



Review and Update of the World Bank's Safeguard Policies

Consultation Meeting with Civil Society Organizations, Buenos Aires (Argentina)

12th March 2013

Summary

More than 20 **Civil Society Organizations** participated, the majority of which are involved in human rights; the rights of the disabled (visual, motor skills and mental impairment), Indigenous Peoples, and sexual gender diversity. A minority of the Civil Society Organizations, who attended, work in the field of natural resources. Contributions were made by the following organizations (grouped largely according to thematic area):

Movimiento Ciudadano; Foundation for Democratic Change; Social Consciousness- Human Rights; Latin American and Caribbean Committee For the Defense of Women's Rights (CLADEM); Argentinean Federation of Lesbians, Gays, Bisexuals and Transgender People; Argentinean Network for International Cooperation (RACI); Network for the Rights of Persons with Disabilities (REDI); Association of Professionals who work with Persons with Visual Impairment (MARA); Argentinean Federation for the Visually Impaired; Network of Families, Users and Mental Health Volunteers (REDFUV); Disability Observatory of the National Advisory Commission for the Integration of Persons with Disabilities (Governmental institution); Inter-American Association of Health and Environmental Engineering, Argentinean branch (AIDIS-Argentina); Environmental and Natural Resources Foundation (FARN); NGO Aves Argentinas – Grasslands Program; CHACO-NETWORK; Community of Territorial REDES (Networks) Organizations; National Meeting of Indigenous Territorial Organizations (ENOTPO) – Union of Peoples of Salta, Diaguita Delegate; ENOTPO –Mapuche Confederation of Neuquén; ENOTPO - Diaguita de Tucumán Community Delegate; Indigenous Plurinational Council.

The outstanding issues arising from the participants' comments on specific aspects of the review and update of the existing safeguards, as well as the new approach to social and environmental management and the established reform process, are summarized as follows:

- Gender issues should not be restricted to women's rights, but should be extended to include the rights to sexual diversity. These should be treated as emerging issues. Non-discrimination against women is an old theme. Women should not be treated as a vulnerable group or one that has been made vulnerable, as women account for half of the world's population. Despite this fact, there is a disparity in salary levels, women are subjected to sexual harassment, are discriminated against when promotions are being awarded and are subject to horizontal discrimination when doing certain tasks. There are also stereotypes of women's work and restrictions in their choice to have children, etc. The Bank should find a way to highlight the question of women's rights, especially with regard to their contribution to development.

- It is not easy to determine exactly where the question of sexual diversity would fit in under the theme of safeguards.¹ It is especially unclear how the subject could be included under infrastructure projects. On the other hand, it could be incorporated into education and health projects, where these issues are normally excluded. In order for projects carried out in these sectors to receive funding, the theme of sexual diversity should be incorporated. This should include preventative health programs. This may be difficult, in light of the fact that today, sexual relations between persons of the same sex are penalized in over 80 countries, in some cases with the death penalty. The Bank should analyze ways to ensure that questions of sexual diversity are addressed.
- Incentives could be created in investment programs and linked to safeguard policies (e.g., financial and rate-related incentives, among others) to ensure that certain dimensions are incorporated into those policies which have a degree of flexibility. As a result, safeguards would be viewed as more proactive. Currently, Safeguards have a limited and negative connotation, whereas they should be seen as more general and comprehensive.
- Safeguards should be re-formulated to be more proactive (instead of focusing on the consequences of projects and impact mitigation, as is currently the case). For example, the Bank should consider such themes as responsible purchasing and consumption, in order to exercise influence in those areas.
- The “emerging issues” presented in the Approach Paper do not, for example, include the themes of minority groups or child labor. While it is understood that there are many issues that fall under the heading of Human Rights but which are not explicitly mentioned, minority groups and child labor do deserve specific treatment.
- Neither is the question of mental health explicitly mentioned as an emerging issue. While National Law No. 26657 on Mental Health does exist in Argentina, it has still not yet been regulated and is therefore inadequately implemented. The question of mental health is one that must be addressed at the community level, to include such activities as vocational training workshops, the provision of secure job opportunities, day residences, etc. As things currently stand, mental asylums are the only options open to persons suffering from mental problems. The safeguards should provide for adequate attention at the community level to those affected by mental health problems.
- The emerging issues may be treated as specific or as cross-cutting questions within the safeguards, under the concept of “inclusion” (gender, sexual diversity, disabilities, minority groups, etc.). However, it is believed that a “two-track” approach would be preferable, with specific as well as cross-cutting considerations. Safeguards should focus on human rights, with emphasis on inclusiveness; the Bank should not provide funding for projects that are non-inclusive.
- The Bank should take into account countries’ compliance with international treaties on various human rights-related issues; (for example, the International Convention on the Rights of Persons with Disabilities) and the safeguards should be consistent with compliance levels. As part of the safeguard review and update process, the Bank should consider the intervention (consultation)

The participant promised to study the issue more closely and submit a concrete proposal.

of international human rights bodies, for their inputs on the subject (e.g., the International Committee on the Rights of Persons with Disabilities).

- There were no arrangements made to facilitate the participation of disabled persons in this consultation meeting. For example, there were no documents in Braille provided for the visually impaired, neither could they have access to the Power Point or complete the registration forms. There was no sign language interpreter for the hearing impaired. It should not be claimed that these consultation meetings are open and accessible to all if this is in theory only; they should be open in real terms.²
- There was inadequate representation in this consultation meeting. Questions such as occupational health and safety, for example, were not touched on. There should be systems in place to ensure wider representation at consultation meetings.
- The safeguards should promote/improve/increase participation of stakeholders in projects; not only through consultation during the preparatory stage, but throughout the entire implementation cycle. This would allow for enhanced effectiveness, efficiency and transparency in the Bank's operations (utilization of monies from loans, terms, etc.). The Bank has the authority to demand the incorporation of certain clauses in contracts, bidding documents, etc., to ensure citizen participation in project implementation. It should earmark funds specifically for this purpose in the project budgets, rather than transferring the costs to civil society.
- Safeguards should also promote capacity building in institutions, especially for conducting effective consultation processes. Furthermore, safeguards should provide a framework for sound analysis of existing public policies at the site of the intervention (policies on natural resources, etc.). The nature of these policies should guarantee the viability of the project. Similarly, safeguards should serve to ensure that there is the necessary social license or democratic legitimacy to allow for the implementation of a project.
- The community should engage with safeguards to overcome current barriers to free access. Communities and general society should be informed of the existence of the CAO (Office of the Compliance Advisor Ombudsman) for the settlement of disputes.
- Efforts must be made to ensure that government bodies disseminate information on the projects being conducted with the World Bank. Few public entities supply complete or updated information on safeguards on their websites.
- The issue of an adequate consultation process for Indigenous Peoples was not raised at this meeting, which was more for the dissemination of information than the holding of consultations. An appropriate consultation process would involve a tour of the country, with regional meetings, as well as meetings with Indigenous Peoples, to guarantee participation. The Indigenous Peoples should be the ones to indicate how they wish to be consulted.³ This would serve to enhance their relations with the Bank as well as with the State. The NGOs, the Church,

² The participant specifically requested that this comment be reflected in the report.

³ Several representatives of Indigenous Peoples present at the meeting indicated that they would submit concrete proposals in writing; specifically in relation to the conditions they deem necessary for a consultation process for Indigenous Peoples (with a view to developing a consultation protocol to be utilized in subsequent phases).

and the environmentalists need not speak on behalf of the Indigenous Peoples, as each of these groups may have other interests, lack authority, or lack the appropriate knowledge of indigenous rights that the Indigenous Peoples themselves possess.

- Safeguards should take account of progress made in international treaties, as well as the recognized rights of Indigenous Peoples. It is essential that the United Nations Declaration be the pillar on which the new directive on Indigenous Peoples is founded (ILO 169; UNDRIP). Issues relating to Indigenous Peoples should not be limited to considerations of poverty or vulnerable groups; a more comprehensive vision is needed.
- While Indigenous Peoples do have legitimate claims, the needs of non-indigenous rural populations must also be taken into account. Development projects very often reveal asymmetries and inverse discrimination against rural communities. The consultation process should be extended to include other stakeholders, apart from Indigenous Peoples. There were no smallholders or rural farmers represented at the meeting. Contact should be established with the National Family Farming Forum (use PSA, PROINDER experience, etc.). It is a specialized network extending throughout Mercosur, including Indigenous Peoples as well as rural farmers. Territorial and land tenure issues are critical considerations. When one considers that more than two hundred thousand families subsist on family agriculture, it becomes necessary to work more proactively, not only on major infrastructure projects, but in projects that involve land and small farmers, and will give them access to land.
- Issues of transparency and anti-corruption should not be considered only in ex-ante evaluations during project preparation, but also during the project implementation stage, for which the Bank should incorporate anti-corruption mechanisms. Occupational health and safety, as well as child labor should be issues borne in mind during project monitoring.
- Safeguards should include issues that go beyond the usual or the pedestrian. For example, the issues of water footprint and climate change may be included in discussions about water. There is currently no strategic vision regarding the use of the resource. Other methods of evaluation, apart from the participation of beneficiaries and persons affected,⁴ should be included.
- Concerns have been voiced that the architecture of the new framework may tend towards the IFC rules, where social and environmental responsibility rests with the client. Furthermore, the review process should extend beyond investment programs to include results-based⁵ programs.

⁴ The participant promised to submit a document prepared by his/her organization, with details of the items to be considered.

⁵ The participant promised to submit a document prepared by his/her organization, containing a written opinion on the process.