



Review and Update of the World Bank's Environmental and Social Safeguard Policies

Consultation Meeting with Government Representatives and Implementing Agencies

New Delhi, April 4, 2013

Feedback Summary

The consultation meeting with government representatives and implementing agencies was held on April 4, 2013 and facilitated by Duno Roy (Hazards Center). After a presentation by the World Bank Safeguards Review Team on the background, intended scope and process for the review, the floor was open for participants' comments and recommendations. This summary includes also written suggestions submitted by invitees and participants.

REVIEW OF THE POLICIES and A NEW POLICY FRAMEWORK

- The Bank's social policies are well meaning, and have served well in many development projects. However, problems in implementation as well as changes in the development landscape require a more holistic approach to safeguards that the Bank should adopt. Preserving a natural habitat or cleaning a river requires an integrated approach, e.g., addressing the pollution problem, municipal waste issues, social behavior change, etc. The integrated framework as described in the approach paper is timely and is welcome.
- The World Bank should aim at creating a policy framework that shifts the focus to implementation rather than documentation.
- In the integrated framework, greater flexibility should be given to countries based on the country's context, laws and institutional frameworks.
- The Independent Evaluation Group has identified recommendations for better implementation and supervision and these recommendations should be adopted.
- **Processes.** In a developing country context, the urban sector has a huge infrastructure deficit, given that the urban population is expected to double. To meet this deficit, a number of projects are required and these should be speedily undertaken. Any policies that constrain the speed of implementation have major negative impacts. The Bank's processes are extremely lengthy. It takes two or three years to formulate a project.
- The World Bank process for approvals to mitigation plans prepared in compliance with safeguard policies is unduly long. The review process could also look at time taken by the World Bank itself in various projects and may address the issue of lengthy processing times and ways and means to reduce them.
- **Policy applicability.** Bank policies require that components that are not funded also follow the safeguard policies. But from the borrower's point of view, the requirements to be followed should be those of the respective funding agency.

- While reviewing the policies, attention should be paid to their applicability in the context of projects involving multiple funding agencies and implementing agencies, to ensure that the policies are easily implementable in these contexts, too.
- Many infrastructure projects are being done in a private-public partnership mode (PPP). In this context, it is difficult to apply the Bank's procurement requirements and environmental /social safeguards as these requirements are not being addressed by the concessionaires. From a developer's perspective, in a PPP context, the concessionaire is working within the laws of the land. If concessionaires are required to do something beyond this, they will likely review their funding options.
- Also, most PPP infrastructure projects involve a consortium of financial institutions. Their terms of tenure and collateral are the same. Incentives from one of these financial institutions may not be enough to ensure that the concessionaire will implement the requirements.
- In Bank supervision, the task team leader leaves the safeguards to the safeguard officer. This results in ineffective institutionalization of Bank safeguards.
- The review should address economic displacement, impact and rehabilitation.
- The Indigenous Peoples policy should be mindful of different definitions and a consistent and appropriate definition should be developed.
- Environmental concerns should not overshadow health and social concerns. Environmental and social investments should be considered, corporate environmental responsibility should be introduced and adaptive management methods in multi-sector projects should be used.
- Greater clarity on categorization of projects/programs is required. The EA categorization of projects should be more specific. Provisions for accommodating the already fine-tuned existing rules/regulations and policies available in the country, and which have specific categorizations of project (e.g., MoEF has already categorized various infrastructure projects under categories A and B), should be incorporated into Bank policy. Moreover, the Bank's current policies do not distinguish between linear projects and area-based projects. There is a huge difference if 1,000 people are affected in a particular area compared to impacts on 1,000 people over a 100 km stretch. The policy framework should recognize that area-based and linear projects are widely different. A clear categorization should recognize the type of project, whether linear or area-based, and the sector. In multi-state projects, the categorization should be made at the state level.
- The Environmental Assessment should define specific requirements (area to be covered for assessment) and limitations (5/10/15 km surrounding the project area, etc.) for studying various environs -- air, noise, water and biodiversity (flora and fauna) -- and socio-economic factors.
- The provisions for various forms of resettlement assistance should be based on a set of components, rather than following a minimum threshold mentioned at national/state level. For example, for provision of shifting assistance, components such as: (i) distance to relocation site; (ii) household size of displaced persons; (iii) asset size (cattle, materials, etc.); (iv) shifting of school and consequent expenses, etc., should be considered. Such entitlements require differential treatment (e.g., for rural/urban regions or for hilly/plain regions).
- The provision of enhancement measures as defined in OP 4.11, Physical Cultural Resources requires a realistic approach. The options for selection of enhancement measures should remain with the borrower provided the Bank makes capacity building available for the

respective project implementing bodies with respect to choosing such enhancement options.

- Forests & natural habitats should be merged as they do not merit separate policies.
- **All emerging areas** - disability, labor and occupational health and safety, human rights, land tenure and natural resources, free, prior and informed consent of Indigenous Peoples, gender and climate change - should be addressed during the review of the policies and included in the new integrated framework. Attention should be given to addressing issues in the overall policy framework in a way that is applicable in developing countries.
- The approach paper identifies **climate change** as one of the issues that needs to be given attention. It also mentions issues associated with land, natural resources, energy crises, etc. To incorporate such an assortment of areas under the framework would make it difficult for any project to get off the ground. For example, climate change and what has to be done at various levels is an issue that has been debated at many global forums. Stringent policies in this regard cannot be imposed on developing countries, which may require financial assistance for infrastructure related projects, especially when the contribution of developed countries to climate change is much higher than that of developing countries.
- **Monitoring & data use and disclosure.** Monitored data should be used to revise the safeguards framework and the environmental and social policies and procedures. Data should be used to improve performance, revise the policy and compile good practices. Emphasis on monitoring systems needs to be key. Strengthening of monitoring and supervision should be done to improve safeguard implementation. The Bank should review monitoring reports more closely in order to leverage further action.
- In certain ADB-funded development projects, monitored data are disclosed on the project website on a monthly/quarterly basis. This could also be done in World Bank-funded projects.
- **Community awareness** is essential before undertaking any development activities. The opinion leaders of the community should be included in this task. Community **participation** has a crucial significance in development activities. To achieve this participation, the help of expert social professionals should be made available.
- **The consultation process** is essential from the initiation of the project. Stakeholders should be taken into account regarding the proposed development and expected benefits.

BANK'S POLICIES and COUNTRY SYSTEMS AND LAWS

- It is important to **synergize policies**. The Bank should recognize that the laws of the country and the related processes – e.g. environmental clearance, resettlement and wildlife law clearances - need also to be effectively implemented.
- Institutionalizing minimum acceptable thresholds for conformance/compliance with environmental and social safeguards is necessary.. Streamlining of Bank/donor policies with the country safeguard systems is needed.
- Country systems will work only if these systems meet the expectations/standards of the Bank.
- While country laws are more or less in line with the Bank's policies, how the project articulates these laws is what counts.

- The provisions of the Land Acquisition Act have been passed as an Act of the Parliament. If there is a conflict with the Bank's policies, then the Bank should understand the rationale behind these provisions.
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- If the Bank's policies go beyond the laws of the land, this results in inequalities, which create problems. In such cases, the Bank should provide an additional grant that can be used for the purpose of meeting these requirements. This grant will differentiate a project funded by the Bank from those not funded by it.
- The law of the land must be respected. For example, the Supreme Court of India had issued directions to the State Governments with reference to removal of unauthorized religious structures in parks, roads and public places. The Bank's policy on involuntary resettlement treats encroachers and non-encroachers in the same way. This means that those who are law abiding are treated on par with those who aren't. This also causes projects to incur unnecessary process costs. Similarly, the Bank guidelines stipulate compensation for people who have deliberately flouted the law of the land by encroaching on government property. Encroachers are very well aware of the risk that they are taking and compensating them for the "impact" of a project is not justifiable and again results in avoidable costs. Overall, the Bank's policies may legitimize encroachers.
- In terms of replacement cost of land and structure, there is a wide variation between the Government of India and the Bank. It is well established that evaluation procedures laid down in local laws for compensating people for their affected assets invariably leads to litigation to increase the amount of compensation. The courts settle these claims over long periods thereby affecting the replacement concept as such. To provide timely and adequate compensation prior to dispossessing people of their assets, replacement cost as a category of assistance is disbursed to the affected in Bank supported projects. The methodologies for estimating replacement cost vary from project to project. Whether those affected receive adequate replacement cost remains unclear. The approaches adopted by Bank and other donors to arrive at the replacement cost, varies across regions and across sectors. There is a need for a uniform approach to calculation of realistic replacement cost.
- As per the law of land, in cities like Delhi and Mumbai, religious structures along proposed alignments have to be removed, whereas the Bank requires these religious structures to be relocated.
- In Bank funded projects, Environmental Assessments go beyond national laws, both in terms of scoping and quality requirements.
- In most externally aided projects, problems often occur when land acquisition is involved. The traditional processes are constraining, as these do not address social impacts adequately.

CAPACITY BUILDING

- According to the approach paper, the review is expected to result in the **next generation of safeguard policies** which would go beyond the "do no harm" principles of the current safeguard policies. This objective alone must not drive the review and update process as it may result in policies which are extremely progressive on paper, yet are difficult to comply with. The Bank's clientele is comprised mostly of developing countries where policies, practices, institutions, capacities, etc., are in the process of evolution, and infrastructure is still nascent. It would be difficult to expect a specific project to comply with a whole-set of

practices and principles when the regulatory and other capacities including that of contractors and private sector are not geared towards the same. Capacity building efforts may have to be continuous and go beyond the project period for desired results.

- In taking up a development project, capacity building is very important both at an individual as well as at an institutional level. The added value of working with the Bank is not just that the financial support comes with a long tenor but also the expertise that the Bank brings. The capacity building pertaining to social safeguards has two dimensions that have an impact on preparation and implementation of projects. While during the preparation, capacity building is valuable to get the people to understand the scope and objectives of the project, during implementation the focus should be to help understand what may be the process.
- The Bank should provide technical assistance covering micro-economic and sectoral aspects relevant to environmental and social risks, and strengthening the capacity of government on addressing these risks.
- All development projects should have a component for institutional capacity building. In fact, even when capacity-building is done at the project level, the learning and knowledge acquired tends to remain with the individual and the organization. Experience has shown that interventions aimed at building capacity to establish and maintain systems in a risk management framework have raised operational standards. Training initiatives for different sectors have helped to develop human resources qualitatively. Capacity building on audits has assisted in re-evaluating borrower systems and in upgrading in areas where improvement is needed. Technical assistance studies done under the Bank's aegis have helped in building organizational capacity and skill bases.
- Staff involved in project implementation need capacity building in conducting surveys, data analysis, and report writing.

Additional suggestions

- The use of corporate social responsibility (CSR) budgets/approaches in implementing the Bank's social management plans such as the RAP should be explored.