



**Review and Update of the World Bank's Environmental and Social Safeguard Policies
Multi-Stakeholder Consultation
Hosted by the North-South Institute
Ottawa, Canada**

The consultation held on **January 22, 2013**, was chaired by Mr. Jonathan Rothschild, Senior Advisor to the Canadian Executive Director. Mr. Joseph Ingram, President and CEO of the North-South Institute made opening remarks. Ms. Motoko Aizawa and Mr. Colin Scott of the Safeguards Review and Update Consultation Team represented the World Bank.

The Bank team provided an overview of the scope, objectives and timeline of the Safeguards review and update process. Comments and questions from the participants included the following:

- The UN Convention on the Rights of Persons with Disabilities is a great source of policy language the Bank can adapt/adopt.
- Communications should be systematically integrated into all projects to ensure people with disabilities and hearing loss can understand what is happening and how they will be affected. Project-level communication is needed so they can be integrated, not just included. They should also be consulted as much as possible throughout the project planning process.
- Negative consequences can arise during and even well after the lifespan of a project, for example a mega-infrastructure project can leave behind abandoned equipment and lead to long-term risks of water pollution and food shortages. To address these unforeseen risks, a trust fund should be set apart that can serve as a safety net for the borrower beyond the life of a project so that these unforeseen negative impacts can be addressed 5 to 10 years after the project closes. This trust fund would earn interest in the meantime. Eventually a borrower could create an overall trust fund to cover all its projects; if they go smoothly, this would constitute savings for the government, but if not, the funds are there to cover these negative impacts. Such a trust fund should be part of the Bank's lending package.
- Guidelines look great on paper, but can fail in implementation. This is due to insufficient risk assessment before, during, and after the project. Little is being done to protect natural resources in terms of early and adequate risk assessment and monitoring.
- There are human rights risk assessment guidelines and frameworks, but there are so many interrelated issues. The frameworks do not capture or address this interconnection – for example the nexus of human rights and corruption. Lack of attention to these linkages undermines safeguard efforts.
- The idea of having overarching principles in the new integrated Safeguards framework is good. The Safeguards are key elements of the Bank's toolkit to reduce poverty and inequality.
- The weakness of the Safeguards is in implementation and in dealing with local community concerns. The Bank must build capacity in this regard. The Safeguards review should apply

across all instruments (not just investment lending). There also is a need to improve the quality of Bank advice to better inform national laws and transparency.

- Some countries see safeguards as the imposition of conditionality. The Bank should address this directly and find the appropriate balance to empower people, increase transparency and raise country standards.
- Land needs special consideration; there is a need for a new Safeguard on land tenure and land. Security of tenure is the biggest challenge. The Bank should have clear directives regarding expropriations and eminent domain to ensure they are demonstrably in the public interest and not detrimental to sustainable livelihoods. The Bank should also recognize other forms of tenure, such as communal, user rights, etc. All impacted communities, including the marginalized, should be protected.
- Upstream, downstream, and long-term cumulative assessments of natural resource dependency need to be mandatory in the Environmental Assessment. Also there needs to be improvement in free, prior and informed consultation at least, if not free, prior and informed consent, for Indigenous People.
- Persons with disabilities did not see themselves reflected in the Bank's work before the Convention on the Rights of Persons with Disabilities (CRPD), a specific instrument to apply binding international human rights standards to these processes. CRPD 4.3 states the obligation to consult with representative organizations in the development of policies and legislation. Article 27 of CRPD includes a specific requirement to promote equity for disabled persons that can be built into the Bank's new guidelines. Progressive and binding human rights standards should be adopted.
- The Bank has not yet been able to mainstream human rights. Human rights is about law and country capacity. International law cannot be separated from national or local law. The Bank should consider whether human rights laws are being breached in loans it provides to countries. Most countries, including those that engage in systemic torture have signed international covenants that obligate them under international law. The Bank should consider the extent to which these are respected when assessing a country program.
- Having an integrated framework is crucial. Currently the Safeguards are seen as add-ons, when they should be shaping development. The seven emerging areas are the core of development, not additions. The issue of climate change is crucial and should inform what the Bank is doing, for example in energy efficiency. Safeguards have a huge role to play in shifting how development occurs. One can see from the Approach Paper where the battles are going to be fought and the risks for watering the process down. Participants are aware of how carefully the Bank will need to move forward. There is a lot of good will and recognition that the Bank is involved in a difficult process.
- In many cases the country systems approach is a positive one. NGOs have been critical of conditionalities for years. But in cases of countries with no judicial system or human rights protections, the Bank should avoid using country systems. The Bank is increasingly supporting government agencies without any Safeguards. The Bank has to make a choice: apply the Safeguards rigorously or avoid country systems.
- There is a well-known and important legal opinion on human rights that was prepared by Roberto Dañino (former World Bank Group General Counsel). It expanded the narrative of the

previous General Counsel, Ibrahim Shihata. The Bank now has an opportunity to consider the extent to which human rights can be used proactively as a development tool especially if the new Bank president is serious about poverty. Member governments are party to international agreements on human rights.

- Climate change is an existential risk we face. The new Bank president has taken on climate change. But what you measure is what you value. Currently, the Bank uses only income-based measures like GDP because the Bank is dominated by macroeconomists. But the Bank needs to be concerned about the quality of growth, not just the quantity. What is the Bank going to measure? Genuine Progress Indicators by Maryland Governor Martin O'Malley (first used by Florida in 1979) account for environmental and social impacts of growth. The Frontier Possibilities Index measures government compliance with economic and social rights. There is nothing preventing the Bank from building on these indicators.
- On Climate Change the Bank should leverage its role at the macro-level as well. Since generally at International Conventions (such Kyoto or Rio) there are mainly environment ministers, but not finance ministers, the Bank should encourage finance ministers and/or other officers with spending commitment authority to attend, so to ensure adequate funding support.
- In this review and update consultation process, the Bank should speak directly to Indigenous Peoples and make every effort to reach out to them. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) can serve as a framework. The Bank should adopt a process similar to UNDRIP, which had Indigenous People in the room with the drafters of the principles. Country systems have limits, but where rule of law can be strengthened this could be remarkably powerful in terms of access to justice for Indigenous Peoples. With UNDRIP the scope of consent can be much broader. Consideration should be given to how Indigenous People interact with environmental law and the Environmental Assessment and how these interact with consent of Indigenous Peoples. The Consultation and Accommodation law of Canada and the Constitution articulate how the rights of First Nations are reconciled with the sovereignty of the state in Canada. ILO also has considered these issues.
- The Bank should include thematic areas such as Fragile States.
- Binding disability standards and clear internal standards for monitoring Safeguards should be adopted to make sure there is systematic integration of disability. It is a good outcome if dialogue on disability is initiated in these countries, even if not everything is achieved (i.e., a disability safeguard).
- The Bank should pay attention to constituencies that matter, for example the private sector and Global Compact.
- Is the use of country systems imposing conditionalities or condoning deficiencies? The Bank should insist on inclusive, participatory processes in determining the acceptability of country systems by incorporating participation and transparency.
- The Bank should promote training in the use of diagnostic tools and best practice developed by others, such as the United Nations Framework Convention on Climate Change (UNFCCC) reporting on climate change tools. The Bank could actively promote such tools and thereby improve advice it gives to borrowers.

- Social experts should be included in Environmental Assessment advisory panels. Risk categorization can be strengthened beyond a specific project. Revenue and contract transparency should be pursued and IFI lending disclosure requirements updated. Full details on purchase prices and buyers should be provided. Grievance mechanisms and post-project monitoring should be promoted.
- Climate change must be incorporated into the Environmental Assessment. An additional Safeguard on climate change is needed.
- The issue of human rights is part of the post-2015 Millennium Development Goals dialogue and it will be important to see where the MDGs will come out on this issue.
- Canada gives over \$1 billion annually to the World Bank Group through IDA and other trust funds subject to Canada's Official Development Assistance Accountability Act, which requires that the initiatives contribute to poverty reduction, take into account the perspectives of the poor, and are consistent with international human rights standards. The lack of a comprehensive human rights policy at the Bank would seem to have relevance to the \$1 billion that Canada provides to the Bank each year as Official Development Assistance. The Government of Canada needs to be able to demonstrate that its funding is compliant with this Act.