Lessons from Panel Cases: Inspection Panel perspectives
CODE seminar October 22, 2012
Introduction
• What lessons of relevance for the Bank’s modernization agenda?
  – investment in practical knowledge to improve delivery - “science of delivery”
  – focus on the poor and vulnerable – inclusive development
  – emphasis on results - solutions
Panel experience highlights

• Importance of safeguards for development outcomes and tackling poverty
  – Panel provides incentive to apply safeguards
  – Generates lessons on policy application and compliance in important areas

• Importance of access to recourse – citizen-driven accountability
  – Effective access to recourse enables risk-taking; risks not transferred to the most vulnerable
  – Opportunity for problem solving and redress
A few words on the «sample»

- Limited number: 82 – 27
- Great diversity: requesters as well as issues of compliance and harm
- Tip of an iceberg or isolated incidences?
- Panel cases triggered by citizen complaints — not an evaluation but:
  - Trends over time point at systemic issues that warrant attention:
  - Individual cases illustrate problems as well as solutions
Requests Received
As of October 2012

- Formal Requests Received: 82
- Requests Registered: 73
- Recommendations Approved: 65
- Concerns Addressed during Eligibility Phase: 16
- Investigations Recommended: 32
- Investigations Approved: 27
Mixed: The Request was made by an NGO on behalf of some of the affected community. Community members without representation were also part of the Request.

NGOs Representing Affected Communities: The Request was made by an NGO on behalf of the affected community.

Directly Affected Communities: The Request was brought directly by members of the affected community.
Policy-Related Issues Most Often Raised in Requests
As of October 2012

- Project supervision
- Environmental assessment
- Involuntary resettlement
- Indigenous peoples
- Disclosure of Information
- Poverty reduction
- Natural habitats
- Economic evaluation
- Cultural resources
- Water management & dams
- Forests
- Project appraisal
- Suspension of disbursements
- Financial management
- Policy lending
- Severance pay
- Gender dimensions
- Piloting the Use of Borrower Systems

<table>
<thead>
<tr>
<th>Policies</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project supervision</td>
<td>53</td>
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<tr>
<td>Environmental assessment</td>
<td>53</td>
</tr>
<tr>
<td>Involuntary resettlement</td>
<td>38</td>
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<tr>
<td>Indigenous peoples</td>
<td>28</td>
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<td>Disclosure of Information</td>
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<td>Cultural resources</td>
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<td>Water management &amp; dams</td>
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<tr>
<td>Forests</td>
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<td>Project appraisal</td>
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<td>Suspension of disbursements</td>
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<td>Financial management</td>
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<td>Policy lending</td>
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<td>Severance pay</td>
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<td>Gender dimensions</td>
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<tr>
<td>Piloting the Use of Borrower Systems</td>
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</tbody>
</table>
Lessons on policy application and compliance

• Two broad themes of relevance for the Bank’s modernization agenda where Panel cases have provided relevant systemic lessons
  – On best practice in risk management: Defining scope during assessment
    Responding when risks materialize
  – On application of safeguards standards: Panel findings on compliance in specific cases
Four issues that warrant attention

– On defining the scope of risk assessment: determining **area of influence** of project
– On obligations and approach in **supervision**: how to respond when risks materialize
– On **consultation**: when “meaningful”
– On **land management**: a policy gap?
On area of influence:

_Policy provisions_

«Project area of influence: The area likely to be affected by the project, including all its _ancillary aspects_ ... as well as _unplanned developments_ induced by the project ...»
On area of influence: Panel findings

• Scope of EIA too narrowly defined:
  – Part of affected people and affected areas overlooked

• Inadequate identification of “induced” impacts:
  – Road embankment causing flooding
  – Change in traffic flow

• Lack of clear definition of associated facility/activity

• Inadequate identification of impacts of religious, ceremonial or customary nature
  – Need for broader consultation
On supervision of safeguards issues:

*Policy provisions*

« ... *identify problems promptly as they arise during implementation and recommend to borrower ways to resolve them ...»
On supervision of safeguards issues: Panel findings

• Lack of follow-up on pre-identified problems

• Inattention to warning signs

• Lack of resources for supervision

• Composition of supervision missions: too few social specialists

• Supervision from a distance: lack of field presence
On consultation: 
*Policy provisions*

Access to information
- *Timeliness and comprehension of information*

Cultural resources, Forests, Natural Habitats
- *Participatory information collection*

Environmental impact assessment
- *Views to be taken into account*

Involuntary resettlement
- *Consultation on alternatives. Active participation in resettlement*

Indigenous peoples
- *Free, prior, informed consultation. Broad community support*
On consultation:

*Panel findings*

- Certain groups not included
- Traditional leaders overlooked
- Inadequate sharing of information – language
- Outcome of consultations poorly documented and not reported back («taking views into account»)
On land management projects: *Policy provisions*

- A policy gap? How to address consequences for people’s livelihoods from changes in rights to land and land based resources
- Clarification that Involuntary resettlement policy does **not** apply
  - Guidance Note on Land Use Planning issued
On land management projects: *Panel findings*

- **Risk assessment:** Analysis in general comprehensive
  - Impacts of titling/land regulations on people with collective tenure rights need more attention
- **Risk management:** Vague strategies for how to respond
  - Greater attention to changing social, political, institutional and legal circumstances needed
Lessons on access to recourse - redress

- Giving people a voice – empowerment: “jump starts” problem solving
- Grievances of affected people addressed through Management and Borrower actions: at different stages of the process
## Examples of redress

<table>
<thead>
<tr>
<th>Country</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>Philippines: Manila</td>
<td>Project component objected by the Requesters cancelled</td>
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<tr>
<td>Sewerage project</td>
<td></td>
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<tr>
<td>Argentina: Santa Fe road</td>
<td>Road design changes to avoid flooding in the area</td>
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<tr>
<td>project</td>
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<td>India: Mumbai urban</td>
<td>Increased compensation for middle income shop owners and establishment of a project level grievance redress mechanism</td>
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<tr>
<td>transport project</td>
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<tr>
<td>Congo (DRC): Forestry</td>
<td>Recognition of Pygmy groups as Indigenous People and inclusion of pygmy representatives in review of logging concessions</td>
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<tr>
<td>project</td>
<td></td>
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<tr>
<td>Nigeria: West Africa Gas</td>
<td>Re-evaluation of all assets listed in resettlement documents, leading to significant enhanced compensation and increased investment in community development</td>
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<tr>
<td>Pipeline</td>
<td></td>
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<tr>
<td>Uganda: Bujagali hydropower</td>
<td>Better solutions in respect of cultural and spiritual rights of the Busoga</td>
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## Examples of redress

### Examples of actions earlier in the Panel process – cases without investigation

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<td>Congo (DRC): Restructuring of parastatals</td>
<td>Recognition of delays in payment of retrenchment packages and of amounts outstanding. Establishment of a process to mediate.</td>
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<tr>
<td>Yemen: Institutional reform program</td>
<td>Translation of Program document into Arabic and establishment of processes to enhance consultation with CSOs on regular basis and on relevant topics</td>
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<tr>
<td>Kazakhstan: Road project</td>
<td>Revised road design to take into account affected communities' concerns. Recognition of additional compensation where due. Improvement in grievance mechanism. Improvement in consultation processes during the EIA for sections of the road still under design</td>
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<tr>
<td>Chile: Quilleco hydropower</td>
<td>Increased consultation with affected communities on access to water</td>
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### Examples of cases where requesters were not pleased with outcome – i.e. no investigation

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<td>Liberia: Forestry project</td>
<td>Requesters claim that Bank played a key role in design of forest concession policy which resulted in adverse impacts on communities</td>
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<tr>
<td>Kenya: Electrification project</td>
<td>Requesters claim Bank has to share responsibility for illegal siting of substation</td>
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Moving forward

• Changes within Bank and outside require some adaptations in the way the Panel process functions
• Current dialogue with Management:
  – How to make the process less adversarial and more solutions oriented
  – How best to contribute to institutional learning
• Strengthen dialogue with the Board and CODE – e.g. through this type of seminar
• Drawing on emerging lessons globally from citizen-driven accountability mechanisms of international development agencies
  – Hosting 2013 meeting of IAMs in Washington