



# WB ESS7 Indigenous Peoples Draft for Consultation

**NATIONAL CONSULTATION WITH THE UN  
SPECIAL RAPORTEUR ON THE RIGHTS OF  
INDIGENOUS  
PEOPLES**

# Background



Proposal Document for feedback on content was released

Date of release: July 30, 2014

Multi level consultation for almost 2 years is almost completed.

Main Premise of proposed document:

This ESS recognizes that Indigenous Peoples have their own understanding and vision of their well-being and that, broadly, this is a holistic concept that relates to their intrinsic relationship to lands and traditional practices and is reflective of their way of life. This captures their core principles and aspirations of reaching harmony with their surroundings, and achieving solidarity, complementarity and communal living.

# Objectives



- To ensure that the development process fosters full respect for the human rights, dignity, aspirations, identity, culture, and natural resource-based livelihoods of Indigenous Peoples.
- To avoid adverse impacts of projects on Indigenous Peoples, or when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts.
- To promote sustainable development benefits and opportunities for Indigenous Peoples in a manner that is accessible, culturally appropriate and inclusive.
- To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultation with the Indigenous Peoples affected by a project throughout the project's life-cycle.
- To ensure the Free, Prior, and Informed Consent (FPIC) of affected Indigenous Peoples in the three circumstances described in this ESS.
- To recognize, respect and preserve the culture, knowledge, and practices of Indigenous Peoples, and to provide them with an opportunity to adapt to changing conditions in a manner and in a timeframe acceptable to them.

# Scope of Application



## WHENEVER:

- Indigenous Peoples are present in the project location's impact area (caution on urban areas)
- or have collective attachment to a proposed project area, as determined during the environmental and social assessment.
- regardless of whether Indigenous Peoples are affected positively or negatively, and regardless of the significance of any such impacts
- irrespective of the presence or absence of discernible economic, political or social vulnerabilities, although the nature and extent of vulnerability will be a key variable in designing plans to promote equitable access to benefits or to mitigate adverse impacts.

WHO: Same description as OP 4.10 in varying degrees:

Self identification and recognition by others as distinct; collective attachment to a distinct habitat; distinct customary cultural, economic, social or political institutions; and distinct language or dialect.

# REQUIREMENTS



## A. General:

Full Consultation according to the scope and scale of consultation.

Social assessment: nature and degree of direct and indirect impacts( econ, social, cultural); consultation and participation strategy.

1. Projects for direct benefit of IPs: ownership and participation in project design, implementation and monitoring and eval.
2. Equitable access to project benefits: IPP
3. Avoidance or mitigation of adverse impacts: IPP
4. Meaningful Consultation tailored to IPs: involve IP reps, provide time for IP decision making, participation in the design of project activities, mitigation measures.

# REQUIREMENTS



- Circumstances for FPI Consent
  1. Have impacts on land and natural resources subject to traditional ownership/customary use or occupation.
  2. Cause reloc of IPs
  3. Have significant impacts on IP cultural heritage.

Note: independent specialist to id project risks/  
impacts

# Description of FPIC



- a. Applies to project design, implem arrangement, expected outcomes re risks and impacts on the Ips.
- b. Builds process of meaningful participation between the Borrower and IPs established on good faith negotiation.
- c. Documents (i) mutually accepted process between borrower and IPs, (ii) evidence of agreement between parties on the outcome of the nego.
- d. Does not require unanimity and maybe achieved even when indiv or grps among the IPs disagree.

# Other Significant Notes



- Item 24 prescribes guidance when it is unavoidable to use ADs.
- Item 25: no forced eviction on ADs
- Item 26-27 on cultural heritage (ensure full info on rights; potential consequences of project; fair and equitable sharing of benefits)
- Item 28-29 Mitigation and Development Benefits (timely, national laws customs of IPs, eligibility)
- Item 31: Grievance Mechanism: customary dispute mechanism
- Item 33: IP and Broader Development (strengthen local legislation, gender/intergeneration, IKSP, institutional dev)