



**Center for International Environmental Law (CIEL)  
Recommendations for the  
World Bank Strategy for Fragility, Conflict, and Violence 2020-2025**

**June 26, 2019**

The Center for International Environmental Law (CIEL) seeks to protect and defend the environment and human rights against the adverse impacts of development. Our work focuses on ensuring that laws and policies governing development activities are consistent with those protecting the environment and human rights, as well as on holding governments, corporations, and the banks that finance them accountable for their actions. To this end, we have engaged with the World Bank with the goal of improving its environmental and social policies for more than two decades.

We have prepared the following recommendations for the World Bank Strategy for Fragility, Conflict, and Violence 2020-2025 (“FCV Strategy” or “Strategy”). The recommendations and comments are limited in focus, but this is not an indication of endorsement for the Strategy as a whole or of its corresponding Concept Note (“the Note”).

As the World Bank continues to increase its engagement and resources dedicated to addressing the challenges of fragility, conflict and violence, CIEL welcomes the World Bank’s recognition of the need to build a formal strategy that seeks to address FCV and its profound impacts on the most vulnerable people and communities.

CIEL appreciates the World Bank’s Consultation Plan and the release of the Concept Note, which – together with the series of consultations and invitations for feedback – provide a necessary avenue for the Bank to improve its strategy based on the knowledge and experiences of diverse stakeholders. Because of the FCV Strategy’s concern for the impacts of conflict and violence on people, we are particularly hopeful that the World Bank will give careful consideration to the feedback from organizations representing communities that directly experience the effects of its development projects.

We must note with concern, however, that the FCV Strategy, as articulated in the Note, is quite broad. The overall strategy does not seem to account for the complex ways in which histories of armed conflict, civil war, and persistent instability result in serious barriers for civil society to effectively and safely participate in development decisions and activities. As a crucial element of its FCV Strategy, the World Bank should take into account contextual risk throughout the entire project cycle. Only by doing so will due consideration be exercised when attempting to intervene in these fragile and unstable regions.

Additionally, the strategy as proposed in the Concept Note appears to lack critical details in five key areas. First, the Note includes no description of how the World Bank will define or determine FCV status and what ramifications would flow from such a determination, if made, in terms of the Bank’s interactions with states or clients and its activities within the FCV country or region. Second, the Note seems to imply that the FCV Strategy will not adequately include consideration of alternatives or inaction as viable options. Third, the Note does not indicate what consequences will follow if a state or client does not implement the FCV strategy properly in collaboration with the Bank, both for the particular project in question and for the future engagement of the World Bank in the FCV state or region. Fourth, the Note fails to provide sufficient detail regarding the types of partnerships it will form and how it will deal with the unique difficulties that FCV areas present when attempting to engage meaningfully with civil society. Finally, the Note does not make clear how the World Bank will adhere to its commitment to political neutrality while attempting to bolster the legitimacy of states.

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## A. Method of Determining FCV Areas

While the Concept Note consistently refers to FCV areas and how the policy will depend on the designation of a state (or, as we urge below, particular region within a state) as an FCV area, the Note provides no guidance as to the criteria the World Bank will use in making such determinations.

*A definition of “FCV Areas” should consider the underlying contextual and historical factors that lead to fragility, conflict, and/or violence in a given region.*

There should be a clear definition of what constitutes an FCV country or region so that the determinations are standardized, predictable, and transparent. The definition should include certain factors, such as the history of the state and more specific regions, the contextual risk under which the people in the area are currently living, and the current situation in terms of armed conflict, violence, oppression, and the level of openness for civil society, as well as other factors that may be specific to each state or region. It is crucial that the designation of a region as an FCV area be objective, transparent, and accurate, as this determination will set the standard by which considerations and decisions regarding the proper assessment of project development must proceed.

Most importantly, the Bank must not underestimate the influence that the history of a country or region exerts in the present. A context of historical violence, oppression, and reprisals inevitably influences and constrains people’s behavior even years after a conflict has ended. The current use of the Bank’s Country Policy and Institutional Assessment (CPIA) rating as an essential part of the calculation for designations as Fragile and Conflict-Affected Situations (FCS) fails to take into consideration key contextual and human factors that have direct bearing on a region’s fragility.<sup>1</sup> If the Bank is to effectively pursue its twin goals of eliminating extreme poverty and promoting shared prosperity, it should reconsider its use of these existing indicators, which do not adequately reflect the complex factors that affect the situation on the ground in fragile and conflict-affected areas.

In this regard, CIEL would highlight the conclusion of the Independent Evaluation Group (IEG) regarding the *World Development Report 2011: Conflict, Security and Development* and engagement in fragile states: “The assumption that the Country Policy and Institutional Assessment (CPIA), which was designed primarily as an instrument to determine entitlements under the Performance-Based Allocation system, works equally well for FCS classification has proved to be problematic in recent years with the emergence of new drivers of fragility and conflict.” The report recommends that the World Bank “[develop] a more suitable and accurate mechanism to classify FCS....”<sup>2</sup>

<sup>1</sup> Heinrich Boell Foundation, “The Country Policy and Institutional Assessment (CPIA) and Allocation of IDA Resources: Suggestions for Improvements to Benefit African Countries, at 37, (Aug. 2010)

[https://us.boell.org/sites/default/files/downloads/DFI\\_FINAL\\_Country\\_Policy\\_and\\_Institutional\\_Assessment.pdf](https://us.boell.org/sites/default/files/downloads/DFI_FINAL_Country_Policy_and_Institutional_Assessment.pdf).

<sup>2</sup> World Bank, Information Note: The World Bank Group’s Harmonized List of Fragile Situations, <http://pubdocs.worldbank.org/en/586581437416356109/FCS-List-FY16-Information-Note.pdf>.

### *Questions regarding the role of existing FCS and CPIA Systems in the New Strategy*

In developing the new strategy on Fragility, Conflict and Violence, CIEL would suggest that the Bank disseminate information regarding how the previous designation of Fragility and Conflict Situations (FCS) will interact with the FCV strategy. As it stands, the term FCV appears to apply across a spectrum that includes but is not limited to the narrower FCS category. Yet it is unclear what role this composition of categories will play in the application of this new strategy. CIEL's concern stems from the fact that the current system excludes states that have been experiencing high levels of violence, armed conflict and undeniable oppression of the population.

For instance, we would direct the Bank's attention to Nicaragua and Colombia (described in more detail below), where CIEL's recent experiences accompanying and advocating on behalf of communities illustrate how the existence of internationally funded projects in regions that are facing violence, conflict and repression can exacerbate abuses, harassment, threats and violent attacks on local communities and environmental defenders.<sup>3</sup>

Under the current system, however, neither Nicaragua nor Colombia is designated as an FCS, defined as receiving a CPIA score of 3.2 or lower. Whether they would fall somewhere within the FCV spectrum is unclear. The new strategy should establish a clear definition and then apply the FCV strategy to the states or regions that meet that definition, rather than relying on a mathematical calculation that attempts to reduce life experiences to quantified representations. All too often such calculations are not reflective of the reality in each country or region and even obfuscate other critical factors at play in affected areas.

### *Duration and Geographic Scope of an FCV Determination*

Additionally, the FCV Strategy should include information about the duration and scope of an FCV designation. Regarding duration, the Bank should make clear that an FCV determination of a certain country or region will be reassessed in a periodic and systematic manner. This will not only legitimize the determination but will also increase both transparency and the potential for state and citizen involvement in this designation. This would serve the ultimate goal of creating opportunities for recognition of a situation of conflict and violence that can be resolved or improved upon when all stakeholders are able to engage. At the same time, it should be recognized that there is a danger in allowing decisions about FCV designations to be revisited, as any review process could be used inappropriately to push a project forward by re-classifying an area as non-FCV in order to eliminate the need to complete the additional layer of procedures that would be triggered by an FCV designation.

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<sup>3</sup> See CIEL, ALERT—DEFENDERS AT RISK IN NICARAGUA: Thursday November 22, 2018, <https://www.ciel.org/news/alert-defenders-at-risk-nicaragua-thursday-november-22-2018/> and Protecting Rights Around La India Mining Project, Nicaragua, <https://www.ciel.org/project-update/community-resistance-to-protect-rights-around-la-india-mining-project-nicaragua/> (last visited June 19, 2019); see also CIEL, Ituango Hydroelectric Project: Drowning Transitional Justice in Colombia, June 2018, <https://www.ciel.org/project-update/ituango-hydroelectric-project-drowning-transitional-justice-in-colombia/>.

Another issue related to duration is how countries or regions that have not previously been found to meet the threshold for being classified as an FCV context will be subjected to further scrutiny as a given security situation deteriorates. The Bank should have the flexibility to change a finding for a country or region that was not originally defined as an FCV area at any time that this higher level of consideration becomes necessary in light of heightened fragility, conflict, or violence.

CIEL would suggest establishing a timeline for reviewing country situations within the procedures for making FCV determinations, perhaps with sunset provisions or temporal triggers for reviewing the applicability of FCV designations or decisions not to designate a given country or region as an FCV context. The Bank should balance the above considerations when establishing such a timeline.

Regarding the geographic scope of FCV designations, the Bank should be able to make such designations on both the national and regional level. This flexibility could help to avoid a problem of under-inclusion, similar to that described above, in which de-classification of an entire state as an FCV context could occur in order to avoid the need to comply with more stringent procedures, despite the presence of conflict or violence at the relevant regional levels. The proposed FCV strategy does not currently acknowledge the extreme variations that often exist within a country or even within certain regions of the same country. To analyze the state as an average or as a single flattened reality would obscure conflicts occurring in sub-national regions, including regions that require special attention given any Bank activities there. Therefore, the Bank should not allow a determination that a state as a whole is not an FCV area to impede its recognition of high levels of violence, armed conflict and oppression in a project-affected community.

CIEL would point to the many existing models, such as that used by the U.S. Department of State for Travel Advisories, that frequently find it necessary to make security determinations not at the level of the state, but at more specific levels of sub-state regions. If the World Bank is to establish an effective strategy to address fragility, conflict and violence, then due consideration should be given to all regions within states that could fall within the category of FCV areas.

### *Post-FCV designation considerations for potential development projects*

Aside from establishing a clear definition, duration and scope, the Bank should establish a clear process by which the assessment of possible involvement in the region or country should proceed. As the strategy will apply to the entirety of the World Bank Group, the implementation of the FCV Strategy should have a clear path toward the application and enforcement of either the World Bank's Environmental and Social Framework or the IFC's Performance Standards.

CIEL would recommend that upon deeming a country or region as an FCV area, the Bank should limit the type of projects subject to approval in that area. As the Bank is aware, proper implementation of environmental and social standards and policies demands not only the willingness of state agencies and clients to comply with a diverse set of rules, but also proper

inclusion of and engagement with project-affected people, which itself demands a deep commitment by all stakeholders. When the setting for a project is already marred with violence, conflict and fragility, the space for civil society has already been closed to any type of participation in development decisions or activities.

The understanding by the Bank of the realities on the ground is a crucial factor for the protection not only of project-affected people, but also for regions as a whole, as political tensions and pressures in areas of conflict and violence tend to become exacerbated when the mere possibility of development projects is inserted into these complex situations.

CIEL would note that there are examples of applying limits to levels of involvement by one country into another due to certain shortcomings. One such example is the United States' use of tiers to establish a country's risk level when considering the existence of human trafficking. This categorization is used to dictate the prohibitions of US actions for each tier of risk. If this policy were similarly applied, by creating tiers of fragility, the World Bank could set limitations on the types of projects it would or would not sponsor depending on the corresponding tier.

Under such a model, if a state or region is found to belong to a tier that establishes it as an FCV context, the World Bank should consider that it has three possible options:

- (1) Limit the types of possible projects it will sponsor;
- (2) Consider postponing the planned involvement; or
- (3) Refrain from engaging in the area altogether to avoid exacerbating existing problems.

## B. Other Alternatives and Inaction as an Option

As the Bank rightly acknowledges through this strategy proposal, involvement in fragile, conflict-affected and violent states poses a unique challenge. Thus, it is appropriate that the Bank conduct a complete analysis of a proposed project and – just as importantly – its alternatives, including the option of tabling and revisiting the project at a date when the situation is more stable.

The World Bank requires the provision of possible alternatives for a project as part of the development of the Environmental and Social Impact Assessment (ESIA) within the Environmental and Social Assessment.<sup>4</sup> While the fact that the ESIA includes analysis of alternatives is commendable, the question of whether alternatives have been sufficiently considered should not be assessed merely by the nature and scope of the project.<sup>5</sup> In other words, the nature of the project should determine what alternatives are considered but should not limit the extent to which they are analyzed as possible options. Particularly when applied to FCV areas, the consideration of alternatives serves as a key tool by which to avoid exacerbating

<sup>4</sup> The World Bank Environmental and Social Framework; Environmental and Social Standard, Indicative Outline of ESIA: Analysis of Alternatives, at 26 [ESS1(D)(13)(g)] (2017), <http://pubdocs.worldbank.org/en/837721522762050108/Environmental-and-Social-Framework.pdf#page=29&zoom=80>.

<sup>5</sup> *Id.*

circumstances in already volatile areas. The Bank needs only to expand on its existing policy to remedy this oversight in the FCV strategy as presented in the Note; a clear starting point exists in the ESIA.

### *Examples for Guidance*

The careful analysis of alternatives has long been recognized as a necessary step to determining the worth of embarking on any project. The Green Climate Fund’s (GCF) Environmental and Social Policy requires an analysis of alternatives to be presented as part of the Environmental and Social Impact Assessment (ESIA) and does so based on the goal to: “do good,” rather than “do no harm.”<sup>6</sup> The Bank should emulate this higher standard within the scope of its Fragility, Conflict and Violence Strategy, in addition to the thorough analysis of alternatives. The Bank has stated that “[its] vision goes beyond ‘do no harm’ to maximizing development gains”; its actions and procedural requirements should therefore do the same.<sup>7</sup>

A second example is the United States’ National Environmental Protection Act (“NEPA” or “the Act”) from 1969.<sup>8</sup> The impact assessment requirements of NEPA have become commonplace in environmental regulations around the world in one form or another; therefore, it would not be at all unusual to require the Bank to meet a similar standard of review.<sup>9</sup> Though the Bank has required the analysis of alternatives, it does so in an ineffective way owing to the fact the requirement is not reinforced fully in the policy or in practice.<sup>10</sup> The Bank’s ESA does not establish a measurable standard of review that would be useful in guiding the ESIA process to the most informed conclusion possible. The policy also fails to emphasize that inaction is a valid alternative requiring consideration.

As a guide, NEPA and the Federal Register can help fill in the current gaps in the Bank’s standard Environmental and Social Framework (ESF) as well as the proposed FCV policy. The Act requires careful consideration of “major Federal actions significantly affecting the quality of the human environment” which includes the consideration of reasonable alternatives.<sup>11</sup> In doing so, NEPA does not prevent projects, even if an alternative provides better results for the environment. Rather, it requires a full analysis and good-faith consideration of any better options by the organization proposing the project. This record of alternatives, coupled with comment periods

<sup>6</sup> Green Climate Fund, Environmental and Social Safeguards, <https://www.greenclimate.fund/safeguards/environment-social>; See also Green Climate Fund, Environmental and Social Safeguards: Environmental and Social Assessment at 15, n. 40, [https://www.greenclimate.fund/documents/20182/574763/GCF\\_policy\\_-\\_Environmental\\_and\\_Social\\_Policy.pdf/aa092a12-2775-4813-a009-6e6564bad87c](https://www.greenclimate.fund/documents/20182/574763/GCF_policy_-_Environmental_and_Social_Policy.pdf/aa092a12-2775-4813-a009-6e6564bad87c).

<sup>7</sup> The World Bank Environmental and Social Framework; A Vision for Sustainable Development, at 2, (2017), <http://pubdocs.worldbank.org/en/837721522762050108/Environmental-and-Social-Framework.pdf#page=29&zoom=80>.

<sup>8</sup> 42 U.S.C.A. §§ 4321 (2018).

<sup>9</sup> NEPA.gov, <https://ceq.doe.gov/> (“NEPA’s success has not been limited to domestic environmental issues, it has since been replicated throughout the world.”).

<sup>10</sup> The World Bank Environmental and Social Framework; Environmental and Social Standard Guidance Note 24 at 14, <http://documents.worldbank.org/curated/en/142691530216729197/ESF-Guidance-Note-1-Assessment-and-Management-of-Environmental-and-Social-Risks-and-Impacts-English.pdf> (describing the assessment’s standard of review as: “at an appropriate level of detail sufficient to inform characterization and identification of risks and impacts and mitigation measures.”).

<sup>11</sup> 42 U.S.C.A. § 4332(C)(iii).

and the need to consult with other agencies, as well as project-affected communities, creates a process that examines most points of view and, hopefully, results in a project that takes all options into consideration.

### ***The Fallacy of Equating Inaction with Stagnation***

The belief that taking action is always better than taking no action holds the Bank back from accomplishing its mission of ending extreme poverty and promoting shared prosperity in a sustainable way. The Bank embarks on its projects with the clear intention of increasing a country's capacity for jobs, resources, and other benefits to its citizens. Unfortunately, in trying to remedy the issues present in FCV areas, the Bank may, against its best intentions, end up exacerbating existing situations of fragility, conflict and violence. Pouring money into an area already rife with controversy introduces new reasons for conflict and exacerbates, rather than eliminates, the problems and tensions that govern the lives of the community members. Perhaps the best way to achieve the mission of the Bank is to pause proposed projects while states become more open and receptive to communities who have organized themselves and evaluated options for development, in order for all stakeholders to engage when they can declare their receptiveness in a way that does not further divide their country and community.

## **C. Creating Measures of Enforcement and Accountability for FCV Policies**

The current scope of the Concept Note does not address the actions the World Bank will take, if any, in the event that the Borrower or Client does not abide by the FCV Strategy requirements. While the Bank's recognition of the need for a formal FCV strategy is a decisive step, the policy will not be complete without establishing measures of enforcement and accountability.

When the World Bank finances development projects, it does so with an established framework of Environmental and Social policies, and in the future its FCV policy will become a part of these strategies and policies. In the event that borrowers and clients are not complying with the policies set forth by the Bank, then procedures should be in place to persuade compliance. Moreover, taking into consideration the complexities that exist in fragile, conflict-affected and violent states the Bank should be willing to withdraw funds until the terms are complied with; withhold remaining funds or a portion of the investment; or carry out other actions necessary to ensure that all considerations related to the Bank's intervention and agreed conditions are followed.

## **D. Partnerships and Engagement with Project-Affected Communities**

The Bank rightly states in its FCV concept note that *“working effectively in FCV settings requires strong partnerships with a diverse set of actors.”* However, the Note does not expand upon the purpose or identity of the Bank's partnerships. Thus, the role that these partnerships will play in the Bank's projects is left open to interpretation. This ambiguity could prevent the partnerships—particularly with the UN and other international organizations—from being an



effective means for preventing and mitigating challenges associated with the Bank's projects. The Note also fails to mention the involvement of partnerships with project-affected communities or local civil society groups in the region.

### ***Who are partners and how will they be selected?***

We would suggest that the identity of the organizational partners be further defined. The Note mentions that the relationships between the UN and the WBG group have become more collaborative in fragile situations, supported by the 2017 UN-World Bank Partnership Framework for Crisis-Affected Situations (UN-WBG Framework).<sup>12</sup> However, neither the Note nor the UN-WBG Framework describes which branches or offices of the United Nations will partner with the Bank, despite the multiplicity in operations and mandates between UN offices. This information must be transparent and accessible to ensure that the Bank, countries, and partners properly comply with the policy. Further, the Note does not address whether there will be any consequences resulting from the refusal of a state or client to engage with chosen partners.

While the concept note states that the World Bank will form “humanitarian, security, peacebuilding, private sector, and development partners” according to the “comparative advantage of each organization,” it is not clear how these partners will be selected. The World Bank must make these selections taking into consideration the partners’ connections to project-affected communities and civil society groups, whose rights must be respected at each stage of the development intervention.

The Bank must also examine how it can meet the goal of “pivoting toward prevention” if the community members are not listed as the primary resources among the partners who will guide the operation and vision of the development projects. If the Bank plans to center affected communities’ voices in its development discussions, then the policy should reflect an inclusion of community representatives, rather than only large-scale development organizations, in partnership meetings. Exclusion of critical voices and restrictions on civic space are principal drivers of fragility.<sup>13</sup> Thus, the Bank should ensure proper inclusion of community partners in each of its projects by clearly identifying roles and making sustained efforts toward enabling safe civic space.

### ***What are the roles of the partners?***

The concept note fails to identify the respective roles of partners in informing the design, implementation, monitoring, and evaluation of projects. The only partnership for which the Note provides an explanation is that with the IMF. The description of its partnership with the IMF centers on examining credit-worthiness of a country. While a partnership with the IMF would

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<sup>12</sup> United Nations-World Bank Partnership Framework for Crisis-Affected Situations, signed April 22, 2017, [https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/un-wb\\_partnership\\_framework\\_for\\_crisis-affected\\_situations\\_signed\\_april\\_22\\_2017.pdf](https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/un-wb_partnership_framework_for_crisis-affected_situations_signed_april_22_2017.pdf).

<sup>13</sup> “Closing Space and Fragility,” Fragility Study Group, October 2016, <https://www.usip.org/sites/default/files/Fragility-Report-Policy-Brief-Closing-Space-and-Fragility.pdf>.

further the Bank's mission through help with the disbursement of funds, the Note fails to describe the roles of partnerships with organizations expert in humanitarian issues, security, peacebuilding, and development. These partners can serve the equally important role of informing the Bank when it should not disburse funds or when a project's progression must be put on pause.

FCV contexts are highly complex and present unique challenges to governance and development, thus warranting increased attention—and in some cases, deference—to both local civil society and international human rights advocates. While development decisions are often made at the national and international level, those who are most able to identify and evaluate the most crucial factors for the effectiveness of a project are all too often excluded from these important conversations. Networks of human rights advocates are best positioned to assess and report on these situations, but in many cases the political, social, and logistical realities of FCV areas prohibit clear, efficient reporting and assessment. As a result, the Bank's projects will need to be implemented slowly and carefully, prioritizing the process over the outcome.

***An enabling environment for local civil society is crucial.***

Even if the Bank properly identifies affected community members, creates a role for them in partnership meetings, and invites them to voice their opinions, they may face significant hurdles to doing so, particularly in FCV contexts. The Note does not address the Bank's plan for addressing these obstacles.

***International Finance Institutions must properly engage civil society.***

As development finance institutions have experienced, projects that do not involve community participation and engagement have repeatedly led to tensions, opposition and community discord. This lack of meaningful engagement can then result in unexpected project delays, loss of investments and revenue, and even negative and sometimes violent reactions from government institutions and agencies. The Bank's preventative approach should focus on genuine engagement with local communities and all stakeholders in order to avoid the kinds of delays and canceled projects that have hindered investments from many international finance institutions.

CIEL's lessons learned:

- Nicaragua, International Finance Corporation (IFC)

In Nicaragua, a proposed mining project financed by the IFC has received harsh criticism from local community members due to the threat it represents to their freshwater source, livelihoods, and homes. According to a survey carried out by the Community Movement of Santa Cruz de la India, 96% of families oppose the project. Residents filed a complaint with the Compliance Advisor Ombudsman (CAO) requesting an investigation into the IFC's investment. Since the complaint was filed, community leaders have been

reporting escalating criminalization, harassment, surveillance, and threats.<sup>14</sup> Residents have requested that the IFC take action on their behalf and divest from the project, given its potential impacts to the community and the situation of heightened insecurity they are currently facing in Nicaragua<sup>15</sup>.

- Colombia, Inter-American Development Bank (IDB)

In Colombia, local communities have filed a complaint with the Independent Investigation and Consultation Mechanism (MICI) to investigate whether the IDB violated its environmental and social standards when investing in a large-scale hydroelectric dam. The project is located squarely within the region of Antioquia which was directly affected for many years by Colombia's internal armed conflict and continues to be marred by violence to this day. Over 50 massacres and hundreds of victims of forced disappearance have been documented in the 12 municipalities that will be most impacted by the dam. Many thousands were forcibly displaced. The flawed environmental impact assessment, in addition to the serious lack of information or meaningful participation of already vulnerable communities, has worsened the context of human rights violations, which have included the forcible and even violent relocation of community members. Since Movimiento Ríos Vivos began its active, public opposition to the project years ago, four of its members have been assassinated and 17 have received death threats. They have also denounced cases of torture, trumped-up criminal charges, mass detentions, harassment, public defamation, discrimination, and surveillance.

The two projects described above, which were subject to existing policies, demonstrate the need for an additional layer of due diligence that corresponds to the complexity, gravity and fragility experienced on the ground in FCV contexts. The failure to engage with communities that have knowledge of the history and context of the specific area in question may turn into opposition to a project. Unfortunately, such opposition can be misunderstood or appear unjustified if the contextual risk in a particular fragile, conflict-affected and violent region is ignored or overlooked, particularly if the Bank doesn't have an established mechanism or procedure for communicating with representatives of affected communities.

### *How will the Bank ensure accountability and transparency for its community partners?*

It is crucial that project-affected communities be involved via genuine processes of participation. Additionally, the Bank must ensure accountability and transparency throughout the design, creation and application of its FCV strategy. The Bank must put in place procedures that provide

<sup>14</sup> CIEL, ALERT—DEFENDERS AT RISK IN NICARAGUA: Thursday November 22, 2018, <https://www.ciel.org/news/alert-defenders-at-risk-nicaragua-thursday-november-22-2018/>

<sup>15</sup> The Washington Post, "With journalists jailed and activists in hiding, Nicaragua enters a new 'reign of fear'" Jan. 2, 2019, [https://www.washingtonpost.com/world/the\\_americas/with-journalists-jailed-and-activists-in-hiding-nicaragua-enters-a-new-reign-of-fear/2019/01/01/a0222942-0a0f-11e9-8942-0ef442e59094\\_story.html?utm\\_term=.96ccdad70b721](https://www.washingtonpost.com/world/the_americas/with-journalists-jailed-and-activists-in-hiding-nicaragua-enters-a-new-reign-of-fear/2019/01/01/a0222942-0a0f-11e9-8942-0ef442e59094_story.html?utm_term=.96ccdad70b721)

for regular and timely communication with community representatives, seeking input, and respecting the time of community representatives.

## E. State Sovereignty and Strengthening Institutions: An Evolution of Thought.

Upon careful review of the language of the FCV’s Concept Note, we would express our apprehension with the World Bank’s assertion that, through its interventions, the World Bank will *legitimize* states. It would seem that this initiative is at odds with the Bank’s consistent stance regarding the sovereignty of its member States. We would recall the complex dilemma which arose with regard to the discussion of the possible incorporation of human rights language into the new environmental and social safeguards of the bank during its review process.

At that time the World Bank pointed to its Articles of Agreement as a clear obstacle to the inclusion of human rights obligations that would infringe upon the sovereignty of each State. To be exact, Article IV § 10 of the Bank’s Articles of Agreement states: “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. . .”<sup>16 17</sup>

Regardless of the Bank’s previous assertions about sovereignty infringements, its plan for “building [a] state’s legitimacy” as part of its formal strategy on Fragility, Conflict and Violence<sup>18</sup> appears to be intimately linked to actions that will have direct bearing on the political affairs of member states. It would seem impossible for the World Bank to legitimize a state without supporting the political party in power. If the adoption of human rights language into the Bank’s policies was considered too close to political involvement, then supporting a political group or party within a certain state would definitely fall within that definition.

It would be incumbent upon the Bank to take this issue into consideration, as it cannot have it both ways. As CIEL has stated in the past, joined by organizations and experts alike: perhaps this is the moment when the World Bank evolves into the institution it is meant to be by providing leadership in an area where it has already been a historical actor, the recognition and protection of human rights.

<sup>16</sup> Articles of Agreement: Article IV, “Operations,” § 10, at 10, (2012)

<http://pubdocs.worldbank.org/en/722361541184234501/IBRDArticlesOfAgreementEnglish.pdf>, (emphasis added).

<sup>17</sup> Furthermore, if the World Bank is asserting that it will involve different partnerships to implement its FCV strategy, with prior work carried out by the United Nations-World Bank Partnership Framework for Crisis-Affected Situations, then the Bank has already sought to enforce human rights obligations in vulnerable states with UN bodies whose mandates are based on human rights obligations.

<sup>18</sup> World Bank Group Strategy for Fragility, Conflict and Violence 2020-2025; Concept Note, at 7.

## Closing Remarks

It is a positive step for the World Bank to begin developing a formal strategy on Fragile, Conflict and Violence. We recognize the Concept Note is an introduction and welcome the opportunity to share suggestions and recommendations for the development of the strategy and subsequent policy that can address the complexities of addressing areas of FCV. At a time when each day brings news about growing instability in regions around the world, it is fundamental for the pursuit for peace to include solutions that are transparent, open and inclusive.

We urge the World Bank to take time to develop a more robust policy that may serve Borrowers and Clients in implementing and complying with the World Bank Group's Fragile, Conflict, and Violence Strategy. We are available to engage with the Bank further on these issues and welcome opportunities to respond to questions and provide additional comments, please feel free to contact us at [cgarcia@ciel.org](mailto:cgarcia@ciel.org) or [sdorman@ciel.org](mailto:sdorman@ciel.org).

Sincerely,

Carla García Zendejas

Sarah Dorman

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