

## Some notes on ESS 10

**While we welcome the World Bank initiative to require borrower governments to engage with stakeholders throughout the investment project cycle, we have the following comments and asks in order to make this engagement more meaningful and substantial.**

### **Stakeholder identification:**

- According to this draft, the borrower government is in charge of identifying the stakeholders including the impacted communities (para 12) and community representatives including CSOs (para 16) without any means to verify the accuracy of this identification. In many countries governments create their own “NGOs” for this specific purpose. Furthermore, in fragile and conflict-affected situations, there should be an inclusive approach to participation to make sure that all parties are engaged, and not only those supported by the regime. Also vulnerable groups including women, children, people with disabilities, LGBT community among others, are often overlooked by many governments around the world.
- **Clear criteria should be set for the identified stakeholders. For each project the Bank, as a neutral party, should be involved in the identification of the different parties who should be represented in an advisory group.** This advisory group should also include rights based organizations who work on the specific issues implicated by the project. **The advisory group will then work with the borrower government on:**
  - o identifying the different individuals/orgs/parties... who should be invited;
  - o developing the Stakeholder Engagement Plan (SEP);
  - o deciding on the formats and venues for each consultation session;
  - o deciding on the materials that need to be translated into local languages;
  - o reviewing the SEP when needed.

### **The development process of the SEP:**

- The borrower government is required to develop a Stakeholder Engagement Plan (SEP) that describes the timing and methods of engagement with the project-affected communities and other stakeholders throughout the life-cycle of the project. (para 14 and 17). **Since the goal of this SEP is to maintain constructive engagement between the stakeholders and the government,, the parties who are the subject of this plan should also be engaged in designing it. (see the section above on the role of the advisory group)**
- There is no clear language in the draft on when this SEP should be disclosed (para 14). As mentioned above the advisory group representing the different stakeholders should be engaged with the borrower government in developing the SEP. **A draft SEP should then be disclosed and translated to the local languages to be discussed with the stakeholders before submitting a final version to the Bank. This disclosure, consultation, and submission should happen before the consultation on the ESIA (Environmental and Social Impact Assessment) since the latter will follow the rules set and agreed upon in the ESP.**

- **A stakeholder participation capacity assessment and gap-filling action plan is required** and can trigger capacity-strengthening investments before project approval, particularly for vulnerable populations. This assessment should be reflected in the Stakeholders Engagement Plan (SEP) and the Environmental and Social Management Plan (ESMP) budget.
- According to the draft framework, the SEP should include "differentiated measures to allow the effective participation of those identified as disadvantaged or vulnerable." (para. 16). This critical concept requires further explanation (perhaps in the ESS10 Directive). **Specific language should be added to include specific or common minimum requirements like the accessibility of the consultation venues to the different vulnerable groups and the development of different communication materials to fit the different age groups and education levels.**

### The scope of the SEP

- For **projects that are regional or national in scope** (para 17), there is no clear language that a national or regional engagement plan is needed. Requiring individual SEP for the subprojects is needed, but in the absence of national engagement on the impacts of the comprehensive national project, consulted communities on the subprojects are not consulted on the cumulative effects of the project. Also there might be some groups who would be impacted by the cumulative effects but not at the subproject level. **A different SEP should be designed at the national or regional level.**

### Changes to identified risks and communities:

- "If there are material changes to the project that result in additional risks and impacts of concern to the project- affected communities", the SEP requires the borrower to "INFORM them how these risks and impacts are being addressed" (para 22). If the SEP is designed based on the originally assessed risks and originally identified affected communities, **the SEP should then be evaluated and reviewed to account for any new changes (new risks and new impacted communities) and additional consultations should be held since such material changes could render the original SEP irrelevant. Placing an obligation on the government to simply inform is neither realistic nor sufficient.**

### Consultations:

- The language concerning the criteria for an effective consultation process (para 19) is vague and open to interpretation. Example: prior disclosure and dissemination of relevant information. **The policy should identify when information should be disseminated (at least two full week prior to the consultation).**

- There is no clear definition of “relevant materials” that should be translated to local languages and disseminated prior the consultation. Although all documents related to the subject of the consultation should be disseminated, we understand it might be difficult to translate all the documents, **the core group who designed the SEP with the borrower government should decide on the documents that should be translated and the language(s) those materials should be translated to. All documents related to the subject of the consultation should be considered relevant.**
- There is no language in the framework on the place where the consultation should take place. **The consultation should take place in a culturally accepted place, within reasonable distance from the different stakeholders, accessible for people with disabilities, and accessible by public transportation.**
- The draft framework stipulates that feedback should be incorporated where appropriate. (Para 19) We ask that that **borrower should demonstrate how feedback was incorporated or not prior to relevant decisions.** Documented evidence of meaningful consultation and participation should be made available to the public. Borrower should provide the consulted participants with a reviewed version with track changes at least 30 days prior to proposed final decision is made on the final version.

### **Engagement During Project Implementation**

-Para 21 of the proposed policy requires the borrower to "provide ongoing information to the project-affected communities". It also requires the borrower “to receive feedback on the effectiveness of the project and the implementation of the mitigation measures in the ESCP” [Environmental and Social Commitment Plan]. **There should be explicit minimum requirements of the frequency of receiving feedback and the diversity of stakeholders giving this feedback** especially for high and substantial risk activities and for all activities in fragile and conflict states. "Appropriate stakeholder engagement practices" during implementation should also be clarified for high and substantial risk projects. **The feedback from a balanced range of project stakeholders throughout the project cycle should be reflected in the periodic Implementation Status Report (ISR) since this report should report on and provide evidence of safeguard performance.**

### **Grievance mechanisms:**

- The draft ESS10 requires the **borrower government to “provide a grievance mechanism**, process or procedure to receive and facilitate resolution of stakeholders’ concerns and grievances regarding the Borrower’s environmental and social performance.”
- It was clear from WB Environmental and Social Policy, para 51 that there is also the Bank’s corporate **Grievance Redress System (GRS)** that the affected communities can submit complaints to.

- The **independent Inspection Panel** is the last resort if the complainants are not happy with the way their complaints were handled through the two previous mechanisms.
- According to ESS 10, the borrower should provide information about the first mechanism (the one provided by the borrower) to the stakeholders and not for the two other Bank mechanisms. **We ask that the stakeholders be informed about all the grievance options.**
- Although the policy allows for anonymous complaints to the borrower-developed grievance mechanism at the project level, (para 23.b) this does not solve the problem of retaliation if this mechanism is managed and staffed by the borrower and the implementer. **Complainants should have the option to submit their anonymous complaints directly through the Bank's mechanisms.**
- It is clear from this draft that project affected communities won't be able to submit their complaints to the World Bank's Inspection Panel without going through the Bank's corporate Grievance Redress System (GRS) process first. This process will take time and many risks might not be remediable by the time the complainers address the IP (WB Environmental and Social Policy, para 51). **Exceptions should be made to address the IP directly for complaints that are time sensitive.**