

8 October 2014

## **World Bank Safeguards Policies**

Review and Update Consultation Team  
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To whom it may concern:

Thank you for the opportunity to comment on the World Bank draft Safeguards as they are reviewed and updated. The update aims to enhance the Safeguards' effectiveness, ideally preventing negative human rights outcomes that have characterized large footprint World Bank projects in the past.

As practitioners of human rights due diligence, NomoGaia assessors identify two primary weaknesses in the current version of the Safeguards update. First, there is an overreliance on the borrower to safeguard affected persons, despite some borrowers' extensive history of demonstrated incapacity to do just that. Second, there is too little clarity in the definitions of, and benchmarks for, key terms such as 'environmental,' 'social,' and 'grievance.' These terms are easily subject to unhelpfully broad interpretation, and borrowers, under time and financial constraints (and at times with disregard for the welfare of certain minority subpopulations), have often interpreted them too narrowly.

### **Overreliance on Borrower Capacity**

The World Bank aims to increase lending to fragile and conflict-affected states, where technical capacity is frequently extremely low. The expectation that such borrowers can not only identify adequate teams but oversee them appropriately does a disservice to the populations the World Bank seeks to empower. Without attentive guidance, these teams cannot complete their work, meaning they cannot effectively identify environmental and social risks, and therefore are unprepared to manage negative impacts when they occur. Borrowers are expected to "request technical assistance from the Bank" where in-country capacity is lacking. Again, it is unreasonable to expect borrowers to recognize whether and to what extent local capacity falls short of best practice. As a promulgator of best practice, the World Bank is far better positioned to recognize where in-country teams require support and to provide it.

### **Vagueness of terms for impact assessment (ESS1) and stakeholder engagement (ESS10)**

Staffed by practitioners that have conducted stand-alone human rights impact assessment as well as integrated human rights analysis alongside ESIA, NomoGaia is keenly interested in seeing ESIA done well. The proposed language broadening the definition of "social risk" to include "discrimination" is encouraging, but it is insufficient to actually reduce risks that vulnerable populations will be discriminated against. The World Bank Group has had notable quality control issues with its assessment processes in the past, and the current language in the Safeguards update does not address this.

### **These shortcomings in practice: a real-time example**

The urgency of closing this gap between policy and practice is apparent in current Bank-financed projects, as exhibited by recent Rapid Human Rights Risk Analysis NomoGaia conducted on a World Bank loan to the Government of Myanmar for a power plant construction project on a brownfields site in Mon State. "Environmental" impact assessment was considered complete without the inclusion of any water, soil or air samples. On a site that has housed an ill-maintained, inadequately managed power plant and a variety of environmentally hazardous fuel sources for 40 years, where PCBs are a likely presence at the on-site transformer, this should not meet WB standards. Equally problematic, the borrower considered itself to have conducted social assessment and stakeholder engagement in a community dominated by rural ethnic Karen people, though consultation was conducted only in Burmese language, with majority Burmese stakeholders. This consultation, while inadequate to meet the needs of Karen, Pa'O and Mon speakers living in the direct vicinity of the project, evoked a grievance – that no local residents would receive electricity as a result of the project. The grievance was brushed aside by the

borrower and has not been incorporated into project decision-making. In an area where ceasefire agreements are tenuous and hinge on a government commitment to directly engage with the needs and views of ethnic minorities, this level of engagement is not only negligent, it is potentially damaging to the peace process. Finally, the workers at the power plant lack protective gear (some do not even have shoes on site), formal training and unionization rights. Under the current Safeguards draft, as state employees, the borrower is not obligated to apply the Labor and Working Conditions Standard to them. This would make the World Bank a direct funder of gross labor rights violations, creating potentially hazardous work conditions for hundreds of employees.

Without very clear guidance and benchmarking of adequate procedures, more such shortcomings can be expected in the future, at this site and others.

**For risks to be smart, they need to be well understood**

The Bank feels pressured to increase the speed of its lending procedures. The case study above should provide the Bank with evidence that a “light touch” to Safeguards enforcement will not achieve that aim. The ESIA and engagement processes described above required three iterations of Bank revisions before they were accepted. They are still insufficient to safeguard against environmental and social hazards. As monitoring commences on site, it is likely to reveal previously unexamined risks, including hazards to workers if enclosed spaces are constructed over contaminated soils, threats to the peace process as additional Bank-funded projects are erected with similar indifference to ethnic minorities, and health risks to farmers whose rice paddies are downstream from the power plant. The effort to accelerate lending was subject to delays because the initial presumption that the borrower could complete an adequate ESIA was flawed.

Instead, the World Bank should be more upfront and forthcoming with what level of assessment and engagement it considers “adequate,” and it should be proactive in pursuing that standard. An efficient way to benchmark a project’s adequacy for respecting human dignity is to employ a human rights framework. Current Safeguards language indicates that loans are expected to be “supportive of human rights.” For loans to support human rights, they must be made with full knowledge of how they will affect human rights. In NomoGaia’s experience, employing the human rights framework for evaluation has not been a time-intensive effort up front, but rather has flagged human rights risks early to enable them to be incorporated into decision making and monitoring throughout the process of bid selection, construction, and early operations.

The World Bank only has leverage to promote sustainable development while its loan decisions are being made and while loans are outstanding. Maximizing the effectiveness and clarity of the Safeguards during that timeframe is the best way to ensure that Bank-funded projects continue to support human rights well after loans are repaid.

Thank you for your consideration,

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