

Cross-Cutting Risks and Mitigation Measures Identified During Consultations

The following table provides a summary of the cross-cutting risks and mitigation measures discussed during the consultations on inclusion and non-discrimination held by the Government of Uganda (GoU) with participating civil society organizations and the World Bank. These consultations, which followed several previous engagements between the World Bank and CSOs, took place in Kampala from January 16–19, 2024, prior to the Constitutional Court of Uganda’s ruling on the Anti-Homosexuality Act (AHA). Each day, between 72-79 people participated in person and virtually. Participants included representatives of CSOs, representatives of the affected community, and two representatives from International Non-Governmental Organizations. Some Development Partners attended on day one of the consultations. The summary provides an overview of the main issues discussed during the consultations. It does not fully reflect the detailed views of all participants expressed over the four days of consultations on the 19 projects being implemented under the Uganda portfolio. The table also does not contain a full or official set of GoU or World Bank positions, although it does include their responses. This summary has been condensed to preserve the anonymity of the participants.

Discrimination risks in World Bank-financed projects and mitigation measures identified due to the enactment of the AHA have been directly integrated into updated project documents, which are being disclosed.

| No. | Participant Feedback, Comments, and Issues | Summary of Responses and Next Steps |
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| 1. | <p>Terminology was a key concern dominating discussions during the four days of consultations.</p> <p>Participants expressed concerns over the absence of specific language relating to LGBT+ people, such as key populations, sexual and gender minorities (SGMs), and sexual orientation.</p> <p>Participants requested that the government coordinate across sectors to come up with uniform language that can be used in project documents when referring to SGM. Subsequent issues raised during the consultations intersected with this issue.</p> | <p>The Government of Uganda (GoU) expressed the view that the term “vulnerable and disadvantaged” includes persons who want to be identified as an SGM, although not explicitly mentioned. Subsequently, the GoU asserted that the referred term was “vulnerable and marginalized individual and groups.”</p> <p>The World Bank indicated that training manuals and sensitization materials prepared through Enhanced Implementation Support and Monitoring (EISM), with support from the World Bank, will include more direct language to guide the government team, contractors, and subcontractors by indicating that SGM individuals and groups are included.</p> |
| 2. | <p>Participants communicated a need for more granular and targeted representation of risks.</p> <p>Participants expressed frustration that the “risks” appeared to be cut and pasted from one project to the other. Participants provided several additional and more granular risks for each project.</p> | <p>It was explained by GoU and World Bank that there are risks and mitigation measures common to all projects as well as risks and mitigation measures specific to every project and sector. The risks identified are an attempt from social safeguards specialist to ensure that all beneficiaries are included. One of the main purposes of the consultations is to hear from the civil society organizations (CSOs) and the SGM community to help identify additional and more granular risks.</p> |

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| | | The additional and more granular risks identified during the consultations will be added to an “identified risks” section of each project-relevant document and appropriate mitigation measures will be identified. |
| 3. | <p>Participants requested more details on mitigation measures to assess their potential effectiveness. Comments/questions from participants included:</p> <p>What is the process for determining if mitigation measures will work given how little information has been provided—the scant amount of information seems to imply a lack of intention to implement the measures.</p> <p>How did the GoU develop mitigation measures without talking to anyone in the LGBT+ community? Measures will not be effective absent a clear understanding of who they will support.</p> <p>Will SGM community leaders and CSOs be involved in implementing the mitigation measures?</p> <p>The Anti-Homosexuality Act (AHA) overrides mitigation measures. Does this create a conflict of interest and allow the GoU to bypass the law?</p> <p>A critical risk in the tourism sector is around reporting: what if hotels and other service providers in the tourism sector report on SGMs?</p> | <p>The mitigation measures are intended to ensure that SGMs have a safe, confidential, and ethical reporting mechanism and that, where social inclusion is not respected in a World Bank-financed project, that the shortcoming is promptly identified and addressed. Like the “identified risks,” several of the proposed mitigation measures in the draft updated reports for consultation can be considered generic. One of the main purposes of this was to get a better understanding of the risks and then develop more granular mitigation measures.</p> <p>The project implementation units (PIUs) are responsible for ensuring the implementation of the detailed mitigation plans developed with World Bank support. The World Bank will provide EISM to all projects.</p> <p>Many of the mitigation measures will need to be tailored to geographic areas and specific sectors. Further details on how the various mitigation measures will be implemented will also be captured in updated implementation manuals for each project. The full details of exactly how this will happen will be developed during implementation.</p> <p>The GoU has a dual obligation to uphold domestic law as well as its treaty obligations. Therefore, it is not a conflict of interest to ensure that a law does not violate the GoU’s inclusion and nondiscrimination obligations under World Bank-financed projects.</p> |
| 4. | <p>Participants requested more details on how the World Bank’s EISM would work.</p> <p>Local CSOs and other organizations representing SGMs asserted that they should be engaged in informing the design of more granular mitigation measures and in monitoring the effectiveness of implemented measures. They also want to be consulted on the development of training materials and to lead consultations on enhanced mitigation support.</p> <p>Participants said that mitigation measures should be tailored to urban and rural settings as well as to different parts of the country.</p> <p>The World Bank was asked if it could help the GoU develop its capacity to appropriately implement the mitigation strategies?</p> | <p>The World Bank will hire a firm to provide EISM to the GoU to implement the mitigation measures. This will involve providing as need support to the ministries, PIUs, contractors, grievance mechanisms (GRMs), and communities. The contracting of this firm is in progress. The selected firm will subcontract with local CSOs with expertise in identifying and addressing SGM discrimination, fluency in local languages, and the capacity to work on all 19 projects as soon as possible.</p> <p>The firm’s mandate will include assisting in the preparation of training programs, delivering training to project staff and grievance redress committees, and providing appropriate input to update operational documents.</p> <p>Mitigation measures will be tailored to the environment and sectors in project areas (e.g., urban versus rural, different districts). The firm will work with local CSOs to</p> |

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| | | prepare and finalize the training materials. The World Bank will provide training to the PIUs. |
| 5. | <p>Participants requested clarity on how the circulars will enable the GoU to supersede or circumvent the AHA.</p> <p>How can the government circulars protect SGMs when the AHA is in effect?</p> <p>What is the legal status of the circulars that allows them to override the AHA?</p> <p>How, specifically, will they have the effect of stopping GoU officials from applying the AHA against SGM on World Bank projects?</p> <p>Participants asserted the need for better dissemination of information about the circulars—that they exist and how they will provide protection under World Bank projects.</p> <p>Participants asked for more information on how the ministries responsible for World Bank projects were coordinating with the Ministry of Internal Affairs and across sectors on how they would protect SGMs.</p> <p>What can be done to prevent SGMs or persons who may participate in World Bank projects from being arrested?</p> | <p>The GoU circulars—regulations issued by the planning department that support the implementation of government policies and the legal framework—do not override the AHA, but they are intended to ensure nondiscrimination and the inclusion of all people, regardless of the group they belong to, in the shared benefits of World Bank-funded projects.</p> <p>Any act of discrimination or exclusion based on the AHA that were to occur under a World Bank-financed project would contravene the inclusion obligations of the GoU under its financing agreements with the World Bank. The circulars affirm the GoU’s commitment to honor the financing agreements.</p> <p>The content and function of the circulars provides instruction and assurance to the accounting officers who must operationalize them through the development of guidance covering specific projects. Accounting officers at all levels are required to implement these circulars. However, the verdict in the current court case about the AHA will determine the harmonization of the law, including existing laws and the penal code.</p> |
| 6. | <p>There was an “elephant in the room.”</p> <p>Some participants were reluctant to fully engage in the process due to concerns that the process was moving too fast or that they might be perceived as endorsing the mitigation measures and the unfreezing of World Bank funding, thereby losing leverage in the court proceedings. Specifically, participants were concerned that their engagement in the process will be perceived as a tacit endorsement of the idea that the law is not inherently discriminatory, and the risk of discrimination and exclusion can be managed.</p> <p>Several participants emphasized that, based on their on-the-ground experience, they are unconvinced that the proposed mitigation measures can coexist with the inherent risks posed by the AHA given the ongoing arrests, growing community hostility, and increasing restrictions on the rights of SGMs and their ability to support themselves (e.g., evictions,</p> | <p>The GoU recognized this concern and noted that the two processes were separate. CSO involvement in the process of identifying risks and developing appropriate mitigation measures should have no impact on the court case.</p> <p>It was also noted by the World Bank that the risk and mitigation measures were being developed for the existing portfolio, which is still active. Moreover, the decision to unfreeze funding for future projects depends on the GoU being able to demonstrate that the mitigation measures for the existing portfolio are working.</p> <p>This will first involve the following steps by the World Bank: (1) procuring and then contracting the EISM firm; (2) with the support of the PIUs, implementing the mitigation measures for the existing World Bank-financed portfolio; (3) monitoring the integration and functioning of the mitigation measures.</p> |

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| | frozen accounts, arrests, lost access to services). | |
| 6. | <p>Participants called for expanded communication efforts.</p> <p>Participants said increased communication is needed to address the change in community perspectives due to the AHA and the negative impact it has had on relations between SGMs and the wider community, including an increase in overt hostility toward SGMs. These communication efforts need to target people at every level so those impacted by these projects know what they can expect in terms of their channels for reaching out and the mitigation measures being established to ensure SGMs can continue to benefit from project services.</p> | <p>The GoU acknowledged the need to include a central focus on communications. The sensitization and communications the PIUs will undertake with the support of the World Bank are expected to help remedy long-term stigmatization.</p> <p>The exact means that will be used to communicate to affected people and beneficiaries has yet to be determined. EISM support to the PIUs will ensure communications are extensive, appropriate, and include sufficient detail on the mitigation measures.</p> |
| 7. | <p>Participants expressed the need for more information on how GRMs will ensure the mitigation measure work and protect SGMs.</p> <p>How will project-specific grievance redress mechanisms work when the AHA is in place?</p> <p>Can the GRM protect SGMs?</p> <p>Can GRM committees have representation of SGM persons?</p> | <p>Each project has a GRM, which is accessible to everyone and is described in detail in the project stakeholder engagement plans and/or other project documents that are publicly available.</p> <p>The GRM is different for every project, informed by the project-specific design and geographic scope. Grievance redress committees are made up of people from the immediate area.</p> <p>At present, the GRMs are set up to provide a platform for all communities to have a safe, confidential, and ethical avenue to report instances of discrimination or exclusion. The proposed mitigation measures will include arrangements necessary to allow safe, confidential, and ethical reporting for SGMs.</p> <p>In many instances, the community-level grievance committees are selected by the communities themselves and not by the project staff. Nonetheless, all levels of GRM committees for projects will be trained on handling complaints related to SGMs.</p> |
| 8. | <p>Participants had questions about donor coordination.</p> <p>What efforts are being undertaken to ensure there is harmonization across sectors and donors?</p> <p>What efforts are being made to ensure coherence of mitigation measures across donor programs?</p> | <p>The World Bank noted that some concerns are beyond the scope of its portfolio. Project-specific consultations are beyond its mandate. However, as a member of the Local Development Partners Group and cochair of the Working Group on Inclusion and Nondiscrimination, the World Bank will work to enhance coordination on the mitigation measures. The World Bank will invite SGM CSOs to attend these meetings, as appropriate.</p> |

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| <p>9.</p> | <p>Participants asked many questions about the AHA and employment with World Bank-financed projects.</p> <p>What happens to a person’s employment if suspected or convicted of the offense of homosexuality under the AHA?</p> <p>Will the person still be able to work on the government project financed by the World Bank? Wouldn’t that be a direct contravention of the law?</p> <p>If a ministry realizes that someone hired by a project is a SGM, will the person lose their job?</p> <p>How can you ensure they will not be discriminated against?</p> <p>What happens if someone who benefits or works on your project identifies themselves as a homosexual—are safety measures in place?</p> | <p>Under World Bank-financed operations and service delivery, it will be made clear to all Project staff and contractors that that no one will be discriminated against, and neither should anyone be excluded from accessing employment, any services, or project benefits based on their personal characteristics, including sex, gender, gender orientation, race, color, and religion. Circulars have been issued to this effect. Such discrimination would be considered a violation of the GoU’s obligations under the applicable financing agreement with the World Bank. As such, a conviction under the AHA will not affect employment status under any World Bank financed project.</p> |
| <p>10</p> | <p>Participants asked about discussions held to date.</p> <p>Who has been consulted thus far on the projects?</p> <p>Who developed these mitigation measures if there have been no consultations with SGMs?</p> <p>Is this the first time SGM groups in particular have been included in consultations?</p> | <p>All projects in the existing portfolio included initial consultations prior to approval. However, those consultations took place prior to the passage of the AHA, and therefore did not include discussions on its impact and the potential for it to lead to exclusion and discrimination against SGMs in World Bank projects. As such, these consultations are intended to supplement previous consultations, including to inform the design of mitigation measures.</p> <p>The World Bank held stakeholder engagement meetings with several SGM-focused CSOs in Uganda to understand the impacts of the AHA on the LGBT+ community and help the World Bank think through how the risks could be managed under the portfolio. It was through this engagement that the World Bank helped the GoU develop the draft mitigation measures under discussion. Under the World Bank’s Environmental and Social Framework (ESF) requirements, these consultations are the first government led consultations to involve SGMs in Uganda.</p> |
| <p>11.</p> | <p>Can the World Bank explain which World Bank policies apply to discrimination under the AHA?</p> | <p>The World Bank’s ESF seeks to</p> <p>“... ensure that there is no prejudice or discrimination toward project-affected individuals or communities and give particular consideration to Indigenous Peoples, minority groups, and those disadvantaged or vulnerable, especially where adverse impacts may arise or development benefits are to be</p> |

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| | | <p>shared” (Vision For Sustainable Development, para. 5.).</p> <p>To achieve this objective, the ESF requires the borrower ensure meaningful consultations (ESS10) and take specific measures to ensure inclusion and nondiscrimination for individuals or groups at risk of exclusion from sharing in project benefits or at risk of disproportionate harm due to the project (ESS1).</p> <p>Moreover, the World Bank’s directive, “Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups,” sets due diligence obligations for World Bank staff related to the identification and mitigation of risks and impacts on individuals or groups who, because of their particular circumstances, may be disadvantaged or vulnerable. The directive obligates staff to undertake an assessment of project risks and impacts and identify mitigation measures that pertain to the disadvantaged or vulnerable individuals or groups.</p> |
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