



World Bank Regional Dialogue with Indigenous Peoples in Africa Cape Town, December 4-6, 2013 Summary

On December 4-6, 2013, the World Bank held a regional dialogue with African Indigenous Peoples (IP) in Cape Town, South Africa. The dialogue with Indigenous Peoples is a dedicated global series of meetings being held to support the process of reviewing and updating the World Bank's environmental and social safeguard policies. In this dialogue, the Bank aimed to seek Indigenous Peoples' views and insights not only on how the Bank can improve the effectiveness and efficiency of the safeguard policies, but also on how it can address broader development issues of interest to Indigenous Peoples in the region. Indigenous Peoples representatives were invited to the dialogue based on recommendation of, or close coordination with Indigenous Peoples communities (see list of participants).

The dialogue was guided by six questions, facilitated with presentations by World Bank team or Indigenous Peoples representatives:

- 1. Engagement with Indigenous Peoples in the Africa Region**
- 2. Implementation of the World Bank's Indigenous Peoples Policy (OP4.10) in the Africa Region**
- 3. Development strategies for Indigenous Peoples relevant to the Africa Region**
- 4. Lessons learned from policy implementation in the Africa Region**
- 5. Specific issues that have been suggested for consideration in the context of the Safeguard review and update process**
- 6. Measures to support social inclusion of Indigenous Peoples in the Africa Region**

Following is a synthesis of key comments, observations and recommendations made by one or more Indigenous Peoples representatives during the dialogue. It was agreed at the outset that participants' name and comments would not be attributed by name in the summary report.

1. Engagement with Indigenous Peoples in the Africa Region

- **WB IP advisory council** – Participants wished to know how the Bank will establish and strengthen the council and how the representatives can bring to the Bank the concerns of communities. They wanted the Bank to make some commitment toward that process. They also hoped that there is a space for the council to engage with local communities where the government is not democratic.

- **Communication** - Participants wished to have received the agenda of the dialogue before the meeting. They wanted to have been involved beforehand. The participation of the AU Commission is important. This dialogue contributes to their trust in the Bank. They worried that colleagues from North Africa are not here. The WB regional groupings in Africa do not fit their needs.
- **Global policy and flexible application** – It was suggested that the Bank should have a global policy but ensure application at the country level in a way that the country is comfortable, including the use of a different term like marginalized or vulnerable people.

2. Implementation of the World Bank's Indigenous Peoples Policy (OP4.10) in the Africa Region

- **Relations with the government** – Participants argued some governments have impoverished IPs. So the Bank should make funds available to help IP communities in those countries. Also, when government officials come to consult, people are not free to speak up because they cannot air their grievances against countries. So the "free" part of FPIC is not possible. There is a need to compel government to go to IP organizations. They can assert that they spoke with IP leaders when the real community is not consulted. The Bank should monitor the situation alongside the government.
- **Capacity building of IP** - When consultations are made, you are sometimes engaging people who have no capacity to engage, such as at the national level. So why not make some funds available for capacity building, so that people can lobby for their rights.
- **IP participation in the project** - The Bank projects contribute to land grabbing and do not contribute to IPs' development. If an oil project or road or dam, the Bank people know where the project is. They help with the acquisition of the project land. IPs have a very little role to play. The Bank must revisit its whole process so that IP participation is ensured. Often the borrower does not bring forward the concerns of IPs on the ground. So we need someone from the outside to listen to both sides. There is the Inspection Panel to address disputes but we need another layer.
- **Broad community support** – There are no indicators to measure broad community support. One case in Kenya - one community was completely intimidated and could not bring out their issues. The policy's original objectives are not respected- poverty reduction, human rights, inclusion, etc. The Bank should conduct monitoring and evaluation.
- **FPIC** - IPs continue to argue with the Bank that the 2005 policy came into place before the UNDRIP. Therefore FPIConsultation must be replaced with FPIConsent. The Bank must capture this new development. FPIConsent must be captured in the policy paper, and in realities on the ground. There should be best practices, indicators and guidelines. They also wished to contribute to the establishment of national FPIC guidelines.
- **Involuntary resettlement of IP**- When the government is evicting IPs from their territories, the Bank should supervise the projects closely. The community should be also involved in the monitoring. The cost of monitoring should be paid in the long term.

- **“Doing good”** - It seems like IPs are at the mercy of the state. So IPs make sure that the policy is activated for “doing good” projects and that the relationship with the State is sustained.
- **Carbon fund** - The right to carbon, isolated from the tree or the land, should be captured in OP4.10. FCPF represents good practice of the Bank.
- **Indigenous youth** - This issue never comes up. Want to request that if there is an advisory council, it would be important to have youth representatives.

3. Development strategies for Indigenous Peoples relevant to the Africa Region

1) *What is the vision of Indigenous Peoples for achieving sustainable development in the Africa Region? What has been most important in achieving progress?*

- As part of their vision for sustainable development in Africa, participants “expressed aspiration for all African countries to recognize IP, adopt human rights approach, and give a human face to development”. They wish to be self-determined, self-realized, and united in promoting development options that are aligned with their values and ways of life. The following characteristics were highlighted by participants as foundational to their vision for achieving sustainable development in Africa:
- **Environmentally sustainable; mindful of next generations and collective rights** – Participants underscored IP’s deep and intrinsic connection to land and natural resources. In the words of one participant: *“Once you destroy the environment, you destroy who we are.”* A cornerstone of IP’s vision for sustainable development is the careful consideration given to (i) the next generations to come, and (ii) the impacts of today’s development choices on the sustainability of natural resources over a long-term time horizon. Finally, fundamental to IP’s approach to sustainable development are collective rights without which IP’s identity as a collective is compromised. *“We cannot be peoples if our rights are fragmented and individualized.”*
- **Self-driven** – Participants deplored that most development projects are selected and designed without IPs input. They called for more self-driven projects which would allow them to develop on their own terms and implement their vision of sustainable development. They are seeking real inclusion in the development process through meaningful involvement (e.g., from inception and by way of constant dialogue on the issues not in project identification and preparation as well as through the acknowledgement and respect of IP knowledge systems in decision-making. IP also want to be involved in policy making and legislation on issues that affect them. Participants finally stressed that some communities’ choice to maintain their ancestral ways of life and not engage in development must be recognized and respected. Engage governance systems, institutions, especially for women and youth.
- **Culturally sensitive and inclusive** -- Participants called for an approach to development that is more aware and sensitive to Indigenous Peoples’ cultural distinctions. Governments should recognize that assimilation is a real problem leading to loss of IP identity and community. To be sustainable, development should not be at the cost of social cohesion but rather should aim for more collective involvement, particularly of elders, women, youth.

- **Human rights approach** – Participants advocated for a rights-based approach to development. They raised concerns about poor governance practices which either lead to ad-hoc consultations of IP without proper representation or invalidate the FPIC process (e.g., cases where consent may have been coerced). Participant asked that the WB ensure that IP are not threatened and called for development projects to guarantee that free, prior, and informed consent of IP in the project area is obtained before the project can move forward.
- 2) *Participants identified several “drivers of positive change” that have been key in achieving progress on IP issues in Africa.*
- **The adoption of UN DRIP** and the establishment of three UN bodies focused on indigenous peoples' issues (including funding for IP): the Permanent Forum on Indigenous Peoples, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur Rights of Indigenous Peoples. Participants particularly appreciate their observer status at the Permanent Forum which has given them a voice on issues that affect them.
 - **Safeguards policies on Indigenous Peoples adopted by IFIs** (including AfDB) have proven to be valuable entry points for IP to have their voices heard as IP issues are often addressed in the context of project safeguards. Participants noted that OP 4.10 for example has helped enforce IP rights and foster dialogues between IP and their respective governments. Safeguards standards in the Private Sector have also much improved with IFC in the forefront with the adoption of FPIC.
 - Participants recognized and welcomed the **increased recognition and visibility given to IP and IP issues** as well as the **increased number of fora for IP engagement**. While participants underscored the **support and work of the AU Commission** working group as crucial, they concluded that in comparison to counterparts in other continents, IP in Africa have a long way to go with regard to the recognition of their rights.
- 3) *What has worked in the Africa Region to support the effective engagement of Indigenous Peoples on development at the policy and strategy levels? What are the key lessons learned from the Africa Region in supporting the development and engagement of Indigenous Peoples?*
- **World Bank as facilitator**-Participants praised the World Bank for having succeeded to a large extent to facilitate a dialogue between governments and Indigenous Peoples at regional and national levels which has led to the adoption of positive guidelines to promote sustainable development (e.g., positive outcomes of FCPF dialogue). Participants indicated that when their own national systems failed them, very often international and regional mechanisms supporting IP strategies have helped support IP contribution and engagement in the development process.
 - **Progress at national and regional levels** -The work and support of the AU Commission was also underscored and appreciated. While participants felt that individual governments lagged in adopting the AUC's recommendations, they praised Kenya for the very progressive stance the country has taken on IP issues in its constitution. They also recognized the support of very vibrant human rights bodies in Cameroon, Uganda, Zimbabwe, and Kenya. Moreover, various platforms at national and continental level have fostered knowledge sharing among IP and helped support national IP organizations.

- **Lessons learned** - Participants identified lack of follow-up, consistency and coordination as some of the main impediments to the effective engagement of Indigenous Peoples in development at the policy and strategy levels. Participants recommended that progress in that area could be achieved by (1) addressing IP issues through regional projects, (2) building IP's capacity to establish cooperative relations with their respective governments, (3) helping IP to organize themselves in working groups to tackle common issues, and (4) tapping the IP community first for expertise and skills on development issues affecting IP instead of turning to external experts.

4) *What can be done to involve Indigenous Peoples in a more effective way in the planning processes and decision-making for development projects?*

- **Creation of enabling structures as platforms for engagement** – Participants advocated for the creation of advisory bodies on IP at national, regional, and continental levels to bring IP, the World Bank (and other DPs) and governments together in an ongoing dialogue. Such platforms would help improve coordination among interventions of IP working groups around key issues (conservation, energy, land).
- **Critical need to involve social scientists in project identification and preparation** – Participants deplored the frequent absence of social scientists with proven expertise on IP issues in project teams particularly on the government side. Participants proposed that one way to address this issue is to build the capacity of IP and increase their presence in government. When compensation is involved, there's a drought: social network is broken which is very difficult to rebuild or to compensate for. Need IPs focused social scientists involved in project preparation: proven interactions and experience with IPs and with lots of IP expertise
- **Improvement of legal framework** – Participants advocated for national legal frameworks that not only address IP issues (i.e., recognition of IP and of their collective rights) but also provide the means for effective enforcement of legislation. Participants also identified the establishment of national guidelines on FPIC as a significant next step.
- **Capacity building** – Participants made the case for IFIs like the World Bank to include resources earmarked for IP's capacity building in project implementation budgets. Several participants indicated that women would need to be at the center of capacity building initiative. Further, the importance of recruiting IP experts whenever the skills and expertise sought by a project are available in IP communities was highlighted as another way to build capacity. Moving forward, participants stressed that it would be crucial for IP to build their own body of research on IP issues and take ownership of their research processes.
- **Attracting development projects based on IP interests and values** – Participants proposed to explore ways in which IP can attract economic development based on their interests and values which would give them a stronger voice in the planning and decision-making process.

4. Lessons learned from policy implementation in the Africa Region

Workshop participants were asked to discuss two questions in the broader context of what lessons have been learned from the implementation of the policy in the Africa region. First, what are the key challenges in projects that have applied the World Bank OP 4.10 on Indigenous Peoples and how can

these be addressed? Second, what types of changes or clarifications should be included in a revised version of the World Bank OP 4.10 to make it more effective and implementable in the field?

- **Effective consultation** - Participants noted that in the case of the Natural Resources Management Project in Kenya, which was the subject of an Inspection Panel complaint, a number of lessons have been learned that should be taken into consideration in future projects where the Indigenous Peoples policy is triggered. Key among these were that more consultations need to be carried out with affected indigenous communities, a detailed stakeholder analysis should be carried out, the social assessment needs to be more robust in identifying the needs and priorities of indigenous communities. In addition consultations need to be respectful of language barriers – consultations in foreign languages are imposed on indigenous communities. Overall more emphasis needs to be placed on ensuring effective consultation and access to project information.
- Participants also noted the lack of **awareness of OP4.10** and the need for **simplifying the language** of the policy understandable to IPs.
- **Social assessment by indigenous expert** - The social assessment should be carried out by a social scientist who is an indigenous person. An indigenous person should be part of the task project team so that issues specific to indigenous communities can be adequately addressed and reflected in project design.
- Some participants commented that the World Bank should have an **affirmative action plan** for the Africa region. UNDRIP should be a minimum standard. Furthermore, an **independent mediation mechanism** should be established to address the grievances of indigenous communities.
- Several participants noted that the World Bank should carry out a **political economy analysis** of the project site so that more broader macro issues in the project area that are affecting indigenous communities could be identified. They also noted that one of the weakest aspects of the World Bank's implementation of Indigenous People Plan was lack of **ongoing consultation** with communities during project implementation. Furthermore, it is often difficult for indigenous peoples to speak to Bank staff and that it is easier to speak to the Inspection Panel or Vice President than it is to the Country Director.
- Some participants questioned why the World Bank does not more strongly support the concept of **benefits sharing with indigenous communities**. The OP should be strengthened to more specifically include provisions for benefits sharing with affected indigenous communities.
- The issue of **human rights** was also strongly raised. They questioned when the World Bank would explicitly address human rights issues and reflect them in a policy.
- **Training of WB staff** - Concern was raised about the need to “de-colonize” the World Bank. World Bank should recruit staff with a background in human rights and working with indigenous peoples. World Bank staff should be better trained to on how to engage with indigenous communities.
- Some participants wanted more information on the **change process** underway in the World Bank and its implications for indigenous peoples. Several asked how this dialogue with African

indigenous peoples will be factored into the ongoing safeguards review and the changes in the World Bank.

- Consideration should be given to set up a **trust fund for indigenous peoples** outside the traditional Bank lending instruments to help build their capacity outside the borrower's influence. The funds should be channeled directly to IPs. The Bank's support for IPs is scattered, e.g., FCPF, CIFs, IPF, etc.

5. 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 policy issues that have been raised in the context of the Safeguard Review and Update Process. The issues include: rights to land, territories and resources; forced relocation; gender; pastoralism; traditional knowledge; indigenous peoples in voluntary isolation; due process in consultation; and evidence of broad community support. The participants were requested to speak to the relevance of the issues identified to the Africa region, to cite specific examples in the region and their background and to make specific recommendations for the Bank's consideration.

- Virtually all participants who spoke emphasized that all these issues identified in prior communications with the Bank, including by Indigenous Peoples groups in other regions of the world, are important to them. They also mentioned that they were keen to see the Bank engage with them on these and other issues which they identified as follows: **carbon finance operations** should be responsive to the specific circumstances of Indigenous Peoples; **grievance redress mechanisms** should systematically be incorporated to Bank operations; and **better knowledge sharing** approaches through publications on policy and project interventions that worked should be utilized.
- Participants however gave overwhelming priority to the issue of **pastoralism**. They mentioned that 40 per cent of the African landscape depends on pastoralism and many Africans depend on pastoralism for their livelihood. They therefore place a high premium on integrated rangeland management systems, and are keen to see national policies that promote adaptive strategies to support a pastoralist lifestyle—which is both a climate change mitigation and adaptation approach. They feel that such national policies currently misunderstand the nature of this lifestyle and unfairly characterize it as wasteful. They would like more voice in national dialogue processes regarding the place of pastoralism in modern economies and want the Bank to specifically recognize as Indigenous Peoples, any pastoralist groups that meet the criteria spelled out in OP 4.10.
- Another important point for emphasis by participants was with regard to **rights to land and natural resources**. A participant noted that “local investors” disadvantage Indigenous Peoples by alienating land and natural resources that should otherwise be under the communal ownership and management. Another participant stated that landlessness is a particularly “traumatic experience” for Indigenous Peoples which makes it impossible for them to practice

their culture given the inextricable linkages between land and culture. Participants requested the Bank to ensure that “collective land ownership” is recognized as a legitimate form of land ownership in its member countries. Further, through its dialogue with national authorities, participants requested the Bank to “sensitize” governments and promote the link between secure tenure to land and natural resources for Indigenous Peoples and overcoming poverty. They asked that the Bank finance only projects that promote **tenure security** and that the Bank refrain from supporting projects that would lead to **forced evictions** from Indigenous Peoples’ lands. They termed forced evictions as a serious violation of “human rights” which Bank support should not condone. Participants demanded that, in view of the long-term nature of the policy review and update process, an immediate “interim” measure against forced evictions in any Bank-financed projects be implemented. Participants gave two examples of projects where Indigenous Peoples had been evicted from their land. One example from Uganda related to alleged evictions of the local Batwa group for the creation of the Mgahinga-Bwindi National Park in 1991. The Bank team clarified that the Bank did not finance the creation of the national park in 1991 but provided support for the establishment of a community conservation trust in 1995 which included dedicated funding for a program of support to the Batwa. The other example that was cited by participants related to rail, port and oil pipeline infrastructure investments project in Kenya. Participants expressed concerns about the potential impact of the investments on Indigenous Peoples lands. The Bank team clarified that the World Bank is not involved in the Lamu Port and Lamu-Southern Sudan-Ethiopia Transport Corridor project.

- Participants from the ‘Francophone group’ raised concern about the Bank’s standard of consultation asking that **FPIC** be incorporated into the Bank’s new policy as a matter of priority. They emphasized that FPIC is a “legal standard” which guarantees Indigenous Peoples a right to be consulted and that such consultations should lead to consent or lack of it – not a lesser standard. They called on the Bank to engage more closely with the Government of the Republic of Congo in the context of ongoing operations especially REDD+ in order to ensure that Indigenous Peoples’ issues receive attention and priority and to implement a new law on the rights of Indigenous Peoples.

6. Measures to support social inclusion of Indigenous Peoples in the Africa Region

- Stop gap measures for **pastoralists** so that they are on par with hunter gatherers - ensure no loss of land for them. Recognize them as IPs under OP4.10.
- Participants requested that a **further consultative meeting be held in Africa** prior once a draft of the new policy on Indigenous Peoples is available, including those in the north.
- **Dialogue and sensitization program between WBDC and national offices** should be conducted.
- Strengthen Bank’s relationship with the **African Union Commission** and it’s Working Group on Indigenous Peoples, as well as other relevant institutions on the continent.

- Need access to regional projects to ensure **sharing of information**. Need to study WB projects for lessons learned; IPs don't know which projects are funded by the Bank.
- On past and present WB projects, WB should look at redress and **compensation** for communities forced out of their lands.
- Approaches to **funding IPs' livelihoods** - this is a way to support borrower's capacity. The “do good” aspects are often taken hostage by the Bank and the Bank is taken hostage by the state.
- **The Bank reorganization** should ensure the visibility of IPs in Africa, and we need a special arrangement for this. The Bank should not diminish the earlier dialogue with IPs.