

INDIAN LAW RESOURCE CENTER

CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

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NEXT STEPS IN THE I.D.B.'S REVIEW OF ITS DRAFT ENVIRONMENTAL AND SOCIAL POLICY FRAMEWORK



The Indian Law Resource Center is a non-profit law and advocacy organizations established and directed by American Indians. The Center provides legal assistance without charge to Indian and Alaska Native Nations and other Indigenous communities in the Americas that are working to protect their lands, resources, human rights, environment, and cultural heritage. Our principle goal is the preservation and well-being of Indian and other Native Nations and tribes.

In July 2019, the Inter-American Development Bank (I.D.B.) officially launched the review and update of its socio-environmental policies, including its Operational Policy on Indigenous Peoples (OP-765) of 2006. From February to March 2020, the I.D.B. held a series of two-day, in-person consultations on the draft of the Environmental and Social Policy Framework (Draft Policy) in Panama, Jamaica, Peru, Argentina, and the United States. The first day of each consultation was dedicated to receiving inputs from civil society, while the second day was dedicated to indigenous peoples and organizations. The I.D.B. also accepted written comments on the Draft Policy until April 17. After the in-person and online consultations officially concluded, the I.D.B.'s safeguard team produced reports on each of the consultations, considering the inputs received by governmental agencies, civil society, and indigenous peoples in order to make the necessary changes to the Draft Policy. According to the reports on the inputs received from indigenous peoples, a total of 115 indigenous peoples' representatives attended and participated in the consultations dedicated to indigenous peoples. To access the reports, please visit the I.D.B.'s [website](#).

What happened during the in-person consultations?

On March 3, 2020, the Indian Law Resource Center and the Interethnic Association for the Development of the Peruvian Amazon (AIDESEP) held a preparatory meeting for indigenous peoples at AIDESEP's headquarters in Lima, Peru in order to prepare for the I.D.B. consultation with indigenous peoples that was held the following day. More than 20 indigenous leaders participated in the meeting. The meeting focused on discussing the drafts of the Environmental and Social Performance Standard No. 7 Indigenous Peoples (Draft Standard No. 7) and the No. 1 Assessment and Management of Environmental and Social Risks and Impacts (Draft Standard No. 1).

The leaders provided valuable information on key issues and bank-funded projects relevant for the policies under review. For example, they discussed the protocols being developed by their communities in order to guide consultation procedures concerning potentially harmful projects on their lands, as well as the measures taken to prevent contact with indigenous peoples living in isolation. They also shared lessons learned from I.D.B.-funded projects that affected indigenous peoples, including the Mareña Renovables Wind Power Project in Mexico and the Survey, Titling and Registry of Rural Lands Project in Peru. Lastly, they expressed serious concerns about the unwarranted delays in land titling procedures, as well as the need to continue seeking safeguard measures in order to protect indigenous peoples whose territories are divided by the border of two or more countries and families that relocate seasonally for hunting, gathering, and traditional ceremony purposes. Unfortunately, the relevant provisions of the Draft Standard No. 7 either address these issues very vaguely or remove them from its scope of application.

As per the request made by the Presidents of the nine indigenous federations that are members of AIDESEP, a [proposal](#) was developed suggesting changes to specific safeguard provisions contained in the drafts of Draft Standard No. 7 and No. 1. Thus, the proposal suggests concrete changes to the language of these draft policies based on the discussions held during the preparatory meeting and two key policies: the 2016 World Bank's Environmental and Social Standard 7 on Indigenous Peoples and the 2006 I.D.B. Operational Policy on Indigenous Peoples (OP-765). At the end of the preparatory meeting, all of the leaders approved of the proposal, which was then signed by the Presidents of the nine indigenous federations and the President of AIDESEP, Lizardo Cauper.

The following day, all participants of the preparatory meeting attended the I.D.B. consultation held for indigenous peoples. At the beginning of the consultation, Lizardo Cauper asked the I.D.B. to devote time on the agenda to discuss the proposal developed by indigenous leaders the day before. Everyone supported the change in the agenda, so Lizardo proceeded to share a hard copy of the proposal with Roberto Manrique, the head of the I.D.B. policy review unit, who signed it acknowledging receipt. Leonardo Crippa, Senior Attorney with the Indian Law Resource Center, was then asked to present the proposal and explained each of the suggested changes to the language of Draft Standard No. 7. The I.D.B. staff in attendance listened carefully to the presentation but did not ask questions about it. Afterwards, Roberto Manrique stated that his team was going to review the proposal and ask for clarifications if necessary. To date, neither AIDSESEP nor the Indian Law Resource Center has received questions or has been asked to clarify the language included in the proposal.

On March 13, Leonardo Crippa participated in the online consultation for U.S.-based civil society organizations. Leonardo presented the proposal and explained the reasons for the suggested changes to the language of Draft Standard No. 7. Leonardo also explained the process by which the proposal was developed and how much support it received from all of the participants during the I.D.B. consultation with indigenous peoples in Lima, Peru.

The proposal was then developed into [joint written comments](#) that the Center and AIDSESEP filed with the I.D.B. on April 20th. The comments explained the reasons behind the suggested changes to the language of Draft Standard No. 7, based on the discussions held with indigenous peoples, lessons learned from harmful I.D.B.-funded projects, and a comparative analysis of multilateral bank policies on indigenous peoples. More than ten indigenous organizations from Central and South America endorsed the joint comments.

On June 17, 2020, the Center sent a [letter](#) to the I.D.B.'s Board of Executive Directors expressing our disapproval of the Draft Policy in its current version, especially the Draft Standards No. 7 and No. 1, because these drafts removed critical safeguards and disregarded indigenous human rights issues. As such, we believe that these first drafts are regressive and fall below the standards set by current applicable legal norms and by the I.D.B.'s current Operational Policy on Indigenous Peoples (OP-765).

What happens next in the modernization process?

A second Draft Policy incorporating the recommendations, suggestions, and inputs received during the first phase of the consultation process will be prepared for the review and approval of the I.D.B.'s Board of Executive Directors. Due to the implications of COVID-19 on the development of the second draft, it is unclear when the second draft will be released. However, once this second draft is approved, the I.D.B. will publish it on its website and launch a second phase of the consultation process. The second phase of the consultation process will be conducted online for a period of 30 days. Once all inputs are received, a final draft will be prepared for the review and approval by the I.D.B.'s Board of Executive Directors. Lastly, the I.D.B. will also prepare guidelines on the new Environmental and Social Policy Framework and Safeguard Measures. Public consultations will be held on those guidelines as well; however, those details are not available yet.

It is possible that this process could be delayed slightly because of the COVID-19 pandemic. We will keep you informed of any developments regarding dates and how to participate in the online consultation process.

Do you need more information?

The Indian Law Resource Center is committed to ensuring that the shortcomings of the I.D.B.'s existing socio-environmental safeguard policies are fully addressed in the new Environmental and Social Policy Framework, that the rights of indigenous peoples are protected by strong safeguard measures, and that indigenous peoples are properly included and consulted on such policies and all development activities that could potentially affect them.

For more information about our work on the I.D.B. policy review process, please visit our website: www.indianlaw.org/mdb/idb. If you would like to join our I.D.B. listserv in order to receive regular updates on the I.D.B.' policy review process, please send a request to dcoffice@indianlaw.org.