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July 28, 2014

Mr. Roberto Tan

Executive Director
Philippines, Brazil, Colombia, Dominican Republic,
Ecuador, Haiti, Panama, Suriname, Trinidad and Tobago
The World Bank Group

Dear ED Tan,

We are an alliance of communities and organized groups in the Philippines that are challenging the mining policy of the Aquino administration. We have more than 110 member-organizations all over the country, and we collectively study, discuss, analyze and engage the Philippine government on various policies that impact the rural poor and the marginalized sectors. Our work involve legislative lobbying, as well as criticizing and offering support and assistance to efforts of the government to institute reforms that will deliver the promise of sustainable development.

We write to you today as concerned citizens, taxpayers, and stakeholders of the country represented by your office at the World Bank. **We want to bring to your attention to our urgent call for a redraft of the new safeguards framework of the World Bank before a new round of consultations takes place. We identified serious dilutions and major gaps in the draft safeguards proposed by the Management.**

We urge you to consider the concerns in our submission as your office develops its position before the July 30 CODE meeting. We fear that if the significantly weakened safeguards draft goes un-rectified, this office and other EDs would be seen as legitimizing a new generation of safeguards that will further disempower the poor from defending their rights to participation, equity and accountability while weakening minimum protection for the environment linked with World Bank investments and non-lending activities.

Like other citizens in many countries, we have looked at the draft safeguards and we have shared critiques and demands. Among the most concerning proposals in the draft pertain to the massive dilutions. We note that President Kim has made a public commitment that the World Bank will not dilute the strong provisions in current standards. Yet, this promise is not upheld by the management's draft. What we see are provisions that eviscerate the minimum protections for the public to scrutinize, participate and offer alternatives at the design and implementation stages of projects.

Below are some of the **major dilutions** we have detected in the draft safeguards:

- Draft allows projects to go ahead without meeting safeguard requirements as long as it's within a "timeframe acceptable to the Bank" (ESP 13 p11; a loose and open-ended timeline for policy compliance undermines time-sensitive public access to information and participation);
- Draft has replaced previous environmental A/B/C risk categories with high/substantial/moderate/low risk (ESP 20 p12) with no explanation of how each would receive separate treatment (without clear assessment and determination criteria, the Bank and the government will mis-categorize a high risk project to a low risk one just to fast track approval and avoid a reasonable time for public scrutiny);



- Draft excludes land titling and other land-based projects from applicability of the proposed Involuntary Resettlement standard (ESS 5 5.d p56; we urge you to learn from the disastrous impacts of the Bank’s land titling project in Cambodia);
- Draft eliminates the requirement to submit comprehensive resettlement plans to the Bank for review and approval as a condition of appraisal; ([OP 4.12](#) 12; this simply allows the use of ‘flexible’ resettlement planning that could result in uprooting indigenous people from their communal land or vulnerable communities from their main livelihood sources without a comprehensive assessment of resettlement options)
- It eliminates a requirement that ESIA’s for high-risk projects are disclosed prior to appraisal; ([OP 4.01](#) 16);
- Its introduction of “biodiversity offsets” seriously weakens existing protections as it allows the destruction of previous “no-go” areas for critical natural habitats and protected areas (ESS 6 15 p66; this is viewed to open up these “no-go areas”, many which are protected via effective measures such as ‘community-based forestry’, for economic concessions, forest clearance or even agribusiness and plantation expansion).

We are also concerned with the fact that because the World Bank has adopted the IFC Performance Standards as its model, the draft proposes in all the ESS the **deferral of responsibility from the Bank to the borrower**. The draft makes provisions that removes the Bank’s supervision and implementation support functions and transfers them to the borrower whose policy equivalence or policy implementation capacity remains low and questionable both at the national and sub-national levels. Don’t get us wrong; we support country ownership and the need to protect national sovereignty. However, these must be matched with clear obligations and predictable measures to protect the rights of the affected communities and concerned citizens in the governance of Bank investments. The Bank and the borrower must have clearly delineated roles in the design, implementation, supervision, monitoring, reporting and evaluation of projects that these cannot simply be delegated to the borrower simply because of the often-abused rhetoric and narrow understanding of country ownership. However, the draft proposes to rely extensively on the borrower’s own systems (ESP 24 p13), or those of other development partners (ESP 9 p11) or financial intermediaries (ESP 10 p11), without clear criteria on when and how this would be acceptable. With the evisceration of Bank’s oversight function comes a heavy reliance on self-reporting by borrowers on progress in meeting environmental and social commitments during implementation (ESP 47 p17). Meanwhile, there is no explicit commitment to independent monitoring, which is critical to verify or prevent compromised reporting.

Our organization works with indigenous peoples, whose communal land and livelihood sources have been threatened by World Bank investments in mining and other medium to high-risk investments. Safeguard policies provide them the minimum procedural rights to assert their rights to information, participation and accountability. The draft is weakening these minimum protections due to the **“opt out” clause for Indigenous Peoples Policy**.¹ This would seriously undermine the rights of indigenous peoples to self-determination and collective ownership of lands, territories and resources. This provision also contradicts the international consensus that has grown around these crucial legal protections, which arose in part because of previous attempts by governments to usurp the lands and resources of indigenous peoples. Further, allowing borrowers

¹ We note that there are some positive aspects of the proposed indigenous peoples standard (ESS 7) including the limited application of free, prior, informed consent (FPIC). However, these advances are significantly undercut by the provision allowing borrowers to propose an “alternative approach” that amounts to opting out of applying the standard altogether in certain situations (ESS 7 9).



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to “opt out” of applying policies they find unpalatable would set a dangerous precedent. The “alternative approach” provision must be removed.

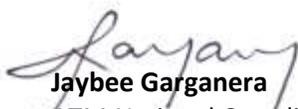
The draft offers nothing but a business-as-usual approach to addressing climate change. It does not require climate change risk assessments for Bank projects with climate-related impacts, which is deeply worrying considering the Bank’s growing billions of investments in disaster-risk reduction investment such as its policy-based lending instrument for a post-Yolanda reconstruction projects in the Philippines and other countries most vulnerable to sea level rise and erratic weather patterns. Despite the Bank’s prominence in warning of the dangers that a warming world poses to development, there is only sporadic mention of climate change in the safeguard proposal and nowhere is it laid out clearly what governments have to do to assess if their projects will exacerbate climate change. And although the draft proposes that the Bank will start accounting for some Greenhouse Gas (GHG) emissions of its projects, it does not require that GHG accounting takes place for all Bank projects and it remains unknown how the information collected on GHG emissions will be used and for what purposes. Around half of Bank’s portfolio will not be subjected to any safeguards, leaving large programmatic fields, with potential climate impacts, completely outside safeguards coverage.

ED Tan, we believe that the **draft is a non-starter, offers insufficient detail as a basis for consultation.** In addition to the above-mentioned dilutions and major gaps, the draft has **missing parts there that make it difficult for us and all WB Board members to provide informed and comprehensive comments.** These missing pieces are the implementation guidance and budget, information and management systems and guidance notes. There’s no point of endorsing the draft when this is incomplete, riddled with ambiguities and unacceptable provisions, and is for further consultations. We urge your office to bring the draft back to the Management to re-draft. You can learn from your counterpart in ADB where they had to delay the consultation process until the first draft, very poorly done, was substantially revised. Without these key pieces, there is simply not enough detail to merit 3 months of consultations.

As a Filipino, you are well aware of President Aquino’s *tuwid na daan* (straight path). While this has not actually happened, your endorsement of this misplaced and defective draft will not contribute to sustainable development of the Philippines or the countries that you represent, and will only ensure that the crooked path of poverty will be traversed by the World Bank.

We look forward to the response of your office. We are open to participating in next round of consultations, offering informed and grounded recommendations. However, it is our collective view that these consultations would be futile if we you are consulting on a non-starter draft. Have this draft revised to be acceptable for external consultations.

Sincerely,


Jaybee Garganera
ATM National Coordinator