

World Bank Safeguards Review Team
World Bank
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February 16, 2015

Re: Safeguards submission on involuntary resettlement and land

Dear World Bank Safeguards Team,

Please find attached our detailed comments on the draft Environment and Social Standard (ESS) 5, including recommended revisions to ensure that the new policy framework contains adequate protections to avoid the multifaceted impoverishment and human rights risks unleashed by forced displacement. Our submission also contains a matrix setting out the dilutions of OP/BP 4.12 in the draft ESF and three case studies that illustrate why the gaps that we have pointed out in the draft ESF must to be rectified.

In addition to the improvement of ESS5, other aspects of the Environment and Social Framework (ESF) require significant revision. ESS5 itself, no matter how strong, will not meet its objectives in practice without effective measures to ensure that safeguards are well-integrated throughout the project cycle, including its design, approval by the board, implementation, monitoring, supervision and evaluation. The ESF must require the World Bank to conduct effective due diligence, supervision and evaluation. The current draft fails in these respects. The Environmental and Social Policy (ESP) and ESS1 require significant revision. Furthermore, a set of binding Bank procedures that complement the ESSs must be drafted and released for consultation.

Redrafting of the ESF must, inter alia, incorporate the following changes:

1. As a condition of project appraisal, the Borrower must be required to provide the Bank with the relevant draft resettlement and livelihood support plans and budgets and make them available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. The Borrower's obligation to implement the measures outlined in the resettlement instrument must be provided for in the legal agreements for the project. Unlike OP 4.12, the ESF does not require resettlement and livelihood plans and budgets to be prepared during project appraisal for consideration by the Board, even for projects that cause mass displacement and require complex mitigation measures. Instead an Environmental and Social Commitment Plan (ESCP) must be prepared. An annex to ESS1 states that ESCPs will differ from project to project, and in some cases will include full resettlement plans and in others will refer to plans to be prepared by a future date. In other words, the policy no longer ensures that the Board has an opportunity to review full resettlement and livelihood plans, and critically, to factor the costs of resettlement into the overall economic analysis of the project, before it decides on whether to approve a project for financing. Without such information the Board will be asked to approve projects without

an accurate cost-benefit analysis. This major dilution of current policy would represent a failure on the part of the Bank to conduct minimum due diligence before financing displacement and must be rectified in the next draft.

2. An annex must be attached to ESS5 that sets out the components of resettlement and livelihood plans and other instruments, and the requirements for baseline data and socioeconomic studies of affected persons and communities. Annex A to the current OP 4.12 should form the basis of this document. It should include, inter alia, details of the comprehensive household baseline data and socioeconomic studies required during project preparation and with the involvement of potentially displaced people, as currently contained in Annex A, paragraph 6. It should be clearly stipulated that socioeconomic studies should include all assets, productive resources and opportunities expected to be lost or affected as a result of displacement, as well as patterns of exclusion, marginalization and discrimination that must be addressed for ESS5 objectives to be met for all affected persons. These requirements are indispensable to resettlement planning and to ensuring that affected people are not impoverished, and are instead supported to improve their living standards and livelihoods. Baseline data is also indispensable to an evaluation of whether policy objectives have been achieved, as recognized in the current BP 4.12 footnote 12. The proposed ESF dispenses with these requirements: ESS1, paragraph 22, states only that the environmental and social assessment will be based on baseline data “at an appropriate level of detail.”

3. The Bank’s due diligence, monitoring and evaluation requirements must be strengthened, including by making it mandatory for the Bank to actively seek a range of views from a variety of sources, including potentially affected people, about the project, resettlement plans and their implementation. Under the ESP, paragraphs 29 and 30, the Bank is only required to conduct E&S due diligence based on an assessment provided by the Borrower. It can at its discretion seek further information, but is not required to confirm the accuracy or rigor of the Borrower’s own assessment by actively seeking other stakeholder input. The Bank should be required, as part of its due diligence and during its monitoring and evaluation of the project and resettlement measures, to seek alternative and independent-third party views to verify the Borrower’s assessment, including at the end of the project, that the objectives of ESS5 have been successfully achieved.

4. The Bank’s specific responsibilities for safeguard measures for economic and physical displacement throughout the project cycle must be clearly set out in binding procedures corresponding to ESS5. These procedures should, at minimum, contain all required measures currently in BP 4.12 with additional measures corresponding to improvements to ESS5. These procedures are a critical component of the ESF, and a full draft must be released for meaningful public consultation.

5. The ESSs must apply to all subprojects with social and environmental impacts, regardless of risk categorization. A disturbing dilution in the ESF creates a dangerous loophole: Subprojects classified as having a “substantial” or lower E&S risk only need to comply with national regulations, including on land expropriation and resettlement.

According to the ESP and ESS1, only subprojects classified by the Borrower as high-risk need to comply with the safeguards. The subproject loophole applies to both public sector programs and private sector investments through financial intermediaries such as commercial banks. Under the ESF, the Borrower is responsible for classifying subprojects. The ESF heavily incentivizes the Bank and Borrower to design projects in such a way as to require implementation through subprojects and thereby avoid application of the Bank's environmental and social standards.

6. Moving beyond direct displacement impacts of Bank projects, the ESF should contain standards to protect access to land and secure tenure arrangements. Secure access to land underpins successful development. In addition to its social function, land is both the safety net for poor households and a foundation from which poor households can increase their economic potential. World Bank projects can have extremely adverse impacts on land tenure, beyond direct displacement. These impacts are outside the scope of ESS5 and are not sufficiently covered by the ESF. The low level of attention to land tenure is not commensurate to the importance of land to people's lives and livelihoods or to the potential for adverse impacts of Bank-financed projects on people's secure access to land.

Consistent with the Voluntary Guidelines on the Governance of Tenure, standards on land tenure should aim to ensure, inter alia: that land sector projects promote and secure a variety of tenure forms, prioritizing the tenure arrangements of the most vulnerable groups; that land transactions that occur in connection with Bank-financed projects, such as agricultural sector projects, are truly voluntary; that land rights of project affected communities who are either indigenous or non-indigenous but practice a customary or collective tenure system are respected; and that land conflict and inequality in access to land, housing and natural resources is not created or exacerbated.

We trust that you will give careful consideration to our submissions and that the second draft will much more effectively protect against harmful impacts of World Bank projects. The next generation of World Bank safeguards should go further than doing no harm; they should serve to promote and secure equitable access to land, adequate housing and productive resources for poor and vulnerable households and communities. We look forward to reviewing a new draft that advances the Bank's mission of ending extreme poverty and promoting shared prosperity and ensures that the poor will never be made to bear the costs of Bank-assisted development projects.

We would welcome the opportunity to discuss any points in our submissions with you in greater detail.

Yours sincerely,

Inclusive Development International
The International Network on Displacement and Resettlement
Oxfam
Heinrich Boell Foundation- North America

Global Initiative for Economic, Social and Cultural Rights

Urgewald

Share the World's Resources

Prof. Raquel Rolnik (former UN Special Rapporteur on the Right to Adequate Housing)

Detailed Comments on ESS5 with Alternative Language

ESS5 Para	Commentary	Alternative Language
1	<p>The scope of ESS5 and the definition of “involuntary resettlement” as drafted is far too narrow and would leave unprotected countless people who are physically and/or economically displaced due to a World Bank project. This dramatic narrowing of the scope of the involuntary resettlement policy as compared to the current OP 4.12, would lead to the impoverishment of already vulnerable households as a direct result of World Bank projects.</p> <p>The alternative language in this paragraph and several paragraphs below recognize that many project-activities – not only land acquisition and restrictions on land use - can lead to displacement. In particular, it recognizes that activities that reduce access to productive resources will result in economic (and sometimes physical) displacement. For example, fishing communities that live downstream of a Bank-financed hydropower dam, who can no longer sustain their livelihoods because of the change in the river’s ecosystem and depletion of fish catch are <i>economically displaced persons</i>, who should be entitled to the same ESS5 protections as others who are displaced due to land acquisition or restrictions on land use. This includes the right to have their livelihoods and standard of living improved or at least restored, rather than the mere</p>	<p>ESS5 recognizes that project-related activities, including land acquisition, restrictions on land use and other activities that reduce access to productive resources or other means of livelihood and subsistence can have adverse impacts on communities and persons. Project-related activities, including land acquisition¹, restrictions on land use² and other activities that reduce access to productive resources³ may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets or access to assets, leading to loss of income sources or other means of livelihood),⁴ or both. Bank experience indicates that physical and economic displacement, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive resources or other income sources are lost people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. The term “involuntary resettlement” refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the choice to refuse relocation, land acquisition, restrictions on land use or other activities that reduce access to productive resources that result in displacement.</p>

¹ “Land acquisition” refers to all methods of obtaining land for project purposes, which may include outright purchase, expropriation of property and acquisition of access rights, such as easements or rights of way. Land acquisition may also include: (a) acquisition of unoccupied or unutilized land whether or not the landholder relies upon such land for income or livelihood purposes; and (b) repossession of public land that is used or occupied by individuals or households. “Land” includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements.

² “Restrictions on land use” refers to changes in or prohibitions on agricultural, residential, commercial or other land uses that are directly introduced and put into effect as part of the implementation of the project. These may include restrictions on access to legally designated parks and protected areas, restrictions on access to other common property resources, restrictions on land use within utility easements or safety zones, etc.

³ “Reduced access to productive resources” refers to depletion or other negative changes to resources essential to people’s livelihoods, or reductions in the ability to access those resources, that occur as a direct result of the project (ie. the changes would not occur if the project did not exist).

⁴ “Livelihood” refers to the full range of means that individuals, families and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade and bartering.

	<p>compensation standard provided for under ESS1, which is certain to result in impoverishment.</p> <p>The alternative language also more fully captures the multidimensional harms caused by displacement if unmitigated. The additions are taken from the introduction OP4.12. The impacts should remain clearly articulated in the introduction of ESS5.</p> <p>The alternative language also recognizes that while in some circumstances that borrower may assert that affected people were given the right to refuse relocation, in practice people had no choice but to relocate.</p>	
Objectives	<p>In line with international human rights standards and a general principle of expropriation laws throughout the world, the first objective of ESS5 should be to ensure that involuntary resettlement is absolutely necessary to fulfill a legitimate public interest purpose and promote the general welfare. The displacement impacts should be reasonable and proportionate to the public good that will be achieved through the project.</p> <p>Forced evictions, as defined in the footnote, are contrary to</p>	<ul style="list-style-type: none"> • To ensure involuntary resettlement occurs only when necessary to advance the general welfare, taking into account the magnitude, costs and impacts of physical and economic displacement on those to be displaced. • To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring all viable project design alternatives. • To prohibit forced eviction.⁵ • To mitigate unavoidable adverse social and economic impacts from, <i>inter alia</i>, land acquisition, restrictions on land use and other activities that reduce access to

⁵ “Forced eviction” is defined as the permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or land which they occupy without the provision of, and access to, appropriate forms of legal and other protection, including all applicable procedures and principles in this ESS. The exercise of eminent domain, compulsory acquisition or similar powers by a Borrower will not be considered to be forced eviction providing it complies with the requirements of national law and the provisions of ESS5, and is conducted in a manner consistent with basic principles of due process (including provision of adequate advance notice, meaningful opportunities to lodge grievances and appeals, and avoidance of the use of unnecessary, disproportionate or excessive force).

<p>international human rights law in all cases and must be strictly prohibited (rather than 'avoided').</p> <p>The objectives as set out in ESS5 do not fully reflect its requirements. The alternative language makes the objectives more clear.</p> <p>The alternative footnote language makes it clear that compensation at "replacement cost" must be calculated at the time that displacement occurs, taking inflation into account.</p> <p>The objectives of ESS5 set a far lower bar than OP 4.12. In particular the draft does not aim to ensure that resettlement of poor households is treated as a development opportunity. In line with the World Bank's mission and goals, the alternative language makes it an objective to improve the livelihoods and living standards of poor households who are displaced by a project, including through the appropriate investment and the sharing of project benefits. The additional footnote language recognizes that special attention must be paid to vulnerable groups.</p>	<p>productive resources by: (a) providing replacements and/or timely compensation at replacement cost for loss of assets⁶ (b) providing suitable replacements, livelihood support and/or compensation for loss of productive resources and income and (c) ensuring that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.</p> <ul style="list-style-type: none"> • To treat resettlement of households as a participatory development opportunity, including by: <ul style="list-style-type: none"> a) assisting displaced persons in their efforts to restore, and in the case of poor households, improve their livelihoods and living standards, including through appropriate and sufficient project investments and the sharing of project benefits. b) improving living conditions of poor or vulnerable persons⁷ who are physically displaced, through provision of adequate housing, access to services and facilities, and security of tenure.⁸
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⁶ "Replacement cost" is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labor for construction of structures or other fixed assets, plus transaction costs. In all instances where physical displacement results in loss of shelter, replacement cost must at least be sufficient to enable purchase or construction of adequate housing that meets acceptable minimum community standards of quality and safety. The valuation method for determining replacement cost should be documented and included in relevant resettlement planning documents. Transaction costs include administrative charges, registration or title fees, reasonable moving expenses, and any similar costs imposed on affected persons. To ensure compensation at replacement cost, planned compensation rates will require updating in project areas where inflation is high or the period of time between calculation of compensation rates and delivery of compensation is extensive. Compensation shall be based on the replacement cost at the time of displacement.

⁷ The landless, minorities, persons with disabilities, women-headed households, children, the elderly and the infirm will have special needs to be addressed.

⁸ "Security of tenure" means that resettled individuals or communities are resettled to a site that they can legally occupy, where they are protected from the risk of eviction and where the tenure rights provided to them are no less than the rights they had to the land or assets from which they have been displaced. A culturally and socially appropriate form of secure tenure must be provided to resettled households. Titles or other documents that record tenure rights should not automatically be registered on a "heads-of-household" basis. Women should be secured as the sole or joint holders of title, lease or other form of tenure. Collective tenure rights should also be secured through appropriate processes.

	Additional language in Footnote 8 on security of tenure provides essential protections for women. It also explicitly recognizes that the form of secure provided must be culturally and socially appropriate.	
4	The alternative language broadens the scope of ESS5 to include activities that reduce access to productive resources or other means of livelihood that cause displacement, such as a hydropower dam that depletes fish stock causing economic displacement of downstream fishing villages.	This ESS applies to permanent or temporary loss of land or assets, restrictions on land use, or reduced access to productive resources resulting from project activities, including the following:
(e)	As above.	Restriction on access to land or use of other resources, or other impacts on productive resources, including communal property and natural resources such as marine and aquatic resources, timber and non-timber forest products, fresh water, medicinal plants, hunting and gathering grounds and grazing and cropping areas;
(g)	Unlike OP 4.12, the ESS5 explicitly excludes land titling from its scope. This means that households and communities deemed not to have ownership rights under a land administration project and are then threatened with forced eviction would not be protected, foreseeably leading to increased homelessness, poverty and repeat squatting in other areas. Such exclusion is contrary to the World Bank's mission and would fail to protect the poorest and most vulnerable people. Land titling projects must be included in the scope of ESS5 as set out in the alternative language and footnote text.	Land administration activities, including titling/regularization, that result in a determination or clarification of the tenure status of households and/or communities; ⁹
(h)	ESS5 explicitly excludes natural resource and land use regulation, despite the fact that such regulatory reform, such as zoning changes, can weaken tenure rights overnight and make people suddenly vulnerable to forced eviction. Again, this will lead to bad development practice	Regulation or planning of natural resources or land use on a regional or national level to promote sustainability; ¹⁰ and

⁹ National or regional land administration projects that will affect, determine or clarify the tenure rights of significant numbers of people and might weaken their perceived tenure status under preexisting (often informal) systems, and make them vulnerable to physical and economic displacement, should include the development of a resettlement policy and means of implementation consistent with this ESS as an early project component.

¹⁰ Land and natural resource management projects might affect the formal, informal or customary tenure rights of people or communities and make them vulnerable to physical and economic displacement.

	contrary to the World bank's mission. Natural resource and land use regulation must be included in the scope of ESS5 as set out in the alternative language.	
4	One of the major dilutions of OP 4.12 is the removal of a paragraph that broadens the scope to activities that are directly and significantly related to the project and the achievement of its objectives. This makes the scope far narrower than OP 4.12 and excludes many project activities that cause displacement. The alternative language adds a refined version of the OP 4.12 paragraph into the scope of ESS5 to reverse this unacceptable narrowing of scope.	This ESS applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement that are directly and significantly related to the Bank assisted project and the achievement of its objectives as set forth in the project documents.
5(a)	ESS5 excludes from its scope voluntary land transactions. Voluntary land transactions as described, along with the footnote that touches on a number of safeguards, should be a component of a separate ESS on land tenure. The protections outlined in the footnote should inform mandatory protections for land transactions associated with World Bank projects, such as agriculture projects, to ensure their voluntary nature.	This ESS does not apply to: Voluntary, legally recorded market transactions in which the seller is given a genuine opportunity to refuse to sell the land and to retain it, and is accurately informed about available choices and their implications; ¹¹
(b)	This paragraph should be deleted from the activities that are excluded from the scope of ESS5. As written, this would make the scope of ESS5 far too narrow to prevent harms and impoverishment of people who will be displaced by World Bank projects.	Impacts on incomes or livelihoods that are not a direct result of land acquisition or land use restrictions imposed by the project on the land of the affected persons or communities;¹²
(d)	This paragraph should be deleted from the activities that are excluded from the scope of ESS5, as explained re paragraph 4(g) above.	Land titling/regularization activities; or
(e)	This paragraph should be deleted from the activities that are excluded from the scope of ESS5, as explained re paragraph 4(h) above.	Regulation or planning of natural resources or land use on a regional or national level to promote sustainability.

¹¹ Where such voluntary land transactions result in the involuntary displacement of persons, other than the seller, who occupy or use the land in question, this ESS will apply to such displacement. Special care must be taken with respect to voluntary transactions of significant areas of land (for example in the case of large-scale transfers of land for agricultural investment purposes) to ensure: (a) that land and land use rights of all affected people have been respected; (b) that individuals, groups or communities affected by the transfer are informed of their rights, have full access to reliable information concerning environmental, economic and social impacts and have the capacity, **including through access to legal advice and representation**, to negotiate fair value and appropriate conditions for the transfer of their land; (c) that appropriate benefits-sharing and grievance redress mechanisms are put in place; and (d) that terms and conditions of the transfer are transparent.

6	<p>Reflects changes to scope explained above.</p> <p>The alternative language also recognizes that the classification of affected persons for the purposes of granting entitlements may not always be straightforward, particularly in countries where State and/or common property is not clearly defined or registered and there is a high degree of contestation over land rights. The alternative language therefore requires a fair, impartial and transparent adjudication process.</p>	<p>Affected persons may be classified as persons:</p> <ul style="list-style-type: none"> (a) Who have formal legal rights to land, assets or productive resources; (b) Who do not have formal legal rights to land, assets or productive resources, but have a claim to land or assets that is recognized or recognizable under national law,¹³ or (c) Who have no recognizable legal right or claim to the land, assets or productive resources they occupy or use. <p>The census will establish the status of the affected persons, following a fair, impartial and transparent process of adjudication of tenure rights.</p>
7	<p>The alternative language reflects changes to the objectives and scope explained above. The alternative language ensures comprehensive assessment of the justification for activities that cause displacement and alternative designs to avoid and minimize displacement. It also requires that the Borrower meaningfully consult with anticipated persons about the project and its design, including alternatives to avoid or minimize displacement.</p> <p>Language on in situ land development arrangements that appears later in the text of ESS5 is moved to this paragraph since it directly relates to alternative project designs that could avoid or reduce displacement. The alternative language also adds the point that development benefits other than an increase in property value can be provided through an in situ land development arrangement (for example, improved infrastructure, greater tenure security). A guidance note should be prepared that explains options for in situ arrangements.</p>	<p>The Borrower will demonstrate that:</p> <ul style="list-style-type: none"> a) The project is justified on general welfare grounds, taking into consideration both its intended development benefits as well as the anticipated magnitude and impacts of physical and economic displacement that it will cause. The Borrower will demonstrate that the displacement impacts are reasonable and proportionate to the development benefits of the project; b) Involuntary land acquisition, restrictions on land use, and other activities that will reduce access to productive resources or other means of livelihood are limited to direct project requirements for clearly specified project purposes within a clearly specified period of time; c) It has considered all feasible alternative project designs to avoid or minimize land acquisition, restrictions on land use and reduced access to productive resources, especially where this would result in physical or economic displacement, while balancing environmental, social, and financial costs and benefits, and paying particular attention to impacts on the poor and vulnerable. In the case of physical displacement, an alternative project design to be considered, should include, where possible, in situ land development arrangements by which those to be affected may elect to accept a partial loss of land or localized relocation in return for improvements that will increase the value of their property or other

¹³ Such claims could be derived from adverse possession or from customary or traditional tenure arrangements.

		<p>development benefits.</p> <p>d) It has meaningfully consulted and taken into consideration the views of anticipated affected persons in relation to all of the above.</p>
8	<p>The alternative language reflects changes in the objective to promote project benefit sharing. Benefit-sharing is one of the most sustainable methods for ensuring that those displaced are not made worse off and instead become beneficiaries of Bank-assisted projects. For example, a share of revenues from a large hydropower dam should go to the people who invested their land to make the project possible. This would mean that ongoing dividends would be provided in a sustainable manner to affected people for as long as revenues are being generated. Benefit sharing is international best practice, which should be a requirement of ESS5 whenever it is possible to structure a project in such a manner. A guidance note should be prepared that explains options for benefit sharing for different types of projects.</p>	<p>When land acquisition, restrictions on land use or reduced access to productive resources (whether permanent or temporary) cannot be avoided, the Borrower will offer affected persons compensation at replacement cost for all losses, and other assistance as may be necessary to help them improve or at least restore their standards of living or livelihoods, subject to the provisions of paragraph 22 through 32 of this ESS.¹⁴ The Borrower will also explore, in consultation with affected persons, options for affected persons to derive direct benefits from the project. The Borrower will ensure, wherever possible, that benefits are distributed to women members of affected households.</p>
10	<p>Equivalent replacement land should be offered to displaced people whose livelihoods are land-based unless, in rare circumstances, it is impossible to do so. High value of equivalent land cannot be used to justify a decision not to offer land. The value of replacement land must be factored into the resettlement budget. If the cost of replacement land makes the project economically unfeasible, then it should not proceed. The additional footnote makes this clear.</p> <p>The alternative language also requires the Borrower to provide opportunities to displaced persons to derive development benefits directly from the project wherever possible.</p>	<p>Where livelihoods of displaced persons are land-based,¹⁵ or where land is collectively owned, the Borrower will offer the displaced persons an option for replacement in kind, unless it can be demonstrated that equivalent replacement land is unavailable.¹⁶ If the nature and objectives of the project allow, the Borrower will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project. In the case of affected persons under paragraph 6 (c), resettlement assistance will be provided in lieu of compensation for land, as described in paragraphs 25 and 39(c).</p>

¹⁴ At the request of affected persons, it may be necessary to acquire entire land parcels if partial acquisition would render the remainder economically unviable, or make the remaining parcel unsafe or inaccessible for human use or occupancy.

¹⁵ The term "land-based" includes livelihood activities such as subsistence cropping and grazing of livestock as well as the harvesting of natural resources.

¹⁶ High values of equivalent land cannot be used to justify a decision not to provide replacement land.

11	<p>The alternative language reflects revisions to the scope. It also ensures that resettlement sites are fully equipped with infrastructure prior to relocation. It also requires that livelihood restoration and improvement programs, such as skills training, access to credit, and access to alternative productive resources, begin well before the displacement impacts are felt to avoid a transition period in which displaced persons face a drop in income and cannot meet basic needs.</p>	<p>The Borrower will take possession of acquired land and related assets, and commence other activities that will cause displacement, only after compensation in accordance with this ESS has been made available and, where applicable, fully equipped resettlement sites and moving and transition allowances have been provided to the displaced persons in addition to compensation. In addition, livelihood restoration and improvement programs will commence well in advance of project activities that will cause adverse economic impacts, in order to ensure that affected persons are sufficiently prepared to take advantage of alternative livelihood opportunities as the need to do so arises.</p>
13	<p>The initial amount of compensation must be sufficient to access adequate housing immediately, to avoid temporary or permanent homelessness or inadequate housing conditions.</p>	<p>Compensation may also be paid in installments where lump sum cash payments would likely undermine social or resettlement objectives, or where there are ongoing impacts to livelihood activities. In such cases, the initial installment will be at least sufficient to meet immediate relocation expenses, including access to adequate housing, and livelihood needs and will be paid prior to dispossession. Arrangements for full distribution of remaining compensation will be clearly specified in the plan, and provision of remaining compensation funds will be assured through an escrow account (established and fully funded prior to displacement) or comparable measures.</p>
14	<p>The location of resettlement sites, near to economic opportunities, is a determinative factor in the success of resettlement. Livelihood programs are rarely successful if people are moved to inappropriate locations without viable livelihood opportunities that match their skill set. The alternative language recognizes this by requiring that affected persons be given a choice of three options for resettlement sites that offer suitable economic opportunities.</p> <p>The alternative language also makes it clear that draft resettlement and livelihood plans - essential information - must be disclosed to affected persons to ensure their meaningful participation in the planning process. As has been Bank policy and practice since 1980, the draft plans must be prepared and made available during project appraisal to allow affected persons to provide their views to the World Bank board to inform their decision on project</p>	<p>The Borrower will engage with affected communities, including host communities, through the process of stakeholder engagement described in ESS10. Decision-making processes related to resettlement and livelihood restoration will include options and alternatives from which affected persons may choose, including at least three options for economically viable locations of the resettlement site, taking into account the skill base and capacities of affected persons. Disclosure of relevant information, including draft resettlement and livelihood restoration and improvement plans, and participation of affected communities and persons will take place throughout the planning, implementation, monitoring, and evaluation of the compensation process, livelihood support activities, and relocation process. Draft plans and corresponding budgets will be made available, during project appraisal, at a place accessible to displaced persons and NGOs, in a form, manner, and language that are understandable to them. Affected person will be provided with legal and technical assistance and other necessary resources to enable them to effectively participate in the planning, implementation, monitoring and evaluation of resettlement processes. Additional provisions apply to consultations with Indigenous Peoples, in accordance with ESS7.</p> <p>The consultation process will ensure that women's perspectives are obtained and their</p>

	<p>approval. The alternative language also recognizes that affected persons must be provided with legal and technical support and resources to enable them to effectively participate in the resettlement process.</p> <p>Language on the engagement of women in planning and implementation processes that appears in a footnote to ESS5 is brought into the main body.</p>	<p>interests factored into all aspects of resettlement planning and implementation. Addressing livelihood impacts will usually require intra-household analysis because women's and men's livelihoods are often affected differently. Women's and men's preferences in terms of compensation mechanisms, such as compensation in kind rather than in cash, should be explored.</p>
16	<p>The alternative language reflects changes in scope and objectives explained above.</p> <p>Detail should be provided in an annex as to what should be covered by the censuses, as per the current Annex A to OP 4.12.</p> <p>The additional language on cut-off dates for eligibility makes it clearer that information must be appropriately disseminated.</p>	<p>Where land acquisition, restrictions on land use or reduced access to productive resources are unavoidable, the Borrower will, as part of the environmental and social assessment, conduct a census to identify the persons who will be affected by the project, to establish an inventory of land, assets, productive resources and access to basic services to be affected,¹⁷ to determine who will be eligible for replacements and/or compensation, assistance and project benefits,¹⁸ and to discourage ineligible persons, such as opportunistic settlers, from claiming benefits. The social assessment will also address the claims of communities who, for valid reasons, may not be present in the project area during the time of the census, such as seasonal resource users. In conjunction with the census, the Borrower will establish a cut-off date for eligibility. Information regarding the cut-off date, and a warning that persons settling in the project area will be subject to eviction, will be clearly posted around the area in accessible language, and the information will be disseminated at regular intervals in written and non-written forms.</p>
17	<p>It is essential that the current requirement that draft resettlement and livelihood plans and corresponding budgets be prepared for project appraisal to ensure that the World Bank board has all necessary information to make an informed decision on whether to approve the project for financing. The alternative language reflects this and reiterates that borrower commitment and capacity to successfully meet the objectives of ESS5 is a key determinant of bank support to a project (adapted from the current OP 4.12).</p>	<p>To address the issues identified in the environmental and social assessment, during project appraisal, the Borrower will prepare a draft plan¹⁹ commensurate with the risks and impacts associated with the project:</p> <p>a) For projects with minor land acquisition, restrictions on land use or adverse impacts on productive resources, as a result of which there will be no measurable impact on incomes or livelihoods, the draft plan will establish eligibility criteria for affected persons, set out procedures and standards for compensation, and incorporate arrangements for consultations to inform the final plan, monitoring and addressing</p>

¹⁷ Such inventory should include a detailed account, derived through consultation, of the full range of rights held or asserted by affected people, including those based on custom or practice, secondary rights such as rights of access or use for livelihoods purposes, rights held in common, etc.

¹⁸ Documentation of ownership or occupancy and compensation payments should be issued in the names of both spouses or heads of households, and other resettlement assistance, such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs. Where national law and tenure systems do not recognize the rights of women to hold or contract in property, measures should be adopted to provide women as much protection as possible with the objective to achieve equity with men.

¹⁹ The Borrower's plan may be a resettlement plan, a livelihood restoration and improvement plan, a project benefit sharing plan, or a combination, depending on the impacts that have been identified through the environmental and social assessment and the availability of benefit sharing opportunities.

	<p>The required contents of resettlement and other plans, and the methodology for designing them, must be set out in an annex, as OP 4.12 Annex A does currently.</p>	<p>grievances;</p> <p>b) For projects causing physical displacement, the draft plan will set out the additional measures relevant to relocation of affected persons;</p> <p>c) For projects involving economic displacement with impacts on livelihoods or income generation, the draft plan will set out the additional measures relating to livelihood restoration and, for poor households, livelihood improvement, as well as opportunities for affected persons to derive direct benefits from the project; and</p> <p>d) For projects that may impose changes in land use that restrict access to resources in legally designated parks or protected areas or other common property resources on which local people may depend for livelihood purposes, the plan will establish a participatory process for determining appropriate restrictions on use and set out the mitigation measures to address adverse impacts on livelihoods that may result from such restrictions.</p> <p>Borrower commitment to, and capacity for, undertaking successful resettlement and meeting the objectives of this ESS is a key determinant of Bank support to a project.</p>
18	<p>It is critical that a detailed budget be prepared to ensure the feasibility of the resettlement and other plans.</p> <p>Critical language from OP 4.12 that has been omitted from the draft ESS5 is added to this paragraph to ensure that the costs of resettlement are not externalized and that they are fully incorporated into the economic analysis of the project. This economic analysis must occur during project appraisal and continue to be a key determinant of Bank support for the project.</p>	<p>The Borrower's plan will include a detailed budget and will establish the roles and responsibilities relating to financing and implementation, and include arrangements for contingency financing to meet unanticipated costs, as well as arrangements for timely and coordinated response to unforeseen circumstances impeding progress toward desired outcomes.²⁰ The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project.</p>
19	<p>The alternative language makes the requirements for resettlement professionals clearer.</p> <p>Noting that "significant involuntary resettlement impacts" needs to be defined, the alternative language requires an additional layer of oversight and monitoring support - a panel of experts - for projects causing such impacts. It is well recognized that an independent panel of experts can</p>	<p>The Borrower will establish procedures to monitor and evaluate the implementation of the plan and will take corrective action as necessary during implementation to achieve the objectives of this ESS. The extent of monitoring activities will be commensurate with the project's risks and impacts. For all projects with involuntary resettlement impacts, the Borrower will retain competent resettlement professionals. For all projects with significant involuntary resettlement impacts, the Borrower will additionally retain an independent panel of resettlement experts, agreed to by the Bank and representatives of affected persons, to assist in developing the final version of the plans, to monitor the implementation of the</p>

²⁰ For projects with significant **physical and economic displacement** impacts **that require large-scale and/or** complex mitigation measures, the Borrower **should** prepare a stand-alone resettlement **and livelihood support** project for Bank support.

	improve resettlement and livelihood outcomes.	plans, design corrective actions as necessary, provide advice on compliance with this ESS and produce periodic monitoring reports. Affected persons will be consulted during the monitoring process. Periodic monitoring reports will be prepared and affected persons will be informed about monitoring results and consulted on corrective actions as necessary.
20	The alternative language strengthens the external completion audit requirements, including by explicitly requiring baseline conditions to be taken into account.	Implementation of the Borrower's plan will be considered completed when the adverse impacts of resettlement have been addressed in a manner that is consistent with the objectives of this ESS. The Borrower will commission an external completion audit of the plan when all mitigation measures have been substantially completed. The completion audit will be undertaken by competent, independent resettlement professionals, agreed to by the Bank and representatives of affected persons , will assess whether livelihoods and living standards have been restored, and in the case of poor households, improved. This audit will be conducted against the baseline assessment and, as necessary, will propose corrective actions to meet objectives not yet achieved.
21	The alternative language on 'frameworks' includes subprojects, regardless of their classification, reflecting current requirements. It also ensures that displacement will not occur until full plans are prepared and approved, reflecting current requirements. An annex to ESS5 should describe required components of resettlement plans and frameworks, as Annex A to OP 4.12 currently does.	Where the exact nature or magnitude of the land acquisition or restrictions on land use related to a project with potential to cause physical and/or economic displacement is unknown during project preparation, the Borrower will develop a framework establishing general principles and procedures compatible with this ESS. Once the individual project components or subprojects are defined and the necessary information becomes available, such a framework will be expanded into a specific plan commensurate with potential risks and impacts. Project activities that will cause physical and/or economic displacement will not commence until plans that accord with this ESS are developed and have been approved by the Bank.
22	The alternative language clarified that development opportunities must be identified for poor and vulnerable households. An annex to ESS5 should describe required components of resettlement plans, as Annex A to OP 4.12 currently does.	In the case of physical displacement, the Borrower will develop a plan that covers, at a minimum, the applicable requirements of this ESS regardless of the number of people affected. The plan will be designed to mitigate the negative impacts of displacement and to identify development opportunities for poor and vulnerable affected persons. It will include a detailed resettlement budget and implementation schedule, and establish the entitlements of all categories of affected persons (including host communities). The Borrower will document all transactions to acquire land rights, provision of compensation and other assistance associated with relocation activities.
23	The alternative language reflects previous changes explained above and is strengthened and clarified to reflect international human rights standards on adequate housing.	If people living in the project area are required to move to another location, the Borrower will: (a) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation; and (b) provide relocation assistance suited to the needs of each group of displaced persons. Particular attention will be paid to the needs of poor and vulnerable households and groups, including the landless, minorities,

		<p>persons with disabilities, women-headed households, children, the elderly and the infirm who will need special support.</p> <p>A choice of at least three locations will be offered to the affected persons. The locations will provide access to basic services, including health-care facilities and schools, and employment or other livelihood opportunities suited to the skills and capacities of affected persons. New resettlement sites and housing built for displaced persons will offer living conditions at least equivalent to those previously enjoyed, or consistent with minimum standards,²¹ whichever set of standards is higher. Resettled persons must have access to affordable potable water, energy for household needs and sanitation. If new resettlement sites are to be prepared, host communities will be consulted regarding planning options, and resettlement plans will ensure continued access, at least at existing levels or standards, for host communities to facilities and services. The displaced persons' preferences with respect to relocating in preexisting communities and groups will be respected, wherever possible. Existing social and cultural institutions of the displaced persons and any host communities will be respected.</p>
24	The alternative language ensures that compensation provided, at a minimum, allows for access to adequate housing.	In the case of physically displaced persons under paragraph 6(a) or (b), the Borrower will offer the choice of replacement property of equal or higher value, with security of tenure, equivalent or better characteristics, including at least equivalent advantages of location, or cash compensation at replacement cost plus any supplementary amount necessary to ensure access to adequate housing. ²² Where livelihoods of displaced persons are derived primarily from land, compensation in kind will, where possible, be offered in lieu of cash. ²³
25	The alternative language reflects changes explained above.	In the case of physically displaced persons under paragraph 6(c), the Borrower will provide arrangements to allow them to obtain adequate housing with security of tenure. Where these displaced persons own and occupy structures, the Borrower will compensate them for

²¹ Consistent with international human rights standards, replacement housing will, at a minimum, be of sufficient quality to protect inhabitants from weather conditions and environmental hazards and provide for their physical safety. Housing structures will also provide adequate space and privacy, taking into account the household size and the number of women and children. Special needs for persons with disabilities and the elderly, for example, to make the housing physically accessible, will be addressed in the design of resettlement sites and housing. Resettlement sites and housing will be designed in a manner that is culturally appropriate to affected persons.

²² Relevant professionals, government agencies and NGOs will be consulted in determining the cost of adequate housing, including the costs of labor and materials, taking into account factors including household size, culture and location.

²³ Payment of cash compensation for lost land and other assets may be appropriate where: (a) livelihoods are not land-based; (b) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual land is economically viable; or (c) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing.

	Footnote 23 of ESS5 (original text) has been deleted. (The footnote reads: “Relocation of informal settlers in urban areas may involve trade-offs. For example, the relocated families may gain security of tenure, but they may lose locational advantages that may be essential to livelihoods, especially among the poor or vulnerable.”) Such “trade offs” between two essential elements of the right to adequate housing should not occur. A suitable location that provides access to economic opportunities and security of land tenure are the two most important determinative factors of successful resettlement and both must be ensured.	the loss of assets other than land, such as dwellings and other improvements to the land, at replacement cost plus any supplementary amount necessary to ensure access to adequate housing. ²⁴ Based on consultation with such displaced persons, the Borrower will provide relocation assistance in lieu of compensation for land sufficient for them to restore, or in the case of poor and vulnerable affected persons, improve, their standards of living at an adequate alternative site. ²⁵
26	Under international human rights law, no one can be made homeless after an eviction. Access to alternative housing must be ensured. The alternative language requires that for households who settled in the project area after the cut-off date, the replacement cost of shelter will be provided to avoid homelessness. This would not provide any incentives to “opportunistic encroachers”, but would ensure that the project does not cause homelessness.	The Borrower will compensate households who encroach on the project area after the cut-off date for eligibility only at the replacement cost of their shelter to avoid homelessness, provided the cut-off date has been clearly established and made public in the manner described in paragraph 16.
27	Forced evictions, as defined in ESS5, are contrary to international human rights law in all cases. Basic due process protections should be provided even to persons who settle in the area after the cut-off date.	The Borrower will not resort to forced evictions ²⁶ of any persons in the project area.
28	The alternative language strengthens the requirement on the Borrower in relation to in situ options. (This paragraph was also moved to the section on project design, but could appear in two places to ensure due attention to the in situ option.)	As an alternative to displacement, the Borrower should consider negotiating in situ land development arrangements by which those to be affected may elect to accept a partial loss of land or localized relocation in return for improvements that will increase the value of their property after development. Any person not wishing to participate will be allowed to opt instead for full compensation and other assistance as required in this ESS.
29	The alternative language strengthens and clarifies	In the case of projects affecting livelihoods or income generation, the Borrower’s plan will

²⁴ Where the Borrower demonstrates that an affected person is a “squatter landlord” deriving substantial income from multiple illegal rental units, the compensation that would otherwise be available to such person for non-land assets under this paragraph may be reduced with the prior agreement of the Bank, to better reflect the objectives of this ESS.

²⁵ **Changes in location that may affect livelihood opportunities should be addressed in accordance with the principles of this ESS (see in particular paragraph 30 (c)).**

²⁶ As defined in footnote 5.

	<p>requirements on livelihood measures, which lacks detail in the ESS5 draft. These additional requirements are important to ensuring that World Bank projects adequately address economic displacement and meet ESS5 objectives. The alternative language also reflects the objective of treating resettlement as a development opportunity and improving (not merely restoring) the livelihoods of poor and vulnerable households, as explained above.</p>	<p>include measures to support affected persons to restore, or in the case of poor households, to improve, their incomes or livelihoods. The plan will establish the entitlements of affected persons and/or communities and will ensure that these are provided in a transparent, consistent, and equitable manner. The plan will also establish a range of appropriate measures for supporting poor economically displaced persons to improve their livelihoods and income-earning potential, and describe why these measures are expected to be effective, taking into account factors including their skill-base and capacities and local economic opportunities. The plan will incorporate arrangements to monitor the effectiveness of livelihood measures during implementation, as well as evaluation at regular intervals and once implementation is completed. The mitigation of economic displacement will be considered complete when the completion audit concludes that the adverse impacts of economic displacement have been addressed in a manner that is consistent with the objectives of this ESS, including through the provision of all of the compensation for which affected persons or communities are eligible, and the provision of appropriate and sufficient support to restore or, in the case of poor households, improve their livelihoods and living standards.</p>
30	<p>The alternative language reflects changes to scope and objectives explained above.</p>	<p>Economically displaced persons who face loss of assets or access to assets and productive resources will be compensated for such loss at replacement cost:</p> <p>...</p> <p>(c) Economically displaced persons who are without legally recognizable claims to land (see paragraph 6(c)) will be compensated for lost assets other than land (such as crops, irrigation infrastructure and other improvements made to the land), at replacement cost. Additionally, the Borrower will provide assistance in lieu of land compensation sufficient to provide such persons with a reasonable opportunity to reestablish suitable livelihoods elsewhere. The Borrower is not required to compensate or assist persons who encroach on the project area after the cut-off date for eligibility.</p>
31	<p>The alternative language strengthens and clarifies requirements on livelihood measures, which lacks detail in the ESS5 draft. These additional requirements are important to ensuring that World Bank projects adequately address economic displacement and meet ESS5 objectives. The alternative language also reflects the objective of treating resettlement as a development</p>	<p>Economically displaced persons will be provided with support that enhances their opportunities to restore, and in the case of poor persons, improve, their livelihoods, income-earning capacity, production levels, and standards of living.</p> <p>a) For persons whose livelihoods are land-based, options for replacement land that have a combination of productive potential, locational advantages, and other factors at least</p>

	<p>opportunity and improving (not merely restoring) the livelihoods of poor and vulnerable households, as explained above.</p>	<p>equivalent to that being lost will be offered. In exceptional circumstances, where it can be demonstrated that the provision of suitable replacement land is not possible,²⁷ or at the request of economically displaced persons, they will be compensated at replacement cost for land (and other lost assets);</p> <p>b) For persons whose livelihoods are natural resource-based and where project-related restrictions or reductions in access envisaged in paragraph 4(c) or (e) apply, measures will be implemented to either allow continued access to affected resources or to provide access to alternative resources with equivalent livelihood-earning potential and accessibility. Where common property resources are affected, benefits and compensation associated with natural resource usage will be collective in nature; and</p> <p>c) If it is demonstrated that replacement land or resources are unavailable, the Borrower will offer economically displaced persons options for alternative livelihood and income earning opportunities, such as credit facilities, skills training, business start-up assistance, employment opportunities, or cash assistance additional to compensation for assets. Cash assistance alone, however, frequently fails to provide affected persons with the productive means or skills to restore livelihoods and should be provided in combination with other support measures. The range of livelihood support measures will be appropriate to culture and gender, and suitable to the skills-base and capacities of affected persons, as well as to their location, for example, urban, rural, riparian or forested areas. Livelihood support measures, agreed to by affected persons and the Borrower, will be developed into a comprehensive livelihood support program that will commence well before activities causing adverse impacts on productive resources begin and continue until the objectives of this ESS5 are achieved.</p>
32	<p>Transitional support is necessary until displaced people's livelihoods have been restored, in order to avoid impoverishment.</p>	<p>Transitional support will be provided as necessary to all economically displaced persons, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living. Such support should continue to be provided until the livelihoods of displaced households are fully restored.</p>
34	<p>The alternative language reflects changes explained above.</p>	<p>The Borrower may request technical assistance from the Bank to strengthen Borrower capacity, or the capacity of other responsible agencies, for resettlement and livelihood support planning, opportunities for affected persons to share benefits from the project, implementation and monitoring. Such forms of assistance may include staff training, assistance in formulating new regulations or policies relating to land acquisition or other aspects of resettlement, financing for assessments or other investment costs associated</p>

²⁷ High values of equivalent land cannot be used to justify a decision not to provide replacement land.

		with physical or economic displacement, or other purposes.
35	When resettlement is addressed through a free-standing project, the requirements with respect to project design that ensure (i) the project is justified on general welfare grounds taking into account both intended benefits and displacement impacts and (ii) the exploration of alternatives to avoid and reduce displacement impacts, must be fulfilled. This is made clear in the alternative language. The alternative language also requires a free-standing project when displacement impacts are of a high magnitude and require complex, resource intensive and long-term mitigation measures. This will ensure that the full set of analytical, preparatory, supervision, monitoring and evaluation activities are effectively undertaken.	The Borrower may request the Bank to finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, including the fulfillment of requirements on project design (in paragraph 7) , processed and implemented in parallel with the investment that causes the displacement. For projects with significant and high-risk displacement impacts that will require complex, resource intensive and long-term mitigation and support measures to meet the objectives of this ESS, resettlement aspects should form a free-standing project. The Borrower may also request the Bank to finance resettlement even though it is not financing the main investment that makes resettlement necessary.

**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

	Current Bank Policies and Procedures (OP/BP 4.12)	New Draft Safeguards Framework	Dilution
Objectives			
1.	Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. (OP, para 2(b))	Omitted	The OP 4.12 objective to conceive and execute resettlement activities as a sustainable development program so displaced persons share in project benefits - central to the Bank's core mission and goals - has been omitted and replaced with a focus on compensation for lost assets. This is a significant regression in the Bank's approach to resettlement and goes against 30 years of empirical research, much of which has been commissioned and endorsed by the Bank, that shows that compensation without sustained development support cannot prevent impoverishment.
Scope			
2.	This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank, are (a) directly and significantly related to the Bank assisted project, (b) necessary to achieve its objectives as set forth in the project documents; and (c) carried out, or planned to be carried out, contemporaneously with the project (OP, para 4).	Omitted	There are many Bank-supported projects that do not <i>require</i> land acquisition or restrictions on access to land and natural resources, but in the course of implementation nonetheless result in displacement. These activities are currently covered by OP 4.12 para 4, but this has been removed from the draft ESS5 leaving many people that will be evicted and displaced due to Bank-financed projects wholly unprotected.
3.	The policy also does not apply to disputes between <u>private parties</u> in land titling projects. (OP, footnote 8).	This ESS does not apply to: ... land titling/ regularization activities. (ESS5, para 5 (d)).	While OP 4.12 does not apply to disputes between private parties in conjunction with Bank-financed land titling projects, the policy does apply (and has been applied in practice by the Bank) to displacement from public or State lands registered as such through a Bank-supported titling project. ESS5 would leave countless people vulnerable to forced evictions (without ESS5 protections) after they have been determined not to hold ownership rights under land registration schemes supported by the Bank. The experience of physical and economic displacement is identical whether it be as a result of land acquisition or an adjudication of tenure rights, and both

**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

			should be subject to the same protections.
4.	This policy does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc. (OP, footnote 8).	This ESS does not apply to: ... regulation or planning of natural resources or land use on a regional or national level to promote sustainability (ESS5, para 5 (e)).	Bank-supported projects that support regulation of land use have also been excluded from the scope of ESS5. This means that people who are evicted due to, for example, new zoning regulations, will also not be protected by ESS5. (As above.)
<i>Exploration of viable alternative designs to avoid or minimize displacement</i>			
5.	The [Bank task team] and borrower staff... (b) explore all viable alternative project designs to avoid, where feasible, or minimize displacement (BP, para 2(b)).	The Borrower will consider feasible alternative project designs to avoid or minimize land acquisition or restrictions on land use, especially where this would result in physical or economic displacement, while balancing environmental, social, and financial costs and benefits, and paying particular attention to impacts on the poor and vulnerable. (ESS5, para 7)	There is no requirement in the draft ESP for the Bank to work with borrowers to explore alternative project designs to avoid or minimize displacement. This is an abdication of the Bank's responsibilities for ensuring that displacement, which would not occur but for the Bank's support, is avoided in accordance with the requirements of international human rights law.
<i>Baseline surveys and Socioeconomic studies</i>			
6.	The findings of socioeconomic studies to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including (a) the results of a census survey covering (i) current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance; (ii) standard characteristics of displaced households, including a description of production systems, labor, and	...the Borrower will, as part of the environmental and social assessment, conduct a census to identify the persons who will be affected by the project, to establish an inventory of land and assets to be affected to determine who will be eligible for compensation and assistance and to discourage ineligible persons, such as opportunistic settlers, from claiming benefits. (ESS5, para 16).	The requirement for comprehensive household baseline data and other socio-economic studies, which is currently included in OP 4.12, Annex A is fully omitted. These requirements are indispensable to resettlement planning and must be maintained to ensure that affected people are not impoverished and that, at a minimum, they receive full restitution and are fully rehabilitated from all impacts suffered. They are also indispensable to evaluation, as recognized in BP 4.12 footnote 12. An honest evaluation of the extent to which objectives of ESS5 have been met will be impossible without this requirement.

**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

<p>household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population; (iii) the magnitude of the expected loss—total or partial—of assets, and the extent of displacement, physical or economic; (iv) information on vulnerable groups or persons as provided for in OP 4.12, para. 8, for whom special provisions may have to be made; and (v) provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.</p> <p>(b) Other studies describing the following (i) land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, nontitle-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the project area; (ii) the patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project; (iii) public</p>	<p>The environmental and social assessment will be based on...environmental and social baseline data at an appropriate level of detail sufficient to inform characterization and mitigation. (ESS1, para 22).</p>	
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**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

	<p>infrastructure and social services that will be affected; and (iv) social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities (OP, Annex A, para 6).</p> <p>The ICR's assessment of the extent to which resettlement objectives were realized is normally based on a socioeconomic survey of affected people conducted at the time of project completion, and takes into account the extent of displacement, and the impact of the project on the livelihoods of displaced persons and any host communities. (BP, footnote 12).</p>		
<i>Resettlement Planning, Due Diligence and Appraisal</i>			
7.	<p>As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the</p>	<p>The Borrower will develop and adopt an ESCP, which will set out measures and actions required for the project to achieve compliance with the ESSs over a specified timeframe. The ESCP will be agreed with the Bank and will form part of the legal agreement (ESS1, para 34).</p> <p>The Bank's due diligence responsibilities will include, as</p>	<p>The requirement in OP/BP 4.12 for a comprehensive, policy-compliant resettlement instrument to be submitted as a condition of appraisal and as a key determinant of Bank support for the project has been deleted. This critical due diligence requirement has been a core obligation of the World Bank since the adoption of its first resettlement policy in 1980.</p> <p>The draft only requires an undefined Environmental and Social Commitment Plan (ESCP), coupled with extremely vague due diligence requirements upon the Bank, none of which are specific to managing the devastating social risks of resettlement.</p> <p>By contrast, under the current BP 4.12, the Bank conducts an extensive review of the resettlement instrument as part of its due diligence and does not complete its appraisal until it is satisfied that the draft resettlement instrument</p>

**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

<p>public through its InfoShop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner (OP, para 22).</p> <p>For projects with impacts under para 3 (a) of OP 4.12, the TT assesses the following during project preparation:</p> <p>(a) the extent to which project design alternatives and options to minimize and mitigate involuntary resettlement have considered; (b) progress in preparing the resettlement plan or resettlement policy framework and its adequacy with respect to OP 4.12, including the involvement of affected groups and the extent to which the views of such groups are being considered, (c) proposed criteria eligibility of displaced persons for compensation and other resettlement assistance; (d) the feasibility of the proposed resettlement measures, including provisions for sites if needed; funding for all resettlement activities, including provision of counterpart funding on an annual basis; the legal framework and implementation and monitoring arrangements; and (e) if sufficient land is not available in projects involving displaced persons whose livelihoods are land-based and for whom a land-based resettlement strategy is the preferred option, the evidence of adequate land... (BP, para 5).</p>	<p>appropriate: (a) reviewing the information provided by the Borrower relating to the environmental and social risks and impacts of the project, and requesting additional and relevant information where there are gaps that prevent the Bank from completing its due diligence... The Borrower is responsible for ensuring that all relevant information is provided to the Bank so that the Bank can fulfill its responsibility to undertake environmental and social due diligence in accordance with this Policy (ESP, para 29).</p> <p>The Bank recognizes that projects may have different levels of information regarding the environmental and social risks and impacts available at the time the Bank carries out its due diligence. In such circumstances, the Bank will assess the risks and impacts of the proposed project based on the information that is available to the Bank, together with an assessment of: (a) the risks and impacts inherent to the type of project and the specific context in which the proposed project will be developed and implemented; and (b) the capacity and commitment of the Borrower to develop and</p>	<p>is capable of restoring and improving the livelihood of those displaced.</p> <p>This wholesale gutting of resettlement appraisal requirements represents a very dangerous dilution and effectively exonerates the Bank from responsibility vis-à-vis the consequences of the forced displacement that it enables through its lending. These include: social and economic exclusion, sudden joblessness, homelessness, marginalization, and impoverishment of millions of displaced people. These pathological effects are financed by the WB, but their avoidance and mitigation is now left to the borrower's discretion.</p> <p>It should also be noted that OP 4.12 includes an annex describing the elements of a resettlement plan, which provides an essential framework to ensure that borrowers prepare a comprehensive plan. These requirements have also been completely omitted from the draft ESS5.</p>
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**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

<p>The borrower submits to the Bank a resettlement plan, a resettlement policy framework, or a process framework that conform with the requirements of <u>OP 4.12</u>, as a condition of appraisal for projects involving involuntary resettlement (see <u>OP 4.12, paras. 17-31</u>)... (BP, para 8).</p> <p>Once the borrower officially transmits the draft resettlement instrument to the Bank, Bank staff--including the Regional resettlement specialists and the lawyer--review it, determine whether it provides an adequate basis for project appraisal, and advise the Regional sector management accordingly... (BP, para 9)</p> <p>During project appraisal, the TT assesses (a) the borrower's commitment to and capacity for implementing the resettlement instrument; (b) the feasibility of the proposed measures for improvement or restoration of livelihoods and standards of living; (c) availability of adequate counterpart funds for resettlement activities; (d) significant risks, including risk of impoverishment, from inadequate implementation of the resettlement instrument; (e) consistency of the proposed resettlement instrument with the Project Implementation Plan; and (f) the adequacy of arrangements for internal, and if considered</p>	<p>implement the project in accordance with the ESSs. The Bank will assess the significance of the gaps in information, and the potential risk this may present to achieving the objectives of the ESSs. The Bank will reflect this assessment in the relevant project documents at the time the proposed financing is submitted for approval (ESP, para 30).</p> <p>The Bank will assist the Borrower in developing an ESCP. The ESCP will set out the material measures and actions required for the project to achieve compliance with the ESSs over a specified timeframe. The ESCP will form part of the legal agreement. The legal agreement will include, as necessary, obligations of the Borrower to support the implementation of the ESCP (ESP, para 39).</p>	
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**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

	<p>appropriate by the TT, independent monitoring and evaluation of the implementation of the resettlement instrument. The TT obtains the concurrence of the Regional social development unit and LEG to any changes to the draft resettlement instrument during project appraisal. Appraisal is complete only when the borrower officially transmits to the Bank the final draft resettlement instrument conforming to Bank policy (OP 4.12) (BP, para 10).</p> <p><i>See also BP paras 2, 3, 11, and 12.</i></p>		
Information Disclosure and Consultation			
8.	<p>... Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs (OP, para 2 (b)).</p> <p>The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives...(OP, para 6(a)).</p> <p>For impacts covered under para. 3(a) of this policy, the Bank also requires the following: (a) Displaced persons and their communities, and</p>	<p>The Borrower will engage with affected communities, including host communities, through the process of stakeholder engagement described in ESS10. Decision-making processes related to resettlement and livelihood restoration will include options and alternatives from which affected persons may choose, where applicable (ESS5, para 14).</p> <p>If people living in the project area are required to move to another location, the Borrower will: (a) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash</p>	<p>While the new draft framework contains a standalone standard on “stakeholder engagement,” the provisions for information disclosure, consultation and participation of displaced persons regarding resettlement planning, implementation and monitoring have been diluted.</p> <p>The new draft removes any reference to informing displaced persons about their rights pertaining to resettlement. It significantly dilutes the language in the current policy regarding the provision of choices among resettlement alternatives to affected people, apparently leaving the displaced to choose only between cash compensation or alternative housing. Other choices that are required in OP 4.12 Annex A, including those related to forms of compensation and resettlement assistance, relocation as individuals or as part of pre-existing communities, and the retention of access to cultural property, have been omitted from ESS5 and ESS10.</p> <p>Finally, there is no requirement in ESS10 to actually take the views of affected people into account; borrowers are only expected to “incorporate feedback, where appropriate.” By contrast, in the current policy, borrowers must not only take the views of resettlers into account but they must document how they did so in the draft Resettlement Action Plan and the Bank task team must appraise whether this has been done satisfactorily, per the requirements of BP 4.12.</p>

**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

<p>any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement (OP, para 13(a)).</p> <p><i>Community participation</i> [will include:] Involvement of resettlers and host communities, including a description of the strategy for consultation with and participation of resettlers and hosts in the design and implementation of the resettlement activities; (b) a summary of the views expressed and how these views were taken into account in preparing the resettlement plan; (c) a review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individuals families or as parts of preexisting communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage centers, cemeteries) (OP, Annex A, para 15).</p> <p>For projects with impacts under para 3 (a) of OP 4.12, the TT assesses... progress in preparing the resettlement plan or</p>	<p>compensation...(ESS5, para 23(a)).</p> <p>Disclosure of relevant project information helps stakeholders understand the risks, impacts and opportunities of the project. If communities may be affected by environmental or social impacts from the project, the Borrower will provide them with access to the following information: (a) The purpose, nature and scale of the project; (b) The duration of proposed project activities; (c) Any risks to and potential impacts on communities and proposed mitigation plans; (d) The envisaged stakeholder engagement process, if any, and opportunities and ways in which stakeholders can participate; (e) The time and venue of any envisaged public consultation meetings, and the process by which meetings are notified, summarized, and reported; and (f) The process and means by which grievances are raised and managed (ESS10, para 10).</p> <p>Meaningful consultation is a two-way process that will: ... (c) Incorporate feedback, where appropriate... (f) Enable participation, where</p>	
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**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

	resettlement policy framework and its adequacy with respect to OP 4.12, including the involvement of affected groups and the extent to which the views of such groups are being considered (BP, para 5(b)).	applicable...(ESS10, para 19).	
Sub-projects			
9.	<p>For each subproject [including those deriving from sector investment operations, financial intermediary operations and all other Bank-assisted projects with multiple sub-projects) that may involve resettlement, the Bank requires that a satisfactory resettlement plan or an abbreviated resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before the subproject is accepted for Bank financing (OP, para 29).</p> <p>...The subproject-specific resettlement plan needs to include baseline census and socioeconomic survey information; specific compensation rates and standards; policy entitlements related to any additional impacts identified through the census or survey; description of resettlement sites and programs for improvement or restoration of livelihoods and standards of living; implementation schedule for resettlement activities; and detailed cost estimate (OP, Annex A, para 25).</p>	<p>For all projects involving the preparation and implementation of subprojects, the Borrower is responsible for classifying the subprojects, carrying out environmental and social assessment, and reviewing the results of such assessment. Where the Bank is not satisfied that adequate capacity exists on the Borrower's part, all High Risk subprojects, including the environmental and social assessment, will be subject to prior review and approval by the Bank (ESP, para 34).</p> <p>If the project involves the preparation of subprojects, the Borrower will carry out appropriate environmental and social assessment of each subproject in accordance with national law. Where subprojects are classified as High Risk, the environmental and social assessment will be consistent with ESSs 1 to 8 and ESS10. Borrowers will ensure that subprojects are structured to</p>	<p>Under the current Bank policy, all sub-projects that involve resettlement must comply with OP 4.12. Under the new policy, only sub-projects involving resettlement that are classified as <i>High Risk</i> must comply with ESS5. This means that projects that are classified as having <i>Substantial Risk</i> need not comply with ESS5 but only national regulations.</p> <p>It should be noted that these risk categories are undefined in the draft framework and that it is the Borrower (which may include <i>inter alia</i> rights-abusing governments or private equity funds), rather than the Bank, that classifies the level of risk of subprojects.</p> <p>Under the current policy, the Bank requires that a satisfactory resettlement plan, including baseline socioeconomic survey information, be submitted to the Bank for approval before the subproject is accepted for financing. Under the new framework, there is no requirement for the Borrower (which includes financial intermediaries) to submit resettlement plans to the Bank for prior approval, even for <i>High Risk</i> projects.</p>

**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

		<p>meet national regulatory requirements relating to environmental and social risks and impacts, and where subprojects are classified as High Risk, they are also structured to meet ESSs 1 to 8 and ESS10. Where deemed necessary by the Bank the Borrower will prepare an environmental and social management framework, to assist the Borrower in developing and implementing the subprojects (ESS1, para 29).</p>	
Monitoring and Supervision			
10.	<p>...The Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument... (OP, para 24).</p> <p>Recognizing the importance of close and frequent supervision to good resettlement outcomes, the Regional vice president, in coordination with the relevant country director, ensures that appropriate measures are established for the effective supervision of projects with involuntary resettlement. For this purpose, the country director allocates dedicated funds to adequately supervise resettlement, taking into account the magnitude and complexity of the resettlement component or subcomponent and the need to involve the requisite</p>	<p>...The Bank will monitor the environmental and social performance of the project in accordance with the requirements of the legal agreement, including the ESCP. The extent of Bank monitoring with respect to environmental and social performance will be commensurate with the potential environmental and social risks and impacts associated with the project. The Bank will monitor projects on an ongoing basis as required by OP 10.00 (ESP, para 46).</p> <p>During Project implementation, the Bank monitors the Borrower's or the Project Participants'</p>	<p>As with the front-end appraisal responsibilities, there is a major abdication of supervision responsibilities by the Bank in the new framework. Whereas OP/BP 4.12 recognized the "importance of close and frequent supervision to good resettlement outcomes," and includes detailed requirements upon the Bank to conduct robust supervision from the beginning of project implementation through completion, including an evaluation conducted by the Bank of the extent to which the objectives of the policy have been achieved, the draft ESS5 places all monitoring responsibilities upon the Borrower. The four paragraphs on supervision in the current BP 4.12 have been reduced to three sentences in the draft ESP and two sentences in the new OP 10.00, which are extremely vague, not specific to resettlement, and based on a review by the Bank of self-reporting by the Borrower.</p>

**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

<p>social, financial, legal, and technical experts. Supervision should be carried out with due regard to the Regional Action Plan for Resettlement Supervision (BP, para 13).</p> <p>Throughout project implementation the TL supervises the implementation of the resettlement instrument ensuring that the requisite social, financial, legal, and technical experts are included in supervision missions. Supervision focuses on compliance with the legal instruments, including the Project Implementation Plan and the resettlement instrument, and the TT discusses any deviation from the agreed instruments with the borrower and reports it to Regional Management for prompt corrective action. The TT regularly reviews the internal, and where applicable, independent monitoring reports to ensure that the findings and recommendations of the monitoring exercise are being incorporated in project implementation. To facilitate a timely response to problems or opportunities that may arise with respect to resettlement, the TT reviews project resettlement planning and implementation during the early stages of project implementation. On the basis of the findings of this review, the TT engages the borrower in discussing and, if necessary, amending the relevant resettlement instrument to</p>	<p>compliance, with its (or their) obligations as set out in the legal agreements with the Bank. The Bank also provides implementation support to the Borrower or the member country by reviewing information on implementation progress, progress towards achievement of the Project's development objectives and related results, and updates the risks and related management measures (OP 10.00, para 21).</p> <p>In providing implementation support, the Bank pays particular attention to reviewing the monitoring by the Borrower or Project Participant(s) of the performance of the Project and compliance with contractual undertakings. The Bank periodically assesses the Project, and reviews the monitoring by the Borrower or Project Participant(s) of results, risks, and implementation status, updating Project information and identifying follow-up actions needed as appropriate (BP 10.00, para 40).</p>	
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**Forced Displacement, Resettlement, Land Acquisition and Restrictions on Land Use
Major Dilutions Matrix**

<p>achieve the objectives of this policy (BP, para 14).</p> <p>A project is not considered complete--and Bank supervision continues--until the resettlement measures set out in the relevant resettlement instrument have been implemented. Upon completion of the project, the Implementation Completion Report (ICR) evaluates the achievement of the objectives of the resettlement instrument and lessons for future operations and summarizes the findings of the borrower's assessment referred to in <u>OP 4.12, para. 24</u>. If the evaluation suggests that the objectives of the resettlement instrument may not be realized, the ICR assesses the appropriateness of the resettlement measures and may propose a future course of action, including, as appropriate, continued supervision by the Bank (BP, para 16).</p>		
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