



Copenhagen 29.8.2014

Re.: Serious concerns over revision of World Bank Safeguard Policies

To the World Bank,

The International Work Group for Indigenous Affairs (IWGIA) is an international human rights organization that has for the past almost 50 years been working for the promotion and protection of indigenous peoples' rights all over the world via support to indigenous peoples and their organizations, international human rights advocacy and solid research.

IWGIA is hereby writing to the World Bank in relation with the ongoing review of its 'Environmental and Social Safeguard Policies'. The ongoing safeguard policy revision process raises great concerns that the World Bank Environmental and Social Safeguards will be seriously weakened, posing considerable threats to indigenous peoples and their rights.

World Bank financing is rendered to a wide number of interventions and investments that have immense importance and impact for indigenous peoples worldwide, including within such areas as infrastructure, agribusiness, extractive industries and financing for climate change-related initiatives including those aimed at reducing deforestation and those designed to improve the adaptive capacity of both eco-systems and communities. It is therefore of paramount importance for indigenous peoples that the World Bank upholds high standards for its Safeguard Policies – and the World Bank has indeed historically been a leader in developing strong environmental and social protections.

IWGIA has carefully studied the draft document that has been released by the World Bank for public consultation on the 30th of July entitled ‘World Bank Environmental and Social Framework. Setting Standards for Sustainable Development. First Draft for Consultation’, and our fears of seriously weakened standards are unfortunately confirmed. In an unprecedented move, the World Bank proposes in its draft document that governments can request the World Bank to engage in an “alternative approach” whereby it can ‘opt-out’ of requirements designed to protect indigenous peoples from unintended and negative consequences from development activities funded by the World Bank. According to the draft document (paragraph 9 of the ESS7), the World Bank is proposing that borrowers (mainly but not exclusively governments) can request that they should not apply Environmental and Social Standard (ESS) 7 on Indigenous Peoples. Borrowers may request this if they consider that identifying indigenous peoples would, in some way, heighten ethnic tensions or increase conflict, or if recognizing culturally distinct groups is contrary to their national constitutions.¹ This directly and seriously undermines international human rights standards as they apply to indigenous peoples, including the UN Declaration of the Rights of Indigenous Peoples (UNDRIP) and the specific and fundamental rights that indigenous peoples have over their lives, their lands and resources and the course of their own development, as enshrined in international human rights law.

Encroachment on the lands, resources and territories of indigenous peoples is often undertaken with the implicit or explicit consent of the governments whose decisions often adversely impact on indigenous peoples occupying such lands. Indeed, international legal standards protecting the rights of indigenous peoples exist in part due to the wilful actions of governments in the past to discriminate against, disenfranchise and alienate indigenous peoples from their lands and resources. If the decision on whether international human rights are to be respected or not rests solely with national governments, then the Bank is acting to undermine agreed international human rights standards, protected by UN and regional human rights instruments.

The proposed ‘alternative approach’ allowing for opting out of applying the safeguards for indigenous peoples would be a major setback for indigenous peoples around the globe, in particular on continents like Africa and Asia, where many governments continue to violate indigenous peoples’

¹ ESS7, paragraph 9.

rights – while at the same time denying their existence – and where the opt out clause would play into the hands of those repressive governments.

The proposed ‘alternative approach’ would also be a major set-back for the positive and encouraging developments that has taken place at the regional level in Africa with regards to the recognition and protection of indigenous peoples.

For more than a decade the African Commission on Human and Peoples’ Rights has - through its Working Group on Indigenous Populations/Communities and in collaboration with other international, regional and national actors - made great strides in promoting and protecting indigenous peoples’ rights in Africa. In this regard, the 2003 landmark conceptualisation Report of the African Commission that was formally endorsed by the African Union clearly recognized the existence of indigenous peoples in Africa and the need for protection of their human rights, and it continues to inspire national, regional and international processes.

The African Commission has officially expressed deep concern to the President of the World Bank over the proposed ‘alternative approach’. In a letter forwarded to the World Bank in July this year, the African Commission stresses that any ‘alternative approach’ to indigenous peoples in Africa would undermine the work of the African Commission and increase the vulnerability of indigenous peoples on the African continent.

According to the African Commission, the ‘alternative approach’ is in stark contradiction with the policies, decisions and rulings of the African Commission on indigenous peoples’ rights and could lead to a parallel and conflicting framework that would discourage more African States from developing policies and legal frameworks for indigenous peoples.

IWGIA finds it is deeply worrying and unacceptable that the World Bank via its proposed ‘alternative approach’ disregards international law on indigenous peoples’ rights and undermines achievements and standards of regional human rights mechanisms. The proposed alternative approach is most likely welcomed by those governments (mainly from Africa and Asia), which continue to deny the existence of indigenous peoples while at the same time violating their rights and dispossessing them of their lands and livelihoods and for whom solid safeguards on indigenous

peoples' rights are inconvenient. However, as a powerful and influential global player, the World Bank should stand its ground and continue to comply with international human rights standards and uphold its high standards for safeguards on indigenous peoples.

IWGIA will therefore like **to urge the World Bank to immediately remove the proposal put forward in paragraph 9 of the ESS7 that governments can simply 'opt-out' of applying the policy requirements intended to protect indigenous peoples.**

IWGIA sincerely hopes that the World Bank will consider and take action on our request and we look forward to hear from you. IWGIA will also highly appreciate if you can keep us informed of the forthcoming consultation process on the draft document.

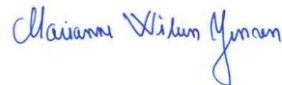
Yours sincerely

IWGIA



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