

**THE WORLD BANK,
AND HUMAN RIGHTS :
SOME CONSIDERATIONS
FOR SAFEGUARD POLICIES REVIEW**

Expert Focus Group, New York City, April 15, 2013



Context to inform and guide the Discussion

Publication Note

- The purpose of this presentation was to facilitate the discussion on human rights and safeguards by the international expert focus group held in New York City on April 15, 2013. A [summary](#) of the discussion of this focus group as well as the [participant list](#) are available on the safeguards review [website](#).
- The focus group was conducted in accordance with Chatham House rules, and all participants spoke in their individual capacities rather than as representatives of their respective institutions.
- This focus group was part of the World Bank safeguard policies review and update process, and the topic of Human Rights is one of the emerging areas that stakeholders have asked the Bank to consider during the review. Other emerging areas include: labor and occupational safety; disability; free, prior and informed consent of Indigenous Peoples; gender; climate change; and land tenure and natural resources. The international expert focus groups have been held by the World Bank to inform the ongoing safeguard policies review on how the Bank can address emerging areas through an integrated safeguards framework—either at the level of principles, policies and procedure—or through other approaches outside of the safeguards ambit.
- More information about the expert focus groups as well as the terms of reference for participation is available [here](#).
- More information about the safeguard policies review and consultations is available on the review [website](#).

Introduction

- The debate on the relationship between the IBRD (the “Bank”) and human rights is **not new**.
- Successive General Counsels have stated that while there are limits on the extent to which the Bank can become involved with civil and political rights, the Bank certainly can and has played, within the limits of its mandate, a very significant role in supporting the progressive realization of various economic and social rights.
- Indeed, Bank policies, programs, and projects contribute to increasing rights realization in many areas: improving access to water, food, education and health; promoting public participation and the accountability of governments; supporting justice reforms and transparency; fighting corruption.
- The Bank is open to learning whether more can be done.

The Bank's Articles of Agreement

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- Article III, Sec. 5(b): Use of Loans Guaranteed, Participated in or Made by the Bank
 - “The Bank shall make arrangements to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency and **without regard to political or other non-economic influences or considerations.**”
- Article IV, Sec. 10: Political Activity Prohibited
 - “The Bank and its officers **shall not interfere in the political affairs of any member**; nor shall they be influenced in their decisions by the political character of the member or members concerned. **Only economic considerations shall be relevant to their decisions**, and these considerations shall be weighed impartially in order to achieve the purposes stated in Article I.”

How does the Bank Support the Realization of Human Rights?

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- Senior Vice President and General Counsel Ibrahim Shihata (1995):
 - “The Bank ... seeks **participation of affected people** in their design and implementation of many types of the projects it finances and requires **consultation with local communities and local NGOs** in the preparation of the "environment assessment" of projects with significant impact on the environment.
 - Such **participation** and **consultation**, to be useful at all, require a reasonable measure of **free expression and assembly**.
 - The Bank would, in my view, be **acting within proper limits** if it asked that this freedom be insured when needed for the above purposes...”

A range of Bank Policies Support the Realization of Human Rights (II)

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- The Bank's Operational Policy on Poverty Reduction (OP 1.00):
- The Bank's mission is sustainable poverty reduction. Poverty encompasses lack of opportunities (including capabilities), lack of voice and representation, and vulnerability to shocks. The Bank's support for poverty reduction is focused on actions, consistent with its mandate, to increase opportunity, enhance empowerment, and strengthen security.
- The Bank supports borrowing countries in articulating their vision and strategy for reducing poverty and attaining development results. This vision normally forms the foundation for the Bank's assistance to countries, which the Bank lays out in the Country Assistance Strategy (CAS) and supports through economic and sector work and lending operations

How do the Bank Safeguard Policies Support the Realization of Human Rights? (III)

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- The Bank's Operational Policy on Environmental Assessment (OP 4.01):
 - Para. 1: The Bank requires environmental assessment (EA) of projects proposed for Bank financing to help ensure that they are **environmentally sound and sustainable**, and **thus to improve decision making**.
 - Para. 3: EA takes into account the **natural environment** (air, water, and land); **human health and safety**; **social aspects** (involuntary resettlement, indigenous peoples, and physical cultural resources); and **transboundary and global environmental aspects**. EA considers natural and social aspects in an integrated way.

How do the Bank Safeguard Policies Support the Realization of Human Rights? (IV)

- Indigenous Peoples (OP 4.10):
 - “This policy contributes to the Bank’s mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies and cultures of Indigenous Peoples.”
 - Involuntary Resettlement (OP 4.12)
 - Objectives include: where not feasible to avoid, resettlement activities should be conceived and executed as sustainable development programs... displaced persons should be meaningfully consulted... assisted to improve livelihoods or at least restore them... covers those with no recognizable legal rights or claim to the land they occupy

Safeguards and Other Relevant Policies/Guidelines (V)

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- Forests
- Natural Habitats
- Pesticide Management
- Physical Cultural Resources
- Dam Safety
 - Gender
 - Access to Information
 - Water Resources Management
 - Tobacco
 - WBG Environmental, Health and Safety Guidelines

IFC Policy on Environmental and Social Sustainability and Eight Performance Standards

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- Assessment and Management of Environmental and Social Risks and Impacts
- Labor and Working Conditions
- Resource Efficiency and Pollution Prevention
- Community Health, Safety, and Security
- Land Acquisition and Involuntary Resettlement
- Biodiversity Conservation and Sustainable Management of Living Natural Resources
- Indigenous Peoples
- Cultural Heritage

Concerns with a Human Rights Approach

- Confusion Between the Responsibility of the Bank and the Obligations of Member States
 - The key concern is a **confusion of the roles and responsibilities** of the Bank and the obligations of member states.
 - **Member states are the true duty-bearers** of human rights obligations. Projects are developed, implemented, and owned by borrowers; they are financed by the Bank. As such, it is important to distinguish the roles and responsibilities of the Bank and the borrower
 - Risk the Bank expected to act as **enforcer of human rights obligations**.
- Mandate
 - The Bank **does not have a human rights mandate** and recognizes the **complementary roles** played by other organizations that do have explicit human rights mandates and core competencies relating to human rights, such as UNHCR, ILO, and WHO.
 - Since human rights obligations bring with them an inevitable political content, the Bank could be accused of acting outside its mandate by unduly interfering in the affairs of member states.

Concerns (cont'd)

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- Potentially adversarial nature of Human Rights Based Approach to projects

This approach would focus on defining the duty-bearers and their obligations, and the rights-bearers and their rights, and planning development interventions based on such analysis. It is more adversarial, going beyond grievance mechanisms, and has to be incorporated at all stages of project preparation and implementation.

- Inability to limit the scope of rights

Even if the Bank attempts to limit its recognition to certain human rights, such limitation will be challenged, particularly given the position that human rights are “*interrelated, interdependent and indivisible*”. It is also to be expected that the scope of recognized human rights will be broadened over time, and the Bank would be subject to this.

Grounds for Optimism

- We believe there has been a growing convergence between the human rights community and the Bank, manifest in operationalization of principles such as transparency, accountability, governance, empowerment, participation, environmental, social and economic sustainability.
- Through the safeguard update process we are committed to further strengthen the effectiveness of these principles, and to work with the human rights community to help ensure our policies can help achieve better development outcomes for all, especially the most vulnerable.

Thank you

