

**Tom Lantos Human Rights Commission: Hearing on World Bank Safeguards Review
Process**

April 9, 2014

Oral Testimony of Arvind Ganesan, Business and Human Rights director, Human Rights Watch

Mr. Co-Chairmen and Members of the committee, thank you for providing me the opportunity to speak today.

The United States has long promoted human rights abroad and Congress has been behind key reforms at the World Bank that promote accountability and sustainable development. That includes the creation of the World Bank's Inspection Panel, the first independent accountability mechanism at an international development institution.

Congress was also a leader in promoting environmental reforms at the World Bank and now has an opportunity to promote key human rights reforms there. As the largest shareholder on the board that provides almost \$1.6 billion to the Bank annually, Congress is strongly placed to ensure that the Bank respects rights in its lending.¹

The World Bank's "Safeguard" policies are meant to prevent harm to communities and the environment in Bank lending, but they do not adequately protect human rights. For example, the Bank will not lend for projects that might violate a country's international environmental commitments, but a country's human rights obligations can be ignored.

The lack of clear rules on human rights means that Bank staff have unfettered discretion to decide whether human rights matter and whether they need to do anything about them, and whether they will even tell senior management or board members if there are problems.² This has led, for example, to the World Bank providing services in Vietnam's drug detention centers without acknowledging or bringing to the board's attention that people, including children, are

¹ The United States provides about \$1.4 billion annually to International Development Association (IDA) and \$187 million to support the International Bank for Reconstruction and Development (IBRD) capital increase. It has committed to provide \$3.87 billion to the 17th replenishment of IDA, as negotiated in 2013. It has 15.16% of the voting share on the board of executive directors for IBRD, 10.48% for IDA.

² Human Rights Watch Report, *Abuse-Free Development: How the World Bank Should Safeguard against Human Rights Violations*, July 22, 2013, <http://www.hrw.org/reports/2013/07/22/abuse-free-development-0>, What the World Bank Will Gain by Respecting Human Rights, p. 13. See also, Human Rights Watch, *Development without Freedom: How Aid Underwrites Repression in Ethiopia*, October 19, 2010, <http://www.hrw.org/reports/2010/10/19/development-without-freedom-o>; Human Rights Watch, "Waiting Here for Death": *Forced Displacement and "Villagization" in Ethiopia's Gambella Region*, January 2012, <http://www.hrw.org/reports/2012/01/16/waiting-here-death>; Human Rights Watch, *The Rehab Archipelago: Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam*, September 7, 2011, <http://www.hrw.org/reports/2011/09/07/rehab-archipelago-o>.

arbitrarily detained in these centers, used for forced labor, and punished for not working with some punishments amounting to torture.

President Jim Kim's recent public statements on the impact of discrimination on development and ensuring that people should not face discrimination in Bank-financed health programs in Uganda because of their draconian law against gay and lesbian people is a positive step.³

But now President Kim and Bank staff need to implement the reforms necessary within the World Bank to prevent discrimination and ensure respect for human rights in all of its programs. The delay in a World Bank loan to the healthcare sector in Uganda is an important time to assess the impact of the passage of Uganda's Anti-Homosexuality Act and its sweeping criminal provisions, including criminalizing "promotion of homosexuality." We are seeing the impact of this discriminatory law on access to health care services already. On Thursday April 3, Uganda police raided the Makerere University/Walter Reed facility in Kampala, a project that conducts HIV research, prevention, care, and treatment funded under the President's Emergency Plan for AIDS Relief (PEPFAR). Police detained two workers on allegations of "promotion of homosexuality" and confiscated patient files among other items. The project has been temporarily suspended.⁴ This kind of discrimination, intimidation, and obstruction in access to health services demonstrates that any World Bank work in the health care sector will need to have specific plans for how to deliver quality health-care without contributing to discrimination.

The World Bank's review of the Safeguards is an opportunity for the Bank to introduce human rights due diligence in order to ensure that it does not contribute to violations.

In Ethiopia, the World Bank has a \$2 billion project for education, health, sanitation, rural roads, and agricultural services. These are all positive aims, but in Gambella and other regions where the program is being implemented, the government forcibly relocated some of the 1.5 million indigenous and other marginalized people affected by the program to new villages where they are supposed to receive those services.

State security forces have repeatedly threatened, assaulted, and arbitrarily arrested villagers who don't want to move. Human Rights Watch documented at least seven people who were beaten to death by the military in Gambella region and learned of many other allegations of such deaths in its 2011 research focusing on the first year of Ethiopia's "villagization" program.

This is an untenable situation generally and especially when US taxpayer funds support the institution.

³ Dr. Jim Kim, "Discrimination by law carries a high price," *Washington Post*, February 27, 2014, http://www.washingtonpost.com/opinions/jim-yong-kim-the-high-costs-of-institutional-discrimination/2014/02/27/8cd37ad0-9fc5-11e3-b8d8-94577ff66b28_story.html (accessed April 7, 2014).

⁴ Makerere University Walter Reed Project, "TEMPORARY SUSPENSION OF ACTIVITIES," April 3, 2014, <http://www.muwrp.org/?p=1403> (accessed April 7, 2014).

If the World Bank had mandatory human rights rules requiring basic due diligence, it could have done things differently in Ethiopia. It could have identified the risks of arbitrary detention, torture, and killings with this project. And it could have mitigated those risks.

It did not and its staff still don't acknowledge that this has happened, despite hearing about the problems directly from witnesses and victims.

It is not the first time this happened. We documented how the Bank-funded programs where the Ethiopian government discriminated against people who they felt did not support the ruling party in the lead up to elections. Instead of impartially providing aid to all of the poor on the basis of need, the government penalized opposition supporters. Imagine if the US government one day said that only Democrats or only Republicans will receive social services or access to government programs. That is what happened in Ethiopia. And again when we pointed this out to the World Bank, they denied it on the basis of a desk study while acknowledging that it would take a full field investigation, like our own, to find out what was really happening on the ground.

In all of these cases in Ethiopia and Vietnam, the Bank could have known about these problems, but chose not to, and had no rules that would have meant that it had to.

Through carefully implemented reforms, the World Bank can respect human rights while pursuing its goals of ending extreme poverty and promoting shared prosperity in the most complex human rights environments.

Other development institutions have started to recognize their human rights obligations, but the Bank has fallen behind.

The Safeguards review is an opportunity to change that and the US has an opportunity to lead with its values. That leadership would empower Bank staff to proactively tackle human rights concerns and ensure real poverty alleviation occurs.

But it will not be easy. There are governments, led by China, that are trying to thwart any mention of human rights or any policy that might protect them; and their views have a lot of influence within the Bank. If the US is silent or inconsistent, those governments will likely prevail with new Safeguards that are without rights. We have heard Bank staff and other board members recently describe the US position on human rights as “unclear.”

US law recognizes human rights as central to its development policy and requires the United States to use its voice and vote at international financial institutions including the World Bank to “advance the cause of human rights.”⁵

⁵ See 22 U.S.C. § 262d(a)-(b); 22 U.S.C. § 2304(a)(1); 22 U.S.C. § 2151(a).

Congress has required the US to protect human rights. The 2014 appropriations required the US to oppose development financing for activities that directly or indirectly involve forced evictions in Ethiopia.⁶ That showed great leadership and we believe that US leadership will be crucial for the Safeguards.

We urge Congress to push the Administration through budget hearings, its appropriations legislation, and direct conversations and correspondence to advocate strongly for the World Bank to:

- Require respect for human rights;
- Prohibit discrimination;
- Undertake human rights due diligence;
- Ensure the existing Safeguards on resettlement and indigenous peoples meet international human rights standards;
- Apply Safeguard policies to all activities of the World Bank, including all lending mechanisms and technical advice; and
- Increase monitoring and supervision of Bank programs.

⁶ The legislation also:

- Restricts financing to international financial institutions (IFIs) that require independent evaluations of their activities;
- Requires the US to “seek to ensure that each such institution [IFI] responds to the findings and recommendations of its accountability mechanisms by providing just compensation or other appropriate redress to individuals and communities that suffer violations of human rights, including forced displacement, resulting from any loan, grant, strategy or policy of such institution.” This provision is particularly progressive as currently none of the public-sector-financing-IFIs have provisions for compensating communities who have suffered harm because of IFI-financed projects;
- Requires the Secretary of the Treasury shall instruct the United States executive director to oppose loans that require user fees for primary education or primary healthcare and IMF agreements that include budget caps on health, education;
- Includes country specific IFI provisions, including regarding Cambodia: “The Secretary of the Treasury shall direct the United States executive director to the World Bank to report to the Committees on Appropriations not later than 45 days after enactment of this Act and every 90 days thereafter until September 30, 2014, on the steps being taken by the World Bank to provide appropriate redress for the Boeung Kak Lake families who were harmed by the Land Management and Administration Project, as determined by the World Bank Inspection Panel, and as described in Senate Report 113–81: *Provided*, That such report shall also include steps taken by the executive director to postpone reengagement of World Bank programs in Cambodia until the requirements of paragraph (2) are met;”
- Requires the US to oppose any financing or policies that would support the construction of any large hydroelectric dam; and
- Provisions supporting increased fiscal transparency and accountability when financing extractives.

Arvind Ganesan
Director, Business and Human Rights
Human Rights Watch

Arvind Ganesan, director of Human Rights Watch's Business and Human Rights Division, is involved in research, advocacy, and policy development for Human Rights Watch on issues involving business and human rights, including the extractive industries; freedom of expression and information through the internet; labor rights; trade; corruption; sanctions; and advancing international human rights standards on business.

Ganesan has developed industry standards to ensure companies and other institutions respect human rights. He is a founder of the Voluntary Principles on Security and Human Rights for the oil, gas, and mining industries and is a founding member of the Global Network Initiative for the internet and telecommunications industries. He has also helped to develop standards for international financial institutions such as the World Bank, and regularly engages governments in an effort to develop mandatory rules or strengthen existing standards, such as the Kimberley Process.

Ganesan's work has covered countries such as Angola, Azerbaijan, Burma, China, Colombia, the Democratic Republic of Congo, Equatorial Guinea, India, Indonesia, and Nigeria. He has written numerous reports on business and human rights issues for Human Rights Watch. He is widely cited in media on issues related to human rights and business.

Before joining Human Rights Watch, Ganesan worked as a medical researcher. He attended the University of Oklahoma.