

Background

In July 2012, the World Bank endeavored to review and update its environmental and social safeguard policies. The safeguards policy review traces its inception from the findings mentioned in the Independent Evaluation Group (IEG) Evaluation of Safeguards in 2010. The need to carry out a safeguards review was a result also of a confluence of factors: changing external landscapes and Bank operations, new or ongoing development risks, and rising role of private sector.

The environmental and social safeguards policies, known as OP 4.10, embody the thrusts of the institution and are the cornerstone of the World Bank's efforts to protect people and the environment and to ensure sustainable development outcomes. The safeguards policies operate under 8 critical areas: environmental assessment, natural habitats, forests, pest management, physical cultural resources, involuntary resettlement, **indigenous peoples**, and safety of dams.

The Safeguards Review aims to strengthen safeguard effectiveness to enhance development outcomes by increasing the effectiveness and efficiency of the Bank safeguard policies. The review also seeks to help the Bank and borrowers to address environmental and social risks while building capacities and renewing partnerships with borrowers based on a common vision. The Safeguards Review has three phases and will take two years to complete: (i) **Phase 1**, a global review including an approach paper, consultations, culminating in the first draft of the integrated framework; (ii) **Phase 2**, consultations on the integrated framework, followed by presentation of a second draft to the World Bank Board; and (iii) **Phase 3**, consultations on the second draft and finalization.

The review will also consider how the safeguard policies can take into account a number of emerging areas: climate change; disability; **free, prior, and informed consent of Indigenous Peoples**; gender; human rights; labor and occupational health and safety; and land tenure and natural resources. The World Bank has been engaged in a process of internal discussion with Bank practitioners in these seven emerging areas to prepare for a global series of dialogues on each of these areas. These external focus groups are part of the overall consultation process that is integral to the review and update process.

An integral part of the review process is the conduct of "High Level Meeting on Engagement and Dialogue with **Indigenous Peoples (IPs)**". The overall objective of this meeting is to provide inputs for the ongoing review and updating of OP 4.10. Specifically, it aims to obtain suggestions and recommendations from the experts in coming up with the appropriate methodology for the planned consultations with the Indigenous Peoples to be carried out in the second phase of the Safeguards Review. The meeting also seeks to discuss the proposed creation of an independent IP Advisory Council for the World Bank. The result of the meeting will also feed into the preparation for the World Conference on IP (WCIP) in September 2014.

This documentation report presents the proceedings during the "High Level Meeting on Engagement and Dialogue with Indigenous Peoples" held in InterContinental Manila Hotel, Philippines on March 22, 2013.

Agenda

Time	Activity
9:00am	Welcome/ Introductions and Plan of the Day
10:00	Planning for the methodology of the consultations, participation and dialogue with Indigenous Peoples in the second phase of the Safeguards Review
12:30pm	Lunch
1:30	Open discussion on priority focus areas for engagement with Indigenous Peoples
3:00	Wrap-up

Proceedings

The meeting officially started citing the objectives and plan of the day. A total of nine participants attended the meeting comprising of indigenous peoples' experts from a variety of civil society, inter-governmental, private sector, donor and research organizations from around the world. The list of participants is presented as **Annex A**. The one-day meeting was facilitated by a Senior Social Development Specialist from the World Bank.

The discussion began with the presentation of the meeting objectives. The overall objective was to provide inputs for the ongoing review and updating of the Bank's environmental and social safeguard policies. Specifically, the meeting aimed at obtaining suggestions and recommendations from the participating experts on the approach and methodology to be adopted for the planned consultation with the Indigenous Peoples as part of the ongoing Safeguards Review. The meeting also aimed at seeking views from the participating experts on the proposed creation of an independent Indigenous Peoples' Advisory Council for the World Bank. The results of the meeting would also feed into the preparation of the upcoming World Conference on Indigenous Peoples (WCIP), which will be held in September 2014.

Discussion on the Methodology for the Consultation with Indigenous Peoples

The planned consultation is a dedicated dialogue with the Indigenous Peoples (IP), which forms integral part of the Bank Safeguards Review. This will be carried out between July and November or early December this year. The consultation will coincide with the implementation of Phase 2 of the safeguards review process. The review has 2 levels of consultation involving the Indigenous People: (i) IP consultation on free, prior and informed consent (FPIC); (ii) IP participation in the multi-stakeholder dialogue. The box below presents the summary of the observations as well as the suggestions and recommendations shared by the participating experts in the conduct of the IP consultations.

On the consultation structure and approach

- Initial plans include 15-20 dedicated dialogues with IPs to be carried out between July and December in regional level (if possible near an IP community), each one comprising of 15-20 participants. This can be a two-day activity.
- The plan is to have the consultation as far down possible, i.e., regional or country level.
- In terms of sequencing, the IP consultation should be carried out prior the multi-stakeholder consultation. The regional meetings can also be carried out and sequenced in a way to maximize the participation of the IPs (e.g., interactive dialogues with IPs).
- The IP dialogue is a good platform to discuss issues on IPs and will continue beyond December 2013 until 2014 in time for the World Conference on IPs.

On the consultation participants

- The review process should be participatory and that IPs should be involved in the drafting of the safeguards policy framework.
- The proportionality and representation in terms of geographic and institutional participation will be considered in the selection of the IP participants.
- There should be a criteria on the selection of the IP participants: (i) priority will be given to those affected by WB projects with focus on women and youth (can refer to projects who have been subject to Inspection Panel review); and (ii) IP groups who can bring in good ideas in terms of promoting a cultural-based economic development (e.g., community-driven development projects by the Bank, IPs in developed world, i.e., Australia, New Zealand, North America, etc.).
- As for the participation of other sectors, the following were suggested: (i) government agencies or ministries dealing with IP concerns; and (ii) NGOs or lawyer groups working closely with IPs (participation should be nominated by the IPs themselves).
- In terms of geographic participation, it was suggested to have two separate consultations for Asia Pacific region: (i) South Asia (India, Bangladesh, Nepal, Sri Lanka, Pakistan, etc.); and (ii) South East Asia (Cambodia, Philippines, Laos, Thailand, etc.).
- On the proposed list of participants, it was suggested to refer to the list provided in the *Indigenous Peoples' Global Dialogue with the Forest Carbon Partnership Facility (FCPF)* held in Doha, Qatar in December 2012. It was also suggested to consult with the **International Work Group on Indigenous Affairs (IWGIA)**, an international human rights organization supporting indigenous peoples.

On the documents to be prepared

- The following documents should be prepared and distributed at least a month before the commencement of the IP consultation: (i) translated WB safeguards policy on FPIC (at least in some national languages where there is significant WB investment and significant

presence of IPs); (ii) a document that explains the context of the safeguards review; a simplified version of the Approach Paper; and (iii) a matrix¹ of all inputs submitted by indigenous peoples to enable tracking of what was incorporated into the draft policy and what was not.

- Some of the participating experts committed their organizations to support in the distribution of the materials (i.e., Asia Indigenous Peoples Pact or AIPP and Tebtebba Foundation for Asia, and National Congress of Australia's First Peoples for Australia).
- It was also proposed to have a dedicated webpage for the IP consultation group with commentary section where relevant information on the undertaking can be found, e.g., work program, calendar of activities, etc. The IFC Team committed to assist the WB Team in the setting up of the webpage. Mass mailings (with distribution list of all stakeholders) were also suggested to facilitate the distribution of the materials.

On the logistics

- To have an effective participation by the IPs, interpreters should be provided through out the consultation process. Similarly, translators are needed in the preparation of consultation materials and documentation purposes.
- The proposal to have a dedicated webpage for the IPs would entail logistical preparations. The webpage can be launched at the UN Permanent Forum.

On the funding

- The Bank has modest resources to fund the consultations scheduled from July to December 2013. Counterpart funding and contribution from other donor partners (e.g., Ford Foundation) are very much welcome.

On the overall review of the Bank safeguards policies, the group had the following recommendations:

1. Engage the UN Permanent Forum in the review of OP 4.10 (e.g., carry out consultations, substantive meetings, launch session). It was also proposed to have an *in-depth interactive dialogue* with the UN Permanent Forum (e.g., have a high-level engagement; WB Team to work out the format to be adopted).
2. Seek engagement with experts themselves. It was also suggested to refer to the study on safeguards review commissioned by the Bank and to consult with Mr. Cyprian Fisiy, Director of the Social Development Department in the World Bank's Sustainable Development Network.
3. Establish an expert mechanism to address indigenous peoples' rights (e.g., session on the implementation of UN Declaration on the Rights of Indigenous Peoples or UNDRIP).

The group raised a number of issues and concerns in relation to the conduct of safeguards review.

Issues/Concerns	Responses
<p>1. The preparation of the 1st draft of the policy framework will coincide with the planned IP consultation. What would be the connection of the IP consultation (listening activity) with the 1st draft? How to ensure that the inputs gathered from the consultation process from July to December will be taken into account in the preparation of the draft policy framework?</p>	<ul style="list-style-type: none"> • Time constraint is seen as a recognizable challenge. The conduct of multi-stakeholder meetings has started last year and the group on IP needs to catch up (due to delays in the recruitment of WB specialist for the IP group). • The review process engages a robust engagement from the stakeholders, that is, a dedicated dialogue with the IPs will be carried out. By the time the 1st draft comes out, the WB Team will compare notes between the 1st draft and the results of the IP consultations. The inputs generated during the IP consultations are expected to feed into the 2nd draft. • For the review process, the WB Team has to undergo four separate Board approvals: <i>First</i>, before September when the 1st draft is prepared, the Board has to approve it for public consultation; <i>Second</i>, after public consultation, clearance on the 2nd draft will be sought from the Board; <i>Third</i>, the WB Team will seek board's approval on the 3rd draft and on the conduct of another public consultation; and <i>Fourth</i>, board's approval on the final draft of the integrated framework.
<p>2. There are 3 phases for this review and in each stage there are opportunities to engage with other</p>	<ul style="list-style-type: none"> • Unfortunately, the consultation process for the IP group did not start at the same time with the other groups. The review process however

¹ Substantive inputs on the policy were already provided by the IPs. These should be put in a matrix to monitor the progress as well as the gaps in achieving the objectives. FPCFP global meetings in Doha, Bangkok, and Columbia have had covered the discussion on the WB safeguards policy (informal discussions). WB Team to consolidate the reports, aide memoires, and other written submissions from FPCFP and put these in a matrix form.

stakeholders. Given the delays and parameters set during Phase 1, these somehow set limitations for the IP group.	<p>should be taken as an evolving/iterative process.</p> <ul style="list-style-type: none"> Notes on earlier consultations are made available in the website for reference and comments.
3. The WB should provide necessary resources for capacity building activities for the IP group as well as budget for the interpreters and translators.	<ul style="list-style-type: none"> Ideally, the Bank should have internal funds to finance everything. In practice however, Bank's funding comes from different sources. And expectedly, the funding source would often influence the allocation of resources. One way to address this is to identify a good representative and use them as resources for this task.
4. Open option: keep this group and meet again (expand a bit to include government agencies dealing with IP concerns)	
5. Transparency should be intensified in terms of conducting "expert meetings" in the Bank. Minutes of the meetings should be shared and made public.	

Discussion on the Proposed Indigenous Peoples Advisory Council

Indigenous peoples have communicated with the World Bank through a series of letters, raising issues of land tenure, FPIC, the Bank's consultation process, and other matters. As a result of this, one of the recommendations is to create an independent Indigenous Peoples' Advisory Council to address the above concerns. The Bank also feels that the current methodology (high-level direct engagement between the IP and WB, where meeting is done one to twice a year in Washington) does not give consistent process and is not sufficient in providing just-in-time response to IP needs and concerns.

As there are no terms of reference (TOR) finalized yet for the proposed advisory council, the WB Team requested the participating experts to share their views and recommendations on the composition and effective operation of the council. The group is seen as an independent advisory council who will render strategic advices to the Bank (making IP concerns relevant to Bank operations), and at the same time has a real connection with the grass roots. The list below presents the **comments, observations and suggestions made by the participating experts on the creation of the IP advisory council.**

Overall comments on the Creation of Indigenous Peoples' Advisory Council

- The formation of an independent advisory council is one of the demands of the indigenous peoples. The proposed TOR with substantive inputs from IPs is officially stated in the IP letter issued to the Bank. The Bank should respect the proposed election process for its members.
- The following questions were raised: How would the advisory work? What is the character of this advisory group? Does it entail self-selection process? What are the criteria to be used in the selection of its members? Aren't we have too many of advisory groups already? Who will convene and direct the council activities?
- It is hoped that the advisory council will operate similarly with the advisory group established under the Forest Carbon Partnership Facility, which was taken seriously by the Bank and IP groups.
- It is good to have an advisory council but there is apprehension that nothing much is happening in the upper level (WB at large).
- There are various groups in the Bank with similar nature. It is important to know what has and has not worked. There is a need to review Bank's NGO work initiative implemented in 1990s as well as other advisory councils such as the gender advisory council among others.
- It will be helpful to review the arrangements adopted by IFAD (what has worked and can be applied).
- In terms of engagement, we need to ensure that we are accessing the right level of engagement to make our efforts worthwhile.

On capacity building aspect

- In terms of capacity building, it is important to assess first what are the priority areas of the country (as mentioned in the CAS) before implementing specific capacity building activities.
- It is imperative for the IPs to define their capacity building needs. There are 2 levels: (i) targeted capacity building activities for the council; and (ii) broader capacity building activities, which support indigenous communities affected by WB projects.
- The council will be instrumental to provide the needed support for the effective engagement of the IPs in higher level of Bank management while ensuring transparency and accountability of their advisory work.

Its relation with the Bank operations

- It is timely for the WB to pursue this in the context of safeguards policy update and set a high standard. It is important to have the advisory council functioned as an independent group, and make it relevant to the Bank operations. In ADB, complex and highly sensitive projects are subject to independent panel review. In this case, the advisory council can be part of the independent panel for that project/policy review.
- Based on the REDD experience, there are things that are approved in the global/regional level but are not being implemented in the national level. The trickling down effect is very minimal. Seemingly, there is no sufficient expertise among Bank staff on IP matters.
- The creation of the advisory council should not be rushed. There is a need to conduct a comprehensive review of similar undertakings done in the past in the Bank and other institutions and learn from those experiences. The results of the study will feed into the formulation of the Terms of Reference (TOR).

On the benefits for the IPs

- The purpose of the advisory group is to provide strategic advice on IP-related projects taking into account how the Bank operates (i.e., to ensure full implementation of safeguards policy particularly on FPIC). Indigenous peoples receive indirect benefits from the improvement of the Bank safeguards policy (doing the “do no harm” and “do good” approach). Tangible results could be realized from this undertaking.

On the indigenous people’s advisory group speculated to be formed in WCIP

- What will be the approach if ever the IP group will decide to have one IP advisory group during the World Conference in IP in 2014?
- The plans of creating the Bank’s advisory council and IP advisory group in WCIP are not mutually exclusive. The WB advisory council is intended to guide the Bank in providing more benefits for the IPs and ultimately creating more impacts. In the case that a new body for IP will be formed in the WCIP, it is hoped that the WCIP will take account of the Bank’s council (i.e., can be an auxiliary group to this main body).

Discussion on Priority Focus Areas for Engagement with Indigenous Peoples

A separate session was dedicated to discuss the priority focus areas for engagement with indigenous peoples. The discussion was not limited to the safeguards policy but also included Indigenous Peoples policy and other key issues. Below is a list of critical issues being faced by the indigenous peoples as observed and shared by the participating experts.

On the critical issues

- Issue of energy portfolio of the Bank (very concerned especially in regard to Asia). One case is the Mekong Dam project. While the Bank doesn’t support the dam itself, it provides financial assistance in the installation of the transmission lines. The Bank safeguards policy should clearly define the parameters for determining the project scope, scope of impact, bench of accountability and compensation, among others.
- Climate change adaptation and traditional knowledge. It is not clear what the Bank intends to do with these recommendations especially in the regions of Asia, Latin America, and Africa.
- Funding for climate change initiatives. How are these being addressed? Where does the Bank position itself?
- Development of realistic indicators (as well as recommendations database) as a major monitoring and evaluation work addressed to the Bank during the UN Permanent Forum.
- Data disaggregation to advocate for the inclusion of IPs in census/survey processes.
- Support for the land tenure, demarcation and titling is one of the major IP concerns.
- Implementation of sustainable development plans of IPs or Ancestral Domain Sustainable Protection Plans (ADDSP).
- Definition of indigenous peoples. Which groups are indigenous? What triggers the safeguards policy?
- Other issues that come in the application of the policy: (i) land rights; (ii) criteria of customary lands (make it clearer), also non-customary but otherwise acquired.
- Economic development mainly involves IP development planning (there is a need to reinforce the “do good” orientation and focusing on IP’s own development models).
- Capacity building for development planning as well as for engagement and consultation. Information sharing is key in the effective participation of the IPs (e.g., IP’s ability to participate in the early design stages of the projects). The methodology to be applied in broad community support should be made clearer. Provision of timely technical assistance can facilitate the relationship between the state and IPs.
- Gender issues especially for IP women.

On issues pushing for economic development for IPs

- How can the WB help the indigenous peoples in developing further its economic condition? The WB may play a role in helping indigenous people in introducing the idea of development, providing appropriate knowledge on business management and

entrepreneurship that is culturally sensitive and sustainable (e.g., IBI in Australia)

On the implementation of the declaration of the UNDRIP

- It is hoped that the WB will support the IP proposal and assist in the realization and implementation of the UNDRIP as an institution.

On the question how does the safeguards policy addresses IP critical issues?

- The IPs are benefitting indirectly with the improvement of the Bank's safeguards policy (given the "do no harm" and "do good" rationale). While there are no concrete deliverables for IP yet, improving the policy can translate to better appreciation of the IP concerns. And this could lay out the plan for follow-through activities such as technical assistances targeted for the IPs.
- The OP 4.10 should be improved taking into account the UN declaration and should not focus only on FPIC. A rights-based approach therefore is seen imperative.
- FPIC is at the project level only. It is hoped that the advisory council will move beyond the project level and making it to the upstream level.
- The discussion of relevant issues on IPs gives us preview on how we see and understand the safeguards policy, which could be good input to having a better policy for the WB.
- There should be a continuous engagement with the IPs apart from the policy review. A wider approach is expected (consultation should not be boxed for policy review only).
- The IP groups should use the Bank's review process as an opportunity to further its advocacy on the implementation of the UNDRIP.

Given the issues and recommendations above, the group listed down the following **Next Key Steps**:

1. Review and adopt the suggestions and recommendations made during the Indigenous Peoples' Global Dialogue with the FCPF held in Doha, Qatar in December 2012 in regard of the review of OP 4.10. One of the recommendations was the creation of an IP technical working group. WB Team to write FCPF staff working on this issue.
2. Share notes of the meeting for review and comments.
3. On the engagement with the UN Permanent Forum in May 2013, invite the WB-SDN Vice President to be part of the interactive dialogue.
4. Produce a conceptual framework on the conduct of the IP dialogue. A matrix showing the critical issues on IPs and how these are being addressed will be helpful in this respect.

ANNEX A: List of Participants

Name	Designation/Organization
1. James Anaya	Regents Professor/James J. Lenoir Professor, University of Arizona
2. Maia Campbell	Associate Human Rights Officer, UN Office of the High Commissioner for Human Rights
3. Joan Carling	Secretary General, Asia Indigenous Peoples Pact (AIPP)
4. Leonardo Crippa	Senior Attorney, Indian Law Resource Center
5. Les Malezer	Co-chair, National Congress of Australia's First Peoples
6. Indira Simbolon	Principal Social Development Specialist, ADB
7. Pancho Umali	Partner, CVCLAW Villaraza Cruz Marcelo & Angangco
8. Jennifer Corpuz	Coordinator, Human Rights and National Advocacy Desk of Tebtebba Foundation
9. Reidar Kvam	Environment, Social and Governance Department, IFC
10. Luis Felipe Duchicela	Senior Social Development Specialist, WB (<i>Facilitator</i>)
11. Abegyl Nolasco-Albano	Monitoring & Evaluation Specialist, WB Consultant (<i>Documenter</i>)