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INFRASTRUCTURE AND IMPACTS: STRENGTHENING ENVIRONMENTAL AND SOCIAL SAFEGUARDS

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EXECUTIVE SUMMARY

Growing awareness of the negative environmental and social (E&S) externalities of large infrastructure projects has driven sustainability considerations to the top of infrastructure financing debates in developing countries. While many external financiers, particularly multilateral development banks (MDBs), uphold high standards of E&S 'safeguards'[1] in their infrastructure lending,[2] borrowing countries may not have the capacity or internal demand to uphold such standards. This policy insights explores how MDBs and national governments (and other domestic entities) can work together to improve E&S safeguards in sub-Saharan Africa. It forms part of a larger discussion paper on social and environmental safeguards**, which employs a case study analysis of South Africa and Ethiopia.**

INTRODUCTION

In 2016 the World Bank released its new 'Environmental and Social Framework' (ESF), which sets out its E&S safeguards policy for lending operations. This framework holds considerable importance given the precedent that World Bank policies set for other MDBs and for bilateral donors. The new framework is less prescriptive in its requirements and allows countries greater authority in

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managing E&S issues. While the World Bank traditionally uses its own safeguards for its infrastructure lending, the ESF also endorses increasing the use of countries' own domestic safeguard frameworks in World Bank projects. This is crucial for respecting national sovereignty and diverse contexts in different countries. It also decreases the double burden whereby countries must comply with their own E&S legislation as well as with separate requirements from MDBs. Over the past couple of decades these changes have been underpinned by policy processes such as the Paris Declaration on Aid Effectiveness and the Addis Ababa Action Agenda, which advocates for greater country ownership of development.

However, this new framework has met with much criticism from primarily international but also domestic civil society organisations (CSOs), other MDBs and World Bank shareholding countries. These actors are concerned that the new ESF dilutes the World Bank's standards, allowing the use of countries' weaker policies and limited implementation capacities, which may compromise project impacts on the environment or nearby communities, or exacerbate climate change. Many believe MDBs have a responsibility to uphold the highest standards of E&S responsibility.[3] With the rollout of this framework scheduled for 2018, the ESF's actual impact is still uncertain.

This policy insights explores some of the challenges and opportunities for collaboration between MDBs and countries on strengthening E&S safeguard implementation, especially as country ownership of safeguard management increases. These insights are primarily based upon empirical findings from fieldwork in South Africa and Ethiopia.

MDBs AND NATIONAL ENTITIES: FINDING COMMON GROUND

The following sections highlight three key areas emerging from this study that have an impact on the interplay between MDBs and state actors in implementing and strengthening E&S safeguards for infrastructure projects. One of the biggest challenges for all stakeholders is cultivating a common understanding of and reconciling different perspectives on E&S safeguards. Many African countries view cooperation with MDBs from a strongly ideological perspective. Government stakeholders often consider E&S safeguards as Western formulations and out of step with the realities faced by developing countries. This perspective contrasts with that of many MDB stakeholders, who have a much more technocratic approach to cooperation on safeguards. They perceive the biggest tensions to be process-oriented rather than relating to sovereignty, such as a need for better communication and coordination between different parties during implementation.

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Given these dynamics, an important takeaway is the need for both MDB and government stakeholders to make concessions in their approaches to safeguards, so that project relationships can become partnerships. MDBs must be more willing to adjust the uniform approach to safeguards that is applied to all borrowing countries, as projects cannot be removed from national contexts and developmental objectives. This is the approach of the new ESF. On the other hand, it is important for countries to show flexibility as well. In countries such as South Africa and Ethiopia, where MDBs are often viewed with immediate scepticism and any conditionality as an 'imposition', government stakeholders must be more open to considering MDB advice, which is based upon years of lending experiences and lessons learned and refined from many different countries.

It is therefore important that more resources are allocated to meetings, to build both consensus and knowledge, between the various stakeholders involved in large-scale infrastructure projects before financing agreements are reached. This will ensure that interests, objectives and constraints can be understood from the start. Additionally, there should be some form of annual/bi-annual 'trust-building' workshops for various stakeholders in the countries where MDBs are extensively involved – even prior to the conceptualisation of bankable projects. Similar practices are being piloted in the Asia-Pacific region.

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It will also be more cost and time effective for MDBs to extend E&S safeguard planning in certain countries beyond project level, to its becoming a general component of their country and sector strategies. This would make the most financial sense in countries that are between low and middle income status and borrow significantly from MDBs for their infrastructure needs, or in countries whose development strategies have a particular focus on E&S issues (for example Rwanda, which has shown a clear commitment to sustainability efforts such as green energy and cities).

MDBs and countries could discuss MDB requirements in line with borrower-country objectives and constraints, and outline a country-specific 'E&S safeguard plan' for certain infrastructure sectors such as transport or energy. Based on the context of the borrower country, as well as on the ultimate baseline standards that MDBs cannot dip below,[4] such a plan would define areas where greater MDB flexibility could or could not be exercised.[5] An E&S safeguard plan would allow MDBs to consider each country's unique context when applying MDB standards. It would also address criticism that the World Bank's new ESF is vague by ensuring greater clarity through individual country/sector negotiations.

Countries can better facilitate these efforts and show that they are committed by developing strong strategies for cooperation with MDBs and other development partners. Such strategies should outline a clear vision for country-led development, and form a link both to a country's national development strategy and to approaches to strengthening sustainable infrastructure development.

CIVIL SOCIETY AND ACCOUNTABILITY MECHANISMS

Civil society is an important component in the nexus of stakeholder cooperation and safeguard implementation. It demands accountability from both governments and MDBs to ensure socially and environmentally responsible infrastructure, and that affected communities are not neglected. With the increasing shift towards greater flexibility and country management of sustainable infrastructure, it is important to ensure that civil society still has a role, and that accountability mechanisms enforce this role. In order to do this, one must encourage more constructive dialogues among MDBs, the state and civil society, as these relationships can become hostile.

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In the context of infrastructure financing, local or international CSOs (lobby groups or watchdogs) often take up the causes of affected communities, which helps to increase their visibility. MDBs can play an important role in acting on the concerns of these groups. However, government stakeholders are often sceptical, as affected communities can be used as a channel by CSOs to push through interests unrelated to the project at hand. As a result, CSOs are often viewed as obstructive to the broad economic public interest. The problem grows when MDBs make decisions based upon these groups' interests. Often MDBs also lack a contextual understanding of different civil society groups and national interest concerns. When MDBs become the primary channel for grievance redress, this runs the risk of diluting the interests of truly affected communities. It can also undermine the accountability of governments in addressing the concerns of their people.

This raises the question of how to guarantee the optimal representation of affected communities when borrowing-country governments retain greater control over project development. When communities do not have an organic empowered representative, it should be the responsibility of project and municipal authorities to seek out an effective, neutral champion, even involving outside public participation consultants to ensure the independence of the decision. This should then be vetted by the involved MDBs. It is also important that both impacted communities and broader civil society are involved, notified and consulted before a project is set in stone. Such processes can help to reduce misunderstandings, which often arise when a fully planned project is suddenly launched without allowing community consultation with technical experts.

When project processes fail, MDB accountability mechanisms can be invaluable in giving voice to community grievances. Arguably, accountability mechanisms should become even more important, with all necessary checks and balances in place, as MDBs begin to allow countries more flexibility. However, the future role of the World Bank Inspection Panel has come under much scrutiny given the less prescriptive standards of the World Bank's new safeguards, and its shift towards using countries' own E&S safeguard systems.[6] The mandate of the World Bank Inspection Panel is to make recommendations on whether World Bank standards have been applied. Its role will become more convoluted and subject to interpretation when standards are much broader. This again illustrates the need for MDBs to devise non-project-specific E&S safeguard plans with those countries that are frequent borrowers, as a component of their general country and sector strategy papers. This would provide a more specific guide to accountability mechanisms that consider a country's individuality and flexibility but do not dip below the baseline standards and principles of MDBs. The Inspection Panel would thus remain an independent and necessary check while still increasing borrower freedom and growth opportunities.

CAPACITY BUILDING: ENHANCED ROLE FOR MDBs

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Considering the shifts to country ownership in the infrastructure finance landscape, capacity-building efforts must become more prominent. Without this component, the result will simply be loosened standards, leading to projects with grave E&S consequences and little growth in countries' capacity, as well as pushback against important country ownership initiatives. Given MDBs' loss of their traditional monopolistic position in infrastructure finance, this arena can represent an especially reinvigorated role.

First, the capacity building offered under the World Bank's new ESF should ensure more rigorous capacity building (or 'gap filling', the term used by the World Bank) in project areas with significant weaknesses that go below MDB and country minimum standards. In practice this has often been bypassed. Importantly, such gap-filling measures should not neglect provincial authorities, which are often less resourced, or state-owned enterprises (SOEs) that play a central role in project implementation. Second, an approach should be adopted that encourages capacity building and the above efforts to be taken beyond the individual project level toward sector strategies, as well policy/legislative technical assistance. Third, there is a need for significant technical training/implementation support to oversee the overall execution of country E&S safeguard processes, which in many cases may only have existed on paper previously (this approach was used in the Asia-Pacific region, for example). These institutional efforts can also look at technical policy assistance to better align E&S safeguard strategy with other government departmental and national plans so that it is not bypassed in practice. The difference between this and the current approach is that the focus shifts from an emphasis on comparing precise elements of MDB and country standards to one of implementation support and outcome measurement.

Although capacity building is an area where MDBs can lead, the role of governments cannot be underestimated. There are measures that countries can explore to support capacity building, such as creating opportunities to build E&S impact management capabilities through offering related courses in tertiary education, and making available national grants for E&S research. Additionally, funding must be made available to help design competitive government salary packages and incentives, to avoid the brain drain that is all too common following capacity-building initiatives. MDBs need to devote more capacity-building resources to countries that show a serious interest in improving their systems through measures such as the above, rather than spreading meagre resources across a greater number of countries.

Capacity building and technical assistance can also come from national development finance institutions (DFIs), which have the advantage of greater contextual knowledge and understanding of public interest than external financiers. DFIs could drive national buy-in for E&S standards, given that they are more locally embedded and often more trusted than MDBs. However, most African national DFIs are under-capacitated and under-resourced. In these cases, it is important for MDBs operating in these countries to build strong partnerships with international and regional DFIs, collaborating and sharing best practice to help DFIs support national projects in the longer term. Building capacity in DFIs will also help to address the challenge of recipients of technical assistance leaving for higher pay, as DFIs would be able to offer higher salaries than government. As African DFIs continue to grow in capacity and capital, their involvement in infrastructure will likely increase, which is an opportunity for DFIs to build expertise and depth in E&S safeguards.

When more time is allocated for dialogue between MDBs and country stakeholders, this can assist in creating both a greater awareness of the importance of E&S sustainability measures among governments and SOEs and a greater understanding of the contexts in different countries and how these might affect safeguard application among MDBs

CONCLUSION

This policy insights highlights that a shift towards greater country ownership in applying E&S safeguards comes with both opportunities and challenges. When more time is allocated for dialogue between MDBs and country stakeholders, this can assist in creating both a greater awareness of the importance of E&S

sustainability measures among governments and SOEs and a greater understanding of the contexts in different countries and how these might affect safeguard application among MDBs. It is important that safeguard implementation stems from a mutually understood process, which is ideally broader than project level, to decrease micromanagement and duplicate efforts. While there are fears that this comes with reputational risks for MDBs, in practice strict MDB-imposed safeguards are often not thoroughly implemented, especially as the MDB's presence decreases through implementation and monitoring phases, and thus desired results are still not achieved. True strengthening of E&S management can only come where there is internal buy-in and understanding from borrowing countries.

In order to support this process, it is essential that civil society hold government accountable for its increasing E&S responsibility (in terms of both project-affected communities and interest groups). For instance, where government accountability is lacking, MDB accountability mechanisms must be clearly defined to ensure civil society is heard. Increased results-focused capacity-building efforts must accompany this process. Although strengthening E&S safeguards in borrowing countries will take time, if MDBs and national entities create more opportunities to engage on a meaningful level through respecting each other's constraints and capacities, long-term results will be much more achievable, without sacrificing good sustainable development principles and practice.

RECOMMENDATIONS

1 Both countries and MDBs must be willing to compromise in their E&S safeguard objectives. Determining mutually agreed-upon E&S safeguard principles in consultation with individual countries (an 'ESF plan') at a broader sector-specific level will build on the flexibility that the World Bank's new safeguards provide, and add the necessary country-specific component. This will also guard against the feared dilution of safeguards through too much flexibility.

2 Projects should include more robust stakeholder meetings (before financing agreements are concluded) where issues and incentives can be raised. Opportunities for dialogue should not only be project-specific but also focus on general MDB–country lending relations in trust-building workshops, in line with the increased need for country specificity.

3 Capacity building should be widely promoted by MDBs such as the World Bank and the African Development Bank, rather than simply suggested. Resources should be shifted from implementing a separate set of standards towards greater technical assistance initiatives that assist countries in implementing their own policies and training local staff. Initiatives should explore the Asian Development Bank's regional capacity-building model.

4 Established MDBs should place greater emphasis on assisting national entities such as DFIs to grow their internal capacities so that they can finance national projects in a more sustainable manner. As DFI infrastructure-funding portfolios grow, national DFIs can be instrumental in driving buy-in for international standards.

5 Strong accountability mechanisms are necessary to accompany the shift towards greater flexibility and country ownership in E&S safeguards. The proposed MDB–country 'E&S safeguard plans' can give MDB accountability mechanisms

greater direction in terms of their decision-making when safeguards are broader. The process of choosing representatives for marginalised communities should also receive more time and resources, as they play an integral role in raising community E&S concerns.

ENDNOTES

1 In this context, environmental and social safeguards refer to the legislation and policies that are applied to infrastructure projects by multilateral development banks (MDBs) to protect the environment and affected communities from project-related impacts.

2 See World Bank, 'The World Bank Environmental and Social Framework', 2017, http://documents.worldbank.org/curated/en/383011492423734099/pdf/114278-WP-REVISED-PUBLIC-Environmental-and-Social-Framework-Dec18-2017.pdf, accessed 10 March 2018; Asian Development Bank, 'Safeguard policy statement', June 2009, https://www.adb.org/documents/safeguard-policy-statement?ref=site/safeguards/main, accessed 10 March 2018; African Development Bank, 'Safeguards and Sustainability Series', 1, 1, December 2013, https://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/December_2013_-_AfDB%E2%80%99S_Integrated_Safeguards_System__-_Policy_Statement_and_Operational_Safeguards.pdf, accessed 10 March 2018.

3 Bretton Woods Project, 'Conflicting views on direction of World Bank's safeguards review', 28 September 2015, http://www.brettonwoodsproject.org/2015/09/conflicting-views-on-direction-of-world-banks-safeguards-review/, accessed 10 April 2017; World Bank, 'World Bank meets African caucus in advance of fresh round of talks on safeguards amidst record lending for the continent', Press Release, 10 September 2015, http://www.worldbank.org/en/news/press-release/2015/09/10/world-bank-african-caucus-safeguards-record-lending-continent, accessed 10 April 2017; BiC (Bank Information Center), 'World Bank's updated safeguards a missed opportunity to raise the bar for development policy', Press Release, 21 July 2016, http://www.bankinformationcenter.org/world-banks-updated-safeguards-a-missed-opportunity-to-raise-the-bar-for-development-policy/, accessed 10 April 2017; Human Rights Watch, 'World Bank: Dangerous rollback in environmental, social protections', 4 August 2015, https://www.hrw.org/news/2015/08/04/world-bank-dangerous-rollback-environmental-social-protections, accessed 10 April 2017.

4 The World Bank's new ESF is a good measure for this ultimate baseline, given that it is more flexible. However, this could also be determined through international laws to which MDBs are party.

5 Personal interview, South African academic, Johannesburg, 23 January 2017.

6 NYU School of Law, International Organizations Clinic, 'The Changing Role of the World Bank Inspection Panel: Responding to Contemporary Challenges at the World Bank', 2014, https://chrgj.org/wp-content/uploads/2014/09/ChangingRoleoftheWorldBankIP_IOClinic.pdf, accessed 4 September 2017; Passoni C, Rosenbaum A & E Vermunt, 'Empowering the Inspection Panel: The Impact of the World Bank's Safeguards Review', NYU School of Law, International Organizations Clinic, 2016, http://www.iilj.org/wp-content/uploads/2016/08/Empowering_the_Inspection_Panel_Web.pdf, accessed 4 September 2017.

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