



Latin American Mining Monitoring Programme

LAMMP's statement for the World Bank's Second draft Environmental and Social Framework

London, 26th January 2016

The Latin American Mining Monitoring Programme (LAMMP) wishes to share the following statement as part of Phase III of the consultation for the World Bank's (the Bank) Second draft of its Environmental and Social Framework (ESF). LAMMP also wishes to thank the Bank for the opportunity to contribute to this consultation process.

Despite few improvements from Draft I, it is of great concern that with Draft II the Bank continues to tiptoe around the issue of human rights, and has rejected recommendations for stand-alone safeguards on key issues such as gender. As a result, the current ESF falls short in establishing clear, strong and comprehensive safeguards that support the goals of poverty eradication and shared prosperity.

The chapter entitled Vision for Sustainable Development sets the tone of the ESF, and unlike the first Draft, the latest version makes an explicit reference to the Universal Declaration of Human Rights. Yet, this addition in itself is no improvement as the underpinning rhetoric suggests that human rights are purely an "aspiration" for the Bank (cf.3). By suggesting that human rights fall outside its mandate, the Bank significantly backtracks from its promise of "no dilution". Moreover, one may ask how can sustainable development be achieved without respect for human rights?

The following will raise two concerns which LAMMP has already raised both in writing and in person over course of Phase II of the World Bank consultation in 2015; Bank due-diligence and gender. We hope these will feed into the third phase of consultation process, and that the Bank will take into account LAMMP and other civil society organisations' (CSOs) input to ensure respect for human rights and gender equality, and mitigate associated risks in Bank investments.

1. Bank Due Diligence

Whereas LAMMP understands it is not within the Bank's duty to enforce human rights compliance onto the Borrower, as an international institution, we believe it does have a responsibility in setting a standard for human rights due diligence, and to avoid infringing on the human rights of individuals and communities where its projects are taking place.

However, similar to Draft I, the current Environmental and Social Policies (ESP) provide weak due diligence requirements for the Bank whose role is merely restricted to "reviewing the information provided by the Borrower relating to the environment and social risks and impacts of the project, and requesting additional and relevant information" as well as "providing guidance to assist the Borrower" (ESP. cf44). In turn, the Borrower is made responsible for carrying out "environmental and social assessments of projects proposed for Bank financing to help ensure that projects are environmentally and socially sound and sustainable" (ESS1. cf74). The process would then inform the design of the project, including stakeholder engagement, grievance mechanisms, and project monitoring.

However, it remains unclear as to how the Bank will review and verify the information provided by the Borrower, the adopted methodology for the assessments and the allocated costs. The lack of clarity of the ESF on this issue may have serious repercussions for individuals and communities directly or indirectly affected by Bank-funded projects. Namely, as ESS10 sets out, the Borrower “will identify the different stakeholders, both project-affected parties and other interested parties” (cf379), as well as “those project-affected parties (individuals or groups) who, because of their particular circumstances, may be disadvantaged or vulnerable” (cf380).

This lack of human rights due diligence, and over-reliance on the Borrower, compounds concerns in light of the alarming pattern of criminalisation of human rights defenders (including women human rights defenders), activists, CSOs and journalists contesting Bank-funded projects. Across Latin America, as well as worldwide, LAMMP and other international CSOs have reported that in many host States, governments are implementing severe restrictions to individuals' and communities' freedom of expression and assembly.

Specific recommendations

- 1.** Within the Vision and ESP, the ESF should adopt stronger human rights language, recognising the Bank's own responsibility to avoid perpetrating or contributing to harm
- 2.** The ESF should take into account international human rights treaties and agreements such as the Convention for the Elimination of Discrimination against Women (CEDAW), the Declaration for the Rights of Indigenous Peoples (UNDRIP) and the International Covenant on Economic Social and Cultural Rights (ESCR Covenant).
- 3.** The Bank should to review, monitor and evaluate project environmental and social assessments beyond the information provided by the Borrower, by undertaking research and investigation by the Bank or independent experts, as well as allowing CSOs to submit information, and grievances
- 4.** The ESF should include safeguards to prohibit reprisals against activists and community members contesting Bank-funded projects, the provisions should make reference to the International Covenant on Civil and Political Rights as well as the ESCR Covenant;
- 5.** The Bank should investigate allegations of intimidation or human rights abuses against activists and community members contesting a Bank-financed project, and ensure the Borrower provides adequate remedy, including criminal sanctions if applicable

Towards a stronger gender-based approach

Following the consultations for Draft I, the Bank carried out important and positive changes to the ESF with regards to gender and the issue of land tenure (ESS5), recognising lack of access to land, the disproportionate impacts women from affected communities may face in resettlement, as well as their exclusion from compensation and benefit-sharing. However, several inconsistencies remain for a robust gender-comprehensive ESF.

Activities such as mining, oil and gas extraction are known to have a dramatic impact on the surrounding and environment, and are subject to spills of hazardous materials and chemicals, such as mercury and cyanide. Set in areas where access to healthcare is limited or non-existent, ESS4 is a vital safeguard to mitigate health risks of community members in project affected areas. In light of this, the absence of



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gender considerations in ESS4 is critical, as in many rural and indigenous areas where projects are carried out, women are responsible for tending land and animals and collecting water. They are therefore greatly exposed to health issues linked to the contamination of soil, water and dust.

In assessing risks and impacts on communities, the ESF overlooks a number of other gender-specific risks including those linked to social transformations brought along by the influx of migrant, predominantly male workforce. In mining areas across Latin America, women report being harassed and intimidated by project workers, and witnessing a growth in alcohol consumption, prostitution and gender-based violence.

In LAMMP's view, with the current ESF women affected project-related impacts will continue to struggle in seeking redress as the variety and complexity of gender-associated risks and challenges are not recognised. Without clear gender provisions in all safeguards and a mandatory stand-alone gender-specific safeguard, efforts for gender equality and non-discrimination will remain at stall.

Specific recommendations

- 6.** The Bank should include a mandatory stand-alone safeguard on gender to fully address gender-specific challenges and to mitigate gender-associated risks in Bank investments
- 7.** Each safeguard throughout the ESF should explicitly refer to differentiated gender impacts and challenges
- 8.** ESS4 must adopt explicit gender reference in provisions on information disclosure, pollution prevention and mitigation of health risks, including grievance mechanisms
- 9.** The ESF must incorporate provisions that address the issues of gender-based violence in the context of Bank-funded projects, including ESS4 on Community Health and Safety

LAMMP is a UK-based charity dedicated to supporting Latin American women and their communities in their campaign for human rights, sustainable and participatory development, corporate social responsibility and gender main-streaming in the mining industry.