Center for International Environmental Law (CIEL)

Comments on the World Bank Group's Draft Strategy for Fragility, Conflict, and Violence - 2020-2025

January 16, 2020

The Center for International Environmental Law (CIEL) seeks to protect and defend the environment and human rights against the adverse impacts of development. Our work focuses on ensuring that laws and policies governing development activities are consistent with those protecting the environment and human rights, as well as on holding governments, corporations, and the banks that finance them accountable for their actions. To this end, we have engaged with the World Bank (the Bank) with the goal of improving its environmental and social policies for more than two decades.

The World Bank Group (WBG) has identified that in order to achieve its twin goals of ending poverty and boosting shared prosperity, it must address the challenges of fragility, conflict, and violence (FCV). CIEL welcomes the World Bank's recognition that *"the global fragility landscape has worsened significantly in recent years"* and that therefore it must change how it operates in FCV settings. Reviewing the evolving role of the WBG in such settings, we acknowledge the need to build a formal strategy that seeks to address the profound impacts on the most vulnerable people and communities in the world.

In our previous submission, we acknowledged that the Bank correctly recognized the unique challenges posed by its involvement in FCV settings, and that these challenges "are context-specific, complex, and nuanced, requiring approaches tailored to the unique geography, history, and conflict drivers of each setting."[1] In developing its solutions, the Bank must conduct a complete analysis of a proposed project *and its alternatives*, including the option of tabling the project and revisiting it when the situation is more stable.

[1] World Bank Group, Strategy for Fragility, Conflict, and Violence (FCV) 2020-2025: Draft for Consultation, par. 7 (2019) (hereinafter: "Draft FCV Strategy").

However, this approach is not fully reflected in the World Bank Group Strategy for Fragility, Conflict, and Violence (FCV) 2020-2025 (Draft Strategy). Despite encouraging language in the executive summary, the overall strategy fails to account for the complex ways in which histories of armed conflict, war, and persistent instability result in serious barriers that prevent civil society from effectively and safely participating in development decisions and activities. CIEL disagrees with the basic premise articulated by the WBG that the costs of inaction are necessarily higher than the challenges of operating in FCV settings.[2] We fear that such a blanket statement gives bank teams license—in the face of foreseeable challenges—to deviate from established safeguards, performance standards, and due diligence requirements meant to protect individuals and communities.

As an organization with 30 years of experience working with communities affected by development projects throughout the world, CIEL has witnessed what happens when the Bank fails to engage with civil society to properly address complex contextual challenges and merely focuses on risk management and alleviating costs. As we all know, investment is not a silver-bullet, and the Bank has made decisions to disengage after difficulties become insurmountable, leaving weakened institutions to deal with the aftermath. By stating that the costs of inaction will always outweigh the challenges of working in an FCV setting, the Bank is failing to embrace the lessons learned from past endeavors, discounting the human cost of its actions as a consequence.

I. CIEL questions the Draft Strategy's premise that the costs of inaction inherently outweigh the potential costs of World Bank engagement in FCV situations.

We find the Bank's approach to Risk Management in FCV settings problematic on three fronts. First, harms to people and communities are not sufficiently considered. By dismissing inaction as a possible pathway, the WBG inflates its own positive influence. It fails to recognize that scenarios exist where the Bank's intervention is undesirable and will exacerbate existing conflicts. Such scenarios are all the more likely in FCV settings. As the Bank embraces its commitment to "do no harm,"[3] it must recognize that its engagement in FCV settings may do exactly the opposite. In light of the unique challenges inherent to working in FCV settings, it is unclear how the risks and costs of inaction uniformly outweigh the benefits of patience.

Further, the Bank's approach to risk management in FCV settings seems to disregard community stakeholders—only acknowledging impacts to the WBG's financing arrangements and investments. For years, CIEL has raised concerns that civic space is closing around the world with devastating consequences. Recently, the Bank has taken steps to acknowledge the crucial role that civil society must play in development, while also recognizing and creating important policies to ensure stakeholder engagement in its projects. However, when the Bank fails to give

[2] *Id.* at par. 199.
[3] *See id.*, pars. 41, 45, 48, 77, 78, 86.

affected communities and civil society the credibility or legitimacy they deserve, it not only robs itself of opportunities to hear about the history and conflict drivers first-hand, it also closes the civic spaces it had hoped to protect. Ultimately, any call from communities to not go forward with a project, policy or decision, i.e. calls for ***inaction***, will be ignored. In an FCV context, failure to respect community voices may lead to reprisals, harassment, and criminalization.

In addition, the Draft lists risks to the Bank's reputation, risks to physical security of Bank staff, risk of not reaching vulnerable groups and of project capture, implementation risks, and fiduciary risks as evidence of the high costs of inaction.[4] However, these risks, as they are defined by the WBG, would not exist if a project was tabled during the analysis and development stages.[5]

Second, due to the instability of FCV settings, there should be a presumption toward more oversight and control, rather than a loosening of restraints and flexibilization of compliance with existing policies. While flexibility may be desirable in more stable settings as an answer to new challenges, FCV settings are more volatile and require stricter adherence to accepted environmental and social frameworks, policies and guidance. Instead of giving bank teams in FCV settings "space to take risks and try non-conventional development approaches," there should be a heightened threshold for what practices are acceptable.[6]

Third, the WBG states that doing business in FCV settings requires that WBG must increase its risk tolerance and accept that failures may happen. This is a rather cavalier attitude for the Bank to adopt, given that failures related to projects in Nicaragua, Colombia, Chile and Honduras (none of which would fall under the Strategy as it currently stands) have been tremendously damaging for local communities. The Strategy's stance comes in response to disappointing engagement from the private sector in low-income countries (LICs) and low-returns from blended finance initiatives.[7] As the WBG attempts to redirect private investment to LICs and FCV settings, CIEL worries that the WBG is prioritizing private investment over community voices and FCV-specific concerns. By emphasizing risks to itself, its clients, and its borrowers, the WBG

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[4] *Id.* at par. 199.

[5] *Id.*, par. 31 (stating that: "Reputational risks include issues related to sponsor (lead investor) integrity, such as political connections [and] previous illegal activities and corruption"); and The World Bank, Risk Framework for Operations 27 (2016) (stating that: "Reputational impact/risk occurs when there is a gap between the performance or behavior of the WBG and the expectations of its critical stakeholders").

[6] Draft FCV Strategy, par. 201. If the WBG decides to exercise caution before investing in an FCV setting and postpones action on a project, these considerations are moot. They do not follow unless the WBG has already engaged with stakeholders beyond an initial project analysis.

[7] Overseas Development Institute, Blended Finance in the Poorest Countries: The Need for a Better Approach (2019) (stating that: "Multilateral development banks (MDBs) are failing to meet expectations when it comes to catalyzing additional private finance into low-income countries (LICs). ODI finds that every $1 of public money invested in LICs is only generating $0.37 in private finance. Most of the blended finance is going to safer, more stable middle-income countries (MICs) rather than LICs, as originally planned.")

attempts to justify lowering standards and removing safeguards in order to attract private investors.

II. CIEL's experience in accompanying communities affected by development projects warns against World Bank engagement in FCV situations.

As stated above, CIEL has 30 years of experience accompanying people and communities affected by development projects. During this time, CIEL has advocated for the creation and improvement of safeguards and actively pushed for the creation of the accountability mechanisms of the World Bank, the International Finance Corporation (IFC), and many other development finance institutions. Throughout recent years, we have accompanied numerous affected communities in raising concerns about projects financed by the IFC, the Inter-American Development Bank (IADB), and other institutions in areas that CIEL would recognize as affected by fragility, conflict and/or violence.

CIEL seeks to inform the Draft Strategy by sharing relevant lessons from this work that are relevant to the WBG's engagement within FCV contexts. Together, these experiences warn of the depth of the challenges posed when an institution like the Bank attempts to engage – without causing harm – in such fragile situations.

1. Lessons learned from the experience of the Community Movement of Santa Cruz de la India, Nicaragua

Background about the case:

In Santa Cruz de la India, Nicaragua, community members have publicly opposed plans for a gold mine project, known as the La India gold mine. The project is owned by UK-based Condor Gold, and the IFC was a key investor in this project. CIEL worked with the Community Movement of Santa Cruz de la India to bring a complaint to the IFC's Compliance Advisor Ombudsman (CAO) in 2018. The complaint highlighted the community's significant concerns regarding the Condor Gold mining project, calling on the CAO to investigate whether the IFC's financial investment in the project violated the IFC's own social and environmental standards on transparency, access to information, consultation, and environmental and social impact assessment of the mining project. The complainants also requested that the IFC stop financing the project, given its potential environmental and social impacts, as well as the situation of insecurity and criminalization they face in Nicaragua.

CIEL emphasizes that, although Nicaragua might not currently qualify as an FCV country according to the measures laid out in the Draft Strategy, the social and political situation in the country is highly fragile.[8] The ability of Nicaraguan government and institutions to ensure the

[8] CIEL considers that this points to the shortcomings of the methodology used by the FCV Strategy to identify and designate FCV-affected countries.

rule of law and to inspire trust from the Nicaraguan people is extremely weak.[9] This context has enabled a pattern of citizen repression that has been associated with the Condor Gold mining project since its inception, including threats, harassment, and criminalization of environmental defenders and community leaders who have expressed criticism of the project. CIEL believes that no responsible company or investor would ignore this reality and conduct business in such a situation without taking extensive measures to guard against the likely negative ramifications of its actions for affected people and communities.

Lessons learned for remaining engaged rather than divesting from problematic projects:

One of the pillars of the draft FCV strategy focuses specifically on remaining engaged in FCV situations.[10] CIEL appreciates the World Bank's recognition of the importance of staying engaged, including by partnering with local CSOs who have critical contextual expertise and an essential presence on the ground.[11]

The experiences of communities in Santa Cruz de la India speak directly to the importance of staying engaged and accepting responsibility for ongoing consequences of World Bank financing, which may continue long after investment itself occurs. In this case, the IFC divested from Condor Gold in June of 2019.[12] While community leaders welcomed the IFC's divestment from this problematic project, CIEL emphasizes that the manner in which this divestment took place was neither responsible nor transparent. First, the IFC took no public-facing action to acknowledge its withdrawal from the Condor Gold mining project. This omission contributed to putting community leaders at risk: when they finally took it upon themselves to publish a statement breaking the news that the IFC had divested from Condor Gold, Nicaraguan police took direct retaliatory action against them just days later.

Further problematic is the fact that the IFC refrained from providing any public information about the reasons for which it had found it necessary to divest from the mining project. CIEL considers that the decision to withdraw from the project reflects a lack of confidence in the project's viability and in the performance of Condor Gold, and we understand that the IFC's position of zero tolerance for retaliation[13] was also a key factor in its decision to divest. However, in the absence of publicly available information from the IFC about this decision, the project has

[9] *See generally* USAID, *About Nicaragua* (referencing the country's weak democratic institutions, limits on freedom of expression and freedom of press, and closing civil society space), available at: https://www.usaid.gov/nicaragua.

[10] Draft FCV Strategy, pars. 73-84.

[11] *See* Draft FCV Strategy, pars. 79, 81.

[12] The divestment of the IFC from Condor Gold occurred on June 11, 2019, when the percentage of voting rights linked to the IFC's shares in Condor Gold, Plc decreased from 3.44% to 0%. This change is reflected on the website of Condor Gold: http://www.condorgold.com/sites/default/files/news/TR1%20Form%20(Completed)%20-%2011%20June.pdf

[13] The IFC Position Statement on Retaliation Against Civil Society and Project Stakeholders is available at: https://www.ifc.org/wps/wcm/connect/ade6a8c3-12a7-43c7-b34e-f73e5ad6a5c8/EN_IFC_Reprisals_Statement_201810.pdf?MOD=AJPERES.

continued to enjoy the legitimizing effects of the IFC's involvement in the eyes of other investors. Such investors may not have considered investing in this mining project had it not been affiliated with the reputation of the IFC and the WBG.

In October, 2019, some months after the divestment, the CAO closed the case that had been filed by affected community members, rather than initiating an investigation. The closure of this avenue of communication and engagement for affected communities left community leaders—who continue to face serious reprisals, including threats, intimidation, and criminalization for their criticism of the project—in a position of even greater vulnerability, as they can no longer rely on any part of the WBG to scrutinize any aspect of the project or to follow up on acts of retaliation committed against them.

It is important to note that despite the IFC's divestment, Condor Gold continues to move forward with the mining project. The negative social and environmental ramifications of the project continue to be of great concern to both CIEL and its partners in Nicaragua.

In light of this experience, CIEL concludes that any responsible strategy for engaging in FCV contexts should include not only a statement of the importance of remaining engaged in conflict- and violence-affected countries generally, but also a thorough analysis of how to recognize and address the negative ramifications of decisions made by the World Bank Group to disengage from specific problematic projects, particularly in fragile contexts such as in Nicaragua.

Lessons learned for recognizing closing civic space and increased potential for reprisals in FCV settings:

As described above, the fragile political and social context surrounding the Condor Gold mining project made the situation ripe for acts of intimidation, harassment, and reprisals against community leaders and critics of the project. A pattern of such acts has been ongoing for years. Since exploration activities for the mine began in 2011, community members have faced intimidation, surveillance, police harassment, and criminalization.[14] The pattern continued around the time of the CAO's visit to the area in November 2018, with the community experiencing an increased police presence and some community leaders facing death threats.[15] At least two such community leaders were forced to flee the country for several months in the wake of these threats, leaving behind their families and livelihoods and abandoning their activism against Condor Gold. Most recently, following the publication of the statement regarding the IFC's divestment from Condor Gold (described above), community leaders have

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[14] *See* Center for International Environmental Law, *Protecting Rights Around La India Mining Project, Nicaragua*, available at: https://www.ciel.org/project-update/community-resistance-to-protect-rights-around-la-india-mining-project-nicaragua/.

[15] *See* Center for International Environmental Law, *Riot Police Descend, Local Activists Under Siege Around Nicaragua Mining Project*, Nov. 30, 2018, available at: https://www.ciel.org/news/riot-police-descend-local-activists-under-siege-nicaragua-mining-project/.

faced another wave of retaliation at the hands of Nicaraguan police. This has included repeated incidents of harassment targeting them and their family members, arrests, confiscation of personal property, and threats of renewed criminalization.

In light of these experiences, CIEL underscores the critical importance of incorporating a zero tolerance for retaliation policy within any strategy for engaging in FCV contexts. We note that the current Draft Strategy makes no mention of issues of retaliation and reprisals against civil society actors or other project stakeholders, despite the increased risk of such retaliatory acts occurring in fragile contexts already prone to violence and conflict.

In addition, several civil society organizations in Nicaragua that have supported the community in Santa Cruz de la India have also been targeted. Tactics used to pressure these organizations have included police raids of their institutional offices and revocation of their legal status as non-governmental organizations.

CIEL appreciates that the Draft Strategy repeatedly recognizes the need for the WBG to partner with and draw upon the expertise and contextual knowledge of such civil society and community-based organizations, especially when engaging in FCV contexts.[16] **However, CIEL stresses that the Strategy should also include explicit reference to the risks associated with engaging in contexts of closing civic space, including that the World Bank Group might contribute to or be viewed as condoning this phenomenon due to its presence in such contexts. Symptoms of closing civic space, including restrictions on the freedoms of expression, association, and assembly, raise significant red flags and should be explicitly addressed within this strategy to guide the World Bank Group's consideration of when and how to invest in FCV contexts.**

2. Lessons learned from the experience of the No Alto Maipo movement in Chile

Background about the case:

For more than a decade, the "No Alto Maipo" movement has opposed the Alto Maipo Project, a large-scale, run-of-the-river hydroelectric project currently under construction in the Cajón del Maipo, located approximately 50 kilometers outside of Santiago, Chile. The IFC provided financing[17] for this project along with the IADB, Overseas Private Investment Corporation, and several other financial institutions. In 2017, CIEL supported community members affected by the Alto Maipo project in filing a complaint with the CAO of the IFC highlighting the project's detrimental social and environmental consequences, arguing that the IFC's financing of the project failed to comply with the IFC's own policies on access to information and environmental

[16] Draft FCV Strategy, pars. 24, 45, 47, 77, 79, 81, 89, 165.

[17] *See* IFC Project Information and Data Portal: Alto Maipo, available at: https://disclosures.ifc.org/#/projectDetail/ESRS/31632.

and social governance. Thereafter, the IFC fully divested from the Alto Maipo project,[18] as reported in May 2018.[19]

Lessons learned for adequately considering climate change as a driver of FCV:

The Draft Strategy repeatedly emphasizes the linkages between climate change and situations of fragility, conflict, and violence.[20] CIEL appreciates the Strategy's recognition of these critical links, including the fact that "FCV both affects and is affected by…climate change" and that these dynamics are taking place over both "the immediate and long-term".[21] Indeed, it would be impossible to effectively address issues of fragility, conflict, and violence without considering the closely related issue of climate change.

Unfortunately, CIEL's experience accompanying communities in the Alto Maipo case points to the fact that development projects—including those with WBG financing—can have severe consequences for climate change. This, in turn, can foster contexts of social instability in which situations of fragility, conflict, and violence more easily emerge.

Among the most concerning impacts of the Alto Maipo Project are the myriad ways that it will contribute to and accelerate the effects of climate change. First, as it reroutes water from the Maipo River's three main tributaries through 100 kilometers of tunnels bored through the Andes mountains, the Alto Maipo Project will drastically reduce the flow of these critical rivers. This will reduce rainfall and impede the replenishment of underground aquifers as a result. The project is already aggravating the decade-long drought that affects large regions of Chile, as well as contributing to a consequent process of desertification in and around the Cajón del Maipo.[22] The situation has become so severe that in September 2019 the Chilean government was forced to declare a state of water scarcity in the area where the Cajón del Maipo is located.[23]

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[18] As in the Condor Gold case described above, CIEL considers that the IFC's divestment from the Alto Maipo project was not undertaken in a responsible manner, as the IFC made no public statement regarding the fact that it had divested from this problematic project, let alone explaining its reasons for doing so.

[19] *See* Iberian Lawyer, *Six Law Firms Convene Alto Maipo $3bn Energy Refinancing in Chile*, May 24, 2018, available at: http://www.iberianlawyer.com/latin-america/news-latin-america/7764-six-law-firms-convene-alto-maipo-3bn-energy-refinancing-in-chile.

[20] Draft FCV Strategy, pars. ii,viii, ix, 2, 11, 16, 42, 46, 88, 107, 109, 115, 195 (2019).

[21] *Id.* at par. 16.

[22] For more information about the impacts of the Alto Maipo Project on water scarcity and climate change, *see* Marcela Mella Ortiz, *Observaciones en el marco del Procedimiento de Revisión de la Resolución de Calificación Ambiental No. 256/2009 del Proyecto Hidroeléctrico Alto Maipo*, received by the Chilean Servicio de Evaluación Ambiental on March 1, 2019, available at: https://www.sea.gob.cl/sites/default/files/adjuntos/paginas-estaticas/n_17_consolidado.pdf.

[23] Dirección General de Aguas del Ministerio de Obras Públicas, Gobierno de Chile, *Decreto MOP No 105 de 6 de septiembre de 2019, declara zona de escasez hídrica a las comunas de San José de Maipo, Pirque, Puente Alto, San Bernardo, Isla de Maipo y Buin, región Metropolitana. Fecha de caducidad: 06-03-2020*, available at: https://dga.mop.gob.cl/administracionrecursoshidricos/decretosZonasEscasez/Paginas/default.aspx.

In addition, the Alto Maipo Project is having a detrimental impact on the glaciers that serve as a main source of water for the Maipo River and its tributaries. These glaciers are already melting at a rapidly increasing rate.[24] Unfortunately, the creation of the tunnels for the Alto Maipo Project relies on a process of boring and the use of explosives, which is resulting in increased fissuring of the surrounding glaciers. Significant sections of these glaciers have already been lost during the construction of the Alto Maipo Project.

Despite the fact that these consequences were foreseeable, the impacts of the Alto Maipo Project for desertification and climate change were not considered during the environmental assessment of the project.

It should be noted that the disruption of the Maipo River and its tributaries is expected to have grave consequences for the right to water not only of residents in the Cajón del Maipo, but also of the more than 7 million people who live in the Santiago metropolitan area. This is because the Maipo River provides 80% of the water used for human consumption and other persons in Santiago.[25] It is predicted that the current situation of water scarcity will become increasingly severe over the coming summer months, as a result of which the Chilean capital could face the unprecedented emergency of being left without access to sufficient water later this year.

We note that environmental factors—including the extended drought that has affected large regions of Chile, as well as the toxic levels of contamination experienced in the country's so-called "sacrifice zones"—have been cited as among the multiple drivers in the social unrest experienced in the country since October 2019.[26]

Given this experience, CIEL emphasizes that any responsible strategy for World Bank Group engagement in FCV settings must go beyond recognition of the links between climate change and FCV. Heightened due diligence must be required to ensure that WBG-funded projects do not contribute to or exacerbate the effects of climate change.

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[24] *See* ScienceBlogs, *Chile's Devastating Fires: Another Climate Change Story*, Feb. 2, 2017, available at: https://scienceblogs.com/gregladen/2017/02/02/chiles-devastating-fires-another-climate-change-story.

[25] Chile Sustentable, *Alto Maipo y la contaminación del agua que abastece Santiago*, Mar. 21, 2016, available at: http://www.chilesustentable.net/alto-maipo-y-la-contaminacion-del-agua-que-abastece-santiago/.

[26] *See, e.g.,* BBC Mundo, *Estado de emergencia en Chile: La jornada de protestas en Santiago que llevó al presidente Piñera a suspender el alza del precio del metro*, Oct. 19, 2019, available at: https://www.bbc.com/mundo/noticias-america-latina-50112071 (stating [in Spanish], "parece haber cierto consenso en que la protesta responde a una percepción generalizada de abuso en torno a temas que han estado en intenso debate durante el último tiempo en el país: [entre otros factores,] las reiteradas intoxicaciones en las llamadas "zonas de sacrificio" ambiental [...] y las preocupaciones en torno a la prolongada sequía"); *see also* Deutsche Welle, *Chile: la crisis social también es medioambiental*, Oct. 29, 2019, available at: https://www.dw.com/es/chile-la-crisis-social-tambi%C3%A9n-es-medioambiental/a-51028769.

III. Essential elements the World Bank Group must include within any FCV Strategy

CIEL is deeply concerned that the Draft Strategy represents an attempt to facilitate greater WBG involvement in FCV settings by loosening existing policies intended to protect against the risk of harm to people and the environment. We insist that a responsible FCV Strategy would be grounded in a recognition that WBG engagement in FCV settings entails heightened risks not only from the Bank's perspective, but also and especially for communities who are already at risk within these fragile contexts. Affected communities' safety and well-being could be put in even greater jeopardy by development projects undertaken in FCV contexts, especially if the WBG's commitment to full compliance with existing frameworks and policies is minimized or abrogated in this context.

Given all of these concerns, CIEL emphasizes the importance of incorporating the following key considerations to guide WBG engagement in FCV settings:

- First, we note with concern the Draft Strategy's emphasis on increasing flexibility[27] when engaging in FCV settings, "particularly for...safeguards"[28] and the Environmental and Social Framework.[29] Particularly concerning is that the Strategy specifically proposes finding ways to "ease ESG constraints",[30] accepts as a given that engaging in FCV contexts will result in greater rates of failure,[31] and notes that the push toward greater flexibility may even allow for policy derogations to be sought from the Board of Directors "if it may not be possible to meet certain aspects of the Performance Standards".[32] [33]

  Rather than pushing toward increased flexibility in FCV settings, **the FCV Strategy should explicitly ensure full adherence to existing social and environmental policies wherever the WBG is engaged, including in FCV settings.** We insist that strong safeguards should form the basis for addressing risk and risk mitigation in FCV contexts. Indeed, the importance of strong safeguards in FCV settings cannot be underestimated, given the many vulnerabilities inherent to such situations. Additional guard rails may also be necessary in FCV settings to prevent WBG engagement from aggravating existing tensions and conflict.

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[27] References to the need for flexibility are littered throughout the Draft FCV Strategy. *See, e.g.,* Draft FCV Strategy, pars. xiii, 22, 25, 121, 123, 126, 132.

[28] Draft FCV Strategy, p. ix.

[29] *Id.* at pars. 123, 126.

[30] *Id.* at par. 134.

[31] Draft FCV Strategy, par. 135.

[32] Draft FCV Strategy, par. 132.

[33] CIEL further rejects the assertion in par. 135 of the Strategy that "[s]ocial and environmental sustainability in the private sector are preconditioned on financial sustainability". If the private sector cannot guarantee the social and environmental sustainability of its actions and investments, particularly in already delicate FCV settings, it should not be engaging at all.

- Second, CIEL is deeply concerned that stakeholder engagement is not sufficiently incorporated in the Draft Strategy. **Failure to recognize the importance of input from a range of stakeholders[34]—especially project-affected individuals and groups, including local communities—is a critical flaw of the Draft Strategy.** Without this local knowledge and buy-in, WBG engagement runs an even greater risk of causing harm or aggravating tensions, especially in FCV settings. **Early and ongoing stakeholder engagement, including with affected communities, must be explicitly incorporated as a core element of any FCV Strategy.**

- Third, while CIEL appreciates the Strategy's recognition that civil society can play a critical role in ensuring successful project design and implementation, greater ownership, risk management, effectiveness, and accountability,[35] we are concerned that the Strategy does not recognize that FCV contexts are frequently accompanied by closing civil society space (as described in the case of Nicaragua in Section II, *supra*). Closing civic space makes genuine stakeholder engagement and civil society consultation more dangerous and at times impossible, especially in FCV settings. **CIEL reaffirms that any responsible FCV Strategy would assess the ramifications of operating in situations where civic space is shrinking, including the risks for project success in situations where stakeholder engagement is difficult or impossible, as well as the risks posed to individuals who do seek to engage critically and project-affected individuals who cannot engage for fear of their safety in FCV contexts.**

  In addition, a critical symptom of closing civic space is a heightened risk of retaliation and reprisals targeting individuals and groups who express critical views. As discussed in Section II above, retaliatory threats, harassment, intimidation, criminalization, and violence are likely to be more frequent and more severe in FCV settings. **As such, any responsible FCV Strategy would take a position of zero tolerance for retaliation and reprisals.** The lack of focus on this area is a critical flaw of the current Draft Strategy.

- Fourth, CIEL welcomes the acknowledgement that "climate change is a driver of fragility and a threat multiplier. Both in the immediate and in the long-term, it can aggravate already fragile situations and increase vulnerabilities, exacerbate grievances, and deepen pre-existing fragility." However, we reaffirm that when considering the impacts of climate change, the Draft Strategy must not only recognize its aggravating effects in FCV settings; it must also provide responses at the policy and operational levels proportionate to the challenges faced. **Any FCV Strategy must require a full assessment of the myriad ways that**

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[34] *See* World Bank, *The World Bank Environmental and Social Framework*, pp. 97-98 (describing the essential nature of stakeholder engagement under ESS10 and defining stakeholders to include, *inter alia*, local communities), available at: http://pubdocs.worldbank.org/en/837721522762050108/Environmental-and-Social-Framework.pdf#page=111&zoom=80.

[35] Draft FCV Strategy, par. 165.

WBG engagement could exacerbate the effects of climate change, itself an important driver of FCV.

Moreover, while the WBG's Draft Strategy makes various references to the ramifications of climate change for fragility and conflict, it articulates a new method for identifying and classifying FCS that fails to take climate change into account.[36] In particular, the new method finds high levels of institutional and social fragility where ". . .2,000 or more per 100,000 population have fled and are internationally regarded as refugees in need of international protection. . ."[37] This focus on international definitions of refugees overlooks both climate-displaced persons and internal migrants, as neither of these groups are recognized as "refugees". CIEL reminds the WBG of its 2018 report "Groundswell-Preparing for Internal Climate Migration," in which it states: "Internal climate migrants are rapidly becoming the human face of climate change. . ." Unless concerted action is taken at the global and national levels, Sub-Saharan Africa, South Asia and Latin America could see 143 million people move within their countries' borders by 2050.[38] **Given that climate displacement is a direct, measurable effect of climate change, any FCV Strategy should consider climate-displaced persons when identifying and classifying FCS.**

- Fifth, the World Bank Group has trumpeted its commitments to transparency, accountability, and good governance, creating policies and standards that have been replicated and adopted by other development finance institutions for decades. Consequently, the creation of the Environmental and Social Safeguards and the Performance Standards have led to improved understanding and greater scrutiny with regard to what due diligence entails for the bank and for its clients and borrowers.

  However, we are alarmed that in devising the Draft Strategy both the *IFC and MIGA's responsibility to due diligence and monitoring of clients will end upon exit or on client failure*, and that *their accountability and liability must also end at that point if risk appetite is to be maintained*.[39] As we have highlighted in this submission, investments, projects, and programs intended for FCV settings have the potential to create myriad risks for already vulnerable communities. **It is precisely for this reason that established requirements for due diligence and monitoring should remain in force following exit from a project or client failure occurring in FCV settings, as these are frequently the moments when project-affected people are left exposed to harm.**

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[36] Draft FCV Strategy, pars. 16, 88 (2019).

[37] *Id.* at endnote 12.

[38] Rigaud et al., Groundswell: Preparing for Internal Climate Migration. World Bank, Washington, DC. World Bank. (2018)

[39] Draft FCV Strategy, par. 135.

Moreover, the need for accountability from the Bank and its clients does not disappear when the Bank exits a project. To that end, **any responsible FCV Strategy should clarify that project-affected people are able to seek accountability at established independent accountability mechanisms when the World Bank Group has been involved in any project.**

IV. Closing Remarks

CIEL appreciates the fact that the World Bank Group has been analyzing ways to address the challenges of engaging in FCV settings worldwide. We would remind the Bank that during its 75 years of existence, it has engaged repeatedly in regions that would qualify as FCV settings. We would hope that the lessons learned in this time would guide current and future engagement.

Finally, we would urge the World Bank to engage on these critical issues with local communities, indigenous peoples, and civil society organizations, including and especially those living in FCV settings. Such engagement should emphasize learning from first-hand accounts while developing a robust, people-centric policy that emphasizes human and environmental well-being over financial risk.

We remain available to engage with the Bank on issues regarding the Bank's engagement in FCV settings. In particular, we would welcome the opportunity to further discuss the case studies referenced in this submission, as well as to respond to questions and provide additional comments. Please feel free to contact us at: cgarcia@ciel.org or sdorman@ciel.org.

Sincerely,

Carla García Zendejas Sarah Dorman

Center for International Environmental Law (CIEL)

Washington, D.C. January 16, 2020