

Limitations and shortcomings of the draft with respect the GENDER & SOGIE model safeguard

- No mandatory social assessment that is Gender and SOGIE-responsive is required.
- Formulation of baseline gender and SOGIE disaggregated indicators for every project that has potential impacts is not required.
- Preparation of a Gender and SOGIE Plan or a Gender and SOGIE Planning Framework is not included in the draft.
- There are no requirements mentioned for how meaningful consultations with all stakeholders and local civil society organizations (CSOs) are conducted at each stage of the project, in an environment that ensures confidentiality and security for participants. The draft does not require special affords to include women, girls, sexual and gender minorities in all consultations.
- The draft lacks clarity on how women, girls, and sexual and gender minorities affected by the project will receive social and economic benefits from the project in a manner equal to the benefits received by other members of the community. Steps on how adverse effects based on SOGIE will be identified, and then avoided, minimized, mitigated, or compensated are absent.
- Similarly, the draft misses taking into account how persons who may be vulnerable due to multiple pieces of their identity, including but not limited to: age, indigenous status, race, ethnicity, or disability, in addition to gender inequalities and SOGIE factors, may be differently affected.

Summary: Analysis on the World Bank Safeguard Draft

- Women and sexual and gender minorities are mentioned as groups the Bank will take into “due consideration” yet they fail to outline what such a consideration might look like. The Bank needs to make clear what it will require from projects and staff through the whole project cycle beyond looking over a borrower-prepared assessment.
- ESS1 does mention gender, sexual orientation and gender identity, but fails to take into consideration that a good social assessment can only be conducted if the necessary data is available. Gender- and sex-disaggregated data is necessary and the Bank needs to play an active role in ensuring borrowers have the appropriate tools to conduct a strong assessment.
- The draft fails to require the formulation of baseline gender and SOGIE disaggregated indicators in order to make sure that Bank financed projects actually include women, girls, sexual and gender minorities.
- Overall, the Bank gives too much responsibility to the Borrower which becomes specifically problematic in countries where sexual and gender minorities are criminalized or where women are marginalized.
- With the continued promise to mainstream gender throughout Bank policies and procedures, the safeguard draft fails to address the different needs between the genders. They are not addressed in issues of redress, land use, or facilities for employees, etc.
- Gender and sexual minorities will not have equal access to employment as ESS2 on Labor and Working Conditions in its Non-discrimination & Equal Opportunities section makes no mention

of gender non-discrimination with respect to hiring women and sexual and gender minorities. In addition it specifically states that the National Law takes precedence over Bank ESS policy.

- If the World Bank doesn't prioritize Gender & SOGIE rights as "high risk", protections for this community will not be activated. Gender & SOGIE rights are further threatened by the fact that the Bank leaves so much to the discretion of the borrower countries where SOGIE communities are often criminalized and women are often marginalized.

Detailed analysis on the World Bank Safeguard Draft:

The **proposed Environmental and Social Framework is based on** the Bank's intended "**risk-based classification**" under ESS1 and less directly in the other ESSs to get the Bank and Borrower to allocate the necessary resources for guarding against missing any potential adverse risks or effects (including withholding project benefits) regarding gender & SOGIE and other vulnerable groups issues and/or concerns (i.e., regarding possible risks for and impacts on people under Executive Summary number 7,

P. (5): "This will allow for better allocation of staff skills and prioritization of World Bank as well as Borrower resources to where they are most needed: on higher risk projects."; and, Proposed Structure of the Framework, VII.A.27

P. (10) "The Policy introduces a risk-based classification system to enhance consistency and decision-making".

The ESS1 is the key analysis standard and ESS10 is the key involvement standard.

[Nothing will matter if vulnerable groups don't get the risk-based classification of "High Risk" in order to force analysis of their concerns and issues. The way to ensure vulnerable groups get their chance to be heard is using the ESS10 standard to force their way into the process].

Two prime examples related to **ESS9** show this importance:

"The FI is required to meet the requirements of ESS10 and to screen, appraise and monitor all subprojects. ESS9 requires that all subprojects be structured to meet national environmental and social requirements; any subproject classified as High Risk shall be assessed in accordance with, and structured to meet, the ESSs." (**Proposed Structure of the Framework, VII.28.B.9), p. 13**)

"- Greater ES risk management for subprojects classified as High Risk (**Para. 7**)" (Table 1: Key Features of the Proposed Environmental and Social Framework, ESS9 Financial Intermediaries, **p. 19**)

[This input is derived from Charles Alton's analysis]

[Vision for sustainable development \(Pg. 5\)](#)

P.(3) "Social development and inclusion are critical to the Bank...inclusion encompasses policies to promote equality of opportunity and improving access of disadvantaged groups to health, education, social protection, infrastructure, employment etc...embraces the removal of barriers against those excluded...women, youth and minorities(no ref to sexual and gender minorities)

P. (4) "...Global aspirations translate to enhancing development opportunities...particularly poor and vulnerable" Fourth bullet point "gives due consideration to those disadvantaged because of age, disability, gender and sexual orientation....."

World Bank Environmental and Social Policy (Pg. 8)

P. (3) (a) “Bank will undertake its own due diligence...”

P. (4) ESS risks that the bank will take into account (ii) “risk of the project impacts on vulnerable groups –
Footnote 9: ...Disadvantaged or vulnerable people are adversely affected by virtue of age, gender, ethnicity, religion, physical or mental disability, social or civic status, gender identity and sexual orientation, economic disadvantages, or indigenous status and/or dependence on unique natural resources may be more likely to adversely affected by project impacts and/or more limited than others in their ability to take advantage of a project’s benefits...”

ESS 1 Assessments and Management of Environmental Risks and Impacts (Pg. 25-26)

P. (26) “...Will take in to account the relevant environmental and social risks and impacts of the project including...(b)(ii) Risks that project impacts fall disproportionately on disadvantaged or vulnerable groups.(iii) any prejudice or discrimination... in the case of disadvantaged and vulnerable groups...”

P.(27) “ Where the ESS Assessments identifies specific individuals or groups as disadvantaged or vulnerable, the borrower will propose and implement measures so that the adverse effects do not fall disproportionately .. Or they are not disadvantaged in sharing the development benefits...”

Footnote 23: “Disadvantaged and vulnerable groups refer to... Women, Sexual orientation and gender identity... who are unable to participate or take advantage of a project’s benefits”

Borrower Requirements - ESS1

P. (2-4) “Borrower will conduct ESS assessments of the proposed projects... Borrowers will manage environmental and social risks and impacts throughout the lifecycle of the project...the borrower where appropriate may agree with the bank to use all or part of the Borrower’s National ESS Frameworks to address the risks and impacts of the project...”

Scope of application

P. (6) (9) “Borrowers will structure projects so that they meet the requirements of the ESS in a manner acceptable to the Bank ... Borrowers will require to implement measures satisfactory to the bank”

Footnote 23: “Disadvantaged and vulnerable groups refer to... women, Sexual orientation and gender identity... who are unable to participate or take advantage of a project’s benefits”

ESS 2 Labor and Working Conditions

Non Discrimination and Equal Opportunity

P.(9) “Decisions regarding employment of project workers will not will not be made on the basis of personal characteristics.. Employment will be based on equal opportunity and fair treatment and there will be no discrimination ...respect to ... hiring and compensation”

Footnote 3: “To the extent that national law satisfies the requirement of ESS, the project will rely on national law...”

B. Protecting the Work Force (While it includes provisions to protect children against child labor and makes provides mandatory health and safety standards, makes no mention of protection of women or SOGIE persons from prejudice and discrimination due to abuse of power or resulting from the individual’s position of vulnerability)

ESS 10 Information Disclosures and Stakeholder Engagement

P. (7) “Stakeholder engagement will involve...stakeholder identification and analysis, stakeholder engagement planning, disclosure of information, consultation and participation, grievance acceptance and response and ongoing reporting of project affected communities”

B. Engagement during project preparation (Pg. 90-91)

P.(12) “ borrower will identify various groups who are (a)affected or likely to be affected by the project (b)may have an interest in the project”

P.(13) “ Borrower will identify individuals or groups that are differently or disproportionately affected by the project because of their disadvantaged and vulnerable status”

Footnote 3: “Disadvantaged or vulnerable groups refer to those, who by virtue of, age, gender, ethnicity, religion, physical or mental disability, social and civic status, sexual orientation, gender identity, economic disadvantages or indigenous status or dependence on unique natural resources, may be likely to adversely affected by project impacts and/ or more limited than others to take advantages of a project’s benefits. Such persons are more likely to be excluded from/ unable to participate fully in mainstream consultations...”

P.(16) “SEP will describe the measures that will be used to remove obstacles to participation, such as those based on gender, age, and other differences, and how the views of differently affected groups will be captured”

Meaningful Consultation

P. (18) “The need for and nature of any specific consultation will be determined on the basis of stakeholder identification and analysis”

MISCELLENOUS: INDIRECT IMPACTS THROUGH BORROWER ENGAGEMENT

Pg 1 Overview of the Bank’s ESS

P. (4) “The ESS sets out requirements for the burrower... (a) Support borrowers in achieving good international practice... (b) Assist borrowers in fulfilling their national and international standards”

P. (6) "...Includes non -mandatory guidance and information tools to assist the burrowers in implementing standards, bank staff in conducting due diligence..."

Pg. 8. World Bank Environmental and Social Policy

P. (6) "ESS standards are designed to help the burrower to manage and improve their environmental and social outcomes through a risk and outcomes based approach"

Pg. 10-12.

P.(9) "Where the bank is jointly financing projects with other multilateral and bilateral agencies and the borrower country... the Bank will cooperate with such agencies as the burrower ... and agree on a common approach for the assessment and management of risks and impacts associated with the project.. Bank will require borrower to apply common approach in place of ESS requirements "

P. (16) "The Bank will require that the borrower commit to not carrying out activities or taking action in relation to the project that cause... ESS risks"

P. (17) "Bank will require the borrower to design the project to meet ESS requirement"

P. (18) "If the project comprises or includes existing facilities... That do not meet the requirements of ESS, the Bank will require the ESCP to adopt and implement measures satisfactory to the bank"

Pg. 13

P. (24)" the Borrowers ES framework will include those of the country's policy, legal and institutional framework... applicable laws, regulations, rules and procedures and implementation capacity which are relevant to the environmental and social risk impacts of the project"

P. (25) "Bank has agreed to use all or part of the borrowers ES Framework for the assessment, development and implementation of the project..."

Pg. 14

Footnote 14: "The bank will have sole responsibility for determining the validity of the borrower's concerns..."

Pg. 15-16

P. (35) "The Bank will require borrower to carry out appropriate environment and social assessments of all sub projects in accordance with National Law..."

E Environment and Social Commitment Plan

"The Bank will assist the borrower in developing the ESCP...ESCP will form part of a legal agreement"

F Information Disclosure: “Bank will require the borrower to make information available in a timely manner... In line with ESS10... in language understandable to all project affected people and stakeholders”

G Consultation and Participation: “Bank will require borrower to engage with communities, people and cso groups...” (Makes no statement of engagement with vulnerable groups or minorities)

I Grievance Redress and Accountability: “...Will require borrower to provide a grievance mechanism, process and procedure to receive and facilitate resolution of stakeholder’s concerns and grievances arising from the project, in particular borrower’s environment and social performance...”

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Institutional and Implementation Arrangements

“Bank will allocate resources and appropriate responsibilities to support effective implementation of the policy”