and Informed Consent (FPIC) and not free prior informed consultation leading to broad community support or free prior informed broad community support with good-faith negotiation. The notion of broad community support should be eliminated.
- FPIC should apply to all Bank instruments.
- There should be recognition of FPIC in relation to impact assessment as well as an overall decision with regard to the project itself.

- We cannot divorce FPIC from recognition and protection of Indigenous Peoples' territorial rights. If those territorial rights are not properly identified, FPIC is not going to work properly, so there should be regularization of communal territorial rights in projects as well as a recognition of FPIC, which means rewriting Paragraph 17 of the current operational policy.
- There are concerns about the implementation, particularly given the review of OP 4.10 and lack of documentation on broad community support, and some of the other indicators relating to implementation of the policy. To address some of the issues identified by the review, Indigenous Peoples have put forward some proposals, which include having an Indigenous Advisory Committee and an indigenous focal point within the Bank. These advisory teams would play an important role in relation to screening.
- Built-in mechanisms for technical capacity building as part of upstream investment are needed. These will include capacity for Indigenous Peoples as well as capacity for government agencies who interact with Indigenous Peoples.

#### **GENDER**

- Important to have a human rights framework that guides this process, and within that human rights framework, rely on the women's rights frameworks that already exist (Canadian International Development Agency, International Labor Organization, etc..)
- Ensure a holistic approach so that effective participation of women is incorporated in the project cycle all the way through evaluation. Full and effective women's participation requires that we take into account the needs and rights of women that may suffer multiple forms of discrimination – based on race, ethnicity, class, religion, and personal status. Personal status is often left off the table. It would be important to ensure ways to involve female heads of household, divorced women, women in polygamist marriages and women that may not be captured under other umbrellas.
- Ensure that there is an accountability mechanism for gender discrimination so that when there are problems with discrimination there's actually recourse for impacted women and that there are comprehensive mechanisms to monitor and evaluate impact.
- To understand whether or not there is a negative impact on gender, there has to be baseline data. In the assessment/identification phase of a project, it would be important to look at issues related to gender.

#### **HUMAN RIGHTS**

- Human rights due diligence is needed from the Bank's end and the borrower's end.
- Identify and address potential adverse human rights impact of all Bank activities, not just investment lending.
- Help strengthen borrower's internal institutions with respect to human rights.
- Endorse the human rights-based approach to development.
- Introduce a non-discrimination policy to prevent against discrimination on the grounds of race, gender, ethnicity, sexual orientation, et cetera.
- Include: human rights impact assessment in the environmental and social assessment, and the prevention of forced eviction in the impact assessment stage. Use the term "preventing forced evictions" in the involuntary resettlement operational policy.
- Ensure that development explicitly reaches and benefits the most marginal population, including persons with disabilities.
- Safeguards should be specific to ensure that a grievance mechanism and remedies are as effective as possible.
- The Bank's safeguards team should also be working with the Human Development Network in this review process; enhancing existing

operational policies to bring them up to standard with international human rights law.

- Ensure that project teams are informed in a way that takes into consideration the cultural and social realities of the project-affected
- Robust alternatives must be discussed with project-affected communities, and when a human rights assessment shows that there is a risk, there should be a trigger to send the project discussion back to the drawing board to discuss alternatives, including the no-project alternative.
- The Bank could assess the extent to which communities have freedom to express dissent and in cases of lack of freedom of expression, the Bank cannot adequately ensure proper consultation and participation.
- None of the above should be included as principles or guidance or guide notes or guidelines but rather they should be clear applicable policy.

#### **LABOR RIGHTS AND OCCUPATIONAL HEALTH AND SAFETY**

- A labor safeguard is necessary to prevent harm resulting in forced labor, child labor, and violation of other core workers' rights.
- Projects should comply with International Labor Organization fundamental labor standards. The IFCs Performance Standard Number 2, in general, is a good model when it comes to labor. It calls for respecting those ILO fundamental conventions. The one concerning factor of the IFC model is that it promotes self-reporting and it relies on the clients to monitor and control their activities. The requirements should be enforceable and actionable by relevant accountability mechanisms including the Inspection Panel.
- For occupational health and safety there should be some standards that take into consideration both the direct and the indirect impact of projects.
- Need for the Bank policy to complement policies of other agencies such as the International Labor Organization. One example is the changing context in Burma/Myanmar. The ILO is doing a lot of work there, and there is need for the Bank to make sure that the safeguards complement that work.

#### **LAND AND NATURAL RESOURCES**

- Requirement to respect Indigenous People's rights to land territories, resources, full ownership and control, consistent with the UN Declaration on the Rights of Indigenous Peoples.
- Full assessment and evaluation of natural capital, including environmental, social, economic, political elements.
- There is need for a formal recognition of customary land tenure rights.
- Building national and local implementation capacity for natural resources and land-based investments would be key.
- Go beyond doing no harm, and stress the positive benefits as opposed to just mitigating negative ones.
- Look at some areas of natural resources as global commons (for example, high seas).
- During the review, look at improving monitoring, evaluation, and baseline determinations, and tools for this area. Consider participatory mapping for natural habitats. Look at options for renewable energies, adaptation and climate resilience.
- Prohibit involuntary resettlement for land tenure.
- Ensure meaningful consultations. Consultations with Indigenous Peoples are important.

#### **6. Any additional comments and suggestions**

- • Need to reach affected communities – need to make the documents available and ensure this consultation reaches out to people in-country in their language.
- International Labor Organization approach is based upon social dialogue between the key economic partners: labor, business, and countries. Social dialogue is dynamic and difficult and challenging. ILO appreciates that the Bank is highly committed to stakeholder, multi-stakeholder initiatives; it is about dialogue. The Bank has been the initiator of virtually all of these policies, maybe not on labor, but these policies have done a lot of good to the entire world and to the poor people in it, despite the various weaknesses we know.
- The academic constituency - people who write about policies, research them, teach new generations of students – should be actively part of these discussions.
- Lay out a clear vision, clear communication, updates and continuous feedback through each phase, reevaluate over a time span, feedback from those receiving aid/assistance.
- Develop a good energy strategy, one that gets away from fossil fuels.
- Make the private sector more accountable.
- The Investment Lending reform and the World Bank Performance Standards recently approved by Board do NOT work as models for safeguards update. They have had a flawed consultation process, downgraded binding and inspectable requirements to non-binding and not inspectable guidance, and endorsed a later public availability of the Environmental Assessment.