

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Fax: 917-591-3452

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Jan Egeland, *Europe Director and Deputy Executive Director*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Walid Ayoub, *Information Technology Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance and Administration Director*
Peggy Hicks, *Global Advocacy Director*
Babatunde Olujobi, *Deputy Program Director*
Dinah PoKempner, *General Counsel*
Tom Porteous, *Deputy Program Director*
James Ross, *Legal and Policy Director*
Joe Saunders, *Deputy Program Director*
Frances Sinha, *Human Resources Director*

PROGRAM DIRECTORS

Brad Adams, *Asia*
Joseph Amon, *Health and Human Rights*
Daniel Bekele, *Africa*
John Biaggi, *International Film Festival*
Peter Bouckaert, *Emergencies*
Richard Dicker, *International Justice*
Bill Frelick, *Refugee Policy*
Arvind Ganesan, *Business and Human Rights*
Liesl Gernholtz, *Women's Rights*
Steve Goose, *Arms*
Alison Parker, *United States*
Graeme Reid, *Lesbian, Gay, Bisexual and Transgender Rights*
José Miguel Vivanco, *Americas*
Lois Whitman, *Children's Rights*
Sarah Leah Whitson, *Middle East and North Africa*
Hugh Williamson, *Europe and Central Asia*

ADVOCACY DIRECTORS

Philippe Boloipon, *United Nations*
Kanae Doi, *Japan*
Jean-Marie Fardeau, *France*
Meenakshi Ganguly, *South Asia*
Lotte Leicht, *European Union*
Tom Malinowski, *Washington DC*
David Mephram, *United Kingdom*
Wenzel Michalski, *Germany*
Juliette de Rivero, *Geneva*

BOARD OF DIRECTORS

James F. Hoge, Jr., *Chair*
Susan Manilow, *Vice-Chair*
Joel Motley, *Vice-Chair*
Sid Sheinberg, *Vice-Chair*
John J. Studzinski, *Vice-Chair*
Hassan Elmasry, *Treasurer*
Bruce Rabb, *Secretary*
Karen Ackman
Jorge Castañeda
Tony Elliott
Michael G. Fisch
Michael E. Gellert
Hina Jilani
Betsy Karel
Wendy Keys
Robert Kissane
Oki Matsumoto
Barry Meyer
Aoife O'Brien
Joan R. Platt
Amy Rao
Neil Rimer
Victoria Riskin
Amy L. Robbins
Graham Robeson
Shelley Rubin
Kevin P. Ryan
Jean-Louis Servan-Schreiber
Javier Solana
Siri Stolt-Nielsen
Darian W. Swig
John R. Taylor
Marie Warburg
Catherine Zennström
Robert L. Bernstein, *Founding Chair, (1979-1997)*
Jonathan F. Fanton, *Chair (1998-2003)*

April 11, 2013

Dr. Jim Yong Kim
President

World Bank Group
1818 H Street NW
Washington, D.C. 20433
USA

Dear President Kim,

I write in response to your compelling April 2 speech on creating a world free of poverty and economic exclusion. Your speech suggests several areas where we could productively work together towards these crucial goals.

Human Rights Watch recognizes that the World Bank operates in countries and environments where there are many human rights challenges. A commitment to human rights would greatly enhance the impact of the Bank's efforts to reduce poverty and promote inclusive and sustainable development. As the attached document details, there are three particularly fruitful areas of possible focus for the Bank.

First, I encourage the Bank to increasingly support an enabling environment for civic participation and social accountability, so that people can better engage in and exercise oversight over government development efforts. The Bank's contribution to the proper funding of civil society organizations through the Global Partnership on Social Accountability should be complemented by work with governments to open the space in which such organizations operate and to prevent reprisals against critics.

Second, I encourage the Bank to do more to advance equality and non-discrimination in all elements of its work. The World Development Report on Gender Equality and Development (2012) was itself a landmark. In the attached document, we offer practical recommendations for implementing the key insights and recommendations of the report and strengthening efforts to combat all forms of discrimination in development.

HUMAN
RIGHTS
WATCH

HRW.org

Third, I encourage you to implement mechanisms to prevent the World Bank from exacerbating human rights problems or contributing to human rights violations, including by developing stronger safeguard policies. The Bank should advance its commitment to sustainable development by recognizing that Bank activities can have human rights risks, assessing those risks, and implementing necessary measures to avoid and mitigate them.

I would welcome the opportunity to meet with you to discuss these issues in more detail and to hear your perspective on how human rights can be further integrated into the Bank's activities.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Roth". The signature is fluid and cursive, with the first name "Kenneth" written in a larger, more prominent script than the last name "Roth".

Kenneth Roth
Executive Director
Human Rights Watch



A Human Rights Agenda for the World Bank

April, 2013

1. Utilize Analysis and Voice to Advance Civic Participation and Social Accountability

The World Bank Group is increasingly recognizing the importance of civic participation and social accountability for development and has noted that this is one lesson for the Bank to take in the wake of the popular upheavals in the Arab world. This enhanced focus has manifested in the World Bank's Global Partnership on Social Accountability, a new funding mechanism for nongovernmental organizations. Proper funding is essential for civil society organizations to do their work but alone it is not enough, particularly as governments are increasingly repressing civil society through violent crackdowns, arbitrary arrests and detentions, and repressive NGO laws.¹

As an international organization that works primarily with governments, the World Bank has an opportunity to analyze the environment within which civil society organizations operate and to support governments in making that environment increasingly more enabling. Furthermore, as a leading authority on development effectiveness, the Group can illustrate how an enabling environment for civil society can advance sustainable development. As you know, all elements of civil society play an important role in development including grass roots movements, service providers, and advocacy groups. Unfortunately, the Group's approach to civil society continues to vary between countries and staff: when Human Rights Watch raised concern with Bank staff about the closing space for civil society in Egypt a year after the former Bank president's landmark speech on civic participation and social accountability,² we were told that this issue was too political for the Group to raise with the authorities.

We urge the World Bank Group to lend its analysis and voice to opening space for civic participation and social accountability. We encourage the Bank to consistently, privately and

¹ See, for instance, Kenneth Roth, "The Abusers' Reaction: Intensifying Attacks on Human Rights Defenders, Organizations, and Institutions," World Report 2010, (New York: Human Rights Watch, 2010), <http://www.hrw.org/en/node/87544>.

² World Bank, "Speech by Robert Zoellick: A New Social Contract for Development," April 6, 2011, <http://live.worldbank.org/speech-robert-zoellick-new-social-contract-development> (accessed April 8, 2013),

publicly, raise concerns with governments when authorities use intimidation, laws, and violence to silence independent groups, arrest journalists and opposition politicians who criticize the government, or introduce repressive laws aimed at silencing civil society.

This would include:

- Analyzing the environment for speech, expression, and assembly in every country partnership strategy or interim strategy note. The Bank should publish the draft of such strategies for a defined comment period to ensure civic participation and substantive exchange with civil society. It should then publish comments received (with consent of the interveners) and provide them to the Board of Executive Directors.
- Articulating any concerns regarding the absence of an enabling environment for civic participation or social accountability in both routine and high level meetings with government officials, draw on evidence indicating that such an environment leads to more sustainable development results, and share information that such concerns were raised publicly.
- Considering the environment for expression, association, and assembly when analyzing the risks related to proposed projects or programs. It is considerably less likely that a community member would report a problem with a Bank-funded project in countries where repressive NGO laws exist or are about to be enacted, where critical journalists, activists or political opponents are jailed or violently targeted, or where there is a history or practice of violent crackdowns on protests. Therefore, the Group should identify this as a risk and put additional monitoring in place to enable it to detect problems with the project. In countries where there is a history or practice of violent crackdowns on protests, we encourage you to seek an undertaking from the government to protect the rights of protesters.
- Taking all necessary measures to ensure that the World Bank meaningfully consults with affected people and civil society, including marginalized groups, in crafting development agendas, reforming policy, and identifying, preparing, and carrying out projects. This should ensure that consultations are accessible. Unfortunately, as we saw at the Bank's April 5 consultation on the safeguards review in Delhi, World Bank consultations are not always accessible for people with disabilities.
- Increasingly researching the role of civic participation and social accountability in enhancing development effectiveness. Any such research should include discussion of the human rights essential to civic participation and social accountability, most obviously the rights to free expression, association, and assembly. This would be an ideal topic for the Group's next World Development Report.

2. Eliminate Discrimination and Ensure Equality

The World Bank Group's commitment to ending economic exclusion and inclusive development should include a commitment to working to dismantle all forms of discrimination and address inequality.

Discrimination can both cause poverty and be a hurdle in alleviating poverty, as the World Bank has recognized with respect to gender discrimination. While disaggregated data is not available with respect to each marginalized group, recently published data suggests that more than two thirds of extremely poor people in low income countries and lower-middle income countries live in households where the head of household is from an ethnic minority group.³ It also tells us that more than three quarters of extremely poor people live in rural areas.⁴ Further, more than 80 percent of people with disabilities live in developing countries, illustrating both the confluence of poverty and disability and the importance of proactively addressing the needs of people with disabilities in development strategies.⁵ Human Rights Watch has also documented discrimination on the basis of political opinion in the distribution of aid.⁶ Discrimination also limits peoples' ability to participate in the development of poverty reduction strategies or government policies and limits access to justice, compounding the problem.

The fundamental human rights guarantees of equality and non-discrimination are legally binding obligations and do not need instrumental justifications. There is also a growing body of evidence that human rights-based approaches, which include an emphasis on advancing substantive equality for marginalized groups, can lead to more sustainable and inclusive development results.⁷ Eliminating discrimination and ensuring equality may require legislative or administrative reforms to repeal discriminatory provisions or address discriminatory practices by the government

³ A. Sumner, "The New Face of Poverty: How has the Composition of Poverty in Low Income and Lower Middle-Income Countries (excluding China) Changed since the 1990s?," *Institute of Development Studies*, 408, (2012), <http://www.ids.ac.uk/publication/the-new-face-of-poverty-how-has-the-composition-of-poverty-in-low-income-and-lower-middle-income-countries-excluding-china-changed-since-the-1990s> (accessed April 8, 2013); A. Sumner, "The New Face of Poverty? Changing Patterns of Education, Health and Nutrition in Low and Lower Middle-Income Countries by Spatial and Social Characteristics of Households, 1998 vs. 2007, IDS Working Paper, table reproduced in ODI, Post-2015: the road ahead," <http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7873.pdf> (accessed) p. 6-7.

⁴ Ibid.

⁵ World Programme of Action Concerning Disabled Persons, "Current situation," 2006, <http://www.un.org/esa/socdev/enable/diswpao4.htm>, (accessed April 8, 2013).

⁶ 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>.

⁷ See, OHCHR, "Special Rapporteur on the human right to safe drinking water and sanitation," <http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx> (accessed April 8, 2013).

or private actors, changes in resource allocation, or educational measures, and may include temporary special measures.⁸

We recognize that the World Bank has supported important projects that promote equality in many countries where Human Rights Watch works. For instance, we have seen the benefits to women and girls of World Bank-supported projects related to health (including reproductive and maternal health), education, livelihoods, land and property rights, migration, and law reform. We encourage the World Bank to continue to invest in these areas for women and girls and for other marginalized or excluded groups.

We urge the World Bank to increasingly take proactive measures to identify and address entrenched discrimination, both direct and indirect; to lend its analysis and voice to dismantling discrimination and recognizing it as a hurdle to development; and to avoid and remedy discrimination for which it may be responsible. We encourage the Bank to consistently, privately and publicly, raise concerns with governments when authorities discriminate against people on any prohibited grounds through either laws or practice, when opportunities arise within the Bank's mandate.

This would include:

- Analyzing the environment for discrimination and marginalization in every country partnership strategy or interim strategy note. Articulate forms of discrimination as challenges and risks for development and promote policies designed to realize substantive equality for marginalized and excluded groups.
- Systematically assessing the environment for discrimination and marginalization, including obstacles to substantive equality, when analyzing the risks related to and the impacts of proposed projects or programs. Throughout all stages of projects or programs, ensure that all members of affected communities have the opportunity to meaningfully participate. Integrate a disability-inclusive approach into existing and future projects and programs, and ensure that Bank staff has the capacity to support this.
- Articulating any concerns regarding discrimination and marginalization, including obstacles to substantive equality, in both routine and high level meetings with government officials, and draw on evidence indicating that such a non-discriminatory environment leads to more sustainable development results.

⁸ UN Committee on Economic, Social and Cultural Rights, General Comment No. 20, Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2), U.N. Doc. E/C.12/GC/20 (2009), <http://www2.ohchr.org/english/bodies/cescr/comments.htm>, para. 39.

- Strengthening data collection and analysis along grounds of discrimination to increasingly identify barriers to poverty eradication. It may not be feasible to disaggregate data by all potential grounds of discrimination, but at a minimum the World Bank should collect data disaggregated by gender, marital status, demographic group (i.e. ethnic background, language, religion), locale (rural/urban/slum household, state/territory), age, and disability.
- Ensuring systems for measuring results determine the extent to which projects reach marginalized communities and incorporate their inputs and perspectives, including the most poor, women, people with disabilities, and ethnic, linguistic, and religious minorities.

3. Safeguarding against World Bank Complicity in Human Rights Violations

The World Bank has an opportunity to eradicate poverty and economic exclusion while contributing to the realization of human rights.

It is accepted that development activities can violate economic, social, and cultural rights as well as civil and political rights. Development activities which are formulated and implemented consistently with human rights minimize avoidable suffering, especially among marginalized, excluded, and vulnerable groups, and in doing so are rendered more sustainable. They also have increasingly positive human rights impacts. As early as 1998, the World Bank acknowledged that “creating the conditions for attainment of human rights is a central and irreducible goal of development” and that “the world now accepts that sustainable development is impossible without human rights.”⁹ Since then, UN agencies, governments, and businesses have increasingly undertaken due diligence to ensure they respect human rights through their policies and projects.¹⁰

⁹ World Bank, “Development and human rights: the role of the World Bank,” 1998, <http://siteresources.worldbank.org/BRAZILINPOREXTN/Resources/3817166-1185895645304/4044168-1186409169154/08DHR.pdf> (accessed April 8, 2013), p. 2.

¹⁰ See, “Guiding Principles on Businesses and Human Rights,” adopted by the Human Rights Council July 6, 2011, U.N. doc. A/HRC/RES/17/4 (2011); United Nations Office of the High Commissioner for Human Rights (OHCHR), “Implementing the United Nations ‘Protect, Respect and Remedy’ Framework,” U.N. doc. HR/PUB/11/04 (2011), http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed March 23, 2013); United Nations Office on Drugs and Crime (UNODC), “UNODC and the Promotion and Protection of Human Rights: Position Paper,” 2012, http://www.unodc.org/documents/justice-and-prison-reform/UNODC_Human_rights_position_paper_2012.pdf (accessed April 8, 2013); Government of Germany, Federal Ministry for Economic Cooperation and Development, “Human Rights in German Development Policy: Strategy,” 2011, http://www.bmz.de/en/publications/type_of_publication/strategies/Strategiepapier305_04_2011.pdf (accessed April 8, 2013).

The World Bank has a legal obligation to respect, protect, promote, and fulfill human rights, as an international organization, a UN specialized agency, and through member states that have those obligations. While some have argued that the non-political mandate of the Bank outlined in the Articles of Agreement precludes this, few argue that the World Bank itself is permitted to violate human rights protected under international law. In fact, in 1998, the World Bank stated in its own publication that it “has always taken measures to ensure that human rights are fully respected in connection with the projects it supports.”¹¹

The World Bank’s ongoing review and update of its environmental and social safeguard policies is the ideal opportunity for the Bank to introduce measures to enable it to analyze the human rights impacts of its projects and programs, to avoid or mitigate negative impacts and emphasize positive impacts. Currently, the World Bank commits not to finance project activities that would contravene obligations of the country under relevant international environmental treaties and agreements. It should make a similar commitment regarding obligations under international human rights treaties.

The Bank’s safeguard policies are designed to protect communities affected by development projects from harm. Too often staff members describe these policies as “tick box” exercises or necessary for legal reasons, rather than advocating the value of such safeguards for development effectiveness and encouraging governments to adopt such safeguards in all development efforts. This leads to perverse invisible lines around Bank-funded projects: on one side, if safeguards are properly applied, resettlement plans are drawn up; on the other, the Bank lies silent while the government forcibly evicts people. The policies should be made more workable for staff and apply to all lending mechanisms, and implementation, monitoring, and supervision of the policies need to be significantly enhanced and better funded. The World Bank should also enhance existing safeguards to meet international human rights standards, in particular the indigenous peoples and involuntary resettlement policies. Human Rights Watch will provide a detailed submission to the safeguard review and update team.

The World Bank should allocate sufficient resources so that Bank staff can effectively supervise the implementation of Bank-financed projects and programs. Staff incentives should include criteria such as the results achieved, the quality of project preparation, and the quality of supervision to ensure compliance with safeguards and avoid or mitigate human rights risks.¹²

¹¹ World Bank, “Development and human rights: the role of the World Bank,” 1998, <http://siteresources.worldbank.org/BRAZILINPOREXTN/Resources/3817166-1185895645304/4044168-1186409169154/08DHR.pdf> (accessed April 8, 2013), p. 2.

¹² See Independent Evaluation Group (IEG), “The Matrix System at Work - An Evaluation of the World Bank’s Organizational Effectiveness”, 2012,

I also want to take this opportunity to respond to an argument against rights that we have heard at the World Bank. As Human Rights Watch has raised concerns about the World Bank directly or indirectly funding rights abuses over the course of the last year, we have increasingly heard from your staff and board that if the World Bank was to pull out of the implicated project, less desirable donors would lend. We have heard this argument used to suggest the World Bank needs to make it easier for governments to do business with it.

We recognize that the environment within which the World Bank works has changed with more countries graduating to middle income status and countries with emerging economies increasingly investing in development abroad. But in order to remain a leading development institution, we urge the World Bank to enhance the standards to which it holds itself rather than partaking in a race to the bottom. World Bank procedures can be streamlined without reducing standards designed to prevent against unmitigated environmental and social harms in Bank projects. The increased ability for non-traditional donors to provide assistance abroad provides the Bank with an enhanced opportunity to show how poverty can be eradicated without violating human rights, how aid can reach the poorest and most marginalized communities the right way, and how development can be sustainable.

Human Rights Watch recommends that the World Bank:

- Introduce into its safeguard policies a commitment not to provide any funding for activities that will violate human rights and an obligation to undertake human rights due diligence in order to achieve this. This requires acknowledging the realities of the environment in which the Bank is working, analyzing the risks, and taking the necessary measures to avoid or mitigate the risks.
- Assess the human rights impacts of all World Bank activities to maximize positive impacts as well as avoid or mitigate adverse impacts.
- Enhance existing safeguards, in particular the indigenous peoples and involuntary resettlement policies, to meet international human rights standards.
- Apply safeguard policies to all activities of the World Bank, including all lending mechanisms and technical advice.
- Enhance implementation, monitoring, and supervision of safeguard policies and ensure that they are adequately funded. Create incentive structures to reward World Bank staff for advancing inclusive, sustainable development which reaches marginalized communities, in close compliance with the safeguard policies.