

## **Comments/Recommendations by Egyptian civil society around the draft Safeguards Policies during Phase 3 consultations**

**January 21, 2016**

We would first like to commend the World Bank for responding to the coalition of Egyptian civil society's requests to include Egypt in the third round of consultations around the proposed draft Framework for the Safeguards Policies, and also for reflecting some of the group's demands and recommendations in the updated draft, particularly in relation to Environmental and Social Standard (ESS) 2 around Labor and Working Conditions and ESS 3 around Resource Efficiency and Pollution Prevention. While we highlight these positive developments/amendments, the main concern remains in the difference in vision or overall perspective between the World Bank and civil society, not only Egyptian civil society but global civil society. During the three rounds of consultations, CSOs from around the world and Egyptian CSOs voiced the same criticisms and recommendations around the Safeguards. This was not necessarily due to coordination among these groups, but was rather inspired by a common reference point represented by the World Bank's stated goals of ending extreme poverty and promoting shared prosperity, which in turn are the common denominators that drive us all as civil society to engage in dialogue around the best standards and ways to ensure that the World Bank's investments and loans achieve these goals. In light of the above, we present below comments/recommendations by Egyptian civil society regarding the approach and proposed policies in the draft Framework around which we were consulted.

### **First: Approach of the proposed draft Safeguards Policies**

- Absence/lack of clarity of the standards framework governing Safeguards Policies. Although the proposed draft which was consulted on claims that it adopts a rights-based approach, all the terms used in the draft avoid using rights concepts, for example the draft uses the term "involuntary resettlement" instead of "forced eviction," and "redress or replacement cost" instead of "reparation of losses." Rights-based concepts and terms are more succinct and clear, and are also binding, with the majority of countries and governments around the world having ratified the International Covenant on Economic, Social and Cultural Rights. Therefore, the terms used in the Safeguards Policies draft must be changed to reflect rights concepts in line with the Covenant.
- The limited scope of the draft: The proposed Safeguards Policies only apply to investment project financing and exclude Development Policy Loans (DPLs) and Program-for-Results (PforR) financing, which often make up the majority of the Bank's portfolio in a certain country, as is the case for Egypt and other countries. This, in addition to weak operational policies or performance standards that govern DPLs and PforR projects is problematic, not only because there are two sets of standards that govern World Bank loans, but also because this means that the proposed Social and

Environmental Framework will not apply to the majority of Bank-funded projects. Based on this, the Bank should expand the scope of the proposed Safeguards to include DPLs and PforR projects.

- Conflict of interest with respect to borrower government responsibilities: The draft states that it is the responsibility of the borrower to conduct environmental and social impact assessment studies and determine the nature of the impacts from the project and the value of compensation for affected individuals. This represents a clear conflict of interest because of the tendency of the borrower to downplay or deny any harms or negative impacts whether social or environmental in order to get approval for a proposed Bank loan or project. The draft should include a provision for establishing an advisory body that is financially and administratively independent to conduct environmental and social impact assessments for all proposed projects to ensure impartiality and integrity. The proposed draft includes a provision that allows for recourse through such a mechanism in paragraph 33 of the World Bank Environmental and Social Policy for Investment Project Financing: “depending on the potential significance of environmental and social risks and impacts, the Bank will determine whether the Borrower will be required to retain independent third party specialists to assist in the assessment of environmental and social impacts.” We ask that this mechanism be adopted and applied to all projects financed by the World Bank.
- Non-binding language in the proposed environmental and social standards: All the proposed policies include non-binding language such as “the borrower will determine/ will set standards, or standards will be designed.” All such language should be revised to say “the borrower commits to.”

## **Second: Environmental and Social Standard 1, Assessment and Management of Environmental and Social Risks and Impacts**

### ***Standards related to the environmental impact assessment process:***

The environmental impact assessment (EIA) process should be based on the following standards and principles:

- 1- Project appraisals should be conducted before the project design phase, during implementation and after project completion.
- 2- The role of CSOs should expand beyond consultations around the EIA process and should include the preparation of shadow impact assessment reports.
- 3- The role of CSOs should also expand into the monitoring and evaluation phase to ensure adherence to EIA studies.
- 4- Project information should be disseminated before implementation and be made publicly available before loan approval.
- 5- The EIA process should be an institutionalized process following a clear and specific legislative structure, and carried out by independent institutions monitored and held accountable by publicly elected councils and CSOs.

- 6- The EIA study should be discussed and approved by publicly elected councils based on standards of integrity and transparency.
- 7- The study of alternatives should not be limited to the economic benefits of projects, but should also include an assessment of the social impact and benefits resulting from each proposed alternative.
- 8- The EIA process should extend until the end of the loan repayment period.
- 9- EIA reports should include detailed studies of possible and available alternatives to project location, available technologies, etc.
- 10- The EIA study should include a bigger focus on the social and human rights-related impacts of a project including impacts on persons with disabilities.

### **Third: Environmental and Social Standard 2, Labor and Working Conditions:**

**In order to realize the purpose of these consultations and the necessary conditions to ensure effective pursuit of sustainable development goals while providing the appropriate working conditions and environment; and in order to achieve borrowing governments' development and growth goals while respecting the rights of workers; and to move forward with the implementation of environmental standards, we present the comments below. Note that each comment refers to the corresponding paragraph number under ESS2, according to the Arabic version of the draft Safeguards Policies:**

10: Should require that three copies of labor contract release forms be made available, with one copy for the laborer, and that project and organizational documents be made available in a visible location at the project site.

11: Should state that the labor management procedures must not violate national laws and international conventions.

12: Should state that workers will not be dismissed until the completion of the project or project requirements, with "termination of worker" to be replaced with "termination of contract with worker." Terminations should be based on legal justifications and made after conducting an administrative investigation under the conditions of integrity and impartiality, with all dues and compensation to be paid in accordance with local laws and international conventions.

15: Should use more specific and binding language with respect to the inclusion, protection, and assistance of vulnerable groups of workers. The standard should rather define a set percentage of workers to be included such as 30% women, and 5% persons with disabilities, provided that the project's nature is suitable for the inclusion of such groups given their situations. In this case the project should also provide an appropriate and safe work environment for such vulnerable groups – for example, ensuring that the project is not located in a remote area or of a specific characteristic that requires adherence to other relevant international or local standards, such as those applying to work in quarries.

16: We propose replacing the phrase “the role of legally established workers’ organizations will be respected” with “**project managers will abide by local laws and the resolutions of workers’ organizations.**” Project managers **should also abide by collective bargaining resolutions and commit to providing all project-related information needed for negotiations. Efforts to influence resolutions of workers’ organizations are in violation of this standard.**

17: Project managers should be required to adhere to children’s rights standards according to international conventions and pay child laborers full wages.

19: According to international conventions and Egyptian national law, the minimum age for admission to employment and work is 15, which is the age at which children complete their primary education. All international and national laws also limit the number of working hours for children to 6 working hours per day, including one hour of rest to eat lunch, provided that they do not work more than four consecutive hours and that they do not work between 7pm and 7am the next day. Knowing that many Bank-funded projects consist of large infrastructure and construction projects that are very physically demanding and present serious dangers for children, it becomes impossible to adhere to the above child labor standards in Bank projects. The draft also fails to propose proper nutrition standards for children to follow during their work on the project, and to take into account that all types of work affect children’s physical and mental growth and their education.

20: We propose to replace the phrase “Forced labor...will not be used” with “**forced labor will be criminalized...and the employment of trafficked persons will be criminalized.**”

21: The following language should be added “**Information and notices on grievance mechanisms should be posted in a visible location and made available for all workers in the project.**”

21: Should require that the grievance mechanism be provided according to international labor standards before the start of the project and employment, and that it not be placed in the hands of the borrowing government to ensure fulfillment of its mandate, neutrality, and respect of worker’s rights.

**22: Grievance mechanisms will be announced at the start of workers’ employment in the project in a visible location and made available to all workers. Decisions regarding grievances will be made by an independent and informed party with a maximum of 15 days allowed for responding to a complaint.**

24: We propose that the phrase “measures... will be applied” with “**project managers adhere to occupational safety and health standards, etc.**”

25: Replace “will be” with **“commits to...etc.”**

27: Replace the phrase “project workers who remove themselves from such situations will not be required to return to work” with **“project workers...should not return to work.”**

28: Replace the phrase “all project workers will be provided with” with **“project managers commit to providing...and failure to do so will be considered a violation.”**

29: Replace the phrase “the parties...will collaborate” with **“the parties either collectively or individually commit to...etc.”**

#### ***Contracted Workers:***

31-32: The following provision should be added **“the Borrower will be committed to the equality of all workers with respect to their rights and duties as long as the nature of their work is the same.”**

36: Replace the phrase “the Borrower will identify those risks” with **“an independent committee should be appointed to identify those risks consistent with paragraphs 17 to 20, and the Borrower commits to implementing all remedies and redress measures. Failure to do so will be considered a violation.”**

38: We propose including the following provision **“or else the Borrower will be considered complicit with primary suppliers, and legal action must be taken against it.”**

38: **Serious safety issues:** The language used is very loose (**where there is a significant risk of serious safety issues related to child labor**) and does not determine a mechanism for monitoring these serious safety issues. How is “serious” defined: if the issues were health-related and not obvious such as bone pain, blood-related diseases or diseases of malnutrition, will they not be considered issues? And who determines the seriousness of these issues?

38: “The Borrower will introduce procedures and mitigation measures” should be replaced by **“the Borrower commits to.”**

#### **Fourth: Environmental and Social Standard 3, Resource Efficiency and Pollution Prevention and Management**

##### ***1- Food security:***

One of the World Bank’s priority focus areas is the issue of food security and the need to take it into account when designing any project. In this context, food security also needs to be addressed in the Bank’s policies. The policies should ensure that no projects are built on agricultural lands especially those that are in close proximity to water sources, due to the

scarcity of these sources (land and water). Building projects on agricultural land leads to the depletion of fertile land and ultimately threatens food security. Food security should also be considered when studying different alternatives for project locations, whereby no projects should be built on agricultural land and land that is close to threatened water sources (rivers, canals, and waterways) or those that can further exacerbate food security.

## **2- Climate change and greenhouse gas emissions:**

- Incorporating UN Framework Convention on Climate Change protocols (Kyoto Protocol).
- Rejecting all projects that result in greenhouse gas emissions especially carbon.
- Adhering to the World Health Organization's standards framework related to greenhouse gas emissions.

## **Fifth: Environmental and Social Standard 5, Land Acquisition and Involuntary Resettlement:**

- The draft fails to adhere to human rights standards framework, particularly the International Covenant on Economic, Social, and Cultural Rights. This is made clear through its reliance on concepts and terms such as "involuntary resettlement" instead of "forced eviction" and "redress or replacement cost" instead of "reparation of losses." Rights-based concepts and terms are more succinct and clear, and are also binding, with the majority of countries and governments around the world having ratified the International Covenant on Economic, Social and Cultural Rights. Therefore, these terms must be changed to reflect rights concepts.
- Weakening of the concept of "prior consultations and engagement with affected communities" as made clear in paragraph 16: "In certain cases there may be significant difficulties related to the payment of compensation to particular affected persons...where individuals have rejected compensation that has been offered to them in accordance with the approved plan... the Borrower may deposit compensation funds as required by the plan into an escrow account and proceed with the relevant project activities. Compensation placed in escrow will be made available to eligible persons in a timely manner as issues are resolved." The fact that the Borrower would move forward with project implementation despite affected communities' objections to proposed compensations points to the superficial and procedural aspect of prior consultations with affected communities/individuals. In order to achieve the goal of "prior consultations and engagement," the standard should state that affected communities/individuals or at least the majority of them must approve of the proposed project before the Bank's approval, and that those who object to the project or proposed compensation will have the right to exhaust all available grievance mechanisms before the World Bank approves the project.

## **Sixth: Environmental and Social Standard 6, Biodiversity**

- Link all projects to the Convention on Biological Diversity and Agenda 21.
- Lift all forms of patents on life reproduction such as funding projects that include activities that fall under biopiracy.

### **Seventh: Environmental and Social Standard 9, Financial Intermediaries**

Provisions are needed to ensure integrity and disclosure of tax havens and beneficial ownership.

### **Eighth: Environmental and Social Standard 10, Stakeholder Engagement and Information Disclosure**

While it is important to note that there have been significant positive developments in this draft compared to the previous draft especially in relation to stakeholder engagement, we see an important need in using rights language when describing project beneficiaries, for they are **rights holders** and not stakeholders. There are also several points that need to be clarified and emphasized, with the understanding that the provisions in this standard must be binding to the Borrower:

1. The phrase “**throughout the project life cycle**” which appears in Paragraph 6 under *Requirements* and in other paragraphs requires more clarity: does it mean throughout the period of construction only? What about the impacts resulting from operating the project at the end of the loan period? What about the repayment period? Do the impacts resulting from the project during the period of repayment not fall under the protection of the Bank’s Safeguards policies?
2. With respect to the plan for engagement, stakeholders should be engaged before the beginning of project implementation and given adequate time to participate. Paragraph 22 (a) around meaningful consultations and “**project planning process**” fails to mention prior engagement, which contradicts the true goal of consultations and participation, as long as stakeholders (as defined by the World Bank) or the rights holders and affected communities (as defined according to human rights concepts) are excluded from the discussion around the nature of the project, its feasibility and suitability before approval. Prior engagement with stakeholders/rights holders must be included in this standard and these groups should be consulted on proposed projects before they are approved.
3. The need to take into account that stakeholders do not only include “**clan heads or local government representatives**” as mentioned, for example, in footnote 5 on page 125, but include a wider range of individuals, beyond these community leaders, who are affected by a project.
4. There should be a clear timespan for the grievance and redress mechanism.