

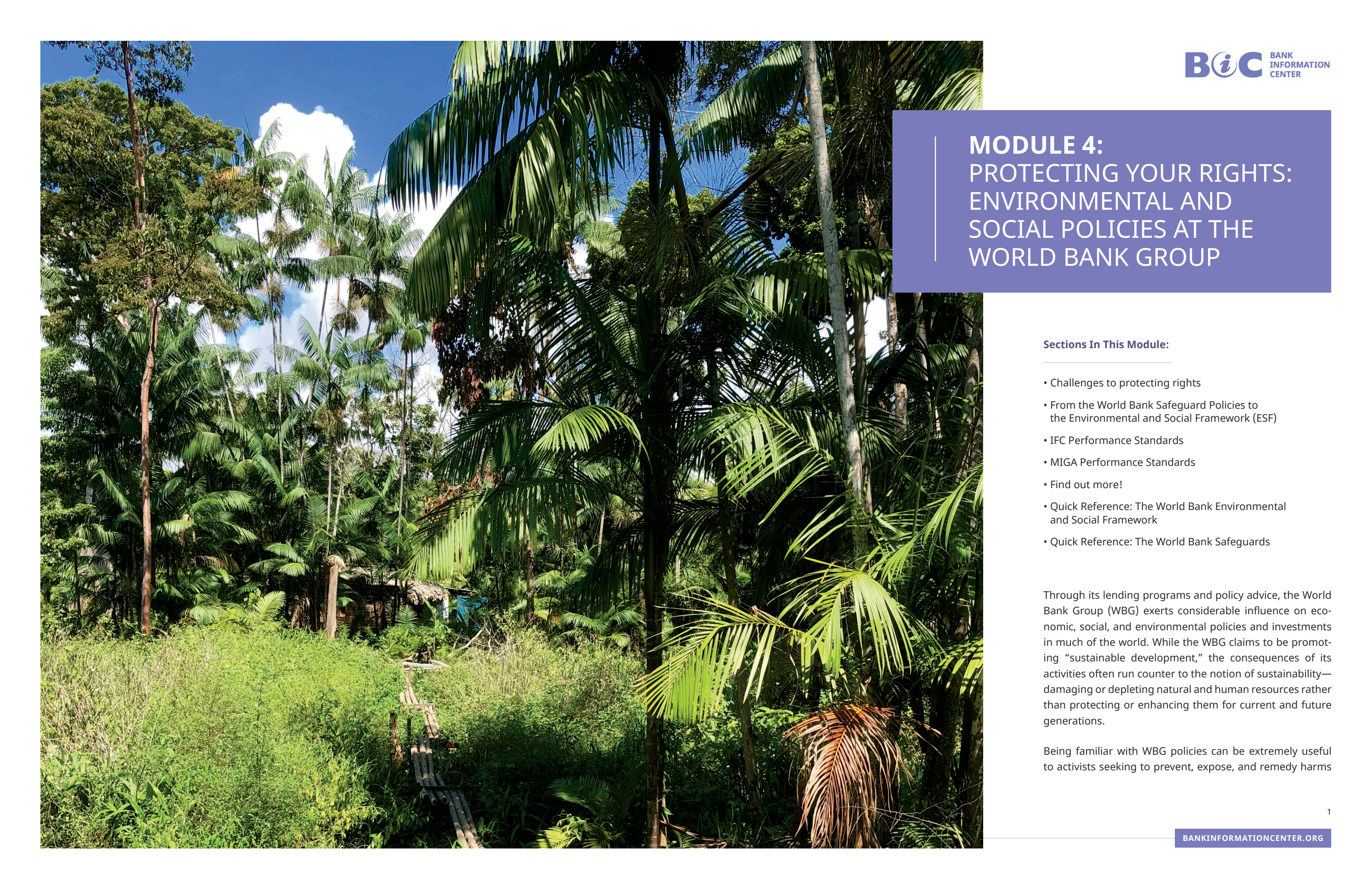


BANKINFORMATIONCENTER.ORG



MODULE 4: PROTECTING YOUR RIGHTS: ENVIRONMENTAL AND SOCIAL POLICIES AT THE WORLD BANK GROUP



A lush tropical forest with tall palm trees and dense green foliage under a blue sky with white clouds. A dirt path leads through the undergrowth in the foreground.

MODULE 4: PROTECTING YOUR RIGHTS: ENVIRONMENTAL AND SOCIAL POLICIES AT THE WORLD BANK GROUP

Sections In This Module:

- Challenges to protecting rights
- From the World Bank Safeguard Policies to the Environmental and Social Framework (ESF)
- IFC Performance Standards
- MIGA Performance Standards
- Find out more!
- Quick Reference: The World Bank Environmental and Social Framework
- Quick Reference: The World Bank Safeguards

Through its lending programs and policy advice, the World Bank Group (WBG) exerts considerable influence on economic, social, and environmental policies and investments in much of the world. While the WBG claims to be promoting “sustainable development,” the consequences of its activities often run counter to the notion of sustainability—damaging or depleting natural and human resources rather than protecting or enhancing them for current and future generations.

Being familiar with WBG policies can be extremely useful to activists seeking to prevent, expose, and remedy harms

related to WBG operations, and to communities working to assert their rights in the context of development decisions that affect them.

Challenges to protecting rights

Projects that build roads, dams, and power plants, finance mining and other natural resource extraction, and promote large-scale agricultural development can harm the environment, often irreversibly. In many cases these projects displace people and negatively affect their livelihoods. Bank-sponsored policy reforms—such as cuts in government subsidies to cotton farmers, privatization of drinking water services, or changes to investment regulations that make it easier for private companies to acquire land—may also cause serious social and environmental harm.

Local communities have long fought to protect their rights from the negative impacts caused by loans from international financial institutions (IFIs). Civil society groups have often sought protection through international human rights law and conventions, their own governments and courts, and the institutions themselves.

In light of inadequate protections afforded by national laws and difficulties in enforcing international environmental, social, and human rights standards, civil society groups demanded that the WBG—as a global public institution—adopt its own binding social and environmental standards that would apply regardless of variations in national laws and regulations in the countries where it operates. Since the late 1970s, the World Bank (IBRD/IDA) has approved a range of internal policies that are intended to guide the selection and design of the projects and policy reforms it supports. In the 1990s, the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA) followed suit and introduced internal policies largely based on those endorsed by the World Bank, though tailored to their private sector operations.

Evolution: From the World Bank Safeguard Policies to the Environmental and Social Framework (ESF)

In 1998, the World Bank grouped ten of its key environmental and social policies into a set of “Safeguard Policies” which

NOT BOUND BY HUMAN RIGHTS?

The World Bank Group is not a formal “party” to international human rights conventions, and thus asserts that it does not hold specific human rights obligations, even though nearly all its member governments are signatories to the main rights conventions. Civil society groups and academics continue to challenge the WBG to formally recognize its human rights obligations as an international organization and to uphold human rights in its lending operations.

IMMUNITY AND THE BANK

The Bank’s Articles of Agreement limit legal actions that a member country can take against the Bank. Furthermore, the Bank demands that member countries adopt legislation that provides the institution and its staff members a wide degree of immunity from prosecution in national courts. While the U.S. Supreme Court has rejected the WBG’s claims of absolute immunity in the *Budha Ismail Jam, et al. v. IFC* case, there are still significant barriers for communities affected by its lending operations to legally challenge the WBG and other IFIs.

The Quick Reference Guides at the end of this Module summarize key provisions of the Bank’s ESF and Safeguards. For additional information, please visit: <https://projects.worldbank.org/en/projects-operations/environmental-and-social-policies>.

WHO DOES THE BANK DEFINE AS “DISADVANTAGED AND VULNERABLE”?

The World Bank Directive on Addressing Risks and Impacts on Disadvantaged and Vulnerable Individuals or Groups specifies that “disadvantaged and vulnerable” refers to “those individuals or groups who, by virtue of, for example, their age, gender, ethnicity, religion, physical, mental or other disability, social, civic or health status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or dependence on unique natural resources, may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project’s benefits.”

Individuals/groups considered “disadvantaged and vulnerable” can vary depending on the country context, so it is important for civil society to advocate to include other individuals/groups not captured by this list who might be marginalized in a country. This is simply the list of individuals/groups the Bank is required to look at the impact of projects on.

together are designed to provide the environment and vulnerable populations some minimum protections from the negative impacts of Bank-financed operations. The Safeguard Policies created mandatory standards and procedures that the borrowing government and the Bank must follow when preparing and implementing Bank-financed investment projects. For example, the environmental assessment safeguard required that a project’s potential impacts must be analyzed and that project-affected communities must be consulted before the project is approved.

Beginning in 2012, the World Bank undertook a five-year review process to update and streamline the Safeguard Policies that had been in place for decades. This review process included global consultations with civil society. The process resulted in the creation of the World Bank Environmental and Social Framework (ESF), which applied to all new World Bank investment lending starting on October 1, 2018. Projects that existed prior to October 1 have continued to use the earlier Safeguard Policies. As a result, the Bank expects the Safeguard Policies and the ESF to co-exist until at least 2025. It is important for civil society and project-affected people to find out as much as possible about a project’s timeline so that they know whether the Safeguard Policies or the ESF applies to the project.

The ESF consists of:

- Environmental and Social Policy (ESP): Overarching policy statement that lays out World Bank due diligence requirements;
- World Bank Directive on Addressing Risks and Impacts on Disadvantaged and Vulnerable Individuals or Groups: Directive that provides direction for World Bank staff on identification and mitigation of increased risks to groups and individuals who might be more likely to be adversely affected by project impacts or more limited than others in their ability to take advantage of project benefits due to their particular circumstances;
- Environmental and Social Standards (ESSs): Ten standards covering different topic areas that must be applied by the borrower in each project;

- Guidance Notes: Non-binding guidance for borrowing governments on the implementation of the ESSs.
- Good Practice Notes: Non-binding notes for borrowing governments with best practice guidance on specific issues such as gender, third party monitoring, non-discrimination and disability, sexual orientation and gender identity, and use of security forces.

What does the ESF do?

The ESF updated the Safeguard Policies and developed a new set of requirements to ensure that development projects financed by the World Bank do not harm people or the environment, or discriminate against marginalized groups. Country governments borrowing from the World Bank to finance development projects must adhere to the standards laid out in the ESF as a condition of financing. The ESF's standards cover a number of areas, including safe labor and working conditions, natural habitats, and project stakeholder engagement.

What are the safeguard policies and the ESF important civil society groups?

The Safeguard Policies and ESF establish minimal procedural rights and important opportunities for participation and access to information. If communities believe a project is not in compliance with the Bank's policies, they can lodge complaints to the Bank's independent accountability mechanism, the Inspection Panel (See Module 5 for more information about the Inspection Panel).

What are the differences between the ESF and safeguard policies?

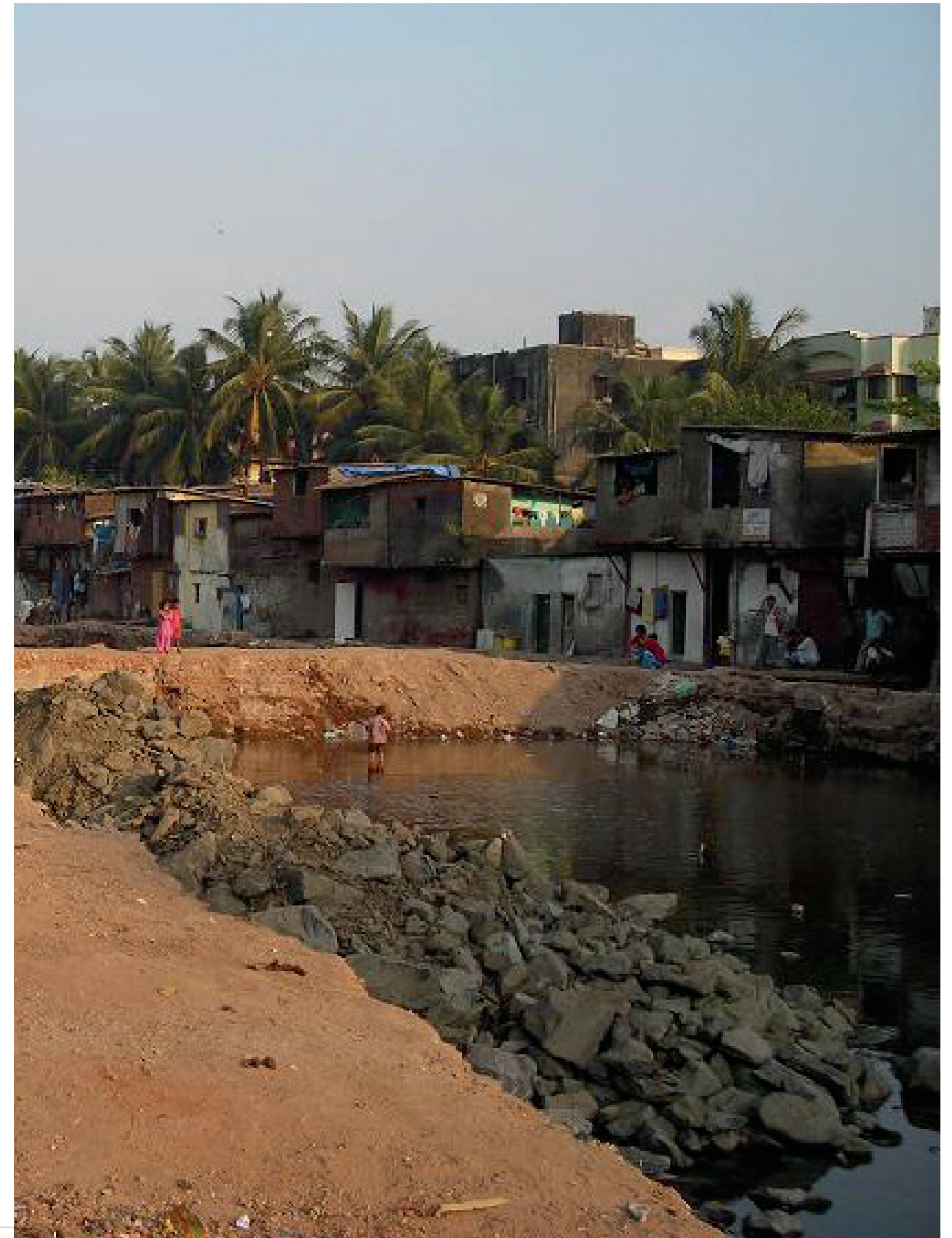
Because the ESF and Safeguard Policies will co-exist for a number of years due to the number of older projects that apply the Safeguard Policies, it is useful to understand the key differences between the two.

The new Framework differs from the previous Safeguard Policies in both structure and content. In terms of content, the new Framework covers several areas that were not in the old Safeguards and expands coverage of social issues that had not been previously addressed or included. For

THE IMPORTANCE OF ESS10

While all of the environmental and social standards are important for safeguarding people and the environment in World Bank-financed projects, ESS10 can be an opportunity for concerned groups to raise a range of issues and engage in the development process.

ESS10 is meant to ensure the engagement of all stakeholders in each phase of the project from inception through implementation and monitoring, and ending with the closure and decommissioning of the project. ESS10's requirements provide entry points for stakeholders to be engaged, including having access to information, venues to provide input and receive feedback, and access to grievance redress. ESS10 requires that the borrower provide details on how each of these three categories will be satisfied in ways that fit the nature and scale of the project and also the characteristics of the stakeholders. For more information on ESS10, see the Quick Reference section at the end of this chapter.



example, the ESF includes language on protections related to gender and adds a new standard on Labor and Working Conditions as well as on Stakeholder Engagement and Information Disclosure. The ESF also includes a new Directive for Bank staff on the consideration of disadvantaged and vulnerable groups. Civil society broadly welcomed the inclusion of social issues where there had previously been gaps in the coverage of the Safeguard policies, but continues to express concerns about whether the Bank is sufficiently investing in building capacity and expertise to cover these new issues.

The structure of the Framework differs from the Safeguard Policies in that there has been a significant shift in responsibility for implementing the ten ESSs from the Bank to borrowing governments. The Bank's role has transitioned toward conducting due diligence before agreeing to finance a particular project, and then supervising, monitoring, and evaluating the project during its design and implementation. Civil society continues to voice serious concerns that shifting responsibilities of implementation to borrowers will lead to a weakening of the social and environmental protections that prevent harm in Bank-financed projects. Civil society is also concerned about greater flexibility in the language and requirements in the new ESF.

The ESF as leverage

Like the Safeguard Policies, the Bank's ESF provides critical leverage points for local communities. These environmental and social protections are written into loan agreements, converting Bank policy into a legal obligation of the borrower. Specific requirements in the new ESF guarantee civil society, communities, and the general public's access to project information and provide openings to give input to project teams about projects in which they have an interest. Where local authorities are reluctant to uphold these commitments, communities can turn to the Bank as another means of applying pressure to assert their rights.

Does the ESF apply to all the Bank's operations?

The Bank's ESF (and Safeguard Policies) only apply to its investment project financing—which funds projects such as the construction of public works, industrial development schemes, agriculture programs, natural resource

THE ESF AND POLICY LENDING

Development policy lending—the Bank's instrument for supporting government policy reforms—may cause significant social and environmental impacts. Deflecting calls from civil society to apply rigorous social and environmental review requirements to its policy lending, the Bank adopted a vague operational policy (OP 8.60) that leaves it largely up to Bank staff to determine how extensively to examine potential impacts of proposed policy loans. The policy requires the Bank to determine if policy lending will likely cause "significant poverty and social consequences" or "significant effects on the country's environment, forests, and other natural resources." If such impacts are likely, the Bank is to assess how well a borrowing country's own laws and regulations will reduce such adverse effects and is to propose how any shortcomings are to be addressed. The policy fails to provide more specificity, and does not require the Bank to avoid severe impacts.

The absence of more rigorous environmental and social protections for policy lending does not mean that civil society must remain silent about the consequences of Bank-supported reforms on people and environment. Citing Bank violations of other internal policies, such as those regarding supervision and poverty reduction, activists have raised concerns and filed complaints about policy loans to the World Bank's Inspection Panel (see Module 5). Civil society also continues to push for the Bank to apply stronger social and environmental standards its policy lending operations. To access a complete set of the World Bank's internal policies governing its operations, visit the Bank website at: <https://policies.worldbank.org/sites/ppf3/Pages/Manuals/Operational%20Manual.aspx>

STEPS TO SEEKING REDRESS

When an individual or group feels that their rights have been violated, they should seek redress as early as possible. If local authorities are unresponsive, groups should review the measures agreed to between the Bank and the borrower (contained in locally available project documents such as the environmental assessment) and complain to the Bank as early as possible. The Bank staff in charge of a project, such as the Task Team Leader, may have significant influence, particularly in the early stages. If the Task Team Leader ignores local complaints, groups should "move up the ladder," communicating directly to the Bank's Country Director. Groups may also wish to contact the Executive Director representing their country on the Bank's Board, or appeal to supportive non-governmental organizations in Northern countries that could relay the complaints to their country's Executive Directors at the Bank. If complaints remain unanswered, local groups may wish to consider filing a formal complaint with the Bank's Inspection Panel as well as seeking legal action in local, national or international courts. Groups should document all actions taken to seek redress. See Module 5 for more information.

extraction, or support to government education and health programs. It does not apply to the Bank's development policy lending for reform of national laws, regulations, or institutions, even though policy reforms can cause significant social and environmental impacts. The Bank has developed a separate policy regarding social and environmental reviews of policy loans, with fewer requirements for due diligence and supervision. The ESF also does not apply to the Bank's results based lending instrument, called Program for Results.

What are some of the main problems with the ESF and Safeguards?

Numerous problems exist with the safeguard policies, including the following:

- The policies often fall short of leading international rights and standards that could provide stronger protections to affected communities.
- The policies do not cover the entire range of social and environmental impacts caused by Bank-financed projects.
- The policies apply only to Bank investment lending operations but not Development Policy Lending or Program for Results.
- The Bank and borrower often do not comply with all of the policy provisions.

IFC Performance Standards

The IFC provides financing and a range of services directly to private sector clients conducting business in developing countries. Many IFC loans have supported companies engaged in activities that cause significant social and environmental impacts, such mining, oil and gas pipelines, and pulp and paper mills, among others.

The IFC's environmental and social policies were updated in 2012 to adopt the Sustainability Framework which consists of the Policy on Environmental and Social Sustainability, the Performance Standards, and the Access to Information Policy. The IFC Performance Standards, which define clients' responsibilities for managing environmental and social risks, have been globally recognized as a benchmark for environmental and social risk management in the private sector.

The eight Performance Standards are:

- Performance Standard 1: Assessment and management of environmental and social risks and impacts;
- Performance Standard 2: Labor and working conditions;
- Performance Standard 3: Resource efficiency and pollution prevention;
- Performance Standard 4: Community health, safety, and security;
- Performance Standard 5: Land acquisition and involuntary resettlement;
- Performance Standard 6: Biodiversity conservation and sustainable management of living natural resources;
- Performance Standard 7: Indigenous peoples; and
- Performance Standard 8: Cultural heritage.

Why the change in approach and what has it meant for affected people?

The IFC recognized that it needed to adopt policies that are more outcome-oriented and provide clearer guidance for private sector clients. In the process, the IFC put in place a set of standards (“Performance Standards”) that are considerably more flexible than its former Safeguard Policies. Over time, there have been some improvements in the Performance Standards, such as more rigorous consultation requirements overall, such as the change from “Free, Prior, Informed Consultation” with Indigenous Peoples in its 2006 version to “Free, Prior, Informed Consent” in 2012. Furthermore, the 2012 Performance Standards apply to a greater number of IFC investments, whereas the 2006 version only applied to IFC’s project finance investments. Nonetheless, IFC still relies heavily on client-generated information and self-monitoring by the private sector, raising questions about the independence and objectivity of impact reporting and the comprehensiveness of compliance and mitigation measures. Despite the IFC’s aim to demonstrate its leadership with the Performance Standards, civil society continues to identify weaknesses in the Performance Standards and the failure of the IFC and its clients to adhere to them.

For more information on the IFC’s Performance Standards, see: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards.

For more information on MIGA’s Performance Standards, see: <https://www.miga.org/environmental-social-sustainability>.

Communities can contact the Compliance Advisor Ombudsman (CAO), the independent accountability mechanism for the IFC/MIGA, with complaints about adverse environmental and social impacts of IFC’s operations when it fails to comply with these policies. See Module 5 for more information.

A shift with global implications

The revamping of IFC’s policies has had far-reaching implications. Not only does the IFC influence other financial institutions through its own lending and investment activities (which often involve other banks known as financial intermediaries), but it also wields significant influence over the more than 100 lending institutions (primarily commercial banks) that have pledged to uphold the IFC’s social and environmental standards in their own project lending. Known as the “Equator Principles,” these standards are based on the Performance Standards, providing the IFC even greater leverage to influence the ways that other lenders treat environmental and social risks and impacts.

MIGA Performance Standards

The private insurance arm of the World Bank Group, MIGA, adopted environmental assessment and disclosure policies in 1999, pledging that its projects would also comply with the IFC Safeguards in effect at that time. Since then, MIGA has developed its own social and environmental policies, updating them in 2007 and 2013. MIGA’s current Policy on Environmental and Social Sustainability and its Performance Standards apply to all investment guarantees since October 1, 2013. Much like those of the IFC, MIGA’s Performance Standards cover the following issues:

- Performance Standard 1: Assessment and management of environmental and social risks and impacts;
- Performance Standard 2: Labor and working conditions;
- Performance Standard 3: Resource efficiency and pollution prevention;
- Performance Standard 4: Community health, safety, and security;
- Performance Standard 5: Land acquisition and involuntary resettlement;

- Performance Standard 6: Biodiversity conservation and sustainable management of living natural resources;
- Performance Standard 7: Indigenous peoples; and
- Performance Standard 8: Cultural heritage.

The purpose of these policies is to help MIGA and its clients to manage and improve their environmental and social performance. However, given that the volume of MIGA's business is the smallest of the WBG, the impacts of its insurance and investment guarantee operations are less known and frequently come under less scrutiny than those of the World Bank and IFC. Nonetheless, MIGA has experienced notable growth in recent years, so it is important for civil society to be aware of MIGA's environmental and social policies and remain vigilant with respect to MIGA's operations.

Communities can contact the Compliance Advisor Ombudsman (CAO), the independent accountability mechanism for the IFC/MIGA, with complaints about the adverse environmental and social impacts of MIGA's operations when it fails to comply with these policies. See Module 5 for more information.

In Brief!

- Although the World Bank Group may seek to promote "sustainable development," its activities can also damage or deplete natural and human resources.
- Responding to international pressure, in 1998 the World Bank (IBRD/IDA) adopted the Safeguard Policies to guide the selection and design of projects and policies that it supports through its lending. After a five-year review process, the Bank adopted a system called the Environmental and Social Framework (ESF), which applied to new projects starting on October 1, 2018.

- The IFC and MIGA adopted their own Safeguard Policies, which evolved into the IFC's 2012 Performance Standards and MIGA's 2013 Performance Standards. These standards are fundamentally the same; they differ only to reflect each institution's distinct business model.
- Understanding these policies will equip you to prevent, expose, and remedy harms related to World Bank Group operations.

Find out more!

Resources from Civil Society Groups

- "Civil Society Guide to the World Bank's Environmental and Social Framework," Bank Information Center, 2019, https://bankinformationcenter.cdn.prismic.io/bankinformationcenter/b742a4fd-87d0-4315-98befee330dd8b10_Civil+Society+Guide+to+the+WB+ESF.pdf.
- "Community Guide to the International Finance Corporation," Inclusive Development International, 2017, <https://www.inclusivedevelopment.net/resources/tools/> (available in English, French, and Vietnamese).

Resources from the World Bank

- World Bank Environmental and Social Policies (including links to the Environmental and Social Framework (ESF) and Safeguards): <https://projects.worldbank.org/en/projects-operations/environmental-and-social-policies>.
- IFC Sustainability Framework (with links to its Access to Information Policy, Policy on Environmental and Social Sustainability, and Performance Standards): https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/sustainability+framework. MIGA Environmental and Social Sustainability (with links to its Policy on Environmental and Social Sustainability and Performance Standards), <https://www.miga.org/environmental-social-sustainability>.



QUICK REFERENCE: THE WORLD BANK ENVIRONMENTAL AND SOCIAL FRAMEWORK

The World Bank approved the new Environmental and Social Framework (ESF) in 2016 following a lengthy process of consultations and revisions that were undertaken to update the environmental and social Safeguard Policies. The ESF applies to all projects that the public sector arms of the Bank (IBRD and IDA) finance through the Investment Project Financing lending instrument.

The ESF consists of:

- Environmental and Social Policy (ESP): Overarching policy statement that lays out World Bank due diligence requirements;
- World Bank Directive on Addressing Risks and Impacts on Disadvantaged and Vulnerable Individuals or Groups: Directive that provides direction for World Bank staff on identification and mitigation of increased risks to groups and individuals who might be more likely to be adversely affected by project impacts or more limited than others in their ability to take advantage of project benefits due to their particular circumstances;
- Environmental and Social Standards (ESSs): Ten standards covering different topic areas that must be applied by the borrower in each project;
- Guidance Notes: Non-binding guidance for borrowing governments on the implementation of the ESSs.
- Good Practice Notes: Non-binding notes for borrowing governments with best practice guidance on specific issues such as gender, third party monitoring, non-discrimination and disability, sexual orientation and gender identity, and use of security forces.

ESS1: Assessment and Management of Environmental and Social Risks and Impacts

Requires that borrowers identify and manage environmental and social risks associated with a project, including through conducting an environmental and

social assessment during the project preparation stage. Projects are classified by the level of overall environmental and social risk using the Systematic Operations Risk-Rating Tool (SORT) which looks at a number of risk factors, and assigns an overall rating of High, Substantial, Moderate, or Low risk. Establishes a mitigation hierarchy which instructs borrowers first to anticipate and avoid risks and impacts; then to minimize or reduce risks and impacts to acceptable levels; then once risks and impacts have been minimized or reduced, mitigate; and finally, where significant residual impacts remain, compensate for or offset them. Instructs borrowers to ensure that project negative impacts do not fall disproportionately on those who might be disadvantaged or vulnerable, and to ensure that all groups have access to project benefits

ESS2: Labor and Working Conditions

Requires that borrowers ensure safe labor and working conditions in Bank-financed projects. Prohibits the use of forced or child labor in Bank-financed projects. Borrowers must provide a grievance mechanism for project workers, including sub-contracted workers.

ESS3: Resource Efficiency and Pollution Prevention and Management

Requires borrowers to promote the sustainable use of resources, including energy, water, and raw materials, while avoiding or minimizing adverse impacts on human health and the environment caused by pollution from project activities, project-related emissions of short and long-lived climate pollutants, generation of hazardous and non-hazardous waste, and risks and impacts associated with pesticide use. Requires borrowers to estimate gross GHG emissions, where feasible, and to apply World Bank Group's Environmental Health and Safety Guidelines and other Good International Industry Practice.



ESS5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

Defines the types of involuntary displacement (including economic displacement) that can result from development projects. Defines who borrowers must consider as impacted people by involuntary resettlement (including those who do not have formal claim to the land that they use or live on). Lays out a process for developing a Resettlement Action Plan for mitigating adverse impacts in projects where there are potential involuntary resettlement impacts.

ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources

Requires Borrowers to protect and conserve biodiversity and habitats, apply the mitigation hierarchy and the precautionary approach in the design and implementation of projects that could have an impact on biodiversity, and support livelihoods of local communities, including Indigenous Peoples, and inclusive economic development, through the adoption of practices that integrate conservation needs and development priorities. It includes requirements for legally protected, designated

or regionally/internationally recognized areas of high biodiversity value. It also includes provisions to prevent invasive alien species and requirements on animal husbandry and large-scale commercial farming. Primary suppliers of natural resource commodities are also required to meet sustainability requirements.

ESS7: Indigenous Peoples/Sub-Saharan African Historically Under-served Traditional Local Communities

Requires that borrowers conduct a Vulnerable Groups Framework for projects that could have an impact on indigenous peoples (and Sub-Saharan African Historically Under-served Traditional Local Communities). Projects that impact these groups can only proceed if free, prior, and informed consent (FPIC) is sought and received from these communities prior to the project commencing, and must be maintained through continuing provision of current project information and dialogue throughout the term of the project.

ESS8: Cultural Heritage

ESS8 requires Borrowers to protect cultural heritage from the adverse impacts of project activities and support its preservation, address cultural heritage as an integral aspect of sustainable development, promote meaningful consultation with stakeholders regarding cultural heritage, and promote the equitable sharing of benefits from the use of cultural heritage.

ESS9: Financial Intermediaries

Financial Intermediaries (FIs) are banks or other institutions that have their own lending/financing portfolio to finance development projects. ESS9 requires that when the World Bank provides funds to an FI, the FI must have in place environmental and social systems, and create an Environmental and Social Management System (ESMS). Requires that FIs engage with stakeholders, and disclose a summary of its ESMS.

ESS10: Stakeholder Engagement and Information Disclosure

Requires that borrowers identify all stakeholders of a project, including those who stand to benefit or are at

risk of facing negative impacts as a result of the project, with particular attention to vulnerable and disadvantaged groups. Requires borrowers to publicly disclose information about project risks and benefits in a language and manner understandable and accessible to project stakeholders. Instructs borrowers to develop a plan (laid out and made public in the Stakeholder Engagement Plan) to ensure that all stakeholders are informed and consulted on project risks and impacts throughout the project life cycle, and to establish an independent, accessible grievance mechanism and process for stakeholders to submit project-related complaints.

Why is ESS10 particularly useful for civil society and communities?

Stakeholder engagement policies can present entry points that enable communities and civil society organizations to engage in the development process. ESS10 is meant to ensure the engagement of all stakeholders in each phase of the project from inception through implementation and monitoring, and ending with the closure and decommissioning of the project. Throughout the project cycle, the borrower must report periodically on the implementation of all the policies governing the project, including the implementation of ESS10. ESS10's requirements provide entry points for stakeholders to be engaged. These entry points can be summed up in three main categories: access to information, venues to provide input and receive feedback, and finally grievance redress. ESS10 requires that the borrower provide details on how each of these three categories will be satisfied in ways that fit the nature and scale of the project and also the characteristics of the stakeholders.

What is the definition of stakeholders?

The World Bank divides project stakeholders into two main groups. Depending on the nature and scale of the project, these groups can be local, regional, or national. The two groups are:

1. Those who are directly affected, either positively or negatively, by the project, and/or their representatives. The borrower has the responsibility to verify that representatives truly represent and communicate with the affected communities they represent.

2. Those who are interested in the project. These groups can be government agencies, private sector entities, academia or non-governmental organizations (NGOs) who are concerned about the specific sector or issue the project focuses on or potential impacts of the project.

How and when are the stakeholders for a specific project identified?

Very early on in the project cycle, before the World Bank approves the project, the borrower must list and analyze each of the stakeholder groups, identify how each is affected, concerned about, or interested in the project, and the main characteristics of each group. Special attention should be given to the vulnerable and disadvantaged groups such as the elderly, women, children, minorities, indigenous populations, people with disabilities, LGBTQ, etc. In developing the list of stakeholders, and the analysis that accompanies it, the borrower can consult and discuss with different entities who are knowledgeable of the local and sector context, and also with representatives of the identified stakeholders. In high risk projects, the borrower can seek the help of an independent specialist to develop the entire analysis or parts of it.

Can anyone be engaged?

Anyone interested or who believes s/he might be impacted by the project can participate at any time, even if they have not been identified as stakeholders in the initial identification.

Where can I find details on each of the entry points for engagement in a specific project?

The borrower should develop a detailed plan to engage each of the identified stakeholder groups. This plan is called the **Stakeholder Engagement Plan (SEP)**. Besides the identification and analysis of the stakeholders, the SEP should provide details on what, how and when the borrower will communicate with each of these groups. The borrower is obliged to discuss the draft SEP with the stakeholders and get their input on the proposed engagement plans. The plan should be submitted to

the World Bank before the Bank approves the loan, and disclosed on the World Bank's website. As project circumstances and stakeholders' concerns change during the project cycle, the SEP is updated to reflect such changes.

The SEP should be made available to all stakeholders in a format and language that is understandable to, and through channels that are appropriate for, all stakeholder groups. The borrower should inform the stakeholders about the publication of the SEP and venues to access it including through Bank and government agency websites, social and formal media, radio, posters, etc.

What does the Stakeholder Engagement Plan (SEP) cover?

Meaningful engagement means that the parties involved have enough information to contribute informed views and receive feedback on the views they provide, and also have access to functional accountability mechanisms to report concerns or problems.

The SEP includes details on the type of information that should be shared with each of the identified groups, as well as the timing, format, language, and dissemination venue for that information. It also includes the different venues designed for each of those groups to provide input and receive feedback, such as through in person consultation meetings or online surveys.

The plan for engagement with each of the identified groups is unique to fit the specific characteristics, interests and concerns for each group. Special efforts should be made to engage with vulnerable and disadvantaged groups. For example, information shared with affected communities should be in their local language and in less technical terms; innovative ways should be designed to communicate with communities with low literacy level; sign language and braille should be used as needed; and locations for in person engagement/consultation should be accessible to accommodate persons with disabilities. Engagement should also be free of coercion and intimidation and that is why special arrangements should

¹ Depending on the nature and the scale of the risks and impacts of the projects, the elements of a SEP may be included as part of the Environmental and Social Commitment Plan (ESCP), which lays out all the activities and actions the borrower will implement to comply with all the 10 ESF standards with a clear time frame. This ESCP should be submitted to the Bank, and disclosed, before the Bank approves the loan, and is included in the official legal loan agreement between the Bank and the borrower.

be made to engage with groups who might be at risk or intimidated for cultural or political reasons such as women, children, elders, LGBTQI, indigenous, or other minorities. The detailed plans for engagement with each of these groups should be included in the SEP.

What project information should be disclosed to affected communities?

Before the Bank approves a project, the borrower should share information about the project, the potential risks, the measures to be taken to avoid or minimize the risks, including mitigation and compensation plans for risks that cannot be avoided. The borrower should also consult with the communities on these measures and plans. In addition, the borrower should share and discuss the draft SEP with affected communities. The input received from stakeholders and the feedback from the borrower should be reflected in the documents submitted to the Bank before the Bank approves the project. These documents should be made available to the communities to verify that they truly reflect the issues raised in the engagement process.

Depending on the nature and scale of the risks associated with the project, more formal points of engagement/consultations should be organized with affected communities throughout the project life cycle to provide updates and receive feedback on risk mitigation plans. High risk projects require more frequent and intensive consultation. Low and medium risk projects require at least two formal rounds of consultation, one during project preparation and another during project implementation. Consultations should also be arranged whenever new risks are identified.

In addition to details on how, when, and where consultations will take place, the SEP also details what information needs to be disseminated before each of these consultations, as well as the means of dissemination and means to announce the availability of the information. The SEP also includes details on how consultations will be documented.

Engagement should not be limited to formal consultations; it is a continuous process. Throughout the project's life cycle, the borrower should continue to share updates on the project and on the implementation of the risk mitigation and compensation plans. The borrower should set appropriate systems to make these updates available on a continuous basis and to receive and respond to requests for more information. The SEP will also include information about other channels of communication and engagement that allow the stakeholders to stay engaged, provide their inputs, and receive feedback.

What if the concerns raised by the communities are not addressed through these engagement channels?

The borrower should set in place a mechanism to receive and address complaints. The SEP should identify the entity in charge of receiving complaints and a detail a clear system and timeline to look into the complaints. The different ways to file a complaint should be clearly described in the SEP, along with how project stakeholders will be informed about the grievance mechanism. The SEP should also clarify the measures that should be taken to protect complainants from retaliation. Special measures should also be identified to facilitate access to the grievance mechanism by vulnerable and disadvantaged groups.

What if the grievance mechanism does not satisfactorily address a complaint?

The project grievance mechanism is not a substitute for the Bank's other accountability mechanisms. Community members who believe they are harmed by a project can still approach the World Bank's management or the Bank's independent Inspection Panel to look into their concerns.

QUICK REFERENCE: WORLD BANK SAFEGUARD POLICIES

ABCS OF BANK PROJECTS

Projects are categorized according to the degree of potential adverse social and environmental impacts:

- Category A: may cause "irreversible," diverse, or unprecedented damage
- Category B: impacts are site-specific and can be more readily mitigated than for Category A projects
- Category C: minimal or no adverse environmental impacts
- Category FI: for subprojects financed through financial intermediaries that may have negative impacts. For Category A and B projects, the borrower must consult with project-affected groups and local non-governmental organizations about project's environmental aspects and take their views into account. Borrower must (a) initiate consultations as early as possible; (b) for Category A projects, borrower consults groups at least twice (before terms of reference for the assessment are finalized and once a draft assessment report is prepared); (c) borrower consults affected groups throughout project implementation as necessary to address related issues.
- For all Category A and B projects borrower must provide relevant material in a timely manner prior to consultation and in a form and language that are understandable and accessible to the groups being consulted.

Newer projects have shifted to using a different categorization regime called the Systematic Operations Risk-Rating Tool (SORT) in which risk is classified as high, substantial, moderate, or low.

In 1998, the World Bank grouped ten of its key environmental and social policies into a set of "Safeguard Policies" which together are designed to provide minimal protections to the environment and vulnerable populations from negative effects of Bank-financed operations. The World Bank Safeguard Policies establish mandatory standards and procedures that the Bank and its borrowers must follow in preparing and implementing Bank-financed projects. The Safeguards apply to projects that reached the concept stage prior to October 1, 2018. Newer projects apply the Environmental and Social Framework. Because projects that were initiated under the Safeguard Policies will continue to apply these standards, it is important for civil society to be aware which policies apply to projects of interest, and the key provisions of the applicable policies.

Key provisions of the Bank's Safeguard policies are described below. Most of these policies are composed of Operational Policies (OP), that detail requirements that must be upheld by project implementers, and Bank Procedures (BP,) that list the procedures Bank staff must follow. The full text of these mandatory policies can be found on the Bank's website at www.worldbank.org/safeguards.

Environmental Assessment

OP/BP 4.01 (1999, Revised April 2013)

The "Environmental Assessment" policy is the "umbrella policy" through which potential social and environmental impacts are identified and mitigation measures proposed. The assessment process determines whether other safeguard policies (such as involuntary resettlement) apply. Although called the "environmental" assessment, impacts on human health and safety, involuntary resettlement, indigenous peoples, and physical cultural resources are all to be assessed as well.

- The Bank screens projects to identify potential impacts early in the project cycle and categorizes projects according to level of impacts. Different categories trigger varying requirements regarding pre-project studies, participation, and information disclosure.
- The borrower conducts an assessment. Identified impacts are to be avoided or minimized and project alternatives are to be examined. The borrower assesses not only the impacts of immediate the project area, but the project's "area of influence" (e.g., access roads, power lines, pipelines) as well as unplanned developments (spontaneous settlements, logging, etc.) induced by the project.
- The assessment contains appropriate mitigation measures to offset potential negative social and environmental impacts.
- The Bank should not (or cannot) finance projects that contravene legislation or obligations of the country under relevant international environmental treaties and agreements.
- For high-risk (Category A) projects, the borrower must retain independent experts not affiliated with the project to carry out the assessment.

Natural Habitats

OP/BP 4.04 (2001, Revised April 2013)

This policy establishes limits on Bank-financed projects that may impact areas with high degrees of plant and animal species and that have not been essentially modified by human activity.

Critical natural habitats are

- Existing or proposed protected areas;
- Areas recognized as protected by traditional local communities (e.g., sacred groves);
- Sites that maintain conditions vital for the viability of the above protected areas, or;
- Other areas of high conservation value identified by the Bank or other bodies.

The Bank may finance projects that involve "significant conversion" (or damage) of natural habitats only if there are no "feasible" alternatives (defined in financial and technical terms). Comprehensive analysis must show that potential benefits "substantially outweigh" environmental costs.

The Bank will not finance projects that involve significant conversion or degradation of what the Bank deems "critical natural habitats."

The Bank determines significant conversion or degradation on a case-by-case basis. Significant conversion exists when major changes in land or water use eliminate or severely weaken the integrity of a natural habitat. Degradation occurs when an area is modified to the extent that it substantially loses the ability to maintain viable populations of native species.

- Projects with significant impacts are to be classified as "Category A" and must include mitigation measures acceptable to the Bank. Such measures normally include minimizing habitat loss and establishing ecologically similar protected areas often referred to as "offsets."
- Consultation and information disclosure requirements of the environmental assessment policy apply. Additional language may provide civil society groups more leverage: borrowers must "take into account the views, roles, and rights of groups, including NGOs and local communities affected by Bank-funded projects and to involve such people in planning, designing, implementing, and monitoring and evaluating such projects."

Forests

OP/BP 4.36 (2002, Revised April 2013)

The Forests policy builds off the Natural Habitats policy. If the Bank determines that a forest area is not a

- The Bank will not finance projects that would involve significant conversion or degradation of critical natural habitats (including critical forest areas). This is not a "no go zone" standard for sensitive forest areas, but a weaker standard of not financing projects that would "significantly" damage such areas.

WHAT IS SIGNIFICANT CONVERSION?

The Bank determines significant conversion or degradation on a case-by-case basis. Significant conversion exists when major changes in land or water use eliminate or severely weaken the integrity of a natural habitat. Degradation occurs when an area is modified to the extent that it substantially loses the ability to maintain viable populations of native species.

- Projects with significant impacts are to be classified as "Category A" and must include mitigation measures acceptable to the Bank. Such measures normally include minimizing habitat loss and establishing ecologically similar protected areas often referred to as "offsets."
- Consultation and information disclosure requirements of the environmental assessment policy apply. Additional language may provide civil society groups more leverage: borrowers must "take into account the views, roles, and rights of groups, including NGOs and local communities affected by Bank-funded projects and to involve such people in planning, designing, implementing, and monitoring and evaluating such projects."

- The Bank does not finance projects that contravene applicable international environmental laws.
- The Bank will not finance plantations that involve any conversion or degradation of critical natural habitats, including adjacent or downstream critical natural habitats (a higher standard than allowing "significant conversion").
- The Bank will not finance commercial logging if areas affected are "critical forests" or related critical natural habitats (higher standard than allowing "significant conversion").
- Commercial logging operations must be certified under an independent forest certification system acceptable to the Bank.
- "Meaningful participation" of local people, communities, and organizations is required in the development of the certification system.
- Forest Management Plans are often developed, though not required. Disclosure of these plans is not mandatory but is considered "good practice."

Involuntary Resettlement

OP/BP 4.12 (2001)

The Forests policy builds off the Natural Habitats policy. If the Bank determines that a forest area is not a

- Involuntary resettlement is to be minimized, if not avoided.
- Displaced persons must be assisted at a minimum in restoring their former living standards, income earning capacity, and production levels. Though not required, the policy speaks of improving living standards of resettled persons.
- Resettlement activities should be conceived and executed as sustainable development programs.
- The policy applies when a Bank-financed project causes the loss of land (including buildings), assets, or sources of income. The policy also applies when a project restricts access to parks and protected areas.

- Affected persons without formal titles or legal claims to the land they occupy are covered by the policy but will be provided resettlement assistance rather than compensation for the loss of occupied land.

Indigenous Peoples

OP/BP 4.10 (2005)

This policy establishes standards and procedures when projects affect indigenous communities. It recognizes the limited procedural rights of indigenous communities to confer or deny support to proposed projects.

- Avoid potentially adverse effects on indigenous communities or, when such avoidance is not “feasible,” minimize, mitigate, or compensate for such effects.
- Bank-financed projects must deliver culturally appropriate social and economic benefits to indigenous communities.
- The Bank must identify if indigenous peoples are present in or have a collective attachment to the project area. The borrower conducts a social assessment of these peoples.
- The policy establishes higher consultation standards than normally apply to other groups. Free, prior, and informed consultation of Indigenous Peoples is required at each stage of the project, and the Bank will provide financing only if there is broad community support for the project.
- The policy establishes a higher access to information standard than normally afforded communities affected by projects:
 - “Indigenous Peoples’ communities are to be provided all relevant information in a culturally appropriate manner at each stage of project preparation and implementation.”
- The borrower must prepare, in consultation with indigenous communities, an Indigenous Peoples Plan that ensures that (a) affected Indigenous Peoples receive culturally appropriate social and economic benefits and (b) adverse effects are avoided, minimized, mitigated, or compensated.

WHAT IS FULL REPLACEMENT VALUE?

All affected assets (land and structures) are to be compensated at their replacement cost, that is, equivalent to the amount required to replace the asset in its existing condition. Since in many borrower countries, and especially at the project sites, there may not be functioning housing markets to help dictate the cost of a house, replacement cost should be equal to the cost of constructing/purchasing a new structure, without making any deductions for depreciation.

- Land-based resettlement strategies “should” be provided to displaced persons whose livelihoods are land-based. Does not require land-for-land compensation.
- Compensation for loss of land or assets is to be at full replacement value.
- Taking of land and related assets is allowed only after compensation has been paid and resettlement sites and moving allowances have been provided.
- Displaced persons are to be offered transitional support and development assistance to restore livelihoods, in addition to compensation.
- Affected persons must be consulted on resettlement options and offered opportunities to participate in planning, implementing, and monitoring. The borrower must prepare resettlement plan on all aspects of resettlement.
- Identify choices of affected persons regarding resettlement measures and compensation.
- Draft resettlement plans must be available at an accessible place in a form, manner, and language that are understandable.

HUMAN RIGHTS

All affected assets (land and structures) are to be compensated at their replacement cost, that is, equivalent to the amount required to replace the asset in its existing condition. Since in many borrower countries, and especially at the project sites, there may not be functioning housing markets to help dictate the cost of a house, replacement cost should be equal to the cost of constructing/purchasing a new structure, without making any deductions for depreciation.

- Land-based resettlement strategies “should” be provided to displaced persons whose livelihoods are land-based. Does not require land-for-land compensation.
- Compensation for loss of land or assets is to be at full replacement value.
- Taking of land and related assets is allowed only after compensation has been paid and resettlement sites and moving allowances have been provided.
- Displaced persons are to be offered transitional support and development assistance to restore livelihoods, in addition to compensation.
- Affected persons must be consulted on resettlement options and offered opportunities to participate in planning, implementing, and monitoring. The borrower must prepare resettlement plan on all aspects of resettlement.
- Identify choices of affected persons regarding resettlement measures and compensation.
- Draft resettlement plans must be available at an accessible place in a form, manner, and language that are understandable.

Pest Management

OP/BP 4.09 (1998)

This policy promotes the use of biological or environmental control methods and reduces reliance on synthetic chemical pesticides and sets conditions on the acquisition and use of pesticides.

Key Provisions

- Pest populations are to be controlled through Integrated Pest Management (IPM) approaches. The Bank may finance the purchase of pesticides when use of them is justified under an IPM approach.

Cultural Property

OPN 11.03 (1986)

This policy requires Bank projects to avoid damage to and assist in the preservation of cultural property, such as sites having archeological, paleontological, historical, religious and unique cultural values.

Key Provisions

- The Bank “normally declines” projects that will “significantly” damage non-replicable cultural property and only assists projects that prevent such damage.
- The Bank provides assistance in protecting cultural properties encountered in Bank-financed projects, often through relocation and museum preservation.
- Bank staff must determine the extent of knowledge about cultural property in project area. Specialists should survey the area if there is a chance of such property existing in the area.

Safety of Dams

OP/BP 4.37 (1999)

This policy establishes procedures and safety requirements for construction of new dams and for projects that depend on the safe functioning of existing dams. Requirements apply to large dams (15 meters or more in height, with some exceptions).

Key Provisions

- For construction of new dams, the borrower must engage a panel of independent experts to review the design, construction, and start of operations and prepare detailed plans for all phases of dam construction and operation.
- For existing dams, the borrower must engage independent dam specialists to inspect, evaluate the safety status of the dam, review operation and maintenance procedures, and submit a written report for any potential remedial work.
- Bank staff must review all written reports, verify that recommendations have been adopted, and monitor all activities related to dam safety provisions.

Projects on International Waterways

OP/BP 7.50 (2001)

This policy seeks to reduce potential conflict between states that border an international waterway (or a bay, gulf, etc.) over projects that may affect the use of or pollute the waterway.

Key Provisions

- The policy encourages borrowers to notify and to provide sufficient project details so other states bordering the waterway can determine if their interests are affected. If the borrower refuses notification, the Bank normally continues with the project. If the borrower objects to the project, the Bank discontinues processing.

- The Bank encourages states bordering the waterway to enter into agreements that cover concerns about the waterway.
- If states raise objections, the Bank may appoint independent experts to review the project.
- The policy applies to dams, irrigation, flood control, navigation, water, sewage and industrial projects.

Projects in Disputed Areas

OP/BP 7.60 (2001)

This policy establishes limited rules for the Bank financing projects in areas disputed by two or more states.

Key Provisions

- The Bank may proceed with a project in a disputed area if all governments in the dispute agree to go forward without prejudice to claims.
- The Bank may finance projects even if one government objects, provided that the Bank determines that the project is not harmful to the interest of the claimants and that no conflicting claims have received international recognition.
- The policy requires early identification of territorial disputes and descriptions in all Bank documentation.

