

# INTERNATIONAL ACCOUNTABILITYPROJECT

## Comments on the African Development Bank's Draft Integrated Safeguards System May 2022

International Accountability Project (“IAP”) welcomes the opportunity to contribute its recommendations to the consultation process of the African Development Bank (AfDB’s) Integrated Safeguards System (ISS)<sup>1</sup>. At the outset, we recognize the importance of AfDB’s efforts to engage with civil society through the consultation process, given the significance of the ISS in governing the impacts of projects for those affected.

IAP is an international human and environmental rights organization that works to support communities impacted by projects funded by development finance institutions, including by the AfDB. This document builds on our complementary analysis of AfDB’s information disclosure practices, which was also used for our input to the review of the implementation of the AfDB’s policy on Disclosure and Access to Information (*DAI Policy*).<sup>2</sup> As the *DAI Policy* should be read in tandem, as a core counterpart of AfDB’s *ISS*, we have focused our comments on the aspects of the draft *ISS* that intersect with and have a bearing on the right of communities’ to access information and meaningfully participate in the development decisions that impact their lives and environment.

---

<sup>1</sup> AfDB’s draft ISS, available at:

[https://consultations.afdb.org/sites/default/files/documents/2022-03/Updated%20ISS\\_Cleared%20by%20CODE\\_FOR%20EXTERNAL%20CONSULTATIONS.pdf](https://consultations.afdb.org/sites/default/files/documents/2022-03/Updated%20ISS_Cleared%20by%20CODE_FOR%20EXTERNAL%20CONSULTATIONS.pdf)

<sup>2</sup> See “The African Development Bank Must Strengthen its Information Disclosure Practices and Policies to Center Communities in the Development Process” available at:

<https://accountability.medium.com/the-african-development-bank-must-strengthen-its-information-disclosure-practices-and-policies-to-cdd598b7aea6>;

See “In Practice : Information Disclosure at the AfDB,” available at:

[https://accountabilityproject.org/wp-content/uploads/2021/08/FINAL-In-Practice\\_-\\_Information-Disclosure-at-the-African-Development-Bank-last-updated-5-Feb.pdf](https://accountabilityproject.org/wp-content/uploads/2021/08/FINAL-In-Practice_-_Information-Disclosure-at-the-African-Development-Bank-last-updated-5-Feb.pdf); and

Comments and Recommendations On the DAI Policy Implementation Review available at:

<https://drive.google.com/file/d/1-xp11gcmPJXYPnNxwNM0jOsZm4alu9PV/view?usp=sharing>

Our recommendations draw on our past engagement in policy reforms at a number of international financial institutions<sup>3</sup> in relation to advancing communities' rights to access information, as well as our experience supporting communities and civil society groups in monitoring and accessing information on development projects through the *Early Warning System* initiative,<sup>4</sup> and supporting community workshops aimed at increasing access to information.

As such, we have limited the scope of these recommendations to the *E&S Operational Safeguard 10 (Stakeholder Engagement and Information Disclosure)* and how substantial gaps in AfDB's information disclosure practice may effectively hamper the ability of the AfDB to ensure meaningful stakeholder engagement, in particular for communities affected by AfDB projects and financing.<sup>5</sup>

***The ISS Should Adopt the Community-Led Development Approach: Sustainable Development is Community-Led Development.***

The AfDB has stated that one of the specific objectives of this review is to “*ensure harmonization with the policies of peer institutions with which the Bank co-finances operations in Africa, for better efficiency and mutual benefits*”.<sup>6</sup> However, the AfDB can also use this opportunity to take one step further in ensuring sustainable development and lead the process of development financing by adopting the community-led development approach. The draft *Policy* expresses AfDB's commitment to sustainable development as follows:

*“The Bank acknowledges, in its quest to meet its primary objective of assisting African countries to attain economic development and social progress, that the right to effective*

---

<sup>3</sup> By way of background, IAP and our partners have monitored the online disclosure practices of several development finance institutions through the *Early Warning System*, to better understand what project information is being disclosed, when it is being shared, and ultimately, how accessible the information is for communities. Here These are the past analyses: [Dutch Development Bank](#), [European Bank for Reconstruction and Development](#), [IDB Invest](#), [New Development Bank](#), and the [United States International Development Finance Corporation](#).

<sup>4</sup> The *Early Warning System*, available at: <https://ews.rightsindevelopment.org/>.

<sup>5</sup> Beyond the scope of this submission, several of the signatories to this letter have endorsed the joint submission for this second round of consultation led by Accountability Counsel.

<sup>6</sup> See the AfDB's Public Announcement: African Development Bank's Integrated Safeguards System Update, available: <https://www.afdb.org/en/news-and-events/public-announcement-african-development-banks-integrated-safeguards-system-update-48171>

*participation in decision making is essential for the development of inclusive and just societies.*”<sup>7</sup>

Additionally, the draft *ISS* states:

*The Bank believes that the application of these safeguards, by focusing on the identification and management of environmental and social risks and impacts, will support Borrowers’ goal of protecting communities and the environment from unintentional harm, as well as in achieving their goal to reduce poverty and increase prosperity, in a sustainable manner, for the benefit of the environment and communities.*<sup>8</sup>

As a public institution committed to “sustainable development”, the purpose of the *ISS* should reflect that truly sustainable development is indispensably people-centered. Regrettably, the language used to describe the purpose of this *ISS* is vague and does not reflect AfDB’s responsibility to ensure the full and meaningful implementation of the *ISS*’s provisions, in addition to the *Operational Safeguards*, by its clients.

The experiences of IAP and our partners have demonstrated that communities possess legitimacy and local expertise that can better the design of potential projects, anticipating and mitigating adverse impacts, and ensuring projects achieve positive impacts that align with the communities’ own development priorities.<sup>9</sup> Open, transparent, inclusive engagement between the client and stakeholders, particularly affected communities, is a key element to enhance the environmental and social sustainability of investments.

If the draft *ISS* is adopted in its current framing, which considers sustainable development as simply part of an approach for risk management and its development mandate, AfDB will have missed a key opportunity to be a leader in development finance and promote projects that are oriented towards and designed around the priorities of its purported beneficiaries - communities.

---

<sup>7</sup> AfDB, “Draft Integrated Safeguard System” p.128.

<sup>8</sup> AfDB, “Draft Integrated Safeguard System” p.7.

<sup>9</sup> See International Accountability Project, “Back to Development: A call for what development could be” 2015, available: <https://accountabilityproject.org/wp-content/uploads/2017/09/IAP-Back-to-Development-Report.pdf> at:

*“The updated Integrated Safeguards System (ISS) comprises: The African Development Bank Group’s Vision for Sustainable Development, which sets out the Bank Group’s approach and aspirations regarding environmental and social sustainability.”<sup>10</sup>*

IAP recommends that the language in the above quote and throughout the *ISS* be substantively revised to frame creating “positive benefits in the communities where the business operates” not as an optional byproduct of seeking to avoid, minimize and manage environmental and social risks, but as the fundamental motive and goal of development.

By reorienting the *ISS* to centrally focus on communities not only as stakeholders, but as the primary beneficiaries of development, AfDB could play a crucial role in opening up and safeguarding the space for communities to be active participants in sharing their vision of development, while also learning lessons from -- and hopefully avoiding replication of -- AfDB projects which have proven disastrous to communities and the environment.<sup>11</sup>

### ***The ISS Should Recognize Access To Information As A Right: the Right to Information is a Precondition to Sustainable and Equitable Development***

The *ISS* recognizes the right to community participation in project processes as follows;

*“The Bank acknowledges... that the right to effective participation in decision-making is essential for the development of inclusive and just societies” but does not recognize the right to access information.”<sup>12</sup>*

However, the *ISS* does not recognize the affected communities’ access to information as a right. It is important that the *ISS* recognizes access to information for all, especially communities impacted by the Bank’s projects, as a right.

---

<sup>10</sup> AfDB, “Draft Integrated Safeguard System” p.7.

<sup>11</sup> See for instance “After attacks, a community in Uganda unites to fight for their land” at <https://accountability.medium.com/after-attacks-a-community-in-uganda-unites-to-fight-for-their-land-78fc27944315>

<sup>12</sup> AfDB, “Draft Integrated Safeguard System.” p.128.

Communities' right to seek, receive, and impart information must serve as the foundation for AfDB's framework of accountability. Recognized by Article 19 of the Universal Declaration of Human Rights, which guarantees the right of all "to seek, receive, and impart information and ideas through any media,"<sup>13</sup> access to information is essential for truly sustainable development. In practice, the right to information ensures that communities are equipped with the necessary information to substantively engage and participate in the development processes that will ultimately affect their lives and environment.

The findings of IAP's analysis of the AfDB's information disclosure practices indicate that the AfDB's disclosure practices shows that the institution has some strong disclosure practices. Despite the positive disclosure practices, the overall quality of information disclosed remains inadequate. AfDB's disclosure practices fall considerably short of fulfilling communities' right to information, thereby erecting substantial barriers to access and meaningful participation for project affected communities.<sup>14</sup>

***The ISS Should Clearly State the Borrower's Requirement To Disclose Information About the Independent Recourse Mechanism (IRM)***

Even though the IRM's operating rules and procedures require the AfDB's clients and sub-clients to disclose information about the availability of the IRM to project affected communities. However, the draft *ISS* has no such requirement.

We appreciate the AfDB's efforts to increase access to remedy for communities through the addition of language requiring the implementation of effective project-level grievance mechanisms. However, the AfDB must set out clear requirements in E&S Safeguard 10 to ensure greater accessibility, transparency and efficacy of these mechanisms. As noted in the Commentary to the United Nations Principles on Business and Human Right: "*Poorly designed*

---

<sup>13</sup> Article 19 of the Universal Declaration of Human Rights provides that: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

<sup>14</sup> See "In Practice : Information Disclosure at the AfDB," available at: [https://accountabilityproject.org/wp-content/uploads/2021/08/FINAL-In-Practice\\_-\\_Information-Disclosure-at-the-African-Development-Bank-last-updated-5-Feb.pdf](https://accountabilityproject.org/wp-content/uploads/2021/08/FINAL-In-Practice_-_Information-Disclosure-at-the-African-Development-Bank-last-updated-5-Feb.pdf);

*or implemented grievance mechanisms can risk compounding a sense of grievance amongst affected stakeholders by heightening their sense of disempowerment and disrespect by the process.”*<sup>15</sup>

We recommend that the AfDB draws upon best practice in the design and implementation of project-level grievance mechanisms, including:

- Providing meaningful opportunities for affected communities and beneficiaries to inform the design of the project-level grievance mechanism as part of a robust participatory consultation process so as to ensure that the mechanism is culturally appropriate, sensitive and accessible to diverse members of the community, including to those who may face additional barriers to access. Barriers to access may include a lack of awareness of the mechanism, literacy, language, costs, physical location and fear of reprisals.

The Office of the Compliance Advisor/Ombudsman’s advisory note, *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*, found that involving the community in the design of the grievance mechanism to identify key factors was one core marker of an effective, credible grievance mechanism. The community should be involved to identify key factors, such as the kind of disputes that could arise during the project cycle, the availability of local resources to resolve conflicts, and the methods in which people in the community actually want to raise concerns. According to that advisory note, an effective grievance mechanism should use and

---

<sup>15</sup> The United Nations Guiding Principles on Business and Human Rights sets out “effectiveness criteria for non-judicial grievance mechanisms. The effectiveness criteria, summarized below, elaborate important principles that provide a solid foundation on which a transparent grievance mechanism can be built: 1) Legitimacy, which enables the trust of stakeholders and requires independence from political influence and internal conflicts of interest stemming from the fact that grievance mechanisms are often operated by the same actors who have allegedly committed the human rights/environmental abuses; 2) Accessibility in that the mechanism is known to all stakeholder groups and provides assistance to those who may face barriers to access; 3) Predictability, by way of clear and known procedures, indicative timeframes for each stage of the process and a means of monitoring implementation; 4) Equitability/fairness, by ensuring that aggrieved parties can engage in a process on fair and equitable terms; 5) Transparency by keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake; 6) Rights-compatibility to ensure consistency with internationally recognized human rights standards; 7) A source of continuous learning, drawing upon relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms; and 8) Based on engagement and dialogue with the potential users of the grievance mechanism.

publicize multiple points of entry, including face-to-face meetings, written complaints, telephone and e-mail, in order to decrease barriers to access. Further, to address the literacy or language barriers to access, the threshold for submitting a complaint to the mechanism should be low.

- Requiring the borrower to conduct outreach and provide informational materials and services in all primary languages spoken by project-affected people so as to ensure access to the mechanism. All documents generated by the mechanism in a particular case, including any contracts or agreements, should be translated into local language(s). Furthermore, grievance mechanism outreach activities and documents explaining the purpose of the mechanism, its functioning and the rights of project-affected people should also be in the local language(s). Wherever project-affected people are illiterate, the mechanisms should be required to conduct verbal outreach efforts and other activities in the local language(s).
- Requiring the borrower to inform project-affected communities of the existence of the IRM and its procedures. Information related to the existence and role of, and access to, the IRM, including brochures and other resources should be publicly available in the local language(s), including being distributed by the project grievance mechanism. This information should also specify that accessing the IRM does not preclude filing of a complaint to the grievance mechanism, or vice versa.
- Ensuring that mechanism users are allowed access to independent legal counsel or other advisors. Access to outside legal counsel or other advisors is fundamental to promoting a fair and equitable process for users of the mechanism. We recommend that the AfDB require that the grievance mechanism allow affected people to consult with counsel or advisors of their choosing, and to have counsel or advisors present, at any time during the grievance process. Borrowers should also be required to inform affected communities that they have a right to consult with outside parties, including legal counsel, before and at any time during the grievance process. The Commentary to Principle 29 of the United Nations Guiding Principles on Business and Human Rights states that

“[o]perational-level grievance mechanisms can be important complements to wider stakeholder engagement and collective bargaining processes, but cannot substitute for either. They should not be used to undermine the role of legitimate trade unions in addressing labour-related disputes, nor to preclude access to judicial or other non-judicial grievance mechanisms.”

- Requiring the borrower to maintain an updated publicly available registry, available in local languages, of each complaint received by the grievance mechanism, the status of the complaint, relevant timeframes, the response of the borrower/implementing agency and resolutions reached, if any. In addition to increasing transparency and thus engendering trust in the mechanism, this will allow for regular analysis of patterns and causes of grievances and can assist the borrower and the AfDB in improving policies and practices, managing risk and prioritizing supervision.
- Requiring that stakeholders have an opportunity to participate in the design and implementation of a mechanism monitoring system. Because grievance mechanisms are intended for the use of affected community members, it is imperative that any monitoring and evaluation of those mechanisms incorporates the direct feedback of those user groups through monitoring site visits and other means. We recommend that the AfDB state a separate requirement that, as part of overall monitoring and evaluation efforts, affected communities shall be provided clearly communicated, regular, periodic opportunities to submit feedback on the mechanism’s performance.
- Ensuring that the mechanism is a continuous source of learning. Beyond their role in resolving individual grievances, grievance mechanisms can serve a valuable role by providing feedback and lessons learned. A well-functioning grievance mechanism can flag larger, systemic problems and indicate necessary changes to project management and implementation. We recommend that a provision be added explicitly encouraging the borrower to implement procedures to receive operational feedback and extract lessons from the grievance mechanism in order to improve overall project implementation and monitoring.

