

INTERNATIONAL ACCOUNTABILITY PROJECT

Questionnaire from the UN Independent Expert on the promotion of a democratic and equitable international order on the impact of economic and financial policies, especially those of the World Bank and the International Monetary Fund, on a democratic and equitable international order

In his upcoming report to the Human Rights Council to be presented in September 2017, the Independent Expert on the promotion of a democratic and equitable international order will “continue his research into the impact of the financial and economic policies pursued by international organizations and other institutions, in particular the World Bank and the International Monetary Fund, on a democratic and equitable international order”, as per Human Rights Council’s resolution 33/3.

The below questionnaire aims to assist the Independent Expert in his research, and responses will inform his upcoming report. Responses in bullet-points, as well as reference to specific publications, are welcome.

Kindly send your responses to ie-internationalorder@ohchr.org by **24 March 2017**.

NEW DEADLINE: 20 April 2017.

International Accountability Project (“IAP”) is a human rights organization that believes development should be based on community priorities. We support community-led development and reinforce campaigns against projects communities do not want. IAP’s approach puts communities and their priorities first, and strives to generate shifts in the development paradigm by keeping the following question at the center of its work: What if development was designed and lived by the same people?

Among IAP’s initiatives relevant to the UN Independent Expert’s research, IAP makes regular contributions to inform the policy and practice of Development Finance Institutions (DFIs) around the world, including the World Bank Group. IAP supports community-led engagement with the accountability mechanisms of DFIs. IAP participates in organized policy review processes, like the World Bank Safeguard Review Process.

IAP also works to exchange accessible information among governments, DFIs and communities. For example, the *Early Warning System* monitors projects proposed by development financiers, alerts communities likely to be impacted, and with partners, reinforces community-led responses - ideally before funding is determined. ¹

Throughout, IAP works with community organizers to use community-led research to influence projects as well as development policy and practice.

IAP hopes to be of assistance by bringing this background to the Questionnaire. For the purposes of this study, our responses will only address questions pertaining to the World Bank, as IAP has not

¹ To access the Early Warning System, see: <http://rightsindevelopment.org/our-work/ews/>

had prior engagement with the IMF.

1. In your view, how do the World Bank and the International Monetary Fund promote the right to food, water, health and a safe and clean environment? What should the Bank and the IMF do to better protect and promote human rights?

- Through its lending practices and stature as the leading international financial institution, the World Bank has the opportunity to promote the rights to food, water, health, and a safe and clean environment through its projects. However, for the reasons noted below, many World Bank projects fall short of promoting these rights and have instead resulted in harms to communities and the environment. In IAP's experience, there is much to be desired from the World Bank's approach to respecting, protecting, and promoting human rights.

Respecting and Protecting Human Rights:

- Although the World Bank's projects are ostensibly aimed at ameliorating poverty, IAP has continuously witnessed that these projects often occur at the expense of those most vulnerable and marginalized, leaving them further impoverished and without access to the project's benefits.
- It is important to note that in addition to operating in complex environments, World Bank projects are carried out in the context of a rapidly shrinking civil society space. Several organisations have called on the World Bank and other IFIs to do everything in their power to make sure that civil society can put forward their opinions while pursuing the development they want.² The World Bank in particular, has been specifically singled out as being apathetic in relation to reprisals connected to its projects.³
- IAP and its partner organizations recently conducted a study surveying 800 participants in 8 countries around the globe who had been subject to adverse impacts as a result of development projects. A product of community-led research, the report "*Back to Development: A Call for What Development Could Be*" outlines a clear failure to respect and protect the rights of communities affected by development projects.⁴ In the introduction to the report, community organizers state that:
 - *"In our personal experiences and during our parents' generation, development projects did not translate into visible benefits for local people. Instead, development was the word that government officials used to justify seizing our lands, bring violence at the hands of the military and police, and threaten us when we asked questions about what was happening."*
- The World Bank's development projects have a proven record of not only creating openings in communities for violence by the State, but also violating, instead of protecting, human rights. Project impacts regularly include violations of the rights to food, water, health, and a safe and clean environment. We have picked a few examples from IAP's study which showcase these impacts:
 - *The right to food:* Development projects have myriad impacts on the right to food. Often, projects irrevocably alter ecosystems entire communities depend on for both

² See Statement of Human Rights Defenders campaign of the Coalition for Human Rights in Development at <http://rightsindevelopment.org/our-work/hrd/>;

³ See Human Rights Watch report "At Your Own Risk" at: <https://www.hrw.org/report/2015/06/22/your-own-risk/reprisals-against-critics-world-bank-group-projects>

⁴ Global Advocacy Team, "Back to Development: A Call for What Development Could Be", bit.ly/backtodevelopment

income and subsistence. For example, the Left Bank Outfall Drainage Project, a World Bank project in Pakistan, resulted in the destruction of coastal ecosystems and wetlands that were the sole provider of income and food for 25,000 people living in 60 villages.⁵ Other impacts include, inadequate resettlement sites which are not conducive to subsistence practices, and the loss of access to forests and land on which community members would collect and grow food. Testimonies from affected community members state:

- *“My land is smaller than before and is not enough to grow food.”⁶*
- *“I used to farm but now I just sit and depend on food from my children and other well-wishers.”⁷*

- *The right to water:* Similar to the right to food, the impacts of development projects on the right to water are profound. Often, water regularly used by communities for both drinking and livestock purposes is polluted, and resettlement sites are located far away from potable water sources. In addition to the direct impacts resulting from lack of access to safe and clean drinking water, violating the right to water also has severe impacts on the livelihoods of many communities. For example, nomadic herders affected by the World Bank Group-supported Oyu Tolgoi mine in Mongolia suffered the loss of pastures and water, which made it impossible for families to earn a livelihood. The destruction of sacred springs also led to severe water problems for local people. Testimonies from communities affected by projects worldwide include:
 - *“I was not resettled by [Oyu Tolgoi], but I am one of many who had to move without compensation, because of no water.”⁸*
 - *“The houses to which we moved had no water, so our folks had to get water from a nearby factory, and that water was greenish, which led to the death of many children at that time.”⁹*
 - *“Fish catch has dwindled, especially shrimp, and the fish that we catch are too contaminated to eat or sell. Livestock has been poisoned, and wildlife has disappeared. Adequate freshwater is no longer available for drinking and our daily needs.”¹⁰*
- *The right to health, and to a safe and clean environment:* As human rights are inalienable, indivisible, interdependent, and interrelated, violating the right to a safe and clean environment feeds into the effects of violations of the right to food and water, which in turn have clear negative impacts on the right to health. Apart from these clear consequences, often pollution from development projects causes health problems, and resettlement sites do not offer adequate access to healthcare. Testimonies from those interviewed in IAP’s study include:
 - *“They promised that there would be great benefits and development for families who moved—scholarships and modern health centers and jobs. None of these promises have been fulfilled.”¹¹*
 - *“We moved after five of our goats died of suffocation from swallowing dust from the quarries.” Several people reported that their families are suffering from health*

⁵ Ibid., p.69
⁶ Ibid., p. 61
⁷ Ibid., p. 22
⁸ Ibid., p.42
⁹ Ibid., p.50
¹⁰ Ibid., p.69
¹¹ Ibid., p.30

problems, such as lung diseases.¹²

- “They promised to build a road, utilize a less-polluting method of mining, improve access to healthcare and schooling, support a cooperative. But none of this has been implemented.”¹³
- “Our communal lands have also been lost, which has destroyed people’s ability to continue subsistence farming. Our rivers and other water sources became polluted by the mining activities. Our watering holes, schools, and health clinics were intentionally destroyed.”¹⁴

Promoting Human Rights:

- From IAP’s perspective, the World Bank can make a difference by promoting the rights of access to information, and meaningful consultation in the communities it serves. The conclusions produced from IAP’s study clearly outline that community priorities on development must be first taken into account within the project design in order to prevent adverse impacts, and to achieve the goals of sustainable and inclusive development. Prioritizing community perspectives and recommendations from the concept design stage itself will ensure that the World Bank both protects human rights, and positively promotes them in practice.
- For more detailed information, examples, and recommendations, IAP encourages the UN Independent Expert to read through the “*Back to Development*” report.

2. What is your assessment of the World Bank’s new Environmental and Social Framework for the promotion and protection of protecting human rights?

- The World Bank’s newly adopted Environmental and Social Framework (ESF), which sets out the environmental and social requirements for projects, houses several improvements to its former iteration. Specifically, it mentions human rights in the Vision Statement, covers a broader scope of social issues than the former safeguard policies, including through its environmental and social assessment policy, and includes Free Prior and Informed Consent (FPIC) as a requirement.
- Unfortunately, the ESF has also created large loopholes that undermine these advances and threaten the rights of communities who may be impacted by its projects. Specifically, the reference to human rights in the Vision Statement is non-binding, implying that the World Bank remains resistant to recognizing its obligations under international law to respect human rights. Similarly, while FPIC was adopted in the new ESF, the language used fails to meet international human rights standards by defining consent as ‘collective support’ rather than ensuring respect for the results of affected indigenous peoples’ independent and collective decision-making processes. As a final example, the new ESF shifts from a compliance-based system with clear requirements and timelines for planning and reporting, to a flexible “adaptive management” framework. This means that some requirements for Bank supervision and due diligence were eliminated and responsibility for various aspects of assessment, reporting, and supervision were shifted from the Bank to the borrower. This shift will have negative impacts on communities.

¹² Ibid., p.42

¹³ Ibid., p.43

¹⁴ Ibid., p.60

- IAP has contributed to an NGO response to the new ESF.¹⁵ In addition, the Coalition for Human Rights in Development, of which we are a founding member, released a statement during the final stages of revision regarding the the human rights provisions within the proposed Framework.¹⁶

3. What type of accountability exists to remedy any adverse effects on human rights resulting from projects or policies funded or promoted by the World Bank/IMF? What recourse or remedy is provided for victims of alleged human rights violations? Please provide examples of best practices and/or persistent obstacles in this regard.

- The expansive nature of World Bank projects and their impacts demand that adequate remedies for loss and abuse should be part of the project plans. However, remedy for any loss and abuse, even when promised in the form of compensation and/or livelihood restoration, is often nonexistent or inadequate. IAP's study collected statistics which show a staggering inefficacy when it comes to remedy for adverse effects on human rights:
 - 84% of the 800 surveyed were displaced, or were facing displacement, by the project. Out of this number 63% did not receive any compensation, while 70% of those who did receive compensation said their needs were not met. 91% of the total said there were no livelihood assistance programs after displacement, and 76% of those who participated in livelihood assistance programs said it did not improve their quality of life.¹⁷
- Although the World Bank offers the service of an independent accountability mechanism through the Inspection Panel, it does not require its borrowers to take steps to actively inform communities about the existence of the Inspection Panel. Again, IAP's study provides a clear picture of the state of accountability for harm caused:
 - Out of the 800 people surveyed, 79% do not know how to file a complaint with the World Bank about the project and 83% had never heard of the World Bank's Inspection Panel. Once informed, 43% expressed an interest in filing a complaint with the Inspection Panel.
- The ambiguity in the standards applied to projects (through the ESF), coupled with the weakening of time-bound requirements for assessment of risks and disclosure, will result in unnecessary hurdles for affected communities in accessing remedy for harms caused by projects.
- Finally, IFIs are increasingly co-financing projects, generating confusion for those adversely affected by projects as to which standards apply and which mechanism is the appropriate one for a complaint to be filed.
- In addition to *"Back to Development"* IAP recommends that the UN Independent Expert read

¹⁵ See, "NGO Response to the World Bank's Proposed Environmental and Social Framework: Proposed World Bank standards represent dangerous setback to key environmental and social protections", <http://nebula.wsimg.com/be7ab9098fed4d5d3bacaa4b4448a74c?AccessKeyId=BBECBE2DB5DCCE90DECA&disposition=0&alloworigin=1>

¹⁶ See, Coalition for Human Rights in Development, "Comments on Overarching Human Rights Provisions in the World Bank's Environmental and Social Framework", <http://cdn.rightsindevelopment.org/wp-content/uploads/2015/08/Human-Rights-Submission-FINAL-March-2016.pdf>

¹⁷ Global Advocacy Team, "Back to Development: A Call for What Development Could Be", bit.ly/backtodevelopment, p.85

through “Glass Half Full: The State of Accountability in Development Finance”, for an indicting evaluation of the independent accountability mechanisms.¹⁸

4. In your experience, are human rights, health and environment impact assessments conducted by the World Bank/IMF? Are ex ante impact assessments conducted ahead of loan agreements or development projects? Are ex post monitoring carried out? Please provide examples.

AND

5. In your experience, how does the World Bank/IMF ensure the participation and consultation with all stakeholders, including affected communities, in relation to new loan or development project? Please provide examples.

- The World Bank has recently made several commitments to stakeholder participation. Environmental and Social Standard 10 (ESF) contains the World Bank’s policy on Information Disclosure and Stakeholder Engagement. In addition, the World Bank Group and its President have made a commitment to “100% beneficiary feedback” for its projects.¹⁹
- As noted above, however, the flexibility of the new ESF would enable loopholes in the key due diligence requirements, including disclosure of environmental and social impact documents. In IAP’s experience, it is necessary that communities have timely access to these documents prior to development projects breaking ground.
- As noted above, the methodology and substance of the environmental and social assessments is also key. Frequently, these assessments fail to fully capture impacts on people and the environment, and do not adequately consult affected communities, or incorporate their priorities and recommendations within project plans. Over the years, IAP has worked with the Coalition for Human Rights in Development to create a Risk and Opportunities Analysis Tool, for development banks and governments to use in conducting human rights due diligence assessments.²⁰
- While the World Bank requires public consultations, IAP’s study uncovers that consultations often do not take place, and when they do, they are regularly poorly conceived and implemented. The majority of comments gathered from IAP’s research addressed unfair or non-existent consultations. Barriers to real participation must also be addressed, in order for meaningful consultation to occur. IAP’s research shows that:
 - 78% of the 800 people surveyed did not feel safe to express their true opinions about the projects. 84% did not have the information they need to provide an informed opinion about project plans. 64% did not know how to get information about the project.²¹
- IAP believes that the people whose daily lives and livelihoods are closest to any proposed project are best placed to analyze project impacts. Members of the local population have unique expertise that can enhance project designs toward greater positive impact and also

¹⁸ See, “Glass Half Full: The State of Accountability in Development Finance”, http://www.grievancemechanisms.org/resources/brochures/IAM_DEF_WEB.pdf

¹⁹ World Bank Group, “Citizen Engagement”, <http://www.worldbank.org/en/about/what-we-do/brief/citizen-engagement>

²⁰ To access the “Risk and Opportunities Analysis Tool”, see: <http://rightsindevelopment.org/our-work/hrdd/>

²¹ Global Advocacy Team, “Back to Development: A Call for What Development Could Be”, bit.ly/backtodevelopment p. 82

identify potential problems and pitfalls that investors and project developers might not otherwise be aware of. World Bank project plans and assessments must meaningfully consult and incorporate community input in order to be effective. The numbers from IAP's study show:

- Out of the 800 people surveyed, 88% were not consulted during the planning phase of the development project. 85% of those consulted don't think their ideas or opinions were incorporated into project plans.²²

Please see "*Back to Development*" for detailed examples and stories.

6. What is your assessment of public-private partnership performance in human rights terms? Have such partnerships allowed for greater protection and promotion of human rights? Do you have examples of good practice and/or persistent obstacles when it comes to the relationship between the WB, IMF and governments that harbour tax havens and enterprises that use secrecy jurisdictions to avoid taxes?

- IAP has not worked on the human rights implications of public-private partnerships, or tax havens and secrecy jurisdictions.

7. What is your assessment of the World Bank/IMF collaboration with the United Nations Organization, in particular with UNCTAD, and with other international financial institutions, including the BRICS new development bank (NDB) and the Asian Infrastructure Investment Bank (AIIB)?

- IAP will limit our comments to an assessment of the World Bank's collaboration with other international financial institutions.
- The World Bank has recently signed an MOU with the NDB, where they agree to cooperate in addressing global infrastructure needs. However, it is concerning that the NDB started project operations without installing safeguards and holding consultations with local communities affected by its initial investments. The policies that followed were then adopted without public consultation and are considered inadequate for the protection of human and environmental rights.²³ Moreover, the new bank is focusing its investment on large scale infrastructure projects, which are most harmful to communities and are proven to not respond to their development priorities.²⁴
- Where co-financing exists for a project and arguably its associated facilities, the World Bank should only agree to move forward with a project only after it has ensured that the co-financier's environmental and social standards are as stringent or more than the World Bank. Just as the World Bank should refrain from investing in projects and companies that violate human and environmental rights, so it should refrain from cooperating with financial institutions that do not properly uphold or do not require the recipients of their investments to uphold these rights.

²² Ibid., p.84

²³ See, Baone Twala and Nomonde Nyembe, "What the BRICS bank forgot in its rush to get going", <https://www.businesslive.co.za/opinion/2016-10-15-what-the-brics-bank-forgot-in-its-rush-to-get-going/>

²⁴ Business Standard, "BRICS bank should focus on small-scale investments", http://www.business-standard.com/article/news-ians/brics-bank-should-focus-on-small-scale-investments-117033001495_1.html

- The NDB bank also lacks an internal mechanism for complaint, an established practice of assisting in communities' calls for accountability. While changes in the practice of the NDB should have been pursued by the WB before signing an MOU with the NDB, there is still an opportunity for pushing for changes in the new bank through project cooperation.

For more on NDB and its problematic Environmental and Social Framework, we encourage the UN Independent Expert to read an analysis conducted by IAP and other CSOs on the topic.²⁵

8. What are your main recommendations to make the World Bank/ IMF work for human rights?

- The statistics IAP collected overwhelmingly demonstrate that World Bank project plans largely do not correspond to the priorities of those most affected by them. The result is that only 10% of those surveyed believed the projects would benefit their communities, and only 14% believed projects would benefit the country population.²⁶ For true development to occur, the journey must start from within the communities themselves.²⁷
- In sum, the World Bank cannot meet its twin goals of ending extreme poverty and promoting shared prosperity if its projects violate human rights. The World Bank must structure and design its projects around community models and visions for development through free, prior and informed consultation, and prioritize the voices of the people on the ground.
- As noted above, there are opportunities for the World Bank to operationalize human rights within its lending. First, before the World Bank decides to invest in a country, whether alone or with co-financing of other international financial institutions, it should conduct a Systematic Country Diagnostic that includes an examination of the enabling environment for civil society, as well as other systemic human rights and governance issues. This Systematic Country Diagnostic should include an examination of the applicable legal framework, as well as the borrower's implementation practices, track record, commitment and capacity. Second, when lending to a borrower, the World Bank should ensure that all human rights risks and impacts are assessed and accounted for and that the Bank's own due diligence requirements in assessing and publicly disclosing risks in a timely manner are met before the project is approved. Third, the World Bank should require meaningful consultation with affected communities, citizens and civil society at all stages of the project cycle – starting with the Systematic Country Diagnostic and continuing engagement through the design and implementation of a project. Only by doing so will the World Bank have an opportunity to truly develop projects that can sustainably reduce poverty, enhance shared prosperity and identify, mitigate or avoid environmental and human rights risks.

²⁵ Joint Civil Society, "Analysis of the BRICS New Development Bank Environment and Social Framework", <http://cdn.rightsindevelopment.org/wp-content/uploads/2015/08/ESF-Analysis-FINAL-April.pdf>

²⁶ Global Advocacy Team, "Back to Development: A Call for What Development Could Be", bit.ly/backtodevelopment, p.83

²⁷ See John Mwebe. 'The development journey of a community starts from within' – the remarkable potential of community mapping. November 7, 2016. Available at <https://medium.com/@accountability/the-development-journey-of-a-community-starts-from-within-the-remarkable-potential-of-community-1adc839838af#.iz9s5fnjs>.