

World Bank Safeguard Draft Rolls-Back Protections for People and the Environment

Key Human Rights Concerns

July 25, 2014

The World Bank has repeatedly committed to producing a new safeguard framework that results in no-dilution of the existing safeguards and which reflects prevailing international standards. Instead, the draft safeguard framework distributed this month to the Committee on Development Effectiveness represents a profound dilution of the existing safeguards and an undercutting of international human rights standards and best practice among development institutions.

Though there are several areas where language has been improved, such as the expansion of social risks and impacts to expressly include, among other issues, discrimination, inclusion and accessibility, the fact that the proposed framework itself moves from one based on compliance with set processes and standards, to one of vague and open-ended guidance, threatens to render these technical improvements meaningless. Approving this draft for consultation would send a message that the Bank and its member states are willing to abandon their obligations to ensure that their investments do not result in human rights violations. This is despite repeated calls, by CSOs and governments alike, for a strengthening of the safeguards and respect for globally recognized human rights standards.

We urge you to reject the proposed draft and send it back for revision to address the following fundamental flaws:

- 1) **The Social and Environmental Framework provides more carve-outs than coverage**
 - **New opt-out provision in the Indigenous Peoples Standard renders the policy meaningless** in the very circumstances where it is most needed.
 - **Borrower systems may replace application of the safeguards**, with no clear minimum standard or process for determining their adequacy.
 - **Projects involving financial intermediaries, co-financing, associated facilities funded by other agencies, and existing facilities or activities are eligible to bypass the substance of the safeguards** so long as they do not “materially deviate from the *objectives* of the ESSs.”
 - **Sub-projects classified by borrowers as *Substantial Risk* need only comply with national laws**, not the safeguards.
 - **Labor and Working Conditions Standard excludes contract and sub-contracted workers and only provides partial coverage for government civil servants**, leaving the majority of workers in Bank-financed projects unprotected.

- **Involuntary Resettlement Standard excludes land titling/regularization activities** as well as regional and national land-use planning, leaving widespread displacement impacts uncovered.
- 2) **Distorts international human rights standards and undermines prevailing development institution practice**
- **No commitment to respect human rights** or to ensure that Bank-financed projects do not contravene borrowers' international legal obligations. Reference to human rights in the vision statement is unenforceable, limited in scope, and takes for granted that the "Bank's operations are supportive of human rights and will encourage respect for them" without providing a framework for actually ensuring this.
 - **"Alternative approach" in the Indigenous Peoples Standard ignores indigenous peoples' human rights**, only requiring treatment "at least as well as other project-affected people." Additionally, while the Indigenous Peoples Standard states that **Free, Prior, and Informed Consent (FPIC) must be obtained** in certain scenarios, it fails to outline the procedural requirements of FPIC as articulated under international law.
 - **Labor and Working Conditions Standard ignores Core International Labor Organization Standards**, leaving out protections for freedom of association and collective bargaining.
 - **Provisions regarding discrimination leave out discrimination on the basis of race, color, language, and political or other opinion.**
 - **Involuntary Resettlement Standard fails to ensure that projects resulting in physical or economic displacement have a legitimate public interest purpose and that there are no viable alternatives**, consistent with international law.
- 3) **Abrogates Bank responsibility for ensuring projects do not harm people or the environment**
- **Significantly shifts responsibilities** for impact and alternatives assessment, risk classification, and stakeholder engagement **to the borrower, without clarity on the content of the Bank's due diligence** or monitoring and supervision.
 - Critical planning instruments, such as the **Indigenous Peoples Plan and Involuntary Resettlement Plan, are no longer required prior to appraisal** by the Bank and as key determinants of Bank support for the project.
- 4) **Offers little protection or recourse to project-affected communities**
- **Time-bound requirements for key document disclosure and participatory planning processes are eliminated**, including disclosure of the environmental and social assessment.
 - **Baseline socio-economic studies**, which are indispensable to resettlement planning, monitoring, evaluation, and restitution, **are no longer required.**

- **Lack of hard compliance requirements or clear standards** make it extremely difficult for communities to monitor projects and to know what rights they have. This also **undermines the ability of the Inspection Panel to enforce the safeguards**.

It is confounding that the Bank, an institution that positions itself as a leader in sustainable development, is choosing to roll-back decades of progress in social and environmental safeguards. We sincerely hope that you will bear in mind that what is at stake in this safeguard review process is not only the Bank's legitimacy as a public development institution, but real human lives.

We urge you to reject the proposed draft and send it back to Management for revision.

Signed,

Asia Indigenous Peoples Pact
Center for International Environmental Law
Chiadzwa Community Development Trust – Zimbabwe
Conectas Direitos Humanos – Brazil
Forest Peoples Programme
Global Rights
Human Rights Watch
Inclusive Development International
International Accountability Project
International Rivers
Lumière Synergie pour le Développement – Senegal
NGO Forum on ADB
Social Justice Connection – Canada
Society for Democratic Initiatives – Sierra Leone
Urgewald – Germany