

The World Bank
1818 H Street, NW
Washington, DC 20433

November 25, 2014

Obstacles to Participation in World Bank Safeguards Consultations

Dear President Jim Yong Kim,

As members and allies of the Bank on Human Rights Coalition, we write to you today with serious concerns regarding the way in which consultations on the review of the safeguard policies are being handled. Despite the importance of these issues for the wellbeing of communities, the environment, ending extreme poverty, and promoting shared prosperity, and despite the Bank's commitment to meeting best international practice on consultations and the Bank's own Consultation Guidelines,¹ many of the consultations have been compromised by inadequate notice and restricted access.

The Bank is aware of the benefits of participation for ensuring better and more sustainable policy development and service delivery. Moreover, because poverty is at its core the "inability to participate in or influence decisions that profoundly affect one's life," participation is an essential strategy for poverty eradication.²

The right to participate, and in particular the right of those affected by key decisions to participate in relevant decision-making processes, is protected under international human rights law and states are required to respect, protect and fulfil that right without discrimination of any kind.³ The UN Special Rapporteur on the rights to peaceful assembly and to association has also called for recognition "that freedom of peaceful assembly and of association are inextricably intertwined with the right to take part in the conduct of public affairs, the right to freedom of opinion and expression, the right of access to information and other relevant rights..." and that

¹ The World Bank Group, Consultation Guidelines, October 2013, http://consultations.worldbank.org/Data/hub/files/documents/world_bank_consultation_guidelines_oct_2013_0.pdf.

² Report of the Special Rapporteur on extreme poverty and human rights, Ms. Maria Magdalena Sepulveda Carmona on the right to participation of people living in poverty, 2013, UN Doc A/HRC/23/36.

³ See UN Human Rights Committee, General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote), The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service, 12 July 1996, CCPR/C/21/Rev.1/Add.7.

“[s]tates are obliged to uphold these human rights within their national jurisdiction and when they act at the international arena, whether individually, bilaterally or multilaterally.”⁴

Unfortunately over the past two months of this phase of consultations, communities, civil society organizations and indigenous peoples have experienced the following obstructions to their participation:

Inadequate information on the consultation process. Though Bank management announced that the consultation period would be extended beyond December, it remains unclear what the full consultation plan is, how long the consultation will last, and where in-country consultations will take place. Bank officials have stressed that the present draft is “just a first draft.” Acknowledging that, we hope that the second draft will be a more appropriate proposal for securing positive rights-respecting development outcomes. However, effective participation in this phase requires clarity in advance as to what the present consultation phase will look like and how effective input will be secured on a second draft.

Inadequate notice regarding specific consultations. A note on the English-language website states that “2-3 weeks’ notice [is] given to invitees/interested parties.” Two weeks’ notice is insufficient time to effectively circulate information about an upcoming consultation, and for interested parties to be able to request an invitation, receive a response, arrange resources and transportation to the capital site (or visas in the case of regional consultations), address any accessibility needs, and review and digest relevant materials.

Moreover, in several cases, invitees have been given less than two weeks’ notice. Invitees to the Georgia consultation, for instance, had just eight days’ notice. Other consultation dates have been listed on the website and then removed, making planning very difficult. Local organizations in Peru began organizing around a consultation scheduled in Cusco, which was then moved to Lima, and then postponed. Groups only learned of the postponement when they noticed the date had been removed from the website, and after they had already organized meetings around the original date. Several consultations have had to be rescheduled because of insufficient lead time.

To date, only the English language website includes a calendar of consultations through the end of the year. The French, Spanish, Russian, Arabic, Portuguese and Chinese language websites do not contain any consultation information beyond November 12th, nor do they include the schedule for dedicated consultations with indigenous peoples.

Lack of clarity regarding how to participate. From the safeguard review website, it is not clear how to participate in the consultations. One would assume that the consultations would be open, public events. However, this is not the case. Attendees are required to email the safeguards team to register/request an invitation. Unfortunately, finding the information for how to register requires one to first click on a specific consultation and then on a button labeled “document.” In

⁴ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Maina Kiai, on the rights to freedom of peaceful assembly and of association in the context of multilateral institutions, 2014, UN Doc A/69/365, paras 15 – 16.

response to a request to fix this issue, there is now an explanatory note. However, it appears only on the English-language website. The registration process remains unnecessarily challenging.

Consultations restricted to hand-picked participants. The majority of the multi-stakeholder consultations held thus far have been by invitation only, with no transparency as to how invitation lists are compiled. For several consultations, such as those scheduled for the Philippines, Dakar, and Canada, outreach efforts excluded human rights groups which have had longstanding engagement with the Bank on these issues. Civil society organizations who contacted safeguards staff in order to register were told that space is limited or received a response too delayed to allow participation. In another country, requesters of an inspection panel case were not invited to the consultation. In the Georgia consultation, a local labor union was told that they were not invited and could not take part.

When indigenous peoples' organizations in Uganda and Kenya applied to join the consultation in Tanzania, which was meant to cover all three countries, they were told that the Bank had selected five civil society participants from each country and there were no funds, nor room, for any more. The Country office apparently was under the impression that outreach need only be targeted to NGOs. Several indigenous peoples wishing to attend the indigenous peoples' regional consultation in South Africa were unable to attend due to lack of time to secure necessary visas.

Inadequate geographic reach of consultations. Consultations have been announced for a handful of capitals per region, with several consultations meant to serve for multiple countries. Expecting rural communities to have access to capital cities, let alone another country is unrealistic. In instances where specific requests have been made for video or telephone access to increase participation, this request was refused.⁵ There is also no indication that country offices are conducting outreach on the safeguards review outside the context of physical in-country consultations.

Lack of information for informed consultation. The first draft of the safeguards framework contains vague language and refers to details that will be provided in other documents, including annexes and directives. These details are necessary to have a full picture of the functioning and implications of the draft framework. Some of these documents have been posted on the English website, but others are still missing, and none have been provided in languages other than English.

Consultation structure. Many consultations, including the Brussels consultation, have not allowed sufficient time for meaningful civil society input.

As cited in a recent UN report, these problems with World Bank consultations are not new.⁶ At the same time, there is no reason why the Bank cannot conduct adequate consultations. We

⁵ Request by Kenyan indigenous peoples' organizations re: the consultation in Tanzania meant to cover Uganda and Kenya.

⁶ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Maina Kiai, on the rights to freedom of peaceful assembly and of association in the context of multilateral institutions, 2014, UN Doc A/69/365, paras 47, 48.

welcome the Bank's increased openness to making consultations accessible to persons with disabilities. In instances where there has been strong coordination with civil society, including in consultations in Germany⁷ and the CSO-led consultation on land issues during the World Bank annual meetings⁸, civil society participation and engagement has been robust.

We urge you to address the serious shortcomings of the safeguards consultations and make good on your commitments to transparency and citizen engagement by taking the following actions:

- **Guarantee a minimum of 60 days' notice prior to each consultation and reschedule/re-do consultations that have not had such notice. Ensure that the entire suite of safeguard documents, including annexes and directives, is available in the relevant member country language a minimum of 60 days prior to a given consultation.**
- **Make clear to country offices that outreach for multi-stakeholder consultations must include indigenous peoples' organizations and affected communities, including Inspection Panel requesters, not just NGOs.**
- **Rectify the aforementioned problems with the safeguards consultation website and ensure that information is complete in each language.**
- **Guarantee that multi-stakeholder consultations are open to the public, with all stakeholders able to observe all inputs, the only exception being cases in which civil society has safety concerns regarding expressing opinions in public.**
- **Work with country governments and civil society to ensure that consultations are organized, with consultation agendas determined collaboratively, to facilitate full and meaningful participation without discrimination or coercion.**
- **Record and make public verbatim transcripts of all consultations, including Bank input (with the exception of civil society input in cases where civil society fears reprisals). Distribute draft minutes to consultation participants and allow participants the opportunity to review and submit any corrections. Incorporate corrections to the draft minutes or publish corrections submitted by participants with the minutes.**
- **Ensure that consultation venues and formats are accessible to persons with disabilities.**

⁷ The agenda was designed to respond to Bank, NGO and governmental concerns, and the consultation reflected a true multi-stakeholder process. Keynote speakers at the day and a half-long consultation included representatives from the Bank, independent NGOs with safeguards expertise, and government and UN representatives.

⁸ The safeguards team graciously participated in this event.

- **Use public announcements, active outreach by country offices, and video and telephone conferencing to make the consultation process accessible in all Bank-member countries, and beyond country capitals.**
- **Produce a public report of feedback received, including a matrix of actual comments, rather than simply a summary, with an explanation of how feedback was incorporated, or reasons why not incorporated.⁹**
- **Work in conjunction with civil society to develop a clear plan for securing meaningful input going forward, including input on a second draft.**

We look forward to your timely response to these important concerns. Please contact Bank on Human Rights Coordinator, Gretchen Gordon at (202) 742-5831, for additional information.

Signed,

Alianza Sustentabilidad Ecológica y Justicia Social (AlianzaVerde) – Honduras
 Alyansa Tigil Mina - Alliance Against Mining – Philippines
 Asociación Ambiente y Sociedad (AAS) – Colombia
 Bank Information Center
 Bank Watch – Central and Eastern Europe
 Both ENDS – Netherlands
 Bretton Woods Project – UK
 Center for International Environmental Law (CIEL)
 Centre for Human Rights and Development – Mongolia
 Centro para la Autonomía y Desarrollo de los Pueblos Indígenas (CADPI) – Nicaragua
 Centro Mexicano de Derecho Ambiental, A.C. (CEMDA) – Mexico
 Citizens Alliance Centre – Mongolia
 Community Policing Partners for Justice, Security and Democratic reforms (COMPPART) – Nigeria
 Confederación de Pueblos Autóctonos de Honduras (CONPAH) – Honduras
 Confederación de Pueblos Indígenas de Bolivia (CIDOB) – Bolivia
 Derecho Ambiente y Recursos Naturales (DAR) – Peru
 Egyptian Center for Economic and Social Rights – Egypt
 Equitable Cambodia – Cambodia
 Federación Indígena Tawahka de Honduras (FITH) - Honduras
 Fundación Ambiente y Recursos Naturales (FARN) – Argentina
 Fundación para el Desarrollo de Políticas Sustentables – Argentina
 Fundar, Center for Analysis and Research – Mexico
 Gender Action

⁹ The Asian Development Bank routinely did this during its safeguards review.

Global Initiative for Economic, Social and Cultural Rights – U.S.A. and Switzerland
Global Witness – UK
Gobi Soil – Mongolia
Homa, Centro de Direitos Humanos e Empresas, da Universidade Federal de Juiz de Fora (UFJF)
– Brazil
Human Rights Watch
Inclusive Development International – United States
Indigenous Peoples Links (PIPLinks) – UK
Instituto de Formación de Adolescentes y Niños Trabajadores (INFANT) – Peru
International Rivers
Jamaa Resource Initiatives – Kenya
Le Conseil Régional des Organisations Non Gouvernementales de Développement (CRONGD) –
Democratic Republic of Congo
Lumière Synergie pour le Développement – Senegal
Otros Mundos AC /Chiapas – Mexico
OTWatch – Mongolia
Oxfam International
Public Interest Law Center – Chad
Red Indígena de Turismo de México A.C. (RITA) – Mexico
Red Mexicana de Organizaciones Campesinas Forestales (Red MOCAF) – Mexico
Sahmakum Teang Tnaut (STT) – Cambodia
SOBREVIVENCIA – Paraguay
Social Justice Connection – Canada
Sociedad y Discapacidad (SODIS) – Peru
Steps without Borders – Mongolia
Utz Che' – Guatemala
Ulu Foundation
Urgewald – Germany

Cc: Board of Directors, Kyle Peters, Cyril Muller

*Bank on Human Rights is a global coalition of social movements, civil society organizations, and
community groups working to ensure that all development finance institutions respect, protect,
and fulfill human rights.*

www.BankonHumanRights.org