



HUMAN
RIGHTS
WATCH

AT YOUR OWN RISK

Reprisals against Critics of World Bank Group Projects



At Your Own Risk

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Summary

Beginning in February 2015, 40-50 residents of Durgapur village in northern India, mostly women, sat in protest for more than a month. A state-owned company called the Tehri Hydro Development Corporation India Ltd. (THDC) was developing a hydroelectric power project near their community and some villagers believed that tunneling for the project endangered their homes and the overall well-being of their community. The women and their children sat all day in protest, singing folk songs that gave voice to their worries regarding the future, as well as songs of courage and hope.

One of the protestors, Sita (not her real name), a 30-year-old woman, told Human Rights Watch how THDC workers and contractors regularly threatened, intimidated, and insulted her and the other villagers while they protested. Company employees called the women “prostitutes,” subjected them to vicious insults referencing their caste, and warned them of “severe” consequences should they continue their protest.

Those threats and insults are part of what Sita and other community members described as a broader pattern of harassment. Some community members from neighboring project-affected areas say they have faced reprisals for objecting to how the hydroelectric power project is being carried out. Communities in the area say that the project prevents women from going about their daily lives freely and without fear. When Human Rights Watch asked THDC about these allegations, the company said that there have been no violations of human rights in the project area, that it has taken the issue of women’s safety seriously from the very start of project preparation, and that it was looking into the incidents that Human Rights Watch had raised “and will deal with them if necessary.”

While a majority of villagers in project-affected areas have accepted the project, a small number of families in Harsari hamlet continue to resist resettlement. In addition to those in Durgapur protesting a tunnel, scores of community members in nearby villages are opposed to the project because of broader concerns over environmental sustainability. These critics say they are facing threats due to their resistance.

The hydroelectric project Sita was protesting against is financed by the World Bank. In theory the World Bank Group’s involvement in a project like this should be good news for

community members like Sita. Both the World Bank (the Group's public lending arms), and the International Finance Corporation (IFC) (the Group's private lending arm) have policies that require them to consult communities and safeguard against causing harm to them and the environment through their investments. THDC has expressly asserted that it has complied with the World Bank's policies. The World Bank Group also has mechanisms specifically designed to provide an avenue for community members to bring complaints directly to independent offices of the Group—the Inspection Panel and the Compliance Advisor Ombudsman (CAO)—that are tasked with investigating and reporting on breaches of these policies. But as this report shows, in reality this often adds up to very little when communities come under attack.

This report describes how people in Cambodia, India, Uganda, Uzbekistan, and elsewhere have faced reprisals from governments and powerful companies for criticizing projects financed by the World Bank and the IFC. The World Bank's own research has long found correlations between the extent and quality of public participation in projects and the success of development projects. But this report documents how in many cases, World Bank and IFC officials failed to respond meaningfully to abuses that make a mockery out of their own stated commitments to participation and accountability.

In some cases, the World Bank Group has failed even to take appropriate action when people have suffered reprisals specifically because they were involved in bringing human rights concerns to the attention of Group officials. In one case, weeks after the World Bank's Inspection Panel concluded its process, government security forces threw the Panel's interpreter into prison. Security forces also seized at least one computer that may contain the identities of people who spoke to the Inspection Panel under a guarantee of confidentiality.

Bank officials have told Human Rights Watch that they have questioned government officials about the arrest and highlighted their concerns behind closed doors. But weeks after the arrest, the Bank provided a new loan to the government. At time of writing, the interpreter remains behind bars at a notorious detention facility, known for its use of torture. The Inspection Panel has been monitoring the situation and, according to Panel members, has asked Bank management to intervene. It has not, however, taken any steps to check on the well-being of those they interviewed in the course of their investigation beyond discussing security concerns with the complainants' representatives.

In recent years, a growing number of governments have embarked upon broad and sometimes brutal campaigns to shut down the space for civil society activity, in some cases going so far as to criminalize independent human rights work. These abusive measures can prevent people from participating in decisions about development, from publicly opposing development initiatives that may harm their livelihoods or violate their rights, and from complaining about development initiatives that are ineffective, harmful, or have otherwise gone wrong. This report demonstrates that these broader trends toward repression have profound impacts for World Bank Group-supported projects in countries like Ethiopia and Uzbekistan. Not only do many community members and activists face an increasing risk of reprisal for speaking out against Group-financed projects that enjoy government support, independent groups who could otherwise help communities articulate their concerns and perspectives about development projects face similar challenges. The World Bank Group has not taken meaningful steps toward creating an enabling environment for participation and accountability when it finances projects in countries that are closing or have effectively closed civil society space or routinely punish dissent.

Reprisals take a variety of forms. This report documents cases where project critics and concerned community members have been the target of threats, intimidation tactics, and baseless criminal charges. Some women have faced sexual harassment or gender-based threats, attacks, or insults when they speak out, such as Sita and her fellow protesters being derided as “prostitutes.” It also describes situations where security forces have responded violently to peaceful protests, physically assaulting community members and arbitrarily arresting them. In other cases, critics or their family members have been threatened with the loss of their jobs or livelihoods. In many countries, these reprisals often occur within a broader effort to demonize critics as unpatriotic or “anti-development.”

The potential for this kind of retaliation should be well-understood by the World Bank Group. The World Bank Inspection Panel has explicitly recognized the risk of retaliation and intimidation, particularly because complainants in their cases are often poor, marginalized, and lack a voice in the political process. These risks are not confined to those who bring complaints to the Inspection Panel or the IFC’s Compliance Advisor Ombudsman (CAO). Rather, they are faced by critics of a number of World Bank Group-financed projects irrespective of how they choose to raise their concerns.

Despite the grave risks that people living in communities affected by World Bank and IFC-financed projects take to speak out about the problems that they see with such projects or the harm that they face, the World Bank and IFC have done little to secure a safe environment in which people can speak freely without risk of reprisals. In repressive environments, the World Bank Group has often closed its eyes to the risk of abuse rather than engage in difficult conversations with partner governments.

The World Bank should consistently emphasize to member countries that criticism of World Bank Group-financed activities is welcomed and seen as an important part of improving the impacts of development efforts—and that reprisals against critics or people otherwise involved in such activities will be publicly and vigorously opposed.

In the past, the World Bank Group has occasionally responded swiftly and publicly to certain high-profile incidents of reprisals. Former World Bank Group President James Wolfensohn intervened at the highest level of government, and publicly reported on his interventions when an Inspection Panel complainant and opposition leader was arrested in Chad in 2001. A World Bank official also spoke publicly against the Cambodian government's violent crackdown on protestors in 2002, highlighting how such actions run contrary to any commitment to participation and accountability.

Although even at the time they were sporadic, such efforts by the Bank to respond to reprisals appear to have been replaced by, at best, quiet conversations behind closed doors with questionable utility. At worst, the prevailing response seems in some cases to have been one of complete apathy.

This report lays out detailed recommendations of how the World Bank Group can live up to its responsibilities. The World Bank and the IFC should take all necessary measures to prevent reprisals, including by actively working to create a safe environment for criticism. They should closely monitor for reprisals and, should they occur, respond promptly, publicly, and vigorously, including by pressing governments to investigate and hold to account anyone who uses force against protestors or threatens or physically attacks critics. They should also independently investigate alleged violations and provide compensation when governments refuse to do so. In addition, they should, like the United Nations, publicly and regularly report on reprisals linked in any way to their investments, as well as the actions they took to respond.

Despite the positive examples of Bank interventions in Chad and Cambodia, the World Bank Group has not developed a consistent practice of identifying and responding to reprisals. This highlights the need for strong leadership by World Bank Group President Jim Yong Kim and the board of executive directors to set the tone for the organization and provide clarity on the expectations of all staff to work diligently to prevent and respond to threats, intimidation, and all other reprisals linked to the Group's activities.

President Kim should take a leadership role in creating an enabling environment in which people can freely share their views regarding Group investments, without fear of reprisals, in line with the Group's commitments to participation and accountability.

Key Recommendations

Full recommendations for the World Bank Group are outlined in chapter IX. Action Plan for the World Bank Group.

To World Bank Group Management

- Take all necessary measures to prevent reprisals against civil society groups, members of affected communities, or others for participating in the development of, criticizing, or otherwise attempting to express opinions or concerns about World Bank Group-financed projects. Steps towards this goal should include routine consultations directly with impacted communities to determine their protection needs and work with government actors and companies receiving funding to ensure that such protection is provided and respected.
- Ensure engagement with all stakeholders in development projects is in good faith, not just a formality. Take all necessary measures to specifically ensure that impacted people or groups who are traditionally marginalized or excluded from decision-making, including women, Indigenous peoples, gender and sexual minorities, and persons with disabilities, among others, are able to actively, meaningfully, and safely participate in decision-making processes that affect them without risk of reprisals.
- Vigorously respond to all instances of reprisals, including by publicly denouncing them and intervening in specific cases to push governments or companies to halt or refrain from serious abuses.

To the Compliance Advisor Ombudsman and the Inspection Panel

- Analyze the risk of reprisals and other potential security risks facing complainants and others each time a complaint is received. In close coordination with the complainants, develop a process which fully addresses any security concerns. Revisit this process throughout the accountability process, to address any emerging risks.
- Discuss with the World Bank country office early and throughout the accountability process any and all security concerns and risks of reprisals and,

if appropriate, ensure support of the country office for any agreed security measures.

- Take all necessary measures to ensure that requests by complainants to have their identities kept confidential are fulfilled and maintained throughout the process.
- Train staff working on complaints from communities to identify and appropriately handle reprisals, including gender-based threats and reprisals as well as those affecting other marginalized groups.
- Actively monitor for reprisals throughout and following the accountability process, including by remaining in contact with complainants to ascertain whether they face any security concerns or potential reprisals, particularly following visits by the Compliance Advisor Ombudsman (CAO) or Inspection Panel.
- If the CAO or Inspection Panel receives information about reprisals or security risks, immediately engage senior level World Bank Group officials, and where appropriate senior government and company officials, and work with them to ensure that the security of complainants and others is restored and maintained.

To all Shareholder Governments of the World Bank Group

- Press the World Bank Group to implement the recommendations contained in this report, and to respond in a meaningful and effective manner to any reprisals that occur.
- Ensure that human rights commitments made by governments, particularly regarding human rights defenders, are reiterated by representatives on the World Bank Group's board of executive directors and guide those representatives' decisions and communications with World Bank Group management regarding reprisals.

To Governments Receiving World Bank Support

- Halt and prevent any attacks or stigmatization of individuals, groups, and communities who criticize or raise concerns about development.

- Respect the rights to freedom of expression, association, and peaceful assembly by allowing those affected by development initiatives and civil society to express concern and discontent.
- Prevent and refrain from all acts of reprisals against those engaging or seeking to engage with the World Bank Group, including in particular the Inspection Panel and CAO.
- Properly equip and train law enforcement officials to respect the right to free assembly and to apply only justifiable and proportionate use of force where needed.
- Impartially, promptly, and thoroughly investigate any allegations of reprisals, hold offenders to account, and ensure access to effective remedies for victims.
- Implement the recommendations made by the UN special rapporteur on freedom of peaceful assembly and of association in his September 1, 2014 report, and the former UN special rapporteur on the situation of human rights defenders in her August 5, 2013 report on large-scale development and human rights defenders.

Methodology

This report is based on research carried out by Human Rights Watch staff from May 2013 to May 2015 in Cambodia, India, Uganda, and Kyrgyzstan (regarding allegations of reprisals in Uzbekistan). Human Rights Watch researchers also conducted additional telephone interviews with people in these and other countries, including Armenia, Colombia, Ghana, Kenya, Mongolia, the United Kingdom, and the United States. Human Rights Watch interviewed more than 80 people, including 56 community members who were affected by 14 ongoing or completed World Bank or International Finance Corporation (IFC) projects, several of which are featured in this report, and 23 activists who were working with communities.

Human Rights Watch wrote to all people that it could identify brought complaints to the Inspection Panel or Compliance Advisor Ombudsman (CAO) since 2000. We received substantive responses from complainants or their representatives regarding 34 cases, which resulted in follow up discussions via telephone and email. We also reviewed and drew upon email communications and meeting notes between complainants and the Inspection Panel or CAO, court documents, World Bank and IFC project documents and other publications, and Inspection Panel and CAO complaints, reports, and statements, as well as media reporting, where it was available.

Human Rights Watch researchers discussed with all interviewees the purpose of the interview, its voluntary nature, the ways the information would be used, and that no compensation would be provided for participating, before obtaining the interviewee's consent. Interviews typically lasted between 45 minutes and over one hour. Approximately half of the interviews were conducted with the assistance of an interpreter. Where necessary because of risks of new or continued threats of reprisal, names have been withheld or replaced by pseudonyms in order to protect identities and other identifying information has been removed as necessary. In some cases, we have removed all identifying information including the purpose of the World Bank Group project and the country where the project is being implemented, in order to ensure that those involved are not identifiable.

Human Rights Watch wrote to the World Bank, the IFC, the Inspection Panel, and the CAO on April 21, 2015 asking about their practices and their conduct in each of the cases

highlighted in this report. The letter to the World Bank is included in Appendix A of this report. The World Bank Group's response, sent on behalf of both the World Bank and the IFC, did not answer any of the questions Human Rights Watch had posed. It is included in Appendix B of this report. The Inspection Panel provided an in-depth response, which has been incorporated into the report but at the Inspection Panel's request is not reproduced here. The Panel also met with Human Rights Watch to answer outstanding questions. The CAO provided a brief, general response on June 2, electing "not to respond to the case-specific questions due to potential sensitivities with the complainants and confidentiality concerns that we would also be unable to address within the timeframe for requested inputs." Human Rights Watch subsequently provided the CAO with the portions of this report that address cases before them or information about their practices, to which the CAO responded. Correspondence from the CAO is included in Appendix C of this report.

Human Rights Watch also wrote to Tehri Hydro Development Corporation India Ltd. (THDC) on May 12, 2015, outlining allegations that had been reported to us regarding the involvement of its staff and contractors in threats and intimidation of community members discussed in Case Study B, below, and seeking THDC's views. In its response, the company emphasized that it takes its responsibilities towards host communities very seriously, stressing that there have been no violations of human rights in the project area. It did not directly answer the questions that Human Rights Watch had posed on specific allegations but said that it was looking into the matters that Human Rights Watch had raised and would "deal with them as necessary."

I. The World Bank and Freedom of Expression, Assembly, and Association

Human Rights, Repression, and Sustainable Development

Donors increasingly understand that public participation, access to information, and accountability of all development actors are crucial for sustainable development. Many donors have adopted human rights-based approaches to development efforts,¹ as well as policies that require them to refrain from funding projects that result in human rights violations.² As the former United Nations special rapporteur on the situation of human rights defenders has said, the ultimate goal of development policy “should be to empower people, especially those most marginalized, to participate in policy formulation and hold accountable those who have a duty and responsibility to act.”³ The former UN High Commissioner for Human Rights has similarly emphasized that development should be understood as freedom from fear as well as freedom from want.⁴

The World Bank’s own research has long found correlations between the extent and quality of public participation in projects and the success of development projects.⁵ A 2011 World

¹ According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), a human rights-based approach to development is grounded in international human rights standards, operationally directed to promoting and protecting human rights, and seeks to analyze inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress. See OHCHR, “Frequently Asked Questions on a Human Rights Based Approach to Development Cooperation,” 2006, <http://www.ohchr.org/Documents/Publications/FAQen.pdf> (accessed June 1, 2015). See, for example, Ministry of Foreign Affairs of Denmark, “Freedom from Poverty – Freedom to Change, Strategy for Denmark’s Development Cooperation,” July 2010, p. 4; Ministry of Foreign Affairs of Denmark, “Democratisation and Human Rights for the Benefit of the People,” June 2009, <http://amg.um.dk/en/policies-and-strategies/freedom-democracy-and-human-rights/> (accessed June 6, 2015), p. 7; Government of Germany, Federal Ministry for Economic Cooperation and Development, “BMZ Strategy Paper 4: Human Rights in German Development Policy, Strategy” 2011, http://www.bmz.de/en/publications/type_of_publication/strategies/Strategiepapier305_04_2011.pdf?follow=adwordc (accessed June 6, 2015).

² See, for example, European Investment Bank (EIB) “Statement of Environmental and Social Principles and Standards,” 2009, http://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf (accessed June 6, 2015), paras. 6, 30, 46.

³ UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/68/262, August 5, 2013, http://www.un.org/ga/search/view_doc.asp?symbol=A%2F68%2F262&Submit=Search&Lang=E (accessed January 6, 2015), para. 21.

⁴ UN OHCHR, “Embracing a new paradigm for development,” September 27, 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/HRDevelopmentPost2015.aspx> (accessed May 21, 2015).

⁵ See, for example, Ashis Das, Jed Friedman, Eeshani Kandpal, “Does Involvement of Local NGOs Enhance Public Service Delivery?” World Bank Development Research Group, Poverty and Inequality Team, June 2014, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/06/19/000158349_20140619085232/Rendered/P

Bank study, for instance, reaffirmed that when civil society is enabled by the political environment in-country to monitor and hold service providers accountable, development initiatives have improved results.⁶

From a development perspective it is worrying, then, that many governments around the world systematically constrain or retaliate against the work of outspoken community members, journalists, and independent nongovernmental organizations (NGOs). Many governments seek to repress dissent not only to dissuade and punish political competition, but to silence independent voices that are critical of governments' efforts in the development arena. These abusive measures can prevent people from participating in decisions about development, from publicly opposing development initiatives that may harm their livelihoods or violate their rights, and from complaining about development initiatives that are ineffective, harmful, or have otherwise gone wrong.

This kind of repression can take many forms, from the brutal to the relatively subtle.⁷ It has included, for example:

- A mounting proliferation of laws and policies that restrict people and civil society organizations (CSOs) from fully exercising their right to public participation. This has included laws or policies that criminalize expression (e.g. criminal

DF/WPS6931.pdf (accessed May 11, 2015); Raj M. Desai and Shareen Joshi, "Collective Action and Community Development," World Bank Development Economics Vice Presidency Partnerships, Capacity Building Unit, July 2013, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/07/29/000158349_20130729093041/Rendered/PDF/WPS6547.pdf (accessed May 11, 2015); Independent Evaluation Group (IEG), "Nongovernmental Organizations in World Bank-Supported Projects: A Review," 1999, http://ieg.worldbank.org/Data/reports/ngo_book.pdf (accessed May 5, 2015).

⁶ "The evidence broadly suggests that when higher-level political leadership provides sufficient or appropriate powers for citizen participation in holding within-state agencies or frontline providers accountable, there is frequently positive impact on outcomes.... [T]here is substantial scope for greater [World Bank] efforts in this domain:" Shantayanan Devarajan, Stuti Khemani, and Michael Walton, "Civil Society, Public Action and Accountability in Africa," World Bank Development Research Group, Human Development and Public Services Team, July 2011, <http://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-5733> (accessed May 5, 2015).

⁷ See, for example, 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/world-report-2010/world-report-2010-4> (accessed May 11, 2015); CIVICUS, "Civil Society: The Clampdown is Real," 2010, http://www.civicus.org/content/CIVICUS-Global_trends_in_Civil_Society_Space_2009-2010.pdf (accessed May 20, 2014); Toby Mendel, "Restricting Freedom of Expression: Standards and Principles, Background Paper for Meetings Hosted by the UN Special Rapporteur on Freedom of Opinion and Expression," Centre for Law and Democracy, 2010, <http://www.law-democracy.org/wp-content/uploads/2010/07/10.03.Paper-on-Restrictions-on-FOE.pdf> (accessed May 11, 2015); Center for Not-for-Profit Law, "NGO Laws in Sub-Saharan Africa," Vol. 3, Iss. 3, June 2011, <http://www.icnl.org/research/trends/trends3-3.pdf> (accessed May 11, 2015).

defamation laws or national security legislation);⁸ discourage, burden, or prevent the formation of organizations; stifle free communication among CSOs and others; ban or interfere with peaceful public gatherings;⁹ prevent organizations from carrying out legitimate activities; and restrict the ability of organizations to secure the financial resources necessary to carry out their work.¹⁰

- An intensification of crackdowns against human rights defenders, environmental activists, and journalists. According to the Committee to Protect Journalists, 61 journalists were killed worldwide in 2014.¹¹ Information compiled by Global Witness revealed that at least 116 environmental activists were murdered in 2014.¹²
- The spread of increasingly powerful and efficient measures of government surveillance.¹³ Some of these measures may have valid applications in the area of criminal law enforcement but are misused by many governments as a tool to monitor and repress criticism.¹⁴

⁸ UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue,” A/HRC/20/17, June 4, 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-17_en.pdf (accessed May 3, 2015).

⁹ See International Network of Civil Liberties Organizations, “Take back the streets:” Repression and criminalization of protest around the world,” October, 2013, https://www.aclu.org/files/assets/global_protest_suppression_report_incl.pdf (accessed May 4, 2015).

¹⁰ The International Center for Not-for-Profit Law (ICNL) and World Movement for Democracy Secretariat at the National Endowment for Democracy (NED), “Defending Civil Society Report,” Second Edition, June 2012, http://www.defendingcivilsociety.org/dl/reports/DCS_Report_Second_Edition_English.pdf (accessed May 11, 2015); David Moore, “Safeguarding Civil Society in Politically Complex Environments,” *International Journal of Not-for-Profit Law*, Vol. 9(3), June 2007, <http://www.icnl.org/research/library/files/Transnational/SafeguardingCS.pdf> (accessed May 4, 2015); UN Human Rights Council, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/23/39, April 2013, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39_EN.pdf (accessed May 4, 2015).

¹¹ Committee to Protect Journalists, “61 Journalists Killed in 2014/Motive Confirmed,” 2014, <https://www.cpj.org/killed/2014/> (accessed May 12, 2015). See also, Human Rights Watch, “*Stop Reporting or We’ll Kill Your Family*”: Threats to Media Freedom in Afghanistan, January 21, 2015, <http://www.hrw.org/node/131603>; Human Rights Watch, “*Journalism Is Not a Crime*”: Violations of Media Freedoms in Ethiopia, January 22, 2015, <http://www.hrw.org/reports/2015/01/21/journalism-not-crime>.

¹² Global Witness, “How Many More?” April 20, 2015, <https://www.globalwitness.org/campaigns/environmental-activists/how-many-more/> (accessed March 4, 2015).

¹³ Cynthia M. Wong, “Internet at a Crossroads: How Government Surveillance Threatens How We Communicate,” *World Report 2015* (New York: Human Rights Watch, 2015), <http://www.hrw.org/world-report/2015/essays/internet-crossroads>; Dinah PoKempner, “The Right Whose Time Has Come (Again): Privacy in the Age of Surveillance,” *World Report 2014* (New York: Human Rights Watch, 2014), <http://www.hrw.org/world-report/2014/essays/privacy-in-age-of-surveillance>; Human Rights Watch, “*They Know Everything We Do*”: Telecom and Internet Surveillance in Ethiopia, March 25, 2014, <http://www.hrw.org/reports/2014/03/25/they-know-everything-we-do>.

¹⁴ OHCHR, “The right to privacy in the digital age,” A/HRC/27/37, June 30, 2014, <http://www.ohchr.org/EN/Issues/DigitalAge/Pages/DigitalAgeIndex.aspx> (accessed May 21, 2015).

- The use of censorship to limit citizens' access to information and opportunities to share views and participate in decisions. As the internet has become an increasingly powerful tool for disseminating views and criticizing governments, it has been a greater target for censorship, with governments using technical measures to prevent access to certain content, such as blocking and filtering or limiting access to social media.¹⁵
- The use of trumped-up criminal charges to silence activists or criticism more broadly. For example, Uzbekistan has repeatedly used trumped-up criminal charges against activists.¹⁶

In the last year alone, Human Rights Watch has documented the severe erosion of space for civil society and accountability more broadly in a number of countries, including, for example, in Azerbaijan,¹⁷ Egypt,¹⁸ Thailand,¹⁹ and Ethiopia.²⁰

The World Bank, Public Participation, and Accountability

In April 2011, then-World Bank President Robert Zoellick reflected on the popular upheavals in the Arab world in a landmark speech that affirmed the importance of civic participation and social accountability in development, saying:

¹⁵ UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, A/HRC/17/27, May 16, 2011, http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (accessed May 4, 2015). See also, for example, Jayshree Bajoria, "Online Censorship laws needs reform," *The Hoot*, January 21, 2015, <http://www.hrw.org/news/2015/01/21/online-censorship-laws-needs-reform>; José Miguel Vivanco and Eduardo Bertoni, "Censorship in Ecuador has made it to the Internet," *El País*, December 15, 2014, <http://www.hrw.org/news/2014/12/15/censorship-ecuador-has-made-it-internet>.

¹⁶ See Human Rights Watch, "*Until the Very End*": *Politically Motivated Imprisonment in Uzbekistan*, September 25, 2014, <http://www.hrw.org/reports/2014/09/25/until-very-end> (accessed May 21, 2015).

¹⁷ Human Rights Watch, *Tightening the Screws: Azerbaijan's Crackdown on Civil Society and Dissent*, September 2, 2013, <http://www.hrw.org/reports/2013/09/01/tightening-screws>; Human Rights Watch, *Paying the Price: Azerbaijan Silences Independent Voices*, March 3, 2015, <http://mm.hrw.org/content/paying-price-azerbaijan-silences-independent-voices> (accessed May 21, 2015).

¹⁸ Human Rights Watch, *World Report 2015* (New York: Human Rights Watch, 2015), Egypt chapter, <http://www.hrw.org/world-report/2015/country-chapters/egypt?page=2>.

¹⁹ Human Rights Watch, *World Report 2015* (New York: Human Rights Watch, 2015), Thailand chapter, <http://www.hrw.org/world-report/2015/countrv-chapters/thailand>.

²⁰ "Ethiopia: Media Being Decimated," Human Rights Watch news release, January 21, 2015, <http://www.hrw.org/news/2015/01/21/ethiopia-media-being-decimated>; Human Rights Watch, "*Journalism Is Not a Crime*": *Violations of Media Freedoms in Ethiopia*.

Institutions matter, but so do citizens. A robust civil society can check on budgets, seek and publish information, challenge stifling bureaucracies, protect private property, and monitor service delivery. Civil society can insist on respect for the rights of citizens.... An empowered public is the foundation for a stronger society, more effective government, and a more successful state.²¹

As the World Bank has worked in recent years to align its activities and resources toward achieving the “Twin Goals” of ending extreme poverty and boosting shared prosperity, current World Bank President Jim Yong Kim has also emphasized that the Bank must listen to the voices of those living in poverty and consult with civil society.²²

To its credit, the World Bank has invested resources towards building the capacity of civil society groups to participate effectively in development efforts by creating a new funding mechanism for nongovernmental organizations, the Global Partnership on Social Accountability.²³ But civil society needs more than funding to be able to work effectively: groups need to be able to operate freely and without fear of reprisal.

The World Bank’s current institutional commitment to confronting barriers to public participation and social accountability, and to lending its analysis and voice to efforts to open that space where it is lacking, has been uneven. Human Rights Watch welcomes the emphasis that the Bank’s new approach to country engagement, which it rolled out from July 2014, places on “explicitly considering the voices of the poor,” its commitment to analyze challenges to sustainable development in countries prior to negotiating its strategy with governments, and its commitment to consult with civil society throughout

²¹ Robert Zoellick, “The Middle East and North Africa: A New Social Contract for Development,” April 6, 2011, <http://live.worldbank.org/speech-robert-zoellick-new-social-contract-development> (accessed May 4, 2015).

²² World Bank Group, “World Bank Group Strategy,” September 18, 2013, <http://web.worldbank.org/WBSITE/EXTERNAL/DEVCOMMEXT/0,,pagePK:64000837~piPK:64001152~theSitePK:277473~contentMDK:23470472,00.html> (accessed May 12, 2015).

²³ World Bank Group, “The Global Partnership for Social Accountability: A New Mechanism to Support Civil Society Organizations,” April 19, 2012, <http://go.worldbank.org/IYXBSB8JCo> (accessed June 11, 2015); GPSA, “About,” 2014, <http://www.thegpsa.org/sa/about> (accessed June 11, 2015).

this process.²⁴ Human Rights Watch also welcomes the publication of Bank research emphasizing the importance of an enabling environment for civil society.²⁵

However, to date, the World Bank has not actively worked to support an enabling environment for public participation and social accountability in countries where space is limited or closing. Nor has it proactively raised with governments efforts to undermine these rights—even in cases where people have been targeted for abuse precisely because they attempted to communicate rights-related concerns to World Bank Group accountability mechanisms.

The World Bank Group’s Safeguard Policies and Accountability Mechanisms

Since the 1970s, the World Bank Group has progressively introduced policies aimed at identifying, preventing, and mitigating the potential social and environmental harm of the projects it supports, including by requiring consultation with communities affected by Bank-financed projects.²⁶ One of the greatest challenges with respect to these standards has been effective monitoring and supervision.²⁷ In the 1990s, in response to pressure

²⁴ The World Bank Group now drafts a Systematic Country Diagnostic on countries in which it has undertaken to highlight challenges to development. Human Rights Watch has been urging the World Bank to include in its diagnostic human rights challenges that may impact development, including obstacles to participation and accountability such as shrinking space for civil society. This diagnostic is meant to feed into the Group’s engagement strategy with governments, now called a Country Partnership Framework. Human Rights Watch, “Human Rights Watch Submission: The World Bank Group’s New Approach to Country Engagement,” May 27, 2014, <http://www.hrw.org/news/2014/05/27/human-rights-watch-submission-world-bank-group-s-new-approach-country-engagement>; World Bank, “Country Strategies,” March 31, 2015, <http://www.worldbank.org/en/projects-operations/country-strategies> (accessed May 27, 2015); World Bank, “Interim guidelines for Systematic Country Diagnostic (SCD),” November 3, 2014, <http://documents.worldbank.org/curated/en/2014/02/19227271/interim-guidelines-systematic-country-diagnostic-scd> (accessed May 27, 2014); World Bank Group, “World Bank Group Strategy,” October 2013.

²⁵ See, for example, Rozanne Bauer, “Civic Space Initiative: Civil Society Under Threat,” post to People, Spaces, Deliberation, (blog), World Bank Group, September 22, 2014, <http://blogs.worldbank.org/publicsphere/civic-space-initiative-civil-society-under-threat> (accessed May 11, 2015).

²⁶ The World Bank Group consists of five organizations: its public-sector lending arms, the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA), which collectively make up the World Bank; its private-sector lending, investment, and insurance arms, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), which provides political risk insurance to investors and lenders; and the International Centre for Settlement of Investment Disputes (ICSID), which facilitates conciliation and arbitration of investment disputes.

²⁷ Independent Evaluation Group, *Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience* (Washington: World Bank Group, 2010) http://siteresources.worldbank.org/EXTSAFANDSUS/Resources/Safeguards_eval.pdf (accessed June 11, 2015); World Bank Group’s Internal Audit Vice Presidency, “Advisory Review of the Bank’s Safeguard Risk Management - Draft,” June 16, 2014, <http://pubdocs.worldbank.org/pubdocs/publicdoc/2015/3/317401425505124162/iad-draft-report-advisory-review-safeguards-risk-management.pdf> (accessed May 21, 2015); World Bank Social Development Department, “Involuntary Resettlement Portfolio Review Phase I. Inventory of Bank-financed Projects Triggering the Involuntary Resettlement Policy

from civil society and the United States Congress, the Group created first the Inspection Panel, to receive complaints about public sector projects, and then the Compliance Advisor Ombudsman (CAO), to receive complaints about private sector projects. These accountability mechanisms are tasked with holding the institution accountable to its policy commitments.

The World Bank's Safeguard Policies

The World Bank's safeguards policies, which have been labeled "do no harm" policies, apply to the World Bank's investment lending, which accounts for just over half of its lending but does not cover all Bank activity including most direct budget support.²⁸ In October 2012, the Bank launched a review and update of its eight environmental and social safeguard policies and its policy on piloting the use of borrower systems. The World Bank published a draft environmental and social framework on July 30, 2014.²⁹

The World Bank's safeguard policies, together with its access to information policy and consultation guidelines, illustrate the importance that the Bank places on participation, consultation, and access to information.³⁰ However, neither the current safeguards nor the draft framework do enough to help ensure that communities likely to be affected by proposed World Bank projects will have the opportunity to meaningfully participate in

(1990–2010) – Draft,” May 2012, <http://pubdocs.worldbank.org/pubdocs/publicdoc/2015/3/517941425483120301/involuntary-resettlement-portfolio-review-phase1.pdf> (accessed May 21, 2015); World Bank Social Development Department, “Involuntary Resettlement Portfolio Review Phase II: Resettlement Implementation - Draft,” June 16, 2014, <http://pubdocs.worldbank.org/pubdocs/publicdoc/2015/3/96781425483120443/involuntary-resettlement-portfolio-review-phase2.pdf> (accessed May 21, 2015); International Finance Corporation (IFC), “IFC’s Environmental & Social Lessons Learned: Technical Briefing for the Board,” April 4, 2014, http://www.ifc.org/wps/wcm/connect/557c4180438e1ed48f2bf869243d457/IFC_EnvironmentalSocialLessonsLearned-042014.pdf?MOD=AJPERES (accessed May 21, 2015); World Bank, “World Bank Acknowledges Shortcomings in Resettlement Projects, Announces Action Plan to Fix Problems,” March 4, 2015, <http://www.worldbank.org/en/news/press-release/2015/03/04/world-bank-shortcomings-resettlement-projects-plan-fix-problems> (accessed May 29, 2015).

²⁸ World Bank, “Environmental and Social Safeguard Policies,” 2015, <http://go.worldbank.org/WTA1ODE7To> (accessed May 21, 2015).

²⁹ Ibid; World Bank, “Review and Update of the World Bank Safeguard Policies,” 2015, <http://consultations.worldbank.org/consultation/review-and-update-world-bank-safeguard-policies> (accessed May 21, 2015).

³⁰ World Bank, “Policy on Access to Information,” 2010, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2010/06/03/000112742_20100603084843/Rendered/PDF/548730Accessol1yoStatemento1Final1.pdf (accessed May 21, 2015); World Bank Group, “Consultation Guidelines,” October 2013, http://consultations.worldbank.org/Data/hub/files/documents/world_bank_consultation_guidelines_oct_2013_0.pdf (accessed May 21, 2015).

decision-making without fear of reprisals. While the draft new framework has an increased emphasis on information disclosure, meaningful consultation, stakeholder engagement, security, and grievance redress, it does not adequately address environments where freedom of expression, assembly, and association are not respected or where community members and others face significant risks for being critical of proposed or ongoing projects.³¹ Unless it remedies this gap, the Bank's own intentions will be thwarted in many of the challenging environments in which it works. The Bank's consultation guidelines also do not confront the challenge of working in repressive environments.

Neither the World Bank's current safeguard policies nor the proposed environmental and social framework include the kind of due diligence required to avoid serious human rights abuses.³²

International Finance Corporation's Performance Standards

The International Finance Corporation (IFC) outlines how its clients should manage social and environmental risks in its performance standards.³³ In addition to outlining requirements regarding consultation, risk identification and management, and grievance mechanisms, the standards outline the obligations of IFC clients in relation to security. The security provisions are adapted from the Voluntary Principles on Security and Human Rights.³⁴ As with the World Bank's existing and draft policies, the performance standards do not address environments where freedom of expression, assembly, and association are not respected or where community members and others face significant risks for being critical of proposed or ongoing projects. Despite these standards, the Compliance Advisor Ombudsman has found that the IFC's culture and incentives that measure results in financial terms encourage staff to "overlook, fail to articulate, or even conceal potential

³¹ See below, Action Plan for the World Bank Group, Through the New Environmental and Social Framework.

³² Human Rights Watch, *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>; Human Rights Watch, "Human Rights Watch Submission: World Bank's Draft Environmental and Social Framework," April 7, 2015, <http://www.hrw.org/news/2015/04/07/human-rights-watch-submission-world-bank-s-draft-environmental-and-social-framework>.

³³ IFC, "Performance Standards on Environmental and Social Sustainability," January 1, 2012, http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbfd1a5d13d27/PS_English_2012_Full-Documents.pdf?MOD=AJPERES (accessed May 11, 2015).

³⁴ "Established in 2000, the Voluntary Principles on Security and Human Rights are a set of principles designed to guide companies in maintaining the safety and security of their operations within an operating framework that encourages respect for human rights." "Voluntary Principles on Security and Human Rights," 2000, <http://www.voluntaryprinciples.org/what-are-the-voluntary-principles/> (accessed May 11, 2015).

environmental, social, and conflict related risks.”³⁵ These findings have prompted the IFC to realize it needs to better analyze the broader contextual risks of projects, including broader country or systemic risks and legacy issues which predate the project in question but nevertheless raise ongoing concerns.³⁶ Any such contextual risk analysis should include consideration of whether people may face reprisals for criticizing the project and related issues.

The World Bank Inspection Panel

The Inspection Panel, which is independent of World Bank management and reports to the Bank’s board of executive directors, receives complaints from people who believe they have been, or are likely to be, adversely affected by a Bank-funded project. It is tasked with assessing allegations of harm to people or the environment related to whether the Bank followed its operational policies and procedures. The Panel consists of three members appointed by the board, is supported by a secretariat, and hires experts to assist with its investigations.³⁷

When the Panel receives a complaint that meets its admissibility criteria, it seeks a response from World Bank management, visits the project area, and then issues an eligibility report in which it recommends whether or not to investigate.³⁸ If the board of directors does not object to the Panel’s recommendation for an investigation, the Panel undertakes a fact-finding mission in the project area together with experts to determine whether the World Bank violated its own policies and whether this caused harm to those affected. It outlines its findings in an investigation report, which it sends to management to allow them to respond and develop remedial actions to address the Panel’s findings, and then the report and management’s response go to the board of executive directors.

The investigation report is only shared with the complainants and the general public at the conclusion of this process, which greatly limits complainants’ opportunities to influence the board should they disagree with key findings, have additional information that they

³⁵ CAO, “CAO Audit of IFC Investment in Corporación Dinant S.A. de C.V., Honduras,” December 20, 2013, http://www.cao-ombudsman.org/documents/DinantAuditCAORefC-I-R9-Y12-F161_ENG.pdf (accessed May 21, 2015).

³⁶ IFC, “IFC’s Environmental & Social Lessons Learned: Technical Briefing for the Board.”

³⁷ Inspection Panel, “About Us,” 2015, <http://ewebapps.worldbank.org/apps/ip/Pages/AboutUs.aspx> (accessed May 11, 2015).

³⁸ An Inspection Panel complaint is called a “Request for Inspection,” and the complainants are “Requestors.”

feel was not addressed, or find management's proposed remedial actions inadequate. While the Panel does not have a monitoring role, in the past it has visited the project-affected area once again at the close of the process.³⁹ This provides a key opportunity to explain the outcome of the process and to consider whether the process had resulted in any unintended consequences for the affected communities, including reprisals.

Recently the Inspection Panel has devised a new process whereby instead of registering a complaint and proceeding on a path that would lead to investigation, it allows management, the relevant authorities, and the requestors to negotiate an outcome. Civil society organizations have criticized this new pilot process, fearing it will inadequately protect the rights of people affected by Bank projects in the process, lead to poor outcomes, and not address the Bank management's violation of its own policies.⁴⁰ The Inspection Panel disagrees with some of these criticisms and has emphasized that the pilot will be independently reviewed at the end of 2015.⁴¹

The Compliance Advisor Ombudsman

The Compliance Advisor Ombudsman (CAO), which responds to complaints from people affected by the social and environmental impacts of IFC or Multilateral Investment Guarantee Agency (MIGA) projects, has a more diverse range of functions than the Inspection Panel. It reports to the World Bank Group president rather than the board, and its vice president is appointed by the World Bank president based on the recommendation of an independent committee composed of representatives from civil society, the private sector, and academia, enhancing the independence of the office. The CAO has three functions: problem-solving, compliance, and advisory.⁴²

³⁹ Inspection Panel, "The Inspection Panel at 15 Years," 2009, <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/380793-1254158345788/InspectionPanel2009.pdf> (accessed May 11, 2015), pp. 57-58.

⁴⁰ Accountability Counsel, "Civil Society Groups Call for a Return to Accountability at the World Bank Inspection Panel," August 27, 2014, <http://www.accountabilitycounsel.org/policy/existing-mechanisms/world-bank/2014-demand-for-suspension-of-panels-pilot-program/> (accessed May 11, 2015); Accountability Counsel, Letter to President Kim and Ms. Watanabe, August 27, 2014, <http://www.accountabilitycounsel.org/wp-content/uploads/2014/08/8.27.14-Letter-to-President-and-Panel-re-Pilot.pdf> (accessed May 11, 2015).

⁴¹ Letter from Inspection Panel to Accountability Counsel and others, September 5, 2014, on file with Human Rights Watch; Email from the Inspection Panel to Human Rights Watch responding to the draft report, June 9, 2015, on file with Human Rights Watch.

⁴² Office of the Compliance Advisor Ombudsman (CAO), "About the CAO," 2009, <http://www.cao-ombudsman.org/about/> (accessed May 11, 2015).

Through its problem-solving function, the CAO Ombudsman works with the company involved and the community to mediate an outcome that ideally resolves grievances and improves outcomes on the ground. As this has been a core function of the CAO since its inception, it has in place procedures and the necessary expertise to better protect the rights of the complainants and address the unequal bargaining power between the parties, unlike the Inspection Panel's pilot program.

Under its compliance function, the CAO investigates the IFC and MIGA's social and environmental performance to determine whether these organizations are in compliance with relevant policies. Compliance investigations are triggered by the receipt of a complaint or can be initiated at management's request or at the CAO's own discretion, a power that the Inspection Panel does not have. The CAO first determines whether the issues merit an investigation by assessing whether there are substantive concerns regarding a project's social or environmental performance and outlining its findings in an appraisal report. If it determines that an investigation is merited, the CAO, together with experts if it deems necessary, conducts an investigation, and outlines its findings in an investigation report. If it determines that the IFC, MIGA, or the companies involved are not in compliance with the relevant policies, it monitors the situation until the IFC or MIGA take all necessary steps to bring the project into compliance. This is another important role that the Inspection Panel lacks.

Through its advisory role, the CAO works to improve IFC and MIGA's performance systematically by providing independent advice to management, focusing on broader social and environmental concerns, policies, procedures, strategic issues, and trends.

II. Reprisals Faced by Communities and Independent Critics of Bank-Financed Projects

In many countries, activists and community members face extraordinary risks when they try to publicly raise concerns about the potential negative impacts of large-scale development projects, or influence the way those projects are implemented. Too often, people live in a climate of intimidation that dissuades them from participating in public discourse about projects that will have profound and lasting impacts on their lives.

This report documents several instances where government or company officials have intimidated or harassed critics of World Bank Group-financed projects, threatened them with physical assault, death, and baseless criminal charges and placed them under surveillance. Some women activists have faced gender-based threats and abuse. In other cases, government and company officials have threatened critics' livelihoods, including by threatening to terminate employment, cutting employment benefits, or increasing workload.

The Bank's Inspection Panel has recognized the risk of retaliation and intimidation targeting people who attempt to pursue complaints about Bank-financed projects, particularly when complainants are poor and politically marginalized.⁴³ The Compliance Advisor Ombudsman (CAO) has similarly highlighted that communities bringing complaints have faced intimidation, victimization, and death threats from national and local government officials, company employees, companies' private security forces, and traditional leaders and community members who support the project.⁴⁴ It also noted that some consultants working for CAO in the field have been subjected to threats and violence.⁴⁵

Human Rights Watch believes that these cases, along with the World Bank Group's inadequate responses to them, are part of a troubling and broad pattern. Furthermore, the Inspection Panel has found cases where World Bank staff and consultants have themselves

⁴³ Inspection Panel, "The Inspection Panel at 15 Years," 2009, p.49.

⁴⁴ Email from CAO to Human Rights Watch, "Response to HRW," June 2, 2015, on file with Human Rights Watch.

⁴⁵ Ibid.

allegedly been involved in pressuring communities not to file or to withdraw complaints, and have acted in ways that have caused community members to fear reprisals.⁴⁶

In some cases, many of the same kinds of intimidation and abuse are carried out by factions of the same communities that the critics themselves belong to. Often these are community members who stand to benefit economically from the proposed project or are politically allied with the government. In some cases, government officials deliberately drive and exploit these community divisions, seeking to isolate critics, and close their eyes to acts of intimidation and abuse between community members.

In researching this report, Human Rights Watch attempted to contact people or organizations who had filed complaints with either the Inspection Panel or the Compliance Advisor Ombudsman (CAO) since June 2000. We were able to reach and have substantive exchanges with complainants in 34 cases. Of the 34, complainants in 18 of the cases reported that they had been threatened or faced some form of reprisal that they believed was directly linked to their criticism of a World Bank or International Finance Corporation (IFC) project. Another two said that they faced reprisals, but they believed these were linked to their broader activism rather than to their criticism of Bank-financed projects.⁴⁷

Reprisals are not restricted to instances where community members or activists have utilized the World Bank Group's accountability mechanisms, but critics risk reprisals irrespective of the methods that they use to raise their concerns.

Likewise it is not just a risk for objecting to projects financed by the World Bank Group, but also includes projects financed by regional development banks and other donors. For example, on August 4, 2011 the Cambodian government suspended for five months Sahmakum Teang Tnaut (STT), an NGO that was monitoring resettlement-related human rights violations linked to an Asian Development Bank (ADB)-financed railways project.⁴⁸

⁴⁶ Inspection Panel, "The Inspection Panel at 15 Years," 2009, p.49.

⁴⁷ Human Rights Watch telephone interview with Sunil Pant, requestor in complaint to Inspection Panel regarding the Enhanced Vocational Education and Training Project in Nepal, October 31, 2014; Human Rights Watch telephone interview with Maren Mantovani, international relations coordinator, Stop the Wall Campaign, which, together with others, filed an Inspection Panel complaint regarding the Red Sea—Dead Sea Water Conveyance Study Program, May 7, 2015.

⁴⁸ Cambodian Center for Human Rights, "Suspension of prominent land rights NGO confirms civil society fears over forthcoming NGO law," August 15, 2011, https://www.ifex.org/cambodia/2011/08/15/land_rights_ngo/ (accessed June 10,

The suspension was ordered after Deputy Prime Minister Keat Chhon sent a letter to Prime Minister Hun Sen on June 17 citing an unnamed ADB consultant requesting “the government to take immediate action” against STT and another NGO, “because [the] ADB is also under political pressure caused by these NGOs.”⁴⁹ The ADB denied involvement with the request and issued a public statement emphasizing the important role that NGOs play in the successful implementation of development projects and that it “hopes that NGOs will be allowed to continue making contributions.”⁵⁰

As noted above, in many countries civil society groups that work with communities to defend their rights also face threats, intimidation, surveillance, and violent abuses. In an increasing number of countries, these groups risk being dismantled altogether, paralyzed by bureaucratic interference, or subjected to criminal sanctions for criticizing government-backed development projects.⁵¹

The chapter below describes a selection of concrete examples of various forms of intimidation and reprisals critics of World Bank Group projects have faced around the world, and how the Group and its accountability mechanisms have responded to these problems.

2015); Che de los Reyes, “Cambodia's Consecutive Warnings, Suspension of Critical NGOs a Preview of Things to Come?” August 24, 2011, <https://www.devex.com/news/cambodia-s-consecutive-warnings-suspension-of-critical-ngos-a-preview-of-things-to-come-75689> (accessed June 10, 2015); Human Rights Watch, “Joint Letter to Huruhiro Kuroda, President of Asian Development Bank, regarding draft law threatening civil society in Cambodia,” November 20, 2011, <http://www.hrw.org/news/2011/11/20/cambodia-joint-letter-huruhiro-kuroda-president-asian-development-bank-regarding-dra>.

⁴⁹ “Asian Development Bank denies requesting action against NGOs,” *Deutsche Presse-Agentur*, September 19, 2011; Bridges Across Borders Cambodia, Letter to ADB Special Project Facilitator, November 21, 2011, <http://www.adb.org/sites/default/files/page/42458/cam-complaint-letter-8feb2012.pdf> (accessed June 10, 2015); “Defending the Defenders: Security for Cambodian Human Rights Defenders,” Article 19, 2013, <http://www.article19.org/data/files/medialibrary/37113/Cambodia-Defending-the-Defenders-2013-ENG.pdf> (accessed June 11, 2015), p. 36; Sebastian Strangio, “Cambodian NGOs under the gun,” *Asia Times*, September 20, 2011, http://www.atimes.com/atimes/Southeast_Asia/MI20Ae02.html (accessed June 10, 2015); “ADB denies requesting action against Cambodian NGOs,” *Radio Australia*, January 18, 2012, <http://www.radioaustralia.net.au/international/radio/onairhighlights/adb-denies-requesting-action-against-cambodian-ngos> (accessed June 10, 2015).

⁵⁰ According to the Asian Development Bank (ADB), it conducted an investigation which found no evidence that the consultant had made the comments. The ADB also says it wrote to Chhon advising him that the ADB would view any such comments from one of their consultants as “wholly unacceptable,” that the ADB would not support any action taken against an NGO or its activities based on such unacceptable comments, and that the ADB has not faced any difficulty in the engagement with either NGO, which had provided the ADB team with useful information to assist them in addressing the needs of persons affected by the project. Email from Kunio Senga, Asian Development Bank, November 20, 2011, on file with Human Rights Watch; Nicolas Asfour, “ADB backs under-fire campaigners in Cambodia,” AFP, Aug 20, 2011, <https://sg.news.yahoo.com/adb-backs-under-fire-campaigners-cambodia-160056284.html> (accessed June 10, 2015); Asian Development Bank, “Partnerships are vital to Success of Development Projects: ADB,” August 19, 2011, <http://www.adb.org/news/partnerships-are-vital-success-development-projects-adb> (accessed June 10, 2015).

⁵¹ See above, Human Rights, Repression, and Sustainable Development.

Instances of Government Harassment and Intimidation

Cambodia: Community Members Threatened, Surveilled, and Arrested

In Cambodia, community members have suffered a series of reprisals linked to their criticism of World Bank and IFC-supported projects.

In Ratanakiri province, Cambodia, community members from 17 villages have filed a complaint with the CAO alleging that Hoang Anh Gia Lai (HAGL), a Vietnamese company that operates rubber plantations in the area, has undermined their rights to land, water, and resources, and threatened their cultural practices.⁵² According to Global Witness, which has researched and documented these allegations, when it put them to HAGL:

HAGL denied taking land from local residents, destroying spirit forests or burial grounds, or causing food shortages. The company declined to comment on promises of compensation not materialising, reduced local access to water.... Furthermore HAGL stated that it was the Cambodian government's responsibility to ensure that community land and forests were not included in concession areas.⁵³

The IFC has invested in HAGL through a US\$16.4 million financial intermediary investment in Vietnam Enterprise Investments Limited, managed by Dragon Capital Management Ltd. The complaint alleges non-compliance with IFC policies and procedures and with Cambodian laws and is currently under the CAO's dispute resolution process.⁵⁴ According to the CAO, while HAGL maintains that it has always complied with Cambodia's laws and regulations, it had

⁵² Letter from Inclusive Development International, Equitable Cambodia, Cambodian Indigenous Youth Association, Indigenous Rights Active Members, and Highlanders Association to Meg Taylor, Vice President, CAO, "Complaint concerning IFC investment in Dragon Capital Group and VEIL (Project no. 10740 and 20926)," February 10, 2014, <http://www.cao-ombudsman.org/cases/document-links/documents/ComplainttoCAOreDragonCapital-HAGL.pdf> (accessed May 11, 2015); Global Witness, "Rubber Barons: How Vietnamese Companies and International Financiers are Driving a Land Grabbing Crisis in Cambodia and Laos," May 2013, <https://www.globalwitness.org/campaigns/land-deals/rubberbarons/> (accessed June 7, 2015), pp. 16-20.

⁵³ Global Witness, "Rubber Barons: How Vietnamese Companies and International Financiers are Driving a Land Grabbing Crisis in Cambodia and Laos," May 2013, p. 16.

⁵⁴ Letter from Inclusive Development International, Equitable Cambodia, Cambodian Indigenous Youth Association, Indigenous Rights Active Members, and Highlanders Association to Meg Taylor, Vice President, CAO, "Complaint concerning IFC investment in Dragon Capital Group and VEIL (Project no. 10740 and 20926)," February 10, 2014.

declared a moratorium on further land clearance activities in the area of 13 communities listed by name in the complaint and wanted to proactively address the communities' concerns.⁵⁵

After filing the complaint in February 2014, several community members at Kanat Thom village, in Ta Lao commune, say they were threatened by district and sub-district authorities, even though they had attempted to remain anonymous in the complaint process.⁵⁶ An official allegedly told one community member, in mid-2014, "Don't be too strong in your advocacy, otherwise you may end up in prison."⁵⁷ In October 2014, a different official said in a public space that he would like to kill a particular community member who had been critical of the project.⁵⁸ A community member told Human Rights Watch, "I was afraid, but felt I had to continue, because I was doing the right thing."⁵⁹ Community members did not report these threats to the police or authorities because they "thought that would only make things worse."⁶⁰

An NGO representative that supported the filing of the complaint said that she verbally told CAO representatives about the threats.⁶¹ She said the CAO representatives' response at the time was, "that they would try [to do something about the threat] ... but might not have much power."⁶² The CAO also noted in its assessment report that community members had spoken "of instances of intimidation by security forces after they protested clearance activities on their land."⁶³

In response to security concerns, the CAO has actively sought to create an environment for dispute resolution that addresses the risk of reprisals by seeking support for the process from high-level government officials. According to David Pred, managing director of

⁵⁵ CAO, "Assessment Report: Complaint Regarding IFC's VEIL II Project (20926)," May 2014, <http://www.cao-ombudsman.org/cases/document-links/documents/VEILII-01FinalAssessmentReportMay2014.pdf> (accessed May 21, 2015), p. 7; HAGL, "Decision of the General Director of HAGL: Re. Moratorium on reclamation at some project areas in Cambodia," November 25, 2014, on file with Human Rights Watch.

⁵⁶ Human Rights Watch telephone interview with NGO representative, name withheld, October 30, 2014; Human Rights Watch interview with community member, name withheld, Phnom Penh, December 11, 2014.

⁵⁷ Human Rights Watch interview with community member, name withheld, Phnom Penh, December 11, 2014.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Human Rights Watch telephone interview with NGO representative, name withheld, October 30, 2014.

⁶² Ibid.

⁶³ CAO, "Assessment Report: Complaint Regarding IFC's VEIL II Project (20926)," May 2014, p. 7.

Inclusive Development International, one of the groups working with complainants in the case, this is an example of the CAO carefully considering the security risks and working with the complainants and their representatives to identify the most effective means for addressing these risks, in order to enable the mediation process to proceed safely.⁶⁴

In another case, the Cambodian government has cracked down on community members that are under threat of forced eviction because of an expansion of the Phnom Penh international airport. The IFC provided a loan to the company that owns the airport concession.⁶⁵ These attacks are in a similar vein to those on Boeung Kak activists discussed in the case study below.⁶⁶ At this writing, the CAO was working with the company and the community under its dispute resolution process.⁶⁷

On November 14, 2012, ahead of the November 19 Association of Southeast Asian Nations (ASEAN) Summit in Phnom Penh, people from about 20 households that had received eviction notices painted “SOS” on their roofs. This was a plea to President Barack Obama—who would be flying in to the airport for the summit—to help them receive appropriate compensation for their homes.⁶⁸

The following day, at about 7:30 a.m., police arrested eight people from among those 20 households.⁶⁹ One of the women said when asked by the police, she admitted to painting

⁶⁴ Human Rights Watch telephone interview with David Pred, managing director, Inclusive Development International, May 21, 2015; Email from David Pred to Human Rights Watch, May 21, 2015, on file with Human Rights Watch.

⁶⁵ IFC, “Cambodia Airports: Summary of Project Information (SPI),” January 9, 2004, <http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/ProjectDisplay/SPI21363> (accessed June 11, 2015); CAO, “Cambodia / Cambodia Airports-01/Phnom Penh,” June 7, 2013, http://www.cao-ombudsman.org/cases/case_detail.aspx?id=205 (accessed May 11, 2015); CAO, “CAO Assessment Report, Complaint Regarding IFC’s Cambodia Airports project (21363) Phnom Penh, Cambodia,” January 2014, http://www.cao-ombudsman.org/cases/document-links/documents/Phnom_Penh_Asst_Rpt_ENG.pdf (accessed May 11, 2015).

⁶⁶ See below, Case Study C: Reprisals against Members of the Boeung Kak Community, Cambodia.

⁶⁷ Ibid.

⁶⁸ Brad Adams, “Speak Truth to Cambodia’s Dictator,” *The Wall Street Journal*, November 18, 2012, <http://www.hrw.org/news/2012/11/18/speak-truth-cambodias-dictator>; “Cambodia: Villagers Arrested Over Appeal to Obama,” Associated Press, November 12, 2012, <http://www.nytimes.com/2012/11/16/world/asia/cambodia-villagers-arrested-over-appeal-to-obama.html> (accessed June 7, 2015); Chray Nim, “I am ready to die to keep my home,” Asia Pacific Forum on Women, Law, and Development, February 9, 2014, <http://apwld.org/i-am-ready-to-die-to-keep-my-home/> (accessed May 11, 2015).

⁶⁹ Human Rights Watch interviews with airport community representative, name and place withheld, May 10, 2013; Nim Chray, airport community representative, Phnom Penh, May 10, 2013; Phuong Sopheap, airport community representative, Phnom Penh, May 10, 2013; community member, name withheld, Phnom Penh, May 10, 2013; representatives from Equitable Cambodia, names withheld, Phnom Penh, May 6, 2013.

SOS on the roof of her house. The police then arrested her, refusing her request that they allow her to dress properly first as she was dressed in a sarong, preparing to do laundry.⁷⁰ A 14-year-old girl who witnessed the arrest said, “It was scary for me seeing the police come here. Some had rifles and shotguns.”⁷¹ The eight were released at about 8:00 p.m. that evening after being required by police to stamp their fingers on a letter to the mayor apologizing for what they had done and promising not to do it again.⁷²

Community members said that after this incident they were afraid and felt like their every move was being watched.⁷³ The village chief also began insisting that community members require his permission to meet with each other, telling them that otherwise, any community meeting is illegal.⁷⁴

While community members have filed a petition with the IFC about their case, they do not believe that the IFC or the World Bank are following and responding to the security situation within their community.⁷⁵

Uganda: NGO Employees Surveilled, Threatened

The Ugandan government has increasingly intimidated activists working on sensitive subjects and obstructed civil society reporting and advocacy in recent years.⁷⁶

⁷⁰ A sarong is a length of fabric which is typically wrapped around the body or waist. Human Rights Watch interview with airport community representative, name withheld, Phnom Penh, May 10, 2013.

⁷¹ Human Rights Watch interview with community member, name withheld, Phnom Penh, May 10, 2013.

⁷² Human Rights Watch interview with Nim Chray, airport community representative, Phnom Penh, May 10, 2013.

⁷³ Human Rights Watch interviews with Nim Chray, airport community representative, Phnom Penh, May 10, 2013; airport community representative, name withheld, Phnom Penh, May 10, 2013; Phuong Sopheap, airport community representative, Phnom Penh, May 10, 2013; and representatives from Equitable Cambodia, Phnom Penh, May 6, 2013.

⁷⁴ Human Rights Watch interview with Nim Chray, airport community representative, Phnom Penh, May 10, 2013.

⁷⁵ Ibid.

⁷⁶ See “Uganda: Bill Threatens Rights, Independent Groups,” Human Rights Watch news release, April 20, 2015 <http://www.hrw.org/news/2015/04/20/uganda-bill-threatens-rights-independent-groups>. A new bill proposed in April 2015 would grant Uganda’s internal affairs minister and the National Board for Non-governmental Organisations broad powers to supervise, approve, inspect, and dissolve all nongovernmental organizations and community based organizations, and would impose severe criminal penalties for violations. Among several troubling, broad, and vaguely worded provisions, one article would require all organizations to “not engage in any activity which is ... contrary to the dignity of the people of Uganda.” The bill is pending at time of writing. See also, Human Rights Watch, *Curtailling Criticism: Intimidation and Obstruction of Civil Society in Uganda*, August 2012, <http://www.hrw.org/reports/2012/08/21/curtailling-criticism>.

In 2005, the Ugandan National Forestry Authority granted licenses to New Forests Company over land in Mubende and Kiboga districts to operate pine and eucalyptus plantations.⁷⁷ The government began removing residents over the next several years, labeling them “illegal encroachers.” According to NGO reports, security forces forcibly and brutally removed several thousand people from the land and ignored interim High Court orders barring the evictions pending a full hearing, among other violations of the rights of the community.⁷⁸ New Forests Company has strongly denied any involvement in evictions or violence and challenged NGO findings, relying on reports of international auditors.⁷⁹ The IFC has invested in New Forests Company via an investment in Agri-Vie Agribusiness Fund, a private equity fund focused on food and agribusiness in Sub-Saharan Africa.⁸⁰ In

⁷⁷ Matt Grainger and Kate Geary, “The New Forests Company and its Uganda plantations,” Oxfam International, September 22, 2011, <https://www.oxfam.org/sites/www.oxfam.org/files/cs-new-forest-company-uganda-plantations-220911-en.pdf> (accessed May 11, 2015); CAO, “CAO Assessment Report, Regarding Community and Civil Society concerns in relation to IFC’s Agri-Vie Fund project (#27674),” April 2012, http://www.cao-ombudsman.org/cases/document-links/documents/Agri-VieAssessmentReport_April2012.pdf (accessed May 11, 2015).

⁷⁸ Oxfam, “Land and Power: The growing scandal surrounding the new wave of investments in land,” September 22, 2011, <http://policy-practice.oxfam.org.uk/publications/land-and-power-the-growing-scandal-surrounding-the-new-wave-of-investments-in-l-142858> (accessed August 10, 2012), pp. 14-17.

⁷⁹ According to Oxfam’s report, New Forests Company (NFC) told Oxfam prior to publication, “There were no incidences of injury, physical violence, or destruction of property during the voluntary vacation process that have been brought to the attention of NFC.... Evictions from government land – which go on in Uganda every day – are solely in the hands of the government and its designated authorities such as the Uganda Wildlife Authority, the National Forestry Authority, and the Ministry of Lands. We are expressly prohibited from dialogue and interaction from any illegal encroachers.” Matt Grainger and Kate Geary, “The New Forests Company and its Uganda plantations,” Oxfam International, September 22, 2011, pp. 4, 9. In a statement responding to the report, NFC said “The New Forests Company take Oxfam’s allegations extremely seriously and will conduct an immediate and thorough investigation of them. Our understanding of these resettlements is that they were legal, voluntary and peaceful and our first-hand observations of them confirmed this.... This has been corroborated on a number of occasions by meticulous audits of the company by highlight respected international organisations including the FSC (Forest Stewardship Council) and the IFC (International Finance Corporation, part of the World Bank). The FSC concluded that ‘officials consider Namwasa one of their most peaceful and successful experiences in encouraging illegal encroachers to voluntarily leave central forestry reserves and would like to use the model for controversial areas in the future.’” New Forests Company, “Statement from the New Forests Company Regarding the Oxfam Report,” undated, http://www.newforests.net/index.php/hmd_article/statement-from-the-new-forests-company-regarding-the-oxfam-report (accessed May 21, 2015). NFC subsequently published a statement referring to a Société Générale de Surveillance report. New Forests Company, “Independent International Auditors clear New Forests Company, dismiss Oxfam allegations,” December 14, 2011, http://www.newforests.net/index.php/hmd_article/independent-international-auditors-clear-new-forests-company (accessed May 21, 2015); Felicity Henman-Weir, “SGS Response to the Formal Complaint by the FSC International Centre about the FSC Certification of the New Forests Company (Uganda) Ltd via Certificate SGS-FM/COC-006224, dated 21 October 2011,” Société Générale de Surveillance (SGS), November 19, 2011; New Forests Company, “Legal Brief: An analysis of the New Forests Company’s use of Central Forest Reserves in Uganda,” December, 2011, http://www.newforests.net/wp-content/uploads/2012/06/Legal_Brief_Dec_2011.pdf (accessed June 7, 2015). See also, John Vidal, “Ugandan farmer: ‘My land gave me everything. Now I’m one of the poorest,’” *The Guardian*, September 22, 2011, <http://www.theguardian.com/environment/2011/sep/22/uganda-farmer-land-gave-me-everything> (accessed May 21, 2015).

⁸⁰ IFC, “Agri-Vie: Summary of Proposed Investment,” May 7, 2010, http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/projectdisplay/spi_dp27674 (June 11, 2015); CAO, “Uganda/Agri-Vie Fund-01/Kiboga,” December 20, 2011, http://www.cao-ombudsman.org/cases/case_detail.aspx?id=180 (accessed May 11, 2015); CAO, “Ombudsman Assessment Report Regarding Community and Civil Society concerns in relation to IFC’s Agri-Vie Fund

December 2011, Oxfam and Uganda Land Alliance (ULA) filed a complaint with the CAO, which led to a mediation process resulting in settlements between the communities and New Forests Company agreed in July 2013 and May 2014.⁸¹



A woman stands outside the temporary shelter she built after security forces forcefully evicted her and thousands of other residents of Mubende and Kiboga districts in Uganda for the development of pine and eucalyptus plantations. © 2011, Echwalu Photography

According to current and former employees at ULA, the organization and some staff members faced threats and surveillance after ULA published a report on the evictions and later filed a complaint with the CAO.⁸² Unidentified men began telephoning both the executive director and the communications officer, telling them to “back off” this issue.⁸³

project (#27674),” April 2012, http://www.cao-ombudsman.org/cases/document-links/documents/Agri-VieAssessmentReport_April2012.pdf (accessed May 11, 2015); “Letter of complaint regarding New Forests Company, Luwunga Plantation; IFC financing via Agri-Vie Fund PCC (Project Number: 27674),” December 20, 2011, http://www.cao-ombudsman.org/cases/document-links/documents/Complaint_AgriVie_KibongaLuwunga_122011_web.pdf (accessed May 11, 2015).

⁸¹ CAO, “Uganda / Agri-Vie Fund-01/Kiboga,” March 4, 2015 CAO, “Uganda/Agri-Vie Fund-02/Mubende,” March 4, 2015, http://www.cao-ombudsman.org/cases/case_detail.aspx?id=181 (accessed May 11, 2015).

⁸² “Letter of complaint regarding New Forests Company, Luwunga Plantation; IFC financing via Agri-Vie Fund PCC (Project Number: 27674),” December 20, 2011.

⁸³ Human Rights Watch telephone interview with two current employees of ULA, names withheld, November 12, 2014.

Anonymous callers threatened two activists on various occasions. Community members also reported to ULA that they had faced threats and harassment for articulating concerns about the project, and said they had been under surveillance.⁸⁴

A ULA employee at the time described being followed by unknown men whom she could not identify but assumed to be with the security forces. She also observed plainclothes security personnel monitoring community meetings in which ULA was participating. She said:

From the moment we filed a complaint with the CAO, government officials accused us of spoiling the image of the state.... We received threats.... My colleague claimed he received threats via his mobile telephone. One day, someone I know said to me, "If you don't do these things, they will kidnap your children." He had connections with the government and told me he was just telling me "as his friend, to drop the case."⁸⁵

Geoffrey Wokulira Ssebaggala, a human rights defender and journalist who began covering the forced evictions said that he also received numerous threatening telephone calls, beginning in about January 2010.⁸⁶ Prior to this, in about October 2009, Ssebaggala had been arrested for photographing the police arresting community members who were resisting eviction. He was told he would be released provided he deleted the photograph. Ssebaggala recalls receiving a telephone call from a private number when he was working in Kampala one day, at around 9 a.m. The caller said he was from "security" and said, "If you don't back off your involvement in the land issue, it will be a matter of life and death." Ssebaggala received several more calls over the following two years, often from the same man, who once said, "You've refused, but we'll get you, anytime."⁸⁷

According to Ssebaggala, in mid-2010 his home was burgled and his laptop and telephones were stolen, while everything else was left untouched. He reported the threats

⁸⁴ Human Rights Watch interview with former employee of ULA, name withheld, Kampala, July 11, 2013.

⁸⁵ Ibid.

⁸⁶ Human Rights Watch interview with Geoffrey Wokulira Ssebaggala, Kampala, July 13, 2013. See also Frontline Defenders, "Uganda: Death threats against, and fear of arrest of human rights defender, Mr. Geoffrey Wokulira Ssebaggala," January 26, 2010, <https://www.frontlinedefenders.org/node/2342> (accessed June 10, 2015).

⁸⁷ Ibid.

and burglary to two separate police stations, but was told at each that they needed money to “facilitate” any investigation.⁸⁸ He told Human Rights Watch that the World Bank should have done more to respond to these reprisals against him and other critics of the project:

Free speech is the cornerstone of transparency and accountability. Where World Bank projects are being implemented, citizens must have a voice.... The World Bank should have done more to protect the security of people speaking out against this project. It’s us who facilitate the voice of the people. I’m not aware of them [the World Bank] doing anything [about the reprisals against critics of this project].... This makes me believe they think free speech is not an issue for them.⁸⁹

The World Bank country office representative conceded to Human Rights Watch that they had not taken concrete steps to help create or protect any kind of a space within which community members, NGOs, and journalists could publicly raise concerns about this or other projects. Rather, the Bank viewed free speech issues and the broader crackdowns on civil society as being best handled by bilateral donors.⁹⁰ The World Bank representative also said that while ULA had reported the attacks to the World Bank, they had not expressly asked that the Bank do anything about the attacks they were facing.⁹¹

Uzbekistan: Activist’s Family Members Intimidated, Harassed

The World Bank is increasingly investing in projects that benefit Uzbekistan’s agricultural sector, particularly the cotton sector which is grounded in a state-forced labor system, including through a US\$260 million irrigation project in South Karakalpakstan.⁹² In 1993,

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Human Rights Watch meeting with Mustapha Ndiaye, then-World Bank Uganda country manager, Kampala, July 11, 2013.

⁹¹ Ibid.

⁹² World Bank, “South Karakalpakstan Water Resources Management Improvement Project,” June 12, 2014, <http://www.worldbank.org/projects/P127764/south-karakalpakstan-water-resources-improvement-project?lang=en> (accessed May 11, 2015); World Bank, “South Karakalpakstan Water Resources Management Improvement Project: Project Information Document,” May 14, 2014, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/05/21/000016351_20140521111939/Rendered/PDF/PAD3290PADoP12010Box385222BooOUOo9o.pdf (accessed May 11, 2015).

after the collapse of the Soviet Union, Karakalpakstan formally became a constituent part of Uzbekistan, but retained its status as an autonomous republic.

According to Aman Sagidullaev, who is currently living in exile in Kyrgyzstan, he has been a peaceful political activist advocating for Karakalpakstan's self-determination and human rights more broadly since the late 1980s and 1990s.⁹³ Since 2008, he has been a leader of the dissident group *Alga Karakalpakstan* (Forward Karakalpakstan). The Uzbek government's repressive tactics, discussed below, are magnified in Karakalpakstan in response to the independence movement.⁹⁴

In mid-2014 Sagidullaev wrote a public letter calling on the World Bank to place a hold on the Karakalpakstan irrigation project as long as the Uzbek authorities continued to suppress human rights in the region, engage in the use of forced labor in the cotton sector, and punish efforts by civil society to function.⁹⁵ During this period, Uzbek authorities appeared to have made serious efforts to detain Sagidullaev and intimidate other members of his family. On numerous occasions, authorities summoned Sagidullaev's brothers and brothers-in-law for questioning about Sagidullaev's whereabouts and activities.⁹⁶ One of his brothers-in-law, Rahat Orunbaev, fearing imminent arrest, fled to Kazakhstan in mid-2014 after being summoned for questioning.⁹⁷



Aman Sagidullaev, an activist advocating for human rights for Karakalpakstan, wrote to the World Bank in 2014 urging them not to finance a project in his region.
©2015, Aman Sagidullaev

⁹³ "Kyrgyzstan: Refugees From Uzbekistan Fear Tashkent's Long Arm," *eurasianet.org*, December 11, 2014, <http://www.eurasianet.org/node/71306>

⁹⁴ Ibid.

⁹⁵ "Uzbek Group Calls on World Bank to Halt Loans for Irrigation, Citing Forced Labor in Cotton Industry," *OOSKANews*, June 3, 2014, <https://www.ooskanews.com/story/2014/06/uzbek-group-calls-world-bank-halt-loans-irrigation-citing-forced-labor-cotton-industry> (accessed May 11, 2015); "The Saga Of Aman Sagidullaev and Alga Karakalpakstan" *Qishloq Ovozi, Radio Free Europe*, November 21, 2014, <http://www.rferl.org/content/alga-karakalpakstan/26704104.html> (accessed May 11, 2015); "We are against the loan to Uzbekistan due Karakalpakstan," post to Alga Karakalpakstan (Facebook page), May 31, 2014, https://www.facebook.com/permalink.php?story_fbid=592673670846127&id=572327196214108 (accessed May 11, 2015).

⁹⁶ Human Rights Watch interview with Aman Sagidullaev, Bishkek, October 15, 2014; Human Rights Watch interview with relative of Sagidullaev, name withheld, Bishkek, date withheld.

⁹⁷ Ibid.

On July 3, 2014, the popular state-controlled news agency 12news.uz published an article about Sagidullaev announcing that authorities had placed him on an international wanted list and described “all the damage that he [Sagidullaev] has brought to the country [Uzbekistan],” and referring to Sagidullaev as a separatist.⁹⁸ Uzbek state-controlled media often produce these types of pieces in connection with individuals considered to be high-profile opponents of the state. Other examples are the state-controlled TV programs that authorities have aired describing the graduates of Uzbek-Turkish lycees, the exiled human rights defender Nadejda Atayeva, and the imprisoned religious leader Akram Yuldashev as “enemies of the state.”⁹⁹

On September 27, 2014, a few months following Sagidullaev’s open letter to the World Bank, 15 law enforcement officers from the police, Uzbekistan’s National Security Services, commonly referred to by its Russian acronym, the SNB (Sluzhba Nacionalnoi Bezopasnosti), and prosecutor general’s office conducted a raid on Sagidullaev’s relatives’ home in Karakalpakstan’s Karauzyak district. According to Sagidullaev, during the raid the officers informed Sagidullaev’s relatives that he was wanted on new theft charges and that he should “immediately stop his political activity,” in particular, his dissemination of information about Karakalpakstan on the internet.¹⁰⁰

According to the Inspection Panel, during its visit to Uzbekistan to look into a complaint alleging the Bank’s support for child and forced labor through an agriculture project, “security was often the first topic to be spoken about during the visit.”¹⁰¹ The Panel said it was informed by one of the complainants’ representatives that security officials had entered one of the organization’s offices and seized equipment, including computers. One community member told the Panel of receiving an intimidating call warning against meeting with the Panel. According to the Panel, the community member “did not ask for any steps to be taken.”¹⁰²

⁹⁸ See “Corrupt Official Announces Himself as the Leader of a Pseudo Movement,” *12news.uz*, July 3, 2014, <http://www.12news.uz/news/2014/07/03/> (Russian) (accessed May 21, 2015).

⁹⁹ Human Rights Watch *World Report 2013*, (New York: Human Rights Watch, 2013) Uzbekistan chapter, <http://www.hrw.org/world-report/2013/country-chapters/uzbekistan?page=2>.

¹⁰⁰ Human Rights Watch interview with Aman Sagidullaev, Bishkek, October 15, 2014; Human Rights Watch interview with relative of Sagidullaev, name withheld, Bishkek, date withheld.

¹⁰¹ Inspection Panel, “Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects,” May 29, 2015, on file with Human Rights Watch, p. 5.

¹⁰² *Ibid.*

Threats and Harassment by Company Employees and Contractors

In some cases, employees or contractors of companies being paid to develop World Bank Group-financed projects have themselves intimidated, threatened, or harassed community members and activists who protest against the projects or seek to publicly raise concerns about their impacts. These companies, as well as their managers and workers, often have a tremendous economic stake in seeing projects progress without obstruction or delay. One of the three detailed case studies that follow in a later section of this report describes such a situation relating to a project taking place in India.¹⁰³

In another case from India, a community member brought a complaint to the World Bank's Inspection Panel regarding the Madhya Pradesh Water Sector Restructuring Project.¹⁰⁴ The project, which aims to rehabilitate several hundred irrigation systems, has been criticized by community activists who fear adverse health and sanitation issues related to a sub-project, the Water Quality Enhancement Project of Swarn Rekha River. The community member who filed the complaint told Human Rights Watch that employees of an independent contractor that had been hired to develop the project threatened and physically intimidated him on several occasions in 2012 and demanded that he withdraw his complaint.

The community member, Ram Sharan Gupta, told Human Rights Watch that on one occasion some men visited his house and told him, "You are an obstacle in our work and are causing us unnecessary troubles.... We will kill you and your family."¹⁰⁵ He said that the men said that the contractor had sent them.¹⁰⁶ Gupta also mentioned an occasion when he went to the project site and the contractor's employees held him by his shirt and threatened him, demanding that he withdraw the Inspection Panel complaint. Gupta said that on one occasion the "contractor himself" had threatened him, saying, "You take your complaint back or we will kill you."¹⁰⁷

¹⁰³ See below, Case Study B: Threats and Intimidation against Community Members in Chamoli, India.

¹⁰⁴ World Bank Group, "Madhya Pradesh Water Sector Restructuring Project," September 7, 2004, <http://www.worldbank.org/projects/P073370/madhya-pradesh-water-sector-restructuring-project?lang=en> (accessed May 5, 2015); Inspection Panel, "India: Madhya Pradesh Water Sector Restructuring Project (2010) (First Request)," August 31, 2010, <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaselD=84> (accessed May 11, 2015); Inspection Panel, "India: Madhya Pradesh Water Sector Restructuring Project (2011) (Second Request)," July 16, 2011, <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaselD=85> (accessed May 11, 2015).

¹⁰⁵ Human Rights Watch telephone interview with Ram Sharan Gupta, November 18, 2014.

¹⁰⁶ Human Rights Watch telephone interview with Ram Sharan Gupta, March 17, 2015.

¹⁰⁷ Human Rights Watch telephone interview with Ram Sharan Gupta, November 18, 2014.

Gupta also said that local government officials called him on several occasions, telling him that he was causing trouble for the local government and causing them losses.¹⁰⁸ He said that they told him, “We will file a police case against you for causing trouble.”¹⁰⁹ However, after Gupta complained to the Superintendent of Police in Gwalior about the harassment in 2012, he says that the contractor ceased threatening and harassing him.

In addition, after filing the Inspection Panel complaint, Gupta said that he received a letter from the district administration saying that part of his pension was stopped because he had caused losses to the state government for that same amount.¹¹⁰ According to Gupta, following a court ruling Gupta’s pension was reinstated.¹¹¹

Gupta said that he spoke to several World Bank officials about the threats and harassment, but that these Bank officials responded that they could only help in World Bank-related matters, and these kinds of threats did not qualify.¹¹² They told him that he would instead need to talk to local law enforcement.¹¹³ The Inspection Panel, Gupta said, responded similarly: “The [then] chair of the Inspection Panel always said, ‘What can the World Bank do in this? This is a law and order problem.’”¹¹⁴ Members of the Inspection Panel team recalled that there was a high-pressure environment during this visit, and while they did not recall Gupta reporting threats and harassment, it was possible that he did. While they do not recall an explicit conversation, a key question for them during this visit was the causal linkage between the World Bank project and the harm that the community was experiencing. In light of this, it is plausible that if Gupta had reported threats or harassment that they would have asked about links to the World Bank and encouraged him to report such serious allegations to the police.¹¹⁵

In another region of India, a CAO complainant who alleged, among other issues, inadequate compensation for the economic impact of a proposed project, described receiving various threats, with the callers identifying themselves on some occasions, and

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Human Rights Watch telephone interview with Ram Sharan Gupta, March 17, 2015.

¹¹¹ Ibid.

¹¹² Human Rights Watch telephone interview with Ram Sharan Gupta, November 18, 2014 and March 17, 2015.

¹¹³ Human Rights Watch telephone interview with Ram Sharan Gupta, November 18, 2014.

¹¹⁴ Human Rights Watch telephone interview with Ram Sharan Gupta, November 18, 2014 and March 17, 2015.

¹¹⁵ Human Rights Watch telephone interview with two members of the Inspection Panel team at the time, June 12, 2015.

not on others.¹¹⁶ The first call came the day after the media broke the story about him and his fellow complainants challenging the IFC through the CAO. Among the calls the complainant received were ones during which people threatened to kill him, break his legs, or to strip him and chase him down unless he ceased his opposition to the project.¹¹⁷

World Bank Staff Discouraging Complaints

According to the Inspection Panel, in at least a few cases, there is evidence that World Bank staff and consultants have themselves been involved in discouraging communities from filing complaints or encouraging them to withdraw complaints after they have been filed, and have acted in ways that have caused community members to fear reprisals.¹¹⁸

One such case involved the Bank-financed Brazil-Parana Biodiversity Project, which aimed to support biodiversity conservation and natural resource management in the region, with a particular focus on two highly-threatened ecoregions.¹¹⁹ The complainants questioned the effectiveness of the project, raising concerns about the methodology, implementation, and the geographical focus of the project. The Panel highlighted allegations that World Bank staff had pressured communities into withdrawing their opposition to the project in its 2006 report, “the Panel found that the Requesters felt unduly pressured by the Bank staff and others not to file a Request for Inspection and then to withdraw the Request.”¹²⁰

Another case involved an Inspection Panel complaint regarding the Bank-financed Bujagali Falls hydropower plant in Uganda, which community members feared would harm the environment, violate Indigenous peoples’ rights, and result in forced evictions.¹²¹ While considering a complaint regarding the project, the Panel was informed that ahead of its visit,

¹¹⁶ Human Rights Watch telephone interview with a CAO complainant, name withheld, October 28, 2014.

¹¹⁷ *Ibid.*

¹¹⁸ Inspection Panel, “The Inspection Panel at 15 Years,” 2009, p.49.

¹¹⁹ World Bank, “Parana Biodiversity Project (GEF),” May 21, 2002, <http://www.worldbank.org/projects/P070552/parana-biodiversity-project-gef?lang=en> (accessed May 11, 2015).

¹²⁰ Inspection Panel, “Brazil: Parana Biodiversity Project, Eligibility Report,” September 11, 2006, [http://ewebapps.worldbank.org/apps/ip/PanelCases/41-Eligibility%20Report%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/41-Eligibility%20Report%20(English).pdf) (accessed May 11, 2015), para. 43.

¹²¹ Inspection Panel, “Uganda: Private Power Generation Project,” March 5, 2007, <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaselId=68> (accessed June 7, 2015); “Request for Inspection,” March 1, 2007, [http://ewebapps.worldbank.org/apps/ip/PanelCases/44-Request%20for%20Inspection%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/44-Request%20for%20Inspection%20(English).pdf) (accessed May 11, 2015).

“project officials,” together with others including unnamed officials who were not Ugandan and one of the project’s social and environmental impact assessment consultants, had visited the area and met with community leaders.¹²² The Panel highlighted in its 2007 report that it had heard testimony from community members that they were threatened for wanting to speak out about their concerns. In conclusion, the Panel said:

The Panel is concerned by the reports of pressure and fear among at least some of the affected people who signed the Request. The Panel trusts that the Bank will take appropriate steps to ensure that the concerns turn out to be not well-founded.¹²³

The World Bank should work to ensure that its staff welcomes criticism and does not, under any circumstances, discourage community members or civil society organizations from complaining to the Inspection Panel or any other forum.

Arbitrary Arrests, Trumped-Up Charges, and Criminalization of Protests

As the detailed case study that appears later in this report shows, Cambodian authorities have repeatedly subjected community members protesting Bank-financed projects to arbitrary arrest or trumped-up legal actions aimed at preventing them from protesting.¹²⁴ Authorities from one recipient government have also arrested and detained, at this time without charge, the interpreter who worked with the World Bank Inspection Panel and provided assistance in facilitating the Panel’s visit to affected communities. Similar abuses have plagued other World Bank Group-financed programs.

In India, according to the Inspection Panel, government authorities imprisoned a lead complainant who was protesting the Bank-financed Mumbai Urban Transport Project shortly after the Panel sent its report to the board in December 2005. While the basis for the charges allegedly linked to a traffic altercation may have been credible, the Inspection Panel raised questions highlighting that the timing suggested there may be a link to the

¹²² Inspection Panel, “Eligibility Report,” May 3, 2007, [http://ewebapps.worldbank.org/apps/ip/PanelCases/44-Eligibility%20Report%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/44-Eligibility%20Report%20(English).pdf) (accessed May 11, 2015), p. 20.

¹²³ *Ibid.*, pp. 19-20.

¹²⁴ See Case Study C: Reprisals against Members of the Boeung Kak Community, Cambodia.

complaint. The Panel chair at the time reported to the board that the imprisonment of the “chief spokesperson” of the complainants, without bail, “sends a chilling message.”¹²⁵

In many countries, security forces charged with policing peaceful protests respond with excessive force, by arbitrarily arresting and detaining protestors, or by threatening and intimidating protestors. When the World Bank Group finances projects in these environments, broader government intolerance of crackdowns can quite predictably result in a chilling environment for community critics of major projects, or lead to reprisals against people who do speak out against the feared or actual negative impacts of those projects.

The special rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, has found that the World Bank does not always support assembly rights in places where it operates, referring to the absence of any Bank practice to proactively monitor how security forces respond to protests targeting the Bank or its projects. He emphasized:

Despite the legitimate security concern surrounding World Bank buildings ... the repeated mass arrests, including of bystanders, journalists and tourists, make it difficult and frightening for anyone to participate in or observe World Bank-related demonstrations.¹²⁶

In addition to ensuring access to people seeking to protest against the World Bank, the Bank has a role to play in ensuring that law enforcement are properly trained in order to strictly observe international standards on use of force and provide protection to peaceful protesters during assemblies. While this is primarily a duty for states, the World Bank should at a minimum emphasize to governments that they welcome protests about World Bank-financed projects or outside World Bank buildings and ask governments to ensure that any

¹²⁵ In a statement to the board of executive directors in June 2006, the Panel said: “[t]he Panel wishes to emphasize that it respects the sovereignty of a country to deal with its citizens. However, the Panel also notes that imprisonment of the chief spokesperson of the Requesters, without bail, sends a chilling message to peoples everywhere who would complain to the Panel about Bank projects. It affects the Bank’s credibility and ability to work effectively in response to the Panel’s findings and in pursuit of its own action plan.” Inspection Panel, “Human Rights Dimensions of the Inspection Panel: Do we need to be more explicit?” April 23, 2009, http://siteresources.worldbank.org/CSO/Resources/Inspection_Panel_Human_Rights_Werner_Kiene.pptx (accessed June 9, 2015); Inspection Panel, “The Inspection Panel at 15 years,” 2009, pp. 49-50.

¹²⁶ UN General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/69/365, September 1, 2014, <http://daccess-dds- http://freeassembly.net/wp-content/uploads/2014/10/Multilaterals-report-ENG.pdf> (accessed January 6, 2015), para. 55.

law enforcement officials policing such protests are appropriately trained, supervised, and held to account for use of force that does not comply with international standards.

Branding Communities and Activists as “Anti-Development”

As the former UN special rapporteur on the situation of human rights defenders has observed, some governments routinely brand community members, activists, and organizations that raise concerns about controversial development projects as being “against development.”¹²⁷ The implication is that they are working to subvert the national interest and the common good rather than raising legitimate concerns or expressing honest criticism. This branding becomes a key part of governments’ justification for targeting these critics for harassment and abuse.

The Uganda National Association of Professional Environmentalists (NAPE) worked with other NGOs to bring two complaints to the World Bank Inspection Panel regarding the Bujagali Hydropower Project in 2001 and the related Private Power Generation Project in 2007.¹²⁸ Frank Muramuzi, the executive director of NAPE, told Human Rights Watch that both the government and the company involved had publicly labeled NAPE and those that work for it “economic saboteurs” for challenging these projects.¹²⁹ According to Muramuzi, this labeling worsened when the government learned that NAPE had brought a complaint to the Inspection Panel and the Inspection Panel began preparing for its visit.¹³⁰ He told Human Rights Watch:

During a public meeting with community members who were complaining about the resettlement [of communities to make way for the project],

¹²⁷ UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/68/262, August 5, 2013, para. 15.

¹²⁸ Inspection Panel, “Third Power Project, Fourth Power Project, and Proposed Bujagali Hydropower Project,” July 27, 2001, <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaselId=54> (accessed June 7, 2015); Inspection Panel, “Uganda: Private Power Generation Project,” March 5, 2007, <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaselId=68> (accessed June 7, 2015).

¹²⁹ Human Rights Watch telephone interview with Frank Muramuzi, executive director, Uganda National Association of Professional Environmentalists (NAPE), November 3, 2014.

¹³⁰ Human Rights Watch telephone interview with Frank Muramuzi, executive director, NAPE, November 3, 2014; Kielly Dunn, “Uganda: Grassroots Group Promotes Citizen Involvement in Dam Decision,” Global Greengrants Fund, August 6, 2004, <http://www.greengrants.org/2004/08/06/uganda-grassroots-group-promotes-citizen-involvement-in-dam-decision/> (accessed May 11, 2015): “Members of NAPE have been subjected to pressure from the Uganda’s president to drop the campaign. After their many successes in delaying the dam, the president increased the pressure in 2002, calling Bujagali opponents ‘economic saboteurs’ and ‘enemies of the state.’”

government representatives said that the hydropower project is a bulldozer, and if you stand in its way, it will crush you.¹³¹

According to news reports, President Yoweri Museveni warned of “saboteurs who are bent on frustrating or delaying investments” while launching the AES dam project in Bujagali in January 2002.¹³² Two days later, he said, “Those who delay industrial projects are enemies and I don’t want them. I am going to open war on them.”¹³³



Construction efforts associated with the Bujagali Dam in 2007, a World Bank-funded hydropower project in Uganda. NGOs critical of the project have been subjected to pressure from the Ugandan government to drop the campaign. © 2007, AFP

¹³¹ Human Rights Watch telephone interview with Frank Muramuzi, executive director, NAPE, November 3, 2014. The Inspection Panel had highlighted in a 2007 report that they had heard testimony from community members that they were threatened for wanting to speak out about their concerns: Inspection Panel, “Eligibility Report: Uganda, Private Power Generation Project,” May 3, 2007, [http://webapps.worldbank.org/apps/ip/PanelCases/24-Eligibility%20Report%20\(English\).pdf](http://webapps.worldbank.org/apps/ip/PanelCases/24-Eligibility%20Report%20(English).pdf) (accessed June 7, 2015), pp. 19-20.

¹³² Jabweli Okello, “Museveni Warns Economic Saboteurs,” *All Africa*, January 26, 2002, <http://allafrica.com/stories/200201280687.html> (accessed June 11, 2015).

¹³³ Ibid. In May 2015, media reports indicated that a bill was pending before Uganda’s cabinet which would criminalize “holding back the progress” of investors. The state minister for investments was quoted as saying, “Where we find that you are frustrating an investor, we shall make that a criminal offense.” “Sabotaging investors to be criminalized – Minister,” *The New Vision* (Kampala), May 9, 2015, <http://www.newvision.co.ug/news/668114-sabotaging-investors-to-be-criminalized-minister.html> (accessed May 11, 2015).

Muramuzi said that NAPE has remained under intensified government scrutiny ever since, and that this has interfered with their ability to work in other regions, particularly the oil-rich areas in Western Uganda where NAPE has worked to educate community members about environmental concerns.¹³⁴ For example, in July 2010 the chairman of the Buliisa district NGO Forum was arrested and charged with “disobeying police orders,” after arranging meetings in the district with NAPE staff members.¹³⁵ Also in July 2010, a federal official in Buliisa district ordered the arrest of NAPE staff members after they held a community meeting earlier that day.¹³⁶ He was held for five days and eventually released on police bond. Muramuzi said that when he has been working on other issues, government officials have asked him if they are looking to complain about the World Bank or International Finance Corporation.¹³⁷

The former UN special rapporteur on the situation of human rights defenders similarly pointed to the vulnerability of activists engaged in criticizing development projects in India. She said, “Those defenders had been stigmatized and branded as being ‘anti-Government’ or ‘sympathizers of Naxalites;’ they had been arrested and ill-treated and, in some instances, killed.”¹³⁸

In another region of India, a person who was set to be affected by a proposed project that was receiving IFC support told Human Rights Watch that the local media, government officials, and other community members publicly maligned him for opposing the project.¹³⁹

¹³⁴ Human Rights Watch telephone interview with Frank Muramuzi, executive director, NAPE, November 3, 2014. Another activist told Human Rights Watch that the government only began labeling NAPE and targeting them after NAPE filed a complaint with the Inspection Panel. Human Rights Watch interview with former employee of ULA, name and place withheld, July 11, 2013.

¹³⁵ Geoffrey Kamese and Lilian Komugisha, “Government plots to stop NGOs from working in oil region in Uganda,” National Association of Professional Environmentalists (NAPE) Lobby, September 2010, p. 6; “Advocates fear ‘shrinking space’ over land row,” Oil in Uganda, May 4, 2014, <http://www.oiluganda.org/features/civil-society/advocates-fear-shrinking-space-over-land-row-but-grassroots-groups-say-business-as-usual-in-oil-regions.html> (accessed May 11, 2015); “Uganda’s Oil: From promise to despair,” *Sunrise* (Kampala), February 24, 2011. The government has attempted to control access to communities in areas of the country where oil has been discovered, particularly in Buliisa district. For further discussion on the intimidation and obstruction of civil society in Uganda, see Human Rights Watch, *Curtailing Criticism: Intimidation and Obstruction of Civil Society in Uganda*, p. 32.

¹³⁶ Ibid.

¹³⁷ Human Rights Watch telephone interview with Frank Muramuzi, executive director, NAPE, November 3, 2014.

¹³⁸ UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/68/262, August 5, 2013, para. 56.

¹³⁹ Human Rights Watch telephone interview with a CAO complainant, name withheld, October 28, 2014.

Newspaper articles confirm that local authorities accused those who were complaining to the CAO of “trying to scuttle the project for foreign lobbies” and “sabotaging the prestigious project.”¹⁴⁰ Eventually, after speaking with his family, the complainant decided to cease protesting the project because “there was going to be hell to pay” if he continued.¹⁴¹

In some countries, government employees that question government data or strategies are also labelled “anti-development” and persecuted. For example, 29-year-old Tadesse (not his real name), was tasked with compiling statistics from health clinics in his district when working as an administrator for a district health bureau in northern Ethiopia. In this role, Tadesse told Human Rights Watch, he questioned a regional government report with data that he believed to be exaggerated.¹⁴² Two days later, security officials came to his house and arrested him. Over the next four days, he was kept in solitary confinement and brought out each night for beatings where he was accused of being “anti-development” and “against the government.”¹⁴³ An environment that punishes such queries undermines development effectiveness. Tadesse told Human Rights Watch, “I don’t believe the MDG [Millennium Development Goals] numbers at all.” He acknowledged that progress is being made, adding, “But is it as much as the government says? Not at all. But nobody can question them. Nobody can investigate.”¹⁴⁴

Attacks against Nongovernmental Organizations

Human Rights Watch has documented efforts by governments to shut down and criminalize the work of independent civil society groups, or take deliberate steps to choke off civil society groups’ access to the funding sources they depend on. Nongovernmental organizations working to support communities who raise concerns about World Bank Group-financed projects have been targeted for repression, either as part of broader crackdowns on civil society or in retaliation specifically for their advocacy on Bank-financed projects. This inevitably curtails the ability of community members impacted by Bank-financed projects to protest negative impacts or attempt to influence the design or implementation of those projects.

¹⁴⁰ Articles on file with Human Rights Watch.

¹⁴¹ Human Rights Watch telephone interview with a CAO complainant, name withheld, October 28, 2014.

¹⁴² Human Rights Watch interview with Tadesse, not his real name, place, and date withheld.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

India: Crackdown on NGOs Includes World Bank Group Monitors

For some years now, Indian authorities have been suspicious of foreign-funded nongovernmental organizations and what they see as the “anti-development” agenda of these organizations. In February 2012, then-Prime Minister Manmohan Singh blamed foreign-funded NGOs for stalling development projects, especially in the energy sector. He said, “There are NGOs, often funded from the United States and the Scandinavian countries, which are not fully appreciative of the development challenges that our country faces.”¹⁴⁵ Several groups that led community protests against large extractive, energy, or infrastructure projects came under increased scrutiny.

In 2015, the Indian government intensified the crackdown on NGOs that have been critical of development projects supported by the government, labeling them “anti-development” and accusing them of undermining the country’s economic growth. Successive governments in India have failed to adequately oversee and regulate economic development projects that can have catastrophic impacts on surrounding communities.¹⁴⁶ A June 2014 allegedly leaked report from India’s Intelligence Bureau in its Ministry of Home Affairs stated:

A significant number of Indian NGOs (funded by some donors based in US, UK, Germany and Netherlands) have been noticed to be using people centric issues to create an environment which lends itself to stalling development projects.... The negative impact on GDP growth is assessed to be 2-3% p.a.¹⁴⁷

No basis was given for the report’s “assessment” of the supposed negative impact on GDP growth. Another allegedly leaked June 2014 report by India’s Intelligence Bureau, targeted Greenpeace for “spearheading a concerted campaign against India’s energy expansion plans” and claimed that it posed a “significant threat to national economic security.”¹⁴⁸

¹⁴⁵ “India’s Scholar–Prime Minister Aims For Inclusive Development,” *Science*, Vol. 335, February 24, 2012, <http://www.indiaenvironmentportal.org.in/files/file/MANMOHAN%20SINGH.pdf> (accessed June 2, 2015).

¹⁴⁶ See Human Rights Watch, *Out of Control: Mining, Regulatory Failure, and Human Rights in India*, June 14, 2012, <http://www.hrw.org/reports/2012/06/14/out-control-o>.

¹⁴⁷ Indian Intelligence Bureau, Ministry of Home Affairs, “Concerted efforts by select foreign funded NGOs to ‘take down’ Indian development projects,” June 3, 2014, <http://www.pratirodh.com/wp-content/uploads/2014/06/IB-Report-NGO.pdf> (accessed May 11, 2015), p. 1.

¹⁴⁸ Dean Nelson, “India targets Prince Charles’ aide in war on Greenpeace,” *The Telegraph*, June 22, 2014, <http://www.telegraph.co.uk/news/worldnews/asia/india/10917731/India-targets-Prince-Charles-aide-in-war-on-Greenpeace.html> (accessed June 7, 2015).

Although there is no reason to suspect that the clampdown on NGOs, including Greenpeace, is a result of their resistance to any World Bank or IFC-financed projects, several of the groups named in the two reports have joined calls for the World Bank Group to withdraw support from Tata Mundra, an IFC-financed 4,000MW coal fired power plant in Gujarat, because of its environmental and human rights impacts. These groups include Greenpeace, Sierra Club, and 350.org, as well as the Indian group Narmada Bachao Andolan.¹⁴⁹ The Bank Information Center has also been involved in these calls.¹⁵⁰

Greenpeace in particular has been the target of harsh government retaliation for its advocacy in relation to the impact of large development and infrastructure projects. The Intelligence Bureau's report had recommended that the government cancel permission for Greenpeace India to collect funds abroad.¹⁵¹ In June 2014, the government barred Greenpeace India from receiving funds from Greenpeace International and Climate Works Foundation, though the Delhi High Court ultimately found this wrongful on January 20, 2015, and ordered the release of these funds.¹⁵²

On April 9, 2015, the government suspended Greenpeace India's registration under the Foreign Contribution (Regulation) Act and froze its bank accounts.¹⁵³ In addition to raising

¹⁴⁹ Ibid; Bank Information Center, "Over 100 Organizations demand World Bank withdrawal from Tata Mundra," November 4, 2013, <http://www.bicusa.org/over-100-organizations-demand-world-bank-withdrawal-from-tata-mundra/> (accessed May 11, 2015).

¹⁵⁰ Open Letter from 68 civil society groups including 350.org, Bank Information Center, Sierra Club, and Greenpeace International to Dr. Jim Yong Kim, President of the World Bank, "Re: Open letter from civil society groups opposing World Bank rejection of CAO findings on Tata Coal Plant," November 7, 2013, http://action.sierraclub.org/site/DocServer/Tata_Mundra_International_Sign_On_7.11.2013_FINAL__1_.pdf?docID=14461 (accessed May 11, 2015); Bank Information Center, Machimar Adhikar Sangharsh Sangathan, and Sierra Club, "Will the World Bank Continue to Fund Coal in India?" September 10, 2013, <http://content.sierraclub.org/press-releases/2013/09/will-world-bank-continue-fund-coal-india> (accessed May 11, 2015).

¹⁵¹ "Cancel Permission to Greenpeace to Collect Foreign Funds: Intelligence Bureau," *NDTV*, June 19, 2014, <http://www.ndtv.com/india-news/cancel-permission-to-greenpeace-to-collect-foreign-funds-intelligence-bureau-579366> (accessed May 11, 2014).

¹⁵² *Greenpeace India Society v. Union of India & Anr.*, High Court of Delhi, WP(C) 5749/2014, January 20, 2015, <http://lobis.nic.in/dhc/RAS/judgement/21-01-2015/RAS20012015CW57492014.pdf> (accessed May 11, 2015). See also, "Indian government ordered to unfreeze Greenpeace funds," *BBC News*, January 20, 2015, <http://www.bbc.com/news/world-asia-india-30905279> (accessed May 11, 2015); Greenpeace UK, "High Court unblocks Greenpeace India funds in victory for free speech," January 20, 2015, <http://www.greenpeace.org.uk/media/press-releases/high-court-unblocks-greenpeace-india-funds-victory-free-speech-20150120-0> (accessed May 11, 2015).

¹⁵³ "Greenpeace India crackdown: US seeks 'clarification' on action against groups," Reuters, April 25, 2015; Devesh Pandey, "Govt. freezes Greenpeace accounts," *The Hindu*, April 10, 2015, <http://www.thehindu.com/sci-tech/energy-and-environment/mha-suspends-greenpeace-indias-registration/article7084953.ece> (accessed May 11, 2015); Rama Lakshmi, "Why India is at war with Greenpeace," *Washington Post*, April 9, 2015,

specific allegations that Greenpeace had violated the law, the notice also accused the group of having “prejudicially affected the public interest ... and economic interest of the State,” in violation of the Act.¹⁵⁴ The Ministry of Home Affairs also reportedly wrote to the revenue department to revoke the group’s society registration and charity status.¹⁵⁵ However in May, the Delhi High Court directed the government to allow Greenpeace India to access two of its main domestic accounts and access to its fixed deposits.¹⁵⁶



Greenpeace activist Priya Pillai addressing a meeting in April 2015, organized by civil society groups to protest government’s attack on the right to free expression, association, and dissent.

© 2015, Getty Images

<http://www.washingtonpost.com/blogs/worldviews/wp/2015/04/09/why-india-is-at-war-with-greenpeace/> (accessed May 11, 2015).

¹⁵⁴ Government of India, Ministry of Home Affairs, Foreigners Division, “Order,” F. No.II/21022/58(0047)/2013-FCRA(MU), April 9, 2015, http://mha1.nic.in/pdfs/TempSuspensionGreenpeace_090415.pdf (accessed May 11, 2015).

¹⁵⁵ “Greenpeace India hits out at Home Ministry,” *Press Trust of India*, April 25, 2015, <http://ibnlive.in.com/news/greenpeace-india-hits-out-at-home-ministry/541992-3.html> (accessed May 11, 2015).

¹⁵⁶ “Court allows Greenpeace India to operate two of its domestic accounts,” *The Hindu*, May 27, 2015, <http://www.thehindu.com/news/national/court-allows-greenpeace-india-to-operate-two-of-its-domestic-accounts/article7251108.ece> (accessed June 7, 2015).

On January 11, 2015 the Indian government barred Priya Pillai, a Greenpeace activist, from boarding a flight to London where she was to speak to members of the British parliament about alleged human rights abuses of tribal peoples in the Mahan coal block area of Madhya Pradesh. An order from the Ministry of Home Affairs justified the move by stating that her testimony before the British parliament “would have ‘negatively’ projected the image of the Government of India” abroad “at a time when it was looking to attract FDI [foreign direct investment], in infrastructure and manufacturing sector.”¹⁵⁷ On March 12, the Delhi High Court directed authorities to expunge the “offload” remark from Pillai’s passport and remove her name from the database of individuals who are not allowed to leave the country, finding that the prevention of her leaving the country was a denial of her right to travel and right to freedom of expression.¹⁵⁸

Uganda: Government Targets NGO Critical of IFC Investment

In September 2011, Oxfam published a report on land conflicts in various countries around the world.¹⁵⁹ Oxfam had worked with the Uganda Land Alliance (ULA) to research one case study about evictions from Mubende and Kiboga districts for the New Forests Company plantations, discussed above.¹⁶⁰ Senior government officials criticized the report findings and sought retraction, then public “clarification,” apologies, and amendments to the report.¹⁶¹

In December 2011, several community representatives, ULA, and Oxfam filed a complaint on behalf of the affected communities with the CAO.¹⁶² In April, 2012 the Ugandan Ministry of Internal Affairs launched what it called an “investigation into the alleged improper conduct” of Oxfam and ULA. The minister alleged that the activities of the NGOs had “incited local communities into violent and hateful acts against the New Forests Company” and that this caused “economic loss to some investors ... [and] tainted the Country’s

¹⁵⁷ *Priya Parameswaran Pillai v. Union of India and Ors*, High Court of Delhi, WP(C) 774/2015, March 3, 2015, <http://lobis.nic.in/dhc/RAS/judgement/12-03-2015/RAS12032015CW7742015.pdf>, pp.13-14 (accessed May 11, 2015). The order issued by the Intelligence Bureau is called a Look-Out-Circular. Pillai was also the subject of an October 10, 2014 Look-Out-Circular.

¹⁵⁸ *Ibid.*, p. 38; see also pp. 24, 35-37.

¹⁵⁹ Oxfam, “Land and Power: The growing scandal surrounding the new wave of investments in land,” September 22, 2011.

¹⁶⁰ See above, Uganda: NGO Employees Surveilled, Threatened.

¹⁶¹ Office of the President Media Centre, “Clarification by the Government of Uganda Regarding the Case Study by Oxfam International Titled: The New Forests Company and Its Uganda Plantations of 22 September 2011 Alleging [sic] Land Grabbing [sic],” November 4, 2011.

¹⁶² CAO, “Uganda/Agri-Vie Fund-01/Kiboga,” December 20, 2011; CAO, “Uganda/Agri-Vie Fund-02/Mubende,” December 20, 2011.

international image on investor management, the respect and promotion of human rights and even brought the person of the President in to disrepute.”¹⁶³

The Ministry of Internal Affairs then tasked the government’s NGO Board to conduct a wide-ranging investigation which went well beyond the legal mandate and the technical capacity of the board.¹⁶⁴ Ultimately the NGO Board investigation recommended that the NGOs have their permits withdrawn if they did not take “corrective action,” that the Oxfam report be “withdrawn,” and that a retraction be issued. Furthermore, the board said that the NGOs should “make apologies” to the Ugandan government and to the president.¹⁶⁵

In response, ULA publicly stood by the report and its conclusions, and pressed the government to address the problems documented in the report.¹⁶⁶ They also expressed alarm that the government’s heavy-handed reaction to their investigation would create a chilling environment for others. “The price for Uganda Land Alliance’s investigations into cases of land grabbing has been set so high,” the group said, “that once paid, it will become extremely risky for anyone attempting to question the vices of land grabbing and forceful evictions of innocent citizens.”¹⁶⁷

In a May 2012 letter to ULA, the minister of internal affairs called the group “contemptuous” accusing it of seeking to “ridicule” the government’s authority and institutions.¹⁶⁸ The minister reportedly told ULA and Oxfam that they would lose their licenses to operate, and therefore have to close down if they did not retract their report findings and apologize.¹⁶⁹ At his opening remarks at the National Civil Society Fair, the minister further accused ULA of “peddling lies” and said that he would “bring them to

¹⁶³ Ibid., p. 5.

¹⁶⁴ Ibid., p. 6. For further discussion, see Human Rights Watch, *Curtailed Criticism: Intimidation and Obstruction of Civil Society in Uganda*, p. 30.

¹⁶⁵ Ibid., pp. 16-17.

¹⁶⁶ Uganda Land Alliance (ULA), “Uganda Land Alliance faces Government investigations over anti-land grabbing campaign,” April 25, 2012.

¹⁶⁷ ULA, “Apologize or face closure, government tells Uganda Land Alliance,” April 30, 2012, <http://farmlandgrab.org/post/view/20419> (accessed June 11, 2015).

¹⁶⁸ Letter from Hon. Hilary Ongek, Minister of Internal Affairs, to Uganda Land Alliance, May 31, 2012, on file with Human Rights Watch.

¹⁶⁹ Jocelyn Edwards, “Uganda says could eject Oxfam over land grab claims,” Reuters, May 9, 2012, <http://af.reuters.com/article/topNews/idAFJ0E84808J20120509> (accessed May 10, 2014).

order so that they don't spoil the image of the country, the head of state, and the first family, and any other institutions of government."¹⁷⁰

On June 14, 2012, ULA publicly expressed regret for inaccurate or speculative statements that the media might have made when writing on the content of the report and apologized for misunderstandings.¹⁷¹ As discussed above, throughout this period ULA employees faced threats.¹⁷²

ULA staff noted that the fallout from their research on the IFC-financed project has continued to plague them. One ULA staff member said:

There is still the stigma. We don't go out as strong any more. We are very cautious about what we say. We don't say anything controversial in a meeting any more. It affects how we do our things.¹⁷³

When ULA makes a statement critical of government action, some staff members feel that the government's response continues to be that ULA is motivated by a desire to undermine government programs.¹⁷⁴

On May 17, 2014, the ULA office in Kampala was burgled and information-rich property such as computers and cameras were stolen while other more valuable property was left untouched.¹⁷⁵ It is unclear if this event was connected to the evictions reporting, but some observers felt it may have been. ULA reported the burglary to the police, but it remains unsolved.

Throughout this period, the CAO's progress reports were silent about the government's attacks on Oxfam and ULA. According to the World Bank's then country manager, ULA did

¹⁷⁰ Video of Hon. Hilary Onek's opening comments to the Civil Society Organizations Fair, May 31, 2012, on file with Human Rights Watch.

¹⁷¹ ULA, "A Public Apology to the Hon. Minister of Internal Affairs, Hilary Onek," *New Vision* (Kampala), June 14, 2012.

¹⁷² See above, Uganda: NGO Employees Surveilled, Threatened.

¹⁷³ Human Rights Watch telephone interview with an NGO representative, name and date withheld.

¹⁷⁴ Human Rights Watch telephone interview with two current employees of ULA, names withheld, November 12, 2014.

¹⁷⁵ Ibid.

inform the World Bank country office about the government's threats of deregistration.¹⁷⁶ In addition, the government's hostile verbal attacks on ULA, including threats of deregistration and demands for apologies, were well reported in the Ugandan media. But to the best of the knowledge of former and current ULA employees interviewed, the World Bank and IFC did not emphasize to the government the important and legitimate role ULA, Oxfam, and other independent groups play in scrutinizing development projects or urge the government to cease their public attacks and efforts to close their offices.

The former World Bank country manager conceded to Human Rights Watch that they had not taken concrete steps to help create or protect any kind of a space within which community members, NGOs, and journalists could publicly raise concerns about this or other projects. Rather, the Bank viewed free speech issues and the broader crackdowns on civil society as being best handled by bilateral donors.¹⁷⁷ The World Bank representative also said that while ULA had reported the attacks to the World Bank, they had not expressly asked that the Bank do anything about the attacks they were facing.¹⁷⁸

¹⁷⁶ Human Rights Watch meeting with Mustapha Ndiaye, then-World Bank Uganda country manager, Kampala, July 11, 2013.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

III. Case Study A: Arrest of Inspection Panel Interpreter

In a recent case, just two weeks after the World Bank's Inspection Panel concluded its process, government security forces arrested and imprisoned the Panel's interpreter and facilitator. Human Rights Watch has removed all identifying information from this case study, including information about the project and country involved, to protect the identities of those concerned.

Several years ago, persons affected by a long-funded World Bank project filed a complaint with the Inspection Panel alleging that the program was harming them as a result of the Bank's violation of its own policies.

According to an Inspection Panel team member, despite the high-risk security environment in the country where the project was being implemented, the Inspection Panel did not discuss the risk of surveillance or the possible risks to community members and interpreters with their team while in the country, in order to identify the best measures for addressing these risks. Considering the high likelihood of government surveillance faced by the Inspection Panel, the potential for unintentional breach of confidentiality was extremely high. A member of the team said, "[This was] not [discussed] at all, even in our daily casual conversations."¹⁷⁹ To the best of this team member's knowledge, the Panel did not put any measures in place to monitor for threats or intimidation or facilitate the reporting of such incidents to the Panel.¹⁸⁰ Speaking about the investigation visit, the Panel's contracted expert said that community members had been told of the forthcoming Panel visit by the government, and had been intimidated or instructed to say positive things.¹⁸¹ This was consistent with what community members reported to Human Rights Watch following the Panel's eligibility visit to the country.

¹⁷⁹ Email from Inspection Panel team member, name withheld, to Human Rights Watch, date withheld, on file with Human Rights Watch.

¹⁸⁰ Ibid.

¹⁸¹ Article on file with Human Rights Watch.

In its response to Human Rights Watch's enquiry regarding this research, the Inspection Panel said that it took the following measures during its investigation visit to address the security risks:

1) discussed with HRW [Human Rights Watch] and [the] Requesters' representative prior to the visit about security risks and how to handle [the] situation and corresponded with [a] representative of Requesters prior to the visit; 2) decided itinerary for the day each morning with facilitator and expert consultant in order to minimize interference or disclose whereabouts; 3) itinerary was known only within the team (including drivers); 4) maintained a low profile and followed advice/guidelines of facilitator in how to go about talking to affected communities; 5) did not reveal names of [locations]/people in any document that would eventually be public; 6) did not discuss specific [locations] visited with anybody outside the Panel team, not even after the visit.¹⁸²

In an additional response, the Panel emphasized that it adopted a dual strategy during its visits to the different locations, cognizant of the insecure environment and confidential nature of the investigation. Panel members met with community members in large meetings with the head representative. The Panel's consultant met in parallel with community members to obtain more spontaneous inputs.¹⁸³

Two weeks after the conclusion of the Inspection Panel process and the publication of its report, security forces arrested the interpreter.¹⁸⁴ Since the arrest, the interpreter has been detained without charge at a notorious detention facility in which Human Rights Watch previously has documented the use of torture.¹⁸⁵

¹⁸² Inspection Panel, "Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects," May 29, 2015, on file with Human Rights Watch.

¹⁸³ Email from the Inspection Panel to Human Rights Watch responding to the draft report, June 9, 2015, on file with Human Rights Watch, p. 3.

¹⁸⁴ The report was provided to the World Bank board of executive directors three months prior to the board meeting and subsequent publication of the report, at which point the representative for government involved would have likely shared it with government officials in the capital.

¹⁸⁵ Scores of opposition politicians, journalists, protest organizers, and alleged supporters of ethnic insurgencies are detained at this prison. Human Rights Watch report, title and date withheld.

Ahead of his arrest, the interpreter reported that he was under increasing pressure from security personnel.¹⁸⁶ While the Panel had appropriately not disclosed the interpreter's identity in their investigation report, they included a photograph of him, together with other community members.¹⁸⁷ The week before his detention, various individuals told the interpreter that a well-known security official from his area was looking for him. At this point he decided to maintain a low profile, did not leave his house unless necessary, and provided instructions to trusted contacts about what to do in the event of his detention.

The interpreter told his colleague, "I feel like [I am] living in a fire. I am being burnt alive. But what can I do? I do not fear. I will do what I [am] supposed to do."¹⁸⁸ On the day of his arrest, the interpreter texted his emergency contact saying he had been detained by security officials.¹⁸⁹ Several days later, according to an eyewitness, four armed police officers and four plainclothes security officials took the interpreter, in chains, to his house where they removed computers, cameras, and other documents from his house.¹⁹⁰

The authorities' seizure of the interpreter's computers and other materials also raise concerns about the security of other community members that were interviewed by the Inspection Panel and their consultant.¹⁹¹ The Inspection Panel has not taken steps to reach people in the region in which their investigation was focused in order to determine whether they have faced any reprisals following the seizure of the interpreter's computer and other materials.¹⁹² Given the restrictions on human rights work and independent journalism within the country, it is virtually impossible for civil society to monitor whether there have been reprisals in the locations that the Inspection Panel visited. The

¹⁸⁶ Joint letter to Jim Yong Kim, president of the World Bank, copying other World Bank officials, "Re: Arrest of Inspection Panel Translator," date withheld, on file with Human Rights Watch.

¹⁸⁷ These photographs have since been removed, at Human Rights Watch's request. A journalist published a leaked version of this report, again containing the photographs. It has since been removed.

¹⁸⁸ Email from colleague and friend of the interpreter, name withheld, to Human Rights Watch, date withheld, on file with Human Rights Watch.

¹⁸⁹ Joint letter to Jim Yong Kim, president of the World Bank, copying other World Bank officials, "Re: Arrest of Inspection Panel Translator," date withheld, on file with Human Rights Watch.

¹⁹⁰ Ibid.

¹⁹¹ An NGO published transcripts of several interviews shortly after the Inspection Panel published its report, with the names of interviewees redacted. The locations where people came from or where events happened were not redacted, however.

¹⁹² Email from team member, name withheld, to Human Rights Watch, date withheld, on file with Human Rights Watch.

Panel did enquire with its other interpreter about their security and was informed that he/she was fine.¹⁹³

Human Rights Watch alerted World Bank Group President Jim Yong Kim to the interpreter's arrest two days after his arrest.¹⁹⁴ Several groups wrote formally to the president and board of executive directors a week later, urging the Bank to delay board consideration of any new projects in the country until the interpreter is released from arbitrary detention and safely out of the country, and all others associated with the Inspection Panel investigation are confirmed safe.¹⁹⁵ Instead, the board approved a new project in the country weeks later despite the interpreter's continued detention.¹⁹⁶ World Bank Vice President Hart Schafer responded to the letter by email, saying, "We are taking this report very seriously and would be happy to meet and discuss with you in more detail the issues that you raise."¹⁹⁷

World Bank staff later met with civil society representatives, including Human Rights Watch, but Schafer did not attend the meeting. World Bank staff confirmed that World Bank officials had raised the issue with government officials, who had advised that the interpreter's arrest is in accordance with local law and unrelated to his work with the Inspection Panel, and said that it was not appropriate for Bank staff to question the legitimacy of the government's response.¹⁹⁸

According to a senior World Bank official, the Bank's country director asked government officials, both in the Finance Ministry and in the Prime Minister's office about the interpreter's arrest soon after he was detained.¹⁹⁹ According to a Bank official, President

¹⁹³ Inspection Panel, "Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects," May 29, 2015, on file with Human Rights Watch.

¹⁹⁴ Email from Human Rights Watch to Jim Yong Kim, president of the World Bank Group, "Urgent: WB translator arrested," date withheld.

¹⁹⁵ Joint letter to Jim Yong Kim, president of the World Bank, copying senior World Bank officials, "Re: Arrest of Inspection Panel Translator," date withheld, on file with Human Rights Watch.

¹⁹⁶ World Bank, project name and date withheld, on file with Human Rights Watch.

¹⁹⁷ Email from Hartwig Schafer, World Bank vice president, Operations Policy & Country Services, to NGO Representative, "Your letter-dated ... to President Kim," date withheld, on file with Human Rights Watch.

¹⁹⁸ NGO meeting and telephone conference with World Bank officials, date withheld.

¹⁹⁹ Human Rights Watch telephone conversation with senior World Bank employee, name and date withheld.

Kim is fully briefed on the situation.²⁰⁰ The interpreter remains in detention, without charge, at this writing.

The chair of the Inspection Panel has emphasized the Panel's concern privately and, when it was informed of the interpreter's arrest by Human Rights Watch, immediately informed senior Bank staff and asked for "their assistance to inquire about [the] arrest with the government and ensure his well-being and release."²⁰¹

²⁰⁰ Ibid.

²⁰¹ Inspection Panel, "Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects," May 29, 2015, on file with Human Rights Watch, p. 6.

IV. Case Study B: Threats and Intimidation against Community Members in Chamoli, India

The Vishnugad Pipalkoti Hydroelectric Project (VPHEP) in Uttarakhand, India, is a hydropower generation scheme on the Alaknanda River, one of two headstream tributaries of the Ganga River. The project is financed by a \$648 million loan from the World Bank and is being developed by the Tehri Hydro Development Corporation India Ltd. (THDC), a joint venture between India's central government and the state government of Uttar Pradesh.²⁰² The project is currently under construction.



Project site of the Vishnugad Pipalkoti Hydroelectric Project in Uttarakhand, India, a hydropower generation scheme on the Alaknanda River financed by a US\$ 648 million loan from the World Bank. © 2014, Human Rights Watch

²⁰² The government of India is the guarantor for the loan, which is expected to close on December 31, 2017. According to the World Bank, the hydropower project will generate about 1,665 million kilowatt-hours of electricity each year upon completion and will reduce greenhouse gas emissions by approximately 1.6 million tons per year over the plant operation period. World Bank, "Vishnugad Pipalkoti Hydro Electric Project," June 30, 2011, <http://www.worldbank.org/projects/Po96124/vishnugad-pipalkoti-hydro-electric-project?lang=en> (accessed June 7, 2015); World Bank, "India - Vishnugad Pipalkoti Hydro Electric Project, Project Appraisal Document," June 10, 2011, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/06/14/000386194_20110614042504/Rendered/PDF/50298oPADoPo960eoonlyo9ooBOX361487B.pdf (accessed May 11, 2015).

The hydroelectric project's backers have promoted it as an important new source of electricity for India's power-hungry economy and as an effective tool to help India reduce greenhouse emissions.²⁰³ A majority of the people living in the villages affected by the project has accepted the project, and some even welcomed it. However, some community members fear profound negative impacts from the project including during its construction phase. In particular, these community members have expressed concern that, amongst other adverse impacts, the project would:

- Undermine religious and cultural practices that rely on a free-flowing Alaknanda River;
- Create water shortages, diminish water quality, and impede livelihood opportunities linked to the river; and
- Limit women's freedom of movement and safety.

Human Rights Watch spoke with some of the community members protesting the project who said they had faced several years of threats, including gender-based threats, intimidation, and acts of violence by THDC employees and contractors.

At the forefront of the protests have been a handful of families who reside at Harsari hamlet,²⁰⁴ adjacent to Haat village, who have been resisting relocation to make way for the project.²⁰⁵ Their resistance has received support from some community members in nearby villages who also have concerns about the project. More recently, as discussed below, residents in neighboring Durgapur village have been protesting the construction of a tunnel for the project and the blasting associated with it that they believe is endangering their homes.

²⁰³ Ibid. In addition to increasing electricity supply through renewable, low-carbon energy, the Bank's objective is to strengthen THDC's capacity to prepare and implement economically, environmentally, and socially sustainable projects.

²⁰⁴ Also referred to as Hatsari. Harsari hamlet is administratively a part of Haat revenue village. The Haat village administration, a local elected body, has accepted the resettlement.

²⁰⁵ According to the World Bank management, the Harsari residents demand land in the urban area of the plains which is "beyond the regulatory norms in India." But the Inspection Panel's report in July 2014 noted that a key difficulty in reaching an acceptable resettlement solution for Harsari has been that it was offered the same package as the one developed for the residents of the main Haat village. The Panel noted that "the situation at Hatsari hamlet is different from that of Haat village as Hatsari families do not possess additional land in the vicinity where they can relocate, unlike the Haat families. Hence they have been holding out for a different solution that is suitable for them." Inspection Panel, "Investigation Report," [http://ewebapps.worldbank.org/apps/ip/PanelCases/81%20-%20Investigation%20Report%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/81%20-%20Investigation%20Report%20(English).pdf) (accessed June 11, 2015), p. 75.

The flash floods of June 2013 which caused massive loss of life and extensive damage to infrastructure, including to Vishnuprayag hydroelectric project, just 35 miles upstream of VPHEP, intensified concerns among these community members regarding the potential environmental impacts of the project.²⁰⁶

Human Rights Watch wrote to THDC to seek the company's views on the allegations that its staff and contractors were involved in threats and intimidation of community members.²⁰⁷ In its response, the company emphasized that it takes its responsibilities towards host communities very seriously, and stressed that there have been no violations of human rights in the project area.²⁰⁸ It said that the project is being implemented in accordance with all national laws and in conformity with the environmental and social safeguard policies of the World Bank. It did not answer any of the questions that Human Rights Watch had asked regarding specific allegations, but said that it was looking into the matters that Human Rights Watch had raised and would "deal with them as necessary."²⁰⁹

Threats and Intimidation against Community Members

In July 2012, several community members filed a complaint with the World Bank's Inspection Panel raising social, cultural, and environmental concerns about the project's impacts.²¹⁰ The complaint also highlighted concerns about "women's freedom"

²⁰⁶ "Uttarakhand floods: More than 5,700 missing people presumed dead," *The Hindu*, July 15, 2013, <http://www.thehindubusinessline.com/news/uttarakhand-floods-more-than-5700-missing-people-presumed-dead/article4917178.ece> (accessed June 7, 2015). The floods also sparked a national debate on the viability of such projects. In August 2013, the Supreme Court ordered the Indian government not to provide clearances to any more hydropower projects anywhere in Uttarakhand until further orders and to appoint an expert body to study if existing and under construction hydroelectric power projects had contributed to the flood disaster. See *Alaknanda Hydro Power Co. Ltd v. Anuj Joshi & Ors*, Supreme Court of India, Civil Appeal No. 6736 of 2013, August, 13, 2013, <http://indiankanoon.org/doc/154040253/> (accessed June 7, 2015). In December, the government admitted to the Supreme Court that hydropower projects had caused damage to environment and aggravated the floods. Utkarsh Anand, "Govt admits hydropower projects aggravated 2013 Uttarakhand floods," *The Indian Express*, December 9, 2014, <http://indianexpress.com/article/india/india-others/govt-admits-hydro-projects-did-affect-uttarakhand-floods/> (accessed June 7, 2015).

²⁰⁷ Letter to THDC from Human Rights Watch, "Re: Human Rights Watch Research," May 12, 2015, on file with Human Rights Watch.

²⁰⁸ Email to Human Rights Watch from THDC, "Human Rights Watch Research," May 30, 2015, on file with Human Rights Watch.

²⁰⁹ *Ibid.*

²¹⁰ Letter to the Inspection Panel from Dr. Bharat Jhunjhunwala, "Request for Inspection of the Loan to THDC India Ltd for the Vishnugad Pipalkoti Hydro Electric Project," July 23, 2012, [http://ewebapps.worldbank.org/apps/ip/PanelCases/81-Request%20for%20Inspection%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/81-Request%20for%20Inspection%20(English).pdf) (accessed May 11, 2015). The requestors concerns are summarized in Inspection Panel, "Eligibility Report: Inspection Panel, Report and Recommendation, India: Vishnugad Pipalkoti Hydro Electric Project (IBRD 8078-IN)," November 26, 2012, [http://ewebapps.worldbank.org/apps/ip/PanelCases/81-Eligibility%20Report%20and%20Recommendation%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/81-Eligibility%20Report%20and%20Recommendation%20(English).pdf) (accessed May 11, 2015), pp. 3-5; Inspection Panel,

as a key issue.²¹¹ In particular, complainants argued that the presence of so many male company employees and contractors, including migrant laborers, around the communities was a real threat to the safety of local women, especially given the prevailing environment of intimidation.

When community members filed the World Bank Inspection Panel complaint, all but one of the complainants asked that the Inspection Panel keep their identities confidential for fear of reprisals. Some community members told Human Rights Watch that THDC staff had issued thinly-veiled threats to dissuade them from filing their complaint to the Inspection Panel. A community member said:

When we decided to complain to the Inspection Panel, then the THDC staff started putting pressure on us, saying, “You don’t need to go to the Inspection Panel ... If you do, then if you need anything in the future such as employment, traveling through the road where our project is, or if our workers pose any problems for you, then how will you cope? You will have to come to us eventually for getting any problem solved.”²¹²

Threats continued throughout the Inspection Panel’s investigation visit in April-May 2013. THDC employees and contractors brazenly followed the Panel during their investigation. On one occasion, approximately 35-50 people who community members recognized as THDC staff and contractors confronted a community member during the Inspection Panel’s visit.²¹³ According to the community member, “They threatened me that, ‘We will kill you.’”²¹⁴

“India: Vishnugad Pipalkoti Hydro Electric Project,” July 23, 2012, <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?Caselid=13> (accessed May 11, 2015).

²¹¹ Letter to the Inspection Panel from Dr. Bharat Jhunjunwala, “Request for Inspection of the Loan to THDC India Ltd for the Vishnugad Pipalkoti Hydro Electric Project,” July 23, 2012, p. 7; Inspection Panel, “Investigation Report: India, Vishnugad Pipalkoti Hydro Electric Project,” July 1, 2014, Report No. 89109-IN, [http://ewebapps.worldbank.org/apps/ip/PanelCases/81%20-%20Investigation%20Report%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/81%20-%20Investigation%20Report%20(English).pdf) (accessed May 11, 2015), p. 3: “[T]here is concerns that women in the area may experience risk of gender-based violence from the influx of mostly male labor and the establishment of labor camps in the vicinity of villages during the construction of the Project.”

²¹² Human Rights Watch interview with community member, name, place, and date withheld.

²¹³ Human Rights Watch interviews with Shyam, not his real name, place and date withheld; community member, name, place, and date withheld; Human Rights Watch telephone interview with Dr. Bharat Jhunjunwala, October 31, 2014.

²¹⁴ Human Rights Watch interview with Shyam, place and date withheld.

Community members lodged a written complaint with the Panel about this incident and about THDC's contractors' intimidating surveillance of their visit.²¹⁵ In that letter, community members also highlighted that they had received death threats and been pressured by the police for raising their voices in protest against the project.²¹⁶

The situation has not improved in the intervening years. Community members who were seen with the Inspection Panel during their visit said that threats and harassment increased after the Panel's investigation visit. They told Human Rights Watch how people associated with THDC had been trying to identify those who had complained against them. One community member, Shyam (not his real name), said that following the Inspection Panel's visit, "all the people who accompanied the Inspection Panel have been targeted."²¹⁷ Community members also described THDC employees and contractors continuing to surveil their activities following the Panel's visit. According to Shyam:

Often, when I leave home, these contractors of THDC follow us in a THDC car. There is a logo of THDC on the car. If they ever meet us in the market, they always try to come and misbehave and threaten. It has become difficult for me to leave home by myself. So I try to take someone with me when I leave.... They have been following me since the Inspection Panel visited."²¹⁸

Outspoken community members have reported new incidents of intimidation, harassment, and threats by THDC employees and contractors. Between February 25 and April 8, 2015, 40-50 community members of all ages, mostly women and girls, sat in protest in Durgapur village as THDC began constructing a tunnel that community members believe is endangering their houses. Community members allege that throughout that period of protest employees of THDC:

- Routinely verbally abused them, often using derogatory language referring to their caste and gender;
- Threatened to beat them;

²¹⁵ Ibid.

²¹⁶ Ibid.

²¹⁷ Ibid.

²¹⁸ Ibid.

- Took their photographs in an apparent attempt to create fear of further reprisals; and
- Destroyed their protest site.²¹⁹

According to a complaint filed with the local magistrate, at about 7:00 p.m. on March 12, 2015, company and contractor employees visited the protest site, verbally abused the protestors, and warned them that if they did not end the protest, “the consequences would be severe.”²²⁰

One community member said he was afraid to criticize the project even though he feared it would have profound negative impacts on the well-being of his community. Shyam told Human Rights Watch, “I am afraid... My wife and son always caution me, ‘they might kill you and they might even kill us.’”²²¹

Community members that are critical of the project have also highlighted that in this context of intimidation, the presence of large numbers of company employees and contractors around their communities has created feelings of insecurity and fear that undermine women’s ability to go about their daily lives and work.²²² In early March 2015, a senior company official allegedly told Sita, a local woman from Durgapur village, “You are a Dalit. You have no background. We can do anything to you. No one is going to bother about you.”²²³ That same day, the same official told all of the women sitting in protest, “You all womenfolk are prostitutes....”²²⁴ Sita told Human Rights Watch, “They call us *Dom* (caste-specific name that is used in a derogatory manner), which is the most hurtful thing they can say to us.”²²⁵

²¹⁹ Letter to Sub-Divisional Magistrate, Chamoli, from Women Convener Board, Durgapur Baula Village, Thana Chamoli, Tehsil, and District Chamoli, March 13, 2015, on file with Human Rights Watch. Human Rights Watch interviews with Sita, place and date withheld; a community member, place and date withheld; and Human Rights Watch telephone interview with Sita, date withheld.

²²⁰ Letter to Sub-Divisional Magistrate, Chamoli, from Women Convener Board, Durgapur Baula Village, Thana Chamoli, Tehsil, and District Chamoli, March 13, 2015, on file with Human Rights Watch.

²²¹ Human Rights Watch interview with Shyam, place withheld, date withheld.

²²² Letter to Sub-Divisional Magistrate, Chamoli, from Women Convener Board, Durgapur Baula Village, Thana Chamoli, Tehsil, and District Chamoli, March 13, 2015, on file with Human Rights Watch; Human Rights Watch interviews with Sita, place and date withheld; and with a community member, place and date withheld; and Human Rights Watch telephone interview with Sita, date withheld. Sita explained: “We can’t even go to the jungle to collect firewood and leaves anymore. The workers of THDC are staying in the jungle and we can’t go there because we are afraid of our lives and safety.”

²²³ Human Rights Watch telephone interview with Sita, date withheld.

²²⁴ Ibid.

²²⁵ Human Rights Watch telephone interview with Sita, place and date withheld.

On at least a few occasions, threats and intimidation have reportedly escalated to the point of physical violence. Radha (not her real name), a widow, described waking up one night in August 2014, together with her son, to hear noises outside her home in an affected village, and then coming out to find contractors building a road next to her cattle shed, destroying the shed and fruit trees in the process. She said that when her son went outside to protest this, he was physically threatened.²²⁶ As Human Rights Watch interviewed Radha, she was visibly scared.²²⁷ She said:

That night when my son resisted, [the contractor] held my son by his neck and threatened that “If you speak too much, I will beat you up....” Every day [company representatives] threaten us that we should leave otherwise they will beat us up.... I am scared. I live alone.... I worry about my safety.²²⁸

When Radha complained to a senior THDC official he allegedly told her, “What am I supposed to do if you are not agreeing to it [building the road]?”²²⁹

According to another community member, on May 14, 2013, a local worker employed by THDC hit and injured a supporter of the protestors.²³⁰ The community member also alleged that a THDC contractor attempted to hit him in September 2013 when he went with others to protest at the project site.²³¹

Legal Action against Protestors

Several community members critical of the project described to Human Rights Watch their fear of facing criminal charges for protesting.²³² Across India, the filing of frivolous criminal

²²⁶ Human Rights Watch interview with Radha, place and date withheld.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Human Rights Watch interview with community member, name, place, and date withheld; Letter to District Magistrate, Chamoli from a community member, “Immediate proceedings for stopping increasing felony, intractability and antisocial acts by the sponsored THDC Company in the region of Pipalkoti and regarding the safety of our life and property,” May 14, 2013, on file with Human Rights Watch.

²³¹ Human Rights Watch interview with community member, place and date withheld; Complaint letter to police station in charge, Pipalkoti requesting to file FIR, September 5, 2013, on file with Human Rights Watch; Letter to District Magistrate, Chamoli, from several community members, “Vishnugad Pipalkoti regarding the effects of the Hydro-Electric Project on Harsari and violation of human rights,” September 7, 2013, on file with Human Rights Watch.

²³² Human Rights Watch interviews with Radha, place and date withheld; community member, name, place, and date withheld; and another community member, name, place, and date withheld.

charges has been a tactic used by companies and local officials to intimidate and punish people who protest against the development of large infrastructure or other projects.²³³

Human Rights Watch interviewed one community member who recalled a THDC official telling him, “Either accept the dam and vacate your land or you will all go to jail. We are providing electricity to the whole country.”²³⁴ Another community member explained that this fear is particularly strong with regard to parents who are concerned by the possible impact of an arrest record on their sons or daughters. “People are worried that their children’s names, if ever associated with any police action, will be ruined.”²³⁵

According to a Harsari resident, a THDC engineer filed a criminal complaint at Pipalkoti police station against three community members under the Indian Penal code, section 353, which deals with “assault or criminal force to deter public servant from discharge of his duty,” and carries a maximum punishment of up to 2 years imprisonment.²³⁶ On the community members’ petition, Nainital High Court granted a stay on arrest. Despite this, according to one of the community members, the police have gone to his home several times and threatened him, saying, “We can arrest you anytime.”²³⁷

Two more criminal complaints have been filed against community members from Haat and Harsari resisting the project. In October 2014, an engineer at Hindustan Construction Company filed a complaint against four people alleging rioting, “causing hurt,” and mischief causing damage.²³⁸ In September 2013, a THDC official filed a criminal complaint against another community member, again for causing hurt and for “intentional insult with intent to provoke breach of the peace.”²³⁹

²³³ Human Rights Watch, *Out of Control: Mining, Regulatory Failure, and Human Rights in India*.

²³⁴ Human Rights Watch interview with community member, name, place, and date withheld.

²³⁵ Human Rights Watch interview with community member, name, place, and date withheld.

²³⁶ Indian Penal Code, section 353.

²³⁷ Human Rights Watch interview with community member, name, place, and date withheld.

²³⁸ Indian Penal Code, sections 147, 323, and 427.

²³⁹ Indian Penal Code, sections 323 and 504.

The Response of Tehri Hydro Development Corporation India Ltd.

In May 2015, in response to a letter from Human Rights Watch, THDC emphasized that it “has been keenly sensitive to the need to work with communities in the project area” and had held innumerable consultation meetings to assess the potential impacts of the project on communities and “work out satisfactory mitigation and management plans”.²⁴⁰

THDC specifically addressed women’s security in its response. It said:

From the very start of project preparation, we have taken very seriously the issue of the safety of women in the project area, especially with the ingress of outside labor. The contractor’s labor is housed in special camps equipped with all necessary facilities in order to reduce the need for workmen to venture into the local villages. We have established a women’s safety and facilitation center in village Haat to specifically monitor the activities of contractor’s labor force, and will also act as a first contact for any complaints in this connection. The center is managed by two residents of the village, including a woman. Special women guards have also been deployed around the major construction sites to ensure the safety of local women and both our personnel and the contractor’s labor have been instructed to let the women guards be the first interface with local women in the vicinity of the construction sites.²⁴¹

However, THDC did not address the complaints that Human Rights Watch has received alleging that company employees have targeted women protestors with gender-based threats.

THDC also provided information about:

- The compensation it is providing to communities, which it says exceeds norms laid down by national law, includes special provisions for vulnerable community members, with due consideration of gender, caste, and economic status, and involves assistance towards loss of fuel and fodder;

²⁴⁰ Email to Human Rights Watch from THDC, “Human Rights Watch Research,” May 30, 2015, on file with Human Rights Watch.

²⁴¹ Ibid.

- Community welfare activities it has been implementing which include infrastructure works, education development, drinking water supply, vocational training, and other livelihood programs;
- Ongoing outreach to the community, with the help of a “reputed local NGO;”
- Measures it is implementing to mitigate people’s concerns about the possible impacts of blasting on their houses and other structures;
- Measures taken to ensure women’s safety is not compromised with the ingress of outside labor, as discussed above;
- A grievance redress committee that it has put in place, that includes representatives of affected communities and is chaired by a retired senior civil servant; and
- Employment opportunities generated by the project, directly and indirectly.²⁴²

The Indian Government’s Response

Community members that have been critical of the project have tried to raise concerns about the project and complaints about harassment and intimidation by THDC with government officials. In an October 2014 letter to the Prime Minister, Chief Minister of Uttarakhand, and the Ministers for Energy, Water Resources, Environment and Culture, community members wrote that, “When we villagers oppose the dam, we are threatened with false cases [criminal charges] and fear of the police, and given death threats....”²⁴³

These threats were outlined in several complaints filed with the police between May 2013 and November 2014, alleging that employees and contractors of THDC had threatened to kill villagers and had verbally and physically assaulted community members.²⁴⁴ In a September

²⁴² Ibid.

²⁴³ Letter to Prime Minister, Chief Minister of Uttarakhand, and the Ministers for Energy, Water Resources, Environment and Cultural Relations from several community members, “Subject: Saving the Shivnagari Choti Kashi,” October 20, 2014, on file with Human Rights Watch.

²⁴⁴ Complaint letter to police in charge, Pipalkoti, “Application notice for filing the primary notice on behalf of the rural farmers of the entire Shivnagari Choti Kashi Gram Sabha Haat District Chamoli Gadhvaal Uttarakhand India who are being threatened by the Dam Company VPHEP/THDCEL and their contractors by verbal abuses, killing, and threats to the Awaal, elders, men and women, cattle,” November 1, 2014, on file with Human Rights Watch; Complaint letter to police station in charge, Pipalkoti requesting to file FIR, April 13, 2014, on file with Human Rights Watch; Complaint letter to police station in charge, Pipalkoti requesting to file FIR, September 5, 2013, on file with Human Rights Watch; Letter to District Magistrate, Chamoli from a community member, “Immediate proceedings for

2013 letter to the District Magistrate, community members pleaded for him to make arrangements for the community's safety "because we are sensing danger from the executing entity."²⁴⁵ This plea was echoed to police more than a year later, when community members wrote, "We are in a highly vulnerable situation. Kindly protect our life and property."²⁴⁶

Some of those protesting the project told Human Rights Watch that it had proven impossible to get corrective action from the government, and that state institutions appeared in at least some cases to be an adversary rather than an avenue of redress. A community member explained, "When we went to file complaints with the police, they told us ... the government had told them to take strict measures against anyone resisting the project."²⁴⁷

The World Bank and Inspection Panel's Response

In its initial report after the 2012 visit the Panel noted its impression that:

[A]n adversarial relationship has developed between the community and Project authorities. Villagers alleged various attempts to place inordinate pressure on them to accept the compensation options offered, some of which, in their opinion, bordered on harassment.²⁴⁸

The Panel also highlighted its concern "to learn ... that critics of the Project, including some of the Requestors, may have been intimidated and/or threatened."²⁴⁹

In spite of this, the Panel's investigation report did not address the community's allegations of threats, intimidation, violence, and legal action by THDC employees and

stopping increasing felony, intractability and antisocial acts by the sponsored THDC Company in the region of Pipalkoti and regarding the safety of our life and property," May 14, 2013, on file with Human Rights Watch.

²⁴⁵ Letter to District Magistrate, Chamoli, from several community members, "Vishnugad Pipalkoti regarding the effects of the Hydro-Electric Project on Harsari and violation of human rights," September 7, 2013, on file with Human Rights Watch.

²⁴⁶ Complaint letter to police in charge, Pipalkoti, "Application notice for filing the primary notice on behalf of the rural farmers of the entire Shivanagari Choti Kashi Gram Sabha Haat District Chamoli Gadhvaal Uttarakhand India who are being threatened by the Dam Company VPHEP/THDCEL and their contractors by verbal abuses, killing, and threats to the Awal, elders, men and women, cattle," November 1, 2014, on file with Human Rights Watch.

²⁴⁷ Human Rights Watch interview with community member, name, place, and date withheld.

²⁴⁸ Inspection Panel, "Eligibility Report: Inspection Panel, Report and Recommendation, India: Vishnugad Pipalkoti Hydro Electric Project (IBRD 8078-IN)," November 26, 2012, p. 14. Inspection Panel, "India: Vishnugad Pipalkoti Hydro Electric Project," July 23, 2012, <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaselD=13> (accessed May 11, 2015).

²⁴⁹ Inspection Panel, "Eligibility Report: Inspection Panel, Report and Recommendation, India: Vishnugad Pipalkoti Hydro Electric Project (IBRD 8078-IN)," November 26, 2012 p. 17.

contractors for their criticism of the project. A community member said, “We told the Panel [about the threats] when they visited, but they haven’t taken any steps against it.”²⁵⁰ The community letter to the Panel that was handed to them during their visit concludes by saying, “Sir, we have not only hope but also full faith in you that you will try to raise our issues, with sincerity, across the whole world.”²⁵¹

The Inspection Panel told Human Rights Watch that at the conclusion of its investigation visit it raised these issues with the World Bank country director in their debriefing meeting, highlighting specific incidents and the general environment of intimidation, and the country director confirmed this.²⁵²

In addition to the Inspection Panel process, community members also described trying on several occasions to raise concerns in writing or in person with visiting World Bank staff, but were unable to effectively communicate with them.²⁵³ In December 2014, community members described attempting to raise concerns directly with World Bank officials when they visited the area, but were not able to have conversations with them without the company being present.²⁵⁴

Radha said that she tried to tell the World Bank representatives about the violent attack on her son and the destruction of her property when they visited in 2014:

I went to the [World Bank] officials and complained to them ... but they didn’t understand the language I was speaking in.... [A THDC official] came there and ... told ... me, “You should be quiet. We will win the case against you.”²⁵⁵

²⁵⁰ Human Rights Watch interview with community member, name, place, and date withheld.

²⁵¹ Letter to then-chair of the Inspection Panel, from two community members, “Re: Problems caused by the Vishnugad Pipalkoti Hydro Electric Project, to the Hatsari Tok market village,” signed as received by World Bank Inspection Panel representative, April 28, 2013, on file with Human Rights Watch.

²⁵² Inspection Panel, “Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects,” May 29, 2015, on file with Human Rights Watch, p. 8. Human Rights Watch telephone meeting with Onno Ruhl, India country director, World Bank, June 3, 2015.

²⁵³ Human Rights Watch interviews with Radha, place and date withheld; with community member, name, place, and date withheld; and with another community member, name, place, and date withheld.

²⁵⁴ Human Rights Watch interview with community member, name, place, and date withheld.

²⁵⁵ Human Rights Watch interview with Radha, place and date withheld.

Shyam, speaking of the same visit, said that he told the World Bank officials about the reprisals, “They said, ‘We have noted your complaint and we will talk to THDC manager PPS Mann.’ But we never heard back.”²⁵⁶ Two community members who were present for the same exchange claim that a World Bank official asked them why they were protesting against the project since THDC’s director was a “good man.”²⁵⁷ On the other hand, one community member said that the World Bank country director had given him his telephone number and email during a previous visit to the area, so he could contact him if he had any problems.²⁵⁸

Community members also raised concerns in a January 2015 letter to the country director. They wrote:

The revenue authorities have threatened to take punitive action against us.... Recently, THDC has for the fifth time lodged FIR against people of Hatsari Village. THDC officials have threatened to kill us. We are suffering a life of horror.... We request you to immediately suspend funding of the project and save our lives.²⁵⁹

All community members interviewed said that they did not see the World Bank as independent of the THDC, pointing particularly to the fact that THDC employees accompany World Bank officials whenever they visit the affected area, making it impossible to approach Bank staff on confidential terms.²⁶⁰ When the World Bank country director for India, Onno Ruhl, visited the area in mid-2013, however, he made a conscious effort to ensure that he met with community members separately from THDC.

²⁵⁶ Human Rights Watch interview with Shyam, place and date withheld.

²⁵⁷ Human Rights Watch interviews with community member, name, place, and date withheld; and with another community member, name, place, and date withheld. Several other community members gave similar accounts: Human Rights Watch interview with community member, name, place, and date withheld.

²⁵⁸ Human Rights Watch interview with community member, name, place, and date withheld. The World Bank country director has confirmed this and told Human Rights Watch that he had received a couple of calls from this community member. Human Rights Watch telephone meeting with Onno Ruhl, India country director, World Bank, June 3, 2015.

²⁵⁹ Letter to Onno Ruhl, World Bank Country Director, “World Bank loan to THDC for Vishnugad Pipalkoti project,” January 7, 2015, on file with Human Rights Watch.

²⁶⁰ Human Rights Watch interviews with three community members, individually, place and dates withheld; Radha, place and date withheld; and Dr. Bharat Jhunjhunwala, Tehri Garhwal district, Uttarakhand, date withheld. “They don’t really listen to us:” Human Rights Watch interview with community member, place and date withheld.

Ruhl told Human Rights Watch that he and his colleagues had raised security issues with THDC on several occasions, particularly regarding women’s security, emphasizing that the World Bank expects THDC to uphold a standard that the World Bank can defend.²⁶¹ While it is not always easy for the company to address these issues, Ruhl said, he does believe that they are working to address them and does feel that they have been responsive to the concerns raised.²⁶²

Community members who had spoken to the Inspection Panel or other Bank representatives about their fears said that neither the World Bank nor the Inspection Panel ever enquired into their security.²⁶³ An Inspection Panel representative called one of the community members to check on the community’s safety after the June 2013 flood disaster which had caused extensive devastation in the state, including in Chamoli district. The community member said the Inspection Panel representative did not enquire about the broader security concerns: “We said yes the disaster is here but we aren’t secure even otherwise.”²⁶⁴ The Inspection Panel representative had understood that this was a reference to the community facing relocation, rather than a security threat.²⁶⁵ The Inspection Panel told Human Rights Watch that it did not hear anything more from the complainants or their representative about threats, harassment, or intimidation, even though they were in regular contact with the complainants’ representative.²⁶⁶ The complainants’ representative did not, however, live in the villages where some of the community members have alleged threats, harassment, and intimidation.

The Inspection Panel did address the issue of generalized threats to women’s security posed by project employees in its investigation report, which had been raised in the complaint. The Panel found that the Bank had given insufficient attention to the issue of

²⁶¹ Human Rights Watch telephone meeting with Onno Ruhl, India country director, World Bank, June 3, 2015.

²⁶² Ibid.

²⁶³ Human Rights Watch interviews with Radha, place and date withheld; two community members, individually, place and dates withheld; and Dr. Bharat Jhunjunwala, Tehri Garhwal district, Uttarakhand, date withheld; and Human Rights Watch telephone interview with Dr. Bharat Jhunjunwala, October 31, 2014.

²⁶⁴ Human Rights Watch interview with community member, name, place, and date withheld.

²⁶⁵ Email from the Inspection Panel to Human Rights Watch responding to the draft report, June 9, 2015, on file with Human Rights Watch. The Inspection Panel representative interpreted this statement in this way because the community member proceeded to update the Panel about their negotiations with THDC regarding their relocation immediately after saying this.

²⁶⁶ Inspection Panel, “Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects,” May 29, 2015, on file with Human Rights Watch, p. 8.

women’s security, noting that fences around labor camps cannot alone be seen as an adequate mitigation measure.²⁶⁷ It emphasized that:

[T]here should be a systematic and regular monitoring of the conditions of the labor camps, ensuring that any breaches of agreements and standards are picked up early and not allowed to become serious conflicts between the community and labor. Going forward, the Panel notes the importance of regular supervision missions that may include gender expertise....²⁶⁸

In its response to the Inspection Panel’s investigation report, the World Bank outlined several measures that THDC and the civil works contractor would implement aimed at securing the safety of women living in villages around the labor camps.²⁶⁹ In addition to two previously agreed measures—to house workers in fenced camps to minimize their impact on local resources and communities and prohibiting their access to community forests so as to ensure the safety of local women collecting fuel and fodder there—the Bank said that the contractor had agreed to a range of additional preventative and awareness-raising measures. Despite these commitments, women protesting the project described to Human Rights Watch in 2015 feelings of insecurity that undermined their ability to go about their day-to-day lives and access community forest lands, which they needed for fuel and fodder.²⁷⁰

²⁶⁷ Inspection Panel, “Investigation Report: India, Vishnugad Pipalkoti Hydro Electric Project,” July 1, 2014, p. 83.

²⁶⁸ *Ibid.*, pp. xii, 83, 96, 100.

²⁶⁹ World Bank, “Management Report and Recommendation in Response to the Inspection Panel Investigation Report: India: Vishnugad Pipalkoti Hydro Electric Project (Loan No. 8078-IN),” August 13, 2014, [http://ewebapps.worldbank.org/apps/ip/PanelCases/81%20-%20Management%20Report%20and%20Recommendation%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/81%20-%20Management%20Report%20and%20Recommendation%20(English).pdf) (accessed May 11, 2015), p. ix, 13, 23; World Bank, “Summary of Management Actions: Inspection Panel, India – Vishnugad Pipalkoti Hyrdo Electric Project,” September 26, 2014, [http://ewebapps.worldbank.org/apps/ip/PanelCases/81%20-%20Management%20Action%20Plan%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/81%20-%20Management%20Action%20Plan%20(English).pdf) (accessed May 11, 2015). See also, World Bank, Inspection Panel News Release, “Joint Statement from World Bank Management and Inspection Panel: World Bank Board Discusses Inspection Panel Cases in India and Kenya,” 2014/143/ECR, October 2, 2014, <http://www.forestpeoples.org/sites/fpp/files/news/2014/10/Press%20Release%20Board%20Discussion%20India%20and%20Kenya%20Investigations%2010.2.14.pdf> (accessed May 11, 2015).

²⁷⁰ Human Rights Watch telephone interview with Sita, place and date withheld.

V. Case Study C: Reprisals against Members of the Boeung Kak Community, Cambodia

In 2007, the Municipality of Phnom Penh leased 133 hectares of land in the Boeung Kak Lake areas to Shukaku Inc., a private company owned by ruling Cambodian People’s Party senator Lao Meng Khin, for a period of 99 years.²⁷¹ The company planned to develop the land into a high-end residential, commercial, and tourism complex. From that point onwards, the company and the Cambodian government began pressuring residents of the area to relocate, offering deeply inadequate compensation in exchange.²⁷²

On August 26, 2008, the company started pumping sand into the lake, causing residents’ homes to flood and the destruction of some houses.²⁷³ By this time, the government and company had persuaded or coerced more than 3,000 of the 4,000 affected families from the land, despite many of the affected families having strong legal claims to the land under the Land Law. The municipality then issued a final eviction notice in April 2009. The government along with the company began forcibly evicting the remaining residents.

²⁷¹ Shukaku Inc. paid US\$79 million dollars for the lease. Inspection Panel, “Cambodia: Land Management and Administration Project (Credit No. 3650 - KH),” November 23, 2010, [http://ewebapps.worldbank.org/apps/ip/PanelCases/60-Investigation%20Report%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/60-Investigation%20Report%20(English).pdf) (accessed June 7, 2015); Human Rights Watch, “Open Letter Regarding the Forced Eviction of Residents of Boeung Kak Lake in Phnom Penh Municipality,” December 4, 2008, <http://www.hrw.org/news/2008/12/04/cambodia-open-letter-regarding-forced-eviction-residents-boeung-kak-lake-phnom-penh->.

²⁷² The Requesters and other residents started to come under pressure to relocate and to accept one of three options for compensation: i) a lump sum of US\$ 8,500 as total compensation for their property; ii) relocation to a dwelling unit more than 20 kilometers outside of the city centre with a sum of US\$ 500 to cover relocation expenses; or iii) re-housing on-site, provided residents move to a relocation site (also more than 20 kilometers outside the city) for four years while permanent replacement housing is constructed in Boeung Kak. According to the Panel: “Interviews conducted in the relocation settlement revealed that many relocated households were finding the isolation of their new housing units had resulted in a serious reduction in already low incomes. As a result, they were selling their units for what they could and returning to the city, where they would either rent or find another vacant area to occupy, as was evident from the phone numbers written on many buildings.”

²⁷³ Housing Rights Task Force (HRTF), “Press Release: Housing Rights Groups Condemn Illegal Filling Of Boueng Kok,” August 26, 2008, <https://saveboeungkak.wordpress.com/2008/08/26/press-release-housing-rights-groups-01/> (accessed June 11, 2015); Chi Mgbako, Rijie Ernie Gao, Elizabeth Joynes, et. al., “Forced Eviction and Resettlement in Cambodia: Case Studies from Phnom Penh,” *Washington University Global Studies Law Review*, Vol. 9, Issue 1, January 2010, http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1040&context=law_globalstudies (accessed June 7, 2015).



People look on as a house is demolished at Boeung Kak Lake in Phnom Penh on September 16, 2011.
© 2011, Reuters

As discussed below, over the course of the last seven years, Cambodian security forces have threatened and harassed current and former residents of Boeung Kak Lake areas in Phnom Penh for campaigning against their forced evictions. Cambodia's security forces have aggressively denied the right to peaceful assembly by violently breaking up peaceful protests. The authorities have filed trumped-up charges against protesters or would-be protesters. Those charged have been routinely denied bail, convicted after expedited and truncated trials that did not meet international standards and did not give the accused adequate time to prepare and put forward a defense, and given significant prison sentences.

The World Bank Inspection Panel later investigated and found that there was a direct link between the Bank-financed \$23.4 million Land Management and Administration Project (LMAP) in Cambodia, which was approved in February 2002, and the forced evictions suffered by residents in the Boeung Kak Lake area.²⁷⁴

²⁷⁴ The Panel found that the Boeung Kak Lake area was declared for adjudication under LMAP, and, as such, activities relating to verification of land tenure and ownership subsequent to the notice of adjudication were directly linked to the

Criminalization of Protests and Trumped-Up Charges against Community Members

Since 2009, Cambodian security forces have carried out a string of arrests of Boeung Kak Lake activists. Initially, police typically released the activists after one or two nights in detention. But since the May 2012 arrests of 15 Boeung Kak Lake residents and former residents, police have charged many detainees from the community with criminal offenses. In several cases, courts have convicted them in trials that do not meet Cambodia's Code of Criminal Procedure or international fair trial standards.

May 2012: Boeung Kak Protestors Arrested, Charged, and Convicted

On May 22, 2012, about 80-100 residents of Boeung Kak Lake peacefully gathered, intending to host a press conference as 18 families sought to mark the boundaries of their now demolished homes. Police arrived almost immediately. Police confiscated the residents' tools and prevented them from demarcating the boundaries of their houses.²⁷⁵

As the hours passed, most of the gathered residents moved into the shade. A small core group remained on the sand lot where the lake used to be, singing songs. At about 11:30 a.m., a mixed force of regular police and district public order para-police surrounded the group and, as the demonstrators dispersed, chased down and arrested 13 women.²⁷⁶ One protestor described how she was arrested when trying to help a friend, whom security personnel had captured. She said:

They were chasing people like they were trying to catch dogs. Some stepped on my friend's children.... They pushed me in the car and drove

project. The closing date was originally scheduled for December 31, 2007, and was later extended to December 31, 2009, but on September 7, 2009 the Cambodian government cancelled the undisbursed balance of the credit.

²⁷⁵ Human Rights Watch interview with a Boeung Kak community member, name withheld, Phnom Penh, May 7, 2013; Housing Rights Task Force (HRTF), Sahmakum Teang Tnaut (STT), Equitable Cambodia, Cambodian League for the Promotion and Defense of Human Rights (LICADHO), and LICADHO Canada, "Statement: Condemnation of Unjustified & Violent Response to Peaceful Demonstration by Boeung Kak Residents," May 22, 2012, <http://www.licadho-cambodia.org/pressrelease.php?perm=278> (accessed May 11, 2015).

²⁷⁶ Human Rights Watch interviews with Nget Khun, Boeung Kak community member, Phnom Penh, May 7, 2013; with a Boeung Kak community member, name withheld, Phnom Penh, May 7, 2013. Housing Rights Task Force (HRTF), Sahmakum Teang Tnaut (STT), Equitable Cambodia, Cambodian League for the Promotion and Defense of Human Rights (LICADHO), and LICADHO Canada, "Statement: Condemnation of Unjustified & Violent Response to Peaceful Demonstration by Boeung Kak Residents," May 22, 2012.

away very fast. I couldn't get up. I wanted to jump even if I died but then I thought of my grandchildren.²⁷⁷

Nget Khun, who was 72-years-old at the time, told Human Rights Watch, "Four or five [security personnel] carried me like they were carrying a pig and then threw me in a car."²⁷⁸

48 hours later, following a summary trial and having denied defense lawyers' requests for time to prepare their cases or call defense witnesses, the Phnom Penh Municipal Court convicted the 13 women: Nget Khun, Tep Vanny, Kong Chantha, Song Srey Leap, Tho Davy, Chan Navy, Ngoun Kimlang, Bov Sor Phea, Cheng Leap, Soung Samai, Phan Chhunreth, Heng Mom, and Toul Srey Pov.²⁷⁹

The women were convicted under articles 34 and 259 of the Land Law for illegal occupancy of public property and article 504 of the Penal Code for obstructing public officials with aggravating circumstances.²⁸⁰ The court sentenced all 13 women to 30 months in prison, but in the case of six of the women suspended parts of their sentences.

At about 10 a.m. on May 24—the day of the trial—in front of the Phnom Penh courthouse, security personnel detained human rights defender Venerable Loun Sovath who was protesting together with community members and took him away in a vehicle.²⁸¹ He was held at Botum Pagoda in Phnom Penh and released 10 hours later, after being required to sign a document stating that he would no longer continue his advocacy efforts.²⁸²

²⁷⁷ Human Rights Watch interview with a Boeung Kak community member, name withheld, Phnom Penh, May 7, 2013.

²⁷⁸ Human Rights Watch interview with Nget Khun, Boeung Kak community member, Phnom Penh, May 7, 2013.

²⁷⁹ Joint Letter, "Cambodia: Request for a joint statement concerning the Boeung Kak Lake human rights defenders," June 25, 2012, <http://www.hrw.org/news/2012/06/24/cambodia-request-joint-statement-concerning-boeung-kak-lake-human-rights-defenders>.

²⁸⁰ LICADHO, "13 Boeung Kak activists violently arrested after breaking into song," video report, May 22, 2012, <http://www.licadho-cambodia.org/video.php?perm=31> (accessed May 11, 2015). The trial failed to meet even the most rudimentary fair trial standards. The defense lawyers' request for the case files was rejected, as was their request for time to prepare a defense. They were also refused the right to call defense witnesses, though several were ready to testify just outside the court. These are all clear violations of international fair trial standards and Cambodia's Code of Criminal Procedure.

²⁸¹ Human Rights Watch interview with a Boeung Kak community member, name withheld, Phnom Penh, May 7, 2013.

²⁸² "Cambodia: Joint letter regarding Boeung Kak Lake activists," May 29, 2012, <http://www.hrw.org/news/2012/05/29/cambodia-joint-letter-regarding-boeung-kak-lake-activists>; Article 19, "Defending the Defenders: Country Report 2013 Security for Cambodian Human Rights Defenders," 2013.

Later that day, Sao Sareoun and Ly Chanary, who were going to appear as witnesses in the trial, were also arrested and charged with the same crimes as the 13. They were released from pretrial detention on June 15, still facing the charges, on the condition that they would be available if called by the investigating judge, that they visit their local police station regularly, and that they not move residence.²⁸³

Following significant domestic and international pressure, the remaining 13 were released on June 27, 2012, when an appeal court upheld the sentences against them, but suspended all but 1 month and 3 days due to the burden that imprisonment imposed on them and their families.²⁸⁴

One of the detainees told Human Rights Watch that she experienced extreme fear and depression while in detention. She said that on the day the police tried to transport them to prison, “We refused to go until day break, as we were afraid they would take us and feed us to the crocodiles.”²⁸⁵ Once in the prison, the detainees were stripped naked and searched.²⁸⁶ One of the detainees said:

I wanted to commit suicide.... The way the guards at prison talked to me was very horrible like I am not a human being.... An inmate warned me that if I reported anything, I would be dead.²⁸⁷

Five of those Boeung Kak Lake community members arrested had been arrested previously for their active opposition to the forced evictions, but none of them had been convicted of any offence.²⁸⁸ Soung Samai and Toul Srey Pov had both been arrested on two previous occasions. Kong Chantha had been arrested four times previously during peaceful demonstrations and

²⁸³ Ibid.

²⁸⁴ “Cambodia: Joint letter regarding Boeung Kak Lake activists,” May 29, 2012; Coalition of Cambodian Farmer Community (CCFC), Cambodian Youth Network (CYN), Social Action for Change (SAC), People’s Action for Change (PAC), Cambodian Worker Center for Development (CWCD) Independent Democracy of Informal Economy Association (IDEA) and Cambodian Food and Service Worker’s Federation (CFSWF), Cambodia’s Civil Servants Association (CICA), Sahmakum Teang Tnaut (STT), Housing Rights Task Force (HRTF), Community Legal Education Center (CLEC), Equitable Cambodia (EC), Cambodian League for the Promotion and Defense of Human Rights (LICADHO), and LICADHO Canada, Statement: Release of 13 Boueng Kak Representatives Tainted by Police Violence, June 27, 2012, <http://www.licadho-cambodia.org/pressrelease.php?perm=283> (accessed May 15 2015).

²⁸⁵ Human Rights Watch interview with a Boeung Kak community member, name withheld, Phnom Penh, May 7, 2013.

²⁸⁶ Ibid.

²⁸⁷ Ibid.

²⁸⁸ Human Rights Watch interview with Heng Mom, Boeung Kak community member, Phnom Penh, May 13, 2013

had reported being subject to police observation and regular intimidation. Tep Vanny, one of the most high-profile activists, had also been arrested several times before.

The detainees told Human Rights Watch that they were aware of the World Bank’s involvement through LMAP at this time, but people from the Bank did not visit them in prison.²⁸⁹ One woman said, “During the time I was in prison, I hoped that the World Bank and others would do something to help me.”²⁹⁰ Several community members said that as far as they knew, the World Bank did not do anything to support the release of the 13 community members and the two proposed witnesses.²⁹¹

Following their release, several of these women remain concerned about their security. One of the women said, “I worry about my own safety.”²⁹²



Members of the Boeung Kak community protest peacefully in Phnom Penh, May 2013. © 2013, Jessica Evans, Human Rights Watch

²⁸⁹ Human Rights Watch interview with a Boeung Kak community member, name withheld, Phnom Penh, May 7, 2013.

²⁹⁰ Human Rights Watch interview with Nget Khun, Boeung Kak community member, Phnom Penh, May 7, 2013.

²⁹¹ Human Rights Watch interview with Tep Vanny, Boeung Kak community member, Phnom Penh, May 9, 2013.

²⁹² Human Rights Watch interview with a Boeung Kak community member, name withheld, Phnom Penh, May 7, 2013.

September 2012: Yorm Bopha Arrested and Convicted of Trumped-Up Charges

Yorm Bopha was a major voice in peaceful public protests campaigning for the release of the Boeung Kak 15. She described being regularly threatened, harassed, and intimidated by police as her activism increased, including multiple occasions during which police officers warned her that she was on “the blacklist,” apparently indicating that she was under surveillance and at risk of arrest.²⁹³

On September 4, 2012, Phnom Penh authorities, in an apparent attempt to deter protests, arrested Bopha for alleged involvement in a conspiracy to assault a man for stealing side mirrors from her car.²⁹⁴ She was charged along with her husband, Lous Sakhon, and her two brothers. The four were tried by the Phnom Penh Municipal Court on December 26 and 27, 2012. Despite insufficient evidence to establish guilt, Bopha was convicted of “intentional violence with aggravating circumstances” under article 218 of Cambodia’s Penal Code and sentenced to three years in prison, while Sakhon received a suspended prison sentence.²⁹⁵ Her two brothers were convicted in absentia. Bopha appealed her conviction to the Appeal Court, which upheld the original verdict on June 17, 2013 but reduced Bopha’s sentence from 3 years to 2 years.²⁹⁶

²⁹³ Human Rights Watch interview with Yorm Bopha, Phnom Penh, May 13, 2013: On one occasion, Bopha described being approached by the police chief who appeared to be waiting for her upon leaving a community meeting. He said, “Bopha, I’m telling you, your name is on the blacklist.” On another occasion, she was protesting outside the French embassy when a police officer told her, “Don’t expose yourself too much, your name is already on the blacklist.” The third incident took place within her village, when the police chief told her, “You watch out. You and other activists already have your name on the blacklist.” See also, LICADHO, “Briefing Update: The Yorm Bopha Case,” April 2013, <http://www.licadho-cambodia.org/reports.php?perm=177> (accessed May 11, 2015).

²⁹⁴ Human Rights Watch, “Cambodia: Supreme Court Keeps Activist Jailed,” March 29, 2013, <http://www.hrw.org/news/2013/03/29/cambodia-supreme-court-keeps-activist-jailed>.

²⁹⁵ LICADHO, “Briefing Update: The Yorm Bopha Case,” April 2013: “The undisputed facts of the event leading to the charges against Bopha are as follows: two men were drinking rice wine for hours at a drink shop in Boeung Kak. Shortly after dark, there was a fight during which the two men were injured. Yorm Bopha and her husband arrived at the drink shop after the fight broke out, and watched from outside together with other bystanders. One of the men had previously been accused of repeatedly stealing car mirrors from residents in the area, and Bopha had informed the police that her mirrors had been stolen repeatedly. She did not accuse any specific individual of the thefts, however, contrary to multiple inaccurate reports.... The prosecution’s theory appeared to be that Yorm Bopha and her husband had masterminded an assault on two men sitting in a drink shop and had then showed up to witness their plan in action. Not one witness was present in court to testify to this premeditated plot theory, which appeared to hinge entirely on the fact that the two accused assailants, who were absent from court, were related to Bopha.... More importantly, every single witness stated that Yorm Bopha and her husband had not been violent themselves, had been present only after the fight had broken out, and were only outside the drink shop. Yorm Bopha and her husband testified that they had been nearby chatting with a neighbor and had come over to the drink shop after hearing yelling. The neighbor corroborated this testimony.” Amnesty International declared the charges “fabricated.” Amnesty International, “Cambodia: Convictions of Activists Demonstrate Dire State of Justice,” December 27, 2012, <https://www.amnesty.org/en/articles/news/2012/12/convictions-activists-cambodia-demonstrates-dire-state-justice/> (accessed May 11, 2015).

²⁹⁶ LICADHO, “Boeung Kak Activist Yorm Bopha – A Year in Jail,” video report, September 4, 2013, <http://www.licadho-cambodia.org/video.php?perm=40> (accessed May 11, 2015).

When Human Rights Watch interviewed Bopha while she was in jail, she said that since her arrest, no one from the World Bank had visited her or, to the best of her knowledge, enquired about her detention. “I believe they should,” she said.²⁹⁷ In Bopha’s view:

The World Bank has an obligation and influence to pressure the Cambodian government on human rights. My case is only because of my activism regarding our situation in Boeung Kak, which was linked to the World Bank.... The World Bank should make sure that people’s rights are respected, including the right to speak out when they suffer injustice. The World Bank should at least have someone come and visit me to show their support. It should do what it can to pressure the Cambodian government to release me, as it is because of the World Bank project I ended up in jail.²⁹⁸

November 2014: 11 Arrested, Convicted, and Sentenced

On November 10, 2014, Phnom Penh Municipal Police Commissioner Chuon Sovan ordered police and other security forces to intervene against what the authorities deemed an “unauthorized” demonstration outside City Hall by Boeung Kak residents. The protestors had placed a bed frame in Monivong Boulevard to highlight the severe flooding that they were experiencing, which they blamed on the filling in of Boeung Kak Lake by Shukaku, Inc. The security forces scuffled with several protesters engaged in a sit-down that briefly hindered vehicles in one lane of traffic on a boulevard in front of City Hall, although traffic otherwise continued to flow.²⁹⁹

The security forces detained seven women protesters, Tep Vanny, Nget Khun, Song Srey Leap, Kong Chantha, Pan Chunreth, Bo Chorvy, and Nong Sreng, charging them with obstructing traffic under the Land Traffic Law. The next day, November 11, a Phnom Penh court convicted all seven in a summary trial lasting less than three hours. The court sentenced each woman to the maximum penalty of one year in prison and fines of two

²⁹⁷ Human Rights Watch interview with Yorm Bopha, Phnom Penh, May 13, 2013.

²⁹⁸ *Ibid.*

²⁹⁹ “Cambodia: New Crackdown on Protesters,” Human Rights Watch news release, November 14, 2014, <http://www.hrw.org/news/2014/11/13/cambodia-new-crackdown-protesters> (accessed May 11, 2015); FIDH, “The Observatory: Cambodia: Release by royal pardon of ten women human rights defenders,” April 15, 2015, <https://www.fidh.org/International-Federation-for-Human-Rights/asia/cambodia/the-observatory-cambodia-release-by-royal-pardon-of-ten-women-human> (accessed May 5, 2015).

million riel (approximately US\$500) for offenses that would normally attract no more than a small fine or simply a warning.³⁰⁰

On the day of the protesters' sentencing, security forces broke up an "unauthorized" peaceful assembly in front of the court. The protestors were calling for the release of those arrested the day before. Security forces arrested three women protesters, Heng Pich and Im Srey Touch from Boeung Kak, and Phuong Sopheap,³⁰¹ as well as a Buddhist monk, Seung Hai. Each detainee was charged with aggravated "violent resistance against a public official acting in the discharge of his or her duties." On November 12, all four were given a summary trial in a Phnom Penh court and sentenced to one year in prison.³⁰²

On April 11, 2015, the ten activists were released from Phnom Penh's Prey Sar prison after receiving a royal pardon.³⁰³ Seung Hai also was pardoned and released two days later.

Violence against Protestors

All of the community members interviewed described witnessing security personnel using excessive force to quell the community's peaceful protests, and several described being injured during protests. This included during protests outside the World Bank office in

³⁰⁰ Cambodia: New Crackdown on Protesters," Human Rights Watch news release, November 14, 2014; FIDH, "The Observatory: Cambodia: Release by royal pardon of ten women human rights defenders," April 15, 2015; Sahmakum Teang Tnaut, LICADHO, and 28 other NGOs, "Statement: Civil Society Groups Condemn Arrest and Detention of the Boeung Kak Lake Seven," November 12, 2014, <http://www.licadho-cambodia.org/pressrelease.php?perm=361> (accessed May 11, 2015); LICADHO, "Photo Album: Free the 19: Spotlight on the Boeung Kak 10," November 2014, http://www.licadho-cambodia.org/album/view_photo.php?cat=65 (accessed May 11, 2015).

³⁰¹ Amnesty International, "Cambodia: Free women protesters and Buddhist monk jailed after summary trials," January 21, 2015, <http://www.amnestyusa.org/news/news-item/cambodia-free-women-protesters-and-buddhist-monk-jailed-after-summary-trials> (accessed June 2, 2015).

³⁰² Cambodia: New Crackdown on Protesters," Human Rights Watch news release, November 14, 2014; FIDH, "The Observatory: Cambodia: Release by royal pardon of ten women human rights defenders," April 15, 2015; LICADHO, "Photo Album: Four Supporters of Boeung Kak 7 Arrested Outside Phnom Penh Court," http://www.licadho-cambodia.org/album/view_photo.php?cat=64 (accessed May 11, 2015).

³⁰³ Mech Dara, "Boeng Kak Activists Released From Prison," *The Cambodia Daily*, April 11, 2015, <https://www.cambodiadaily.com/news/boeng-kak-activists-released-from-prison-81921/> (accessed May 5, 2015); Prach Chev, "Cambodian Authorities Free Opposition Party Members, Land Activists," *Radio Free Asia*, April 13, 2015, <http://www.rfa.org/english/news/cambodia/authorities-free-cnrp-members-and-land-activists-04132015170750.html> (accessed May 5, 2015); FIDH, "The Observatory: Cambodia: Release by royal pardon of ten women human rights defenders," April 15, 2015; LICADHO, "Flash News: 10 Boeung Kak Lake activists freed following royal pardon, more releases expected," April 11, 2015, <http://www.licadho-cambodia.org/flashnews.php?perm=122> (accessed May 11, 2015).

Phnom Penh.³⁰⁴ They also described being stopped from protesting in front of the World Bank on several occasions.³⁰⁵

Community members described witnessing violence or being kicked and beaten by police officers and subjected to electric shocks.³⁰⁶ Toul Srey Pov said, “On one occasion a police officer kicked me. I said, ‘Brother, if it makes you happy to kick me, keep doing it but make sure I have my house. If I get my house only if you keep kicking me, then do it.’”³⁰⁷ 72-year-old Nget Khun told how police hit her in the head with a stick when she attempted to help a pregnant woman whom police were trying to arrest.³⁰⁸

On June 27, 2012, when the Boeung Kak 13’s appeal was due to be heard, a large unit of anti-riot intervention police attempted to block community members from reaching the court. Community members say that police officers turned violent as a group of children tried to rush through the road block. According to a statement from several independent

³⁰⁴ Human Rights Watch interviews with Phan Chhunreth, Boeung Kak community member, Phnom Penh, May 9, 2013; Ngak Sophat, Phnom Penh, May 11, 2013; Pao Saopea, Boeung Kak community member, Phnom Penh, May 11, 2013; Heng Mom, Boeung Kak community member, Phnom Penh, May 13, 2013; and Soung Samai, Boeung Kak community member, Phnom Penh, May 13, 2013.

³⁰⁵ Human Rights Watch interview with Tep Vanny, Boeung Kak community member, Phnom Penh, May 9, 2013. “Police often try to stop us going to the World Bank to protest. They set up barriers. They hate us protesting most in front of Council Ministers, then in front of the Prime Minister’s House, and then in front of the World Bank.” Human Rights Watch interview with Kong Chantha, Boeung Kak community member, Phnom Penh, May 9, 2013.

³⁰⁶ Human Rights Watch interviews with Khek Chan Reaksmeay, Boeung Kak community member, Phnom Penh, May 11, 2013; Ngak Sophat, Boeung Kak community member, Phnom Penh, May 11, 2013; Nget Khun, Boeung Kak community member, Phnom Penh, May 7, 2013; and Human Rights Watch interview with former Boeung Kak Lake resident, name withheld, Phnom Penh, May 8, 2013. “I have been shocked and then passed out. On April 22, 2013, my face was cut with the police shield while protesting in front of the Minister’s house.” Human Rights Watch interview with Bo Chorvy, Boeung Kak community member, Phnom Penh, May 7, 2013. “In a protest in front of municipal hall, the police punched me. I was covered in bruises and swollen. They threw me in car and took me to freedom park ... but eventually took me to the commune office... [Another time] I got shocked on my chest.... The worst times were the times I was shocked as it felt like it stopped my heart from beating and it paralyzed half my body and I collapsed.” Human Rights Watch interview with Kong Chantha, Boeung Kak community member, Phnom Penh, May 9, 2013. LICADHO, “Statement: Violent Crackdown of Peaceful Protesters during the Visit of UN Secretary-General,” October 28, 2010 <http://www.licadho-cambodia.org/pressrelease.php?perm=229> (accessed May 11, 2015). See also, LICADHO, “Violent Crackdown on Peaceful Protesters During the Visit of UN Secretary-General Ban Ki-moon,” video report, November 3, 2010, <http://www.licadho-cambodia.org/video.php?perm=20> (accessed May 11, 2015); LICADHO, “The Impact of Development and Forced Evictions on Women in Cambodia,” video report, October 20, 2011, <http://www.licadho-cambodia.org/video.php?perm=26> (accessed May 11, 2015).

³⁰⁷ Human Rights Watch interview with Toul Srey Pov, Boeung Kak community member, Phnom Penh, May 12, 2013.

³⁰⁸ Human Rights Watch interview with Nget Khun, Boeung Kak community member, Phnom Penh, May 7, 2013. This incident occurred on April 21, 2011. Housing Rights Task Force (HRTF), “Statement: Beating and arrest of 11 Boeung Kak lake villagers and children,” April 21, 2011, <http://www.licadho-cambodia.org/pressrelease.php?perm=245> (accessed May 11, 2015). See also, LICADHO, “Boeung Kak villagers arrested and beaten during peaceful protest,” video report, April 21, 2011, <http://www.licadho-cambodia.org/video.php?perm=23> (accessed May 11, 2015); LICADHO, “The Impact of Development and Forced Evictions on Women in Cambodia,” video report, October 20, 2011

groups, during the standoff, one pregnant woman—one of the 13 detainees’ sister—was kicked by a police officer in the stomach and later miscarried due to heavy bleeding.³⁰⁹ At least four other villagers and seven children were beaten by police and had to receive medical treatments.³¹⁰

On March 13, 2013, protestors who gathered in a public park outside the Prime Minister’s house to petition for Yorm Bopha’s release faced a particularly brutal crackdown by 60-80 gendarmes, anti-riot intervention police, and district para-police forces.³¹¹ Speaking of that day, a community member who was present at the time said, “Police beat people like they were animals.”³¹² Bopha’s husband, Lous Sakhon, bore the brunt of the attack, losing his front teeth and suffering several lacerations.³¹³ He described being attacked by police:

I heard the chief of public park police order, “Arrest that man and beat him for me. If anything happens, I’ll be responsible.” I tried to run away.... More than ten police jumped on me ... I felt someone grab me by the neck and then I felt punches and kicks all over me and felt them carrying me. Then I felt extreme pain in my leg.... They kicked me.... That is how they broke my teeth.³¹⁴

³⁰⁹ Sea Sophal described witnessing the incident. Human Rights Watch interview with Sea Sophal, Boeung Kak community member, Phnom Penh, May 12, 2013.

³¹⁰ Coalition of Cambodian Farmer Community (CCFC), Cambodian Youth Network (CYN), Social Action for Change (SAC), People’s Action for Change (PAC), Cambodian Worker Center for Development (CWCD), Independent Democracy of Informal Economy Association (IDEA), Cambodian Food and Service Worker’s Federation (CFSWF), Cambodia’s Civil Servants Association (CICA), Sahmakum Teang Tnaut (STT), Housing Rights Task Force (HRTF), Community Legal Education Center (CLEC), Equitable Cambodia (EC), Cambodian League for the Promotion and Defense of Human Rights (LICADHO), and LICADHO Canada, “Statement: Release of 13 Boueng Kak Representatives Tainted by Police Violence,” June 27, 2012.

³¹¹ “Cambodia: Supreme Court Keeps Activist Jailed,” Human Rights Watch news release, March 29, 2013, <http://www.hrw.org/news/2013/03/29/cambodia-supreme-court-keeps-activist-jailed>; Sahmakum Teang Tnaut (STT), Equitable Cambodia (EC), the Cambodia Committee on CEDAW (NGOCEDAW) and the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), “Statement: Police Beat Boeung Kak Protesters, Leaving Five Injured,” March 13, 2013, <http://www.licadho-cambodia.org/pressrelease.php?perm=304> (accessed May 11, 2015). See also, LICADHO, “Police and Security Guards Use Excessive Force to Disperse Peaceful Boeung Kak Protesters,” video report, March 13, 2013, <http://www.licadho-cambodia.org/video.php?perm=37> (accessed June 7, 2015).

³¹² Human Rights Watch interview with Ngak Sophat, Boeung Kak community member, Phnom Penh, May 11, 2013.

³¹³ Sahmakum Teang Tnaut (STT), Equitable Cambodia (EC), the Cambodia Committee on CEDAW (NGOCEDAW), and the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), “Statement: Police Beat Boeung Kak Protesters, Leaving Five Injured,” March 13, 2013, <http://www.licadho-cambodia.org/pressrelease.php?perm=304> (accessed May 11, 2015). See also, LICADHO, “Police and Security Guards Use Excessive Force to Disperse Peaceful Boeung Kak Protesters,” video report, March 13, 2013, <http://www.licadho-cambodia.org/video.php?perm=37> (accessed May 11, 2015).

³¹⁴ Human Rights Watch interview with a Boeung Kak community member, Lous Sakhon, Phnom Penh, May 12, 2013. Several interviewees described witnessing the assault: Human Rights Watch interview with a Boeung Kak community member, Ngak

On May 29, 2013, authorities used high-pressure water from their hoses to disperse peaceful protesters, causing them, and those that attempted to rescue them, to fall down.³¹⁵

Security personnel also used violence in the course of several of the forced evictions. For example, on September 17, 2011, excavators, protected by approximately one hundred anti-riot police officers and district public order para-police, destroyed eight homes. Police officers allegedly kicked and beat protest leader Suong Sophorn with bricks and batons after he reportedly encouraged residents to join hands to prevent the demolitions.³¹⁶

Threats, Intimidation, and Surveillance in Communities

Several community members described to Human Rights Watch local police officers surveilling their day-to-day activities.³¹⁷ One of them said, “I feel I’m not safe these days, as I feel my every move is watched.”³¹⁸ When one community member asked the police officer in civilian clothing that was routinely following her what he was doing, she said he answered, “Mother, I’m just doing as I’m ordered.”³¹⁹

Numerous people detailed being threatened by members of the security forces and company officials.³²⁰ Tep Vanny told of one day in 2012 when she was approached by an unknown man wearing the uniform of the Prime Minister’s Bodyguard Unit. He told her, “I

Sophat, Phnom Penh, May 11, 2013. Bridges Across Borders Cambodia (BABC), Community Legal Education Center (CLEC), Housing Rights Task Force (HRTF), Cambodian League for the Promotion and Defense of Human Rights (LICADHO), “Statement: Criminal Charges Against Activists Won’t Solve Boeung Kak Lake Crisis,” November 29, 2011, <http://www.licadho-cambodia.org/pressrelease.php?perm=263> (accessed May 11, 2015).

³¹⁵ LICADHO, “Water Cannons Used against Peaceful Land Protesters in Cambodia’s Capital,” video report, May 30, 2013, <http://www.licadho-cambodia.org/video.php?perm=39> (accessed June 11, 2015).

³¹⁶ Amnesty International, “Cambodia urged to halt Boeung Kak Lake forced evictions in Phnom Penh,” September 19, 2011, <https://www.amnesty.org/articles/news/2011/09/cambodia-urged-halt-boeung-kak-lake-forced-evictions-phnom-penh/> (accessed June 9, 2015); LICADHO, “Boeung Kak Lake Activist Savagely Beaten by Mob of Police Officers during Forced Eviction,” video report, September 17, 2011, <http://www.licadho-cambodia.org/video.php?perm=25> (accessed May 11, 2015).

³¹⁷ Human Rights Watch interviews with Heng Mom, Boeung Kak community member, Phnom Penh, May 13, 2013; Soung Samai, Boeung Kak community member, Phnom Penh, May 13, 2013; Kong Chantha, Phnom Penh, May 9, 2013; Pao Saopea, Phnom Penh, May 11, 2013; Nget Khun, Phnom Penh, May 7, 2013; Bo Chorvy, Phnom Penh, May 7, 2013; Boeung Kak community member, name and place withheld, May 8, 2013; Khek Chan Reaksmeay, Phnom Penh, May 11, 2013.

³¹⁸ Human Rights Watch interview with Kong Chantha, Boeung Kak community member, Phnom Penh, May 9, 2013.

³¹⁹ Human Rights Watch interview with Nget Khun, Boeung Kak community member, Phnom Penh, May 7, 2013.

³²⁰ Human Rights Watch interviews with Duong Kea, Boeung Kak community member, Phnom Penh, May 13, 2013; Khek Chan Reaksmeay, Phnom Penh, May 11, 2013; Tep Vanny, Phnom Penh, May 9, 2013; Yorm Bopha, Phnom Penh, May 13, 2013; name withheld, Phnom Penh, May 8, 2013; and Phan Chhunreth, Phnom Penh, May 9, 2013. “The police chief threatened me, saying if I act too strong, one day I could be like Yorm Bopha.” Human Rights Watch interview with Bo Chorvy, Boeung Kak community member, Phnom Penh, May 7, 2013.

visit your children nearly every day at your mother's house. I play with them. Don't you feel sorry for them?" Vanny said, "I knew that was a threat."³²¹

Some people also spoke of facing verbal and gender-based harassment. Bo Chorvy described the local authorities criticizing her appearance and bullying her about her divorce.³²² According to Chorvy, employees of the local authority tried to "break the bond between members of the community" and succeeded in several instances.³²³ Another community member said that some of her neighbors, who did not participate in the protests, alienated and bullied her. She said, "Some of [them] spit on the ground ... when I'm around."³²⁴

In addition to facing harassment, some community members said that they had been offered enticements should they agree to cease participating in public demonstrations. One community member said, "A municipal official called me and offered me \$1,500 to fix my broken roof if I stopped acting as a land activist and helping the community protest. I rejected the offer."³²⁵

Others were threatened by their employers that they would be fired from their job for protesting.³²⁶ Family members of two activists who hold government positions suffered reprisals because of their family member's activism or their own support for that activism.³²⁷ One was suspended, while the other lost benefits that drastically reduced his salary.³²⁸ One of these activists described her ordeal:

The local government used to contact [my family member] and ask him to be internal spy and be paid \$500 per month.... They told him ... to tell [me] to stop protesting. They threatened to fire him from his job if he kept

³²¹ Human Rights Watch interview with Tep Vanny, Boeung Kak community member, Phnom Penh, May 9, 2013.

³²² Human Rights Watch interview with Bo Chorvy, Boeung Kak community member, Phnom Penh, May 7, 2013.

³²³ Ibid.

³²⁴ Human Rights Watch interview with a Boeung Kak community member, name withheld, Phnom Penh, May 7, 2013.

³²⁵ Human Rights Watch interview with a community member, name and place withheld, May 8, 2013.

³²⁶ Human Rights Watch interview with Phan Chhunreth, Boeung Kak community member, Phnom Penh, May 9, 2013.

³²⁷ Human Rights Watch interviews with Tep Vanny, Boeung Kak community member, Phnom Penh, May 9, 2013 and with a Boeung Kak community member, name withheld, Phnom Penh, May 12, 2013.

³²⁸ Human Rights Watch interview with Ou Kongchea, Boeung Kak community member, Phnom Penh, May 12, 2013.

protesting.... I decided to stop protesting so he could go back to work and we could afford our children's education.... Since I stopped protesting, all the threats and pressure has gone.³²⁹

The World Bank and Inspection Panel's Responses

Community members have met with World Bank officials on several occasions since 2009, and continue to do so. The World Bank responded strongly to the forced evictions in Boeung Kak. In August 2011, the World Bank announced it had frozen all new funding to the Cambodian government until a solution could be found for the affected families.³³⁰

A week after this announcement, the Prime Minister granted 12.44 hectares of the area to the remaining 779 families. The Municipality, however, arbitrarily excluded 96 families who could have benefitted from the grant while giving some of the land to the company instead of the families. Meanwhile, the company and security forces continued to harass residents and destroy homes.³³¹ For instance, on September 16, 2011, company workers and armed forces demolished eight families' homes without notice.³³² The government has since granted titles to almost all the families that were initially excluded.³³³ The World Bank is seen by the community as being the reason why titles were properly granted to most of the excluded houses. At this writing, insufficient steps have been taken to appropriately compensate the families that were forced to relocate, and on May 7, 2015, government para-police again clashed violently with some community members who were protesting to demand better compensation.³³⁴

While the World Bank has responded strongly against the government's forcible eviction of Boeung Kak Lake residents, it has been largely silent about the reprisals against

³²⁹ Human Rights Watch interview with a Boeung Kak community member, name withheld, Phnom Penh, May 12, 2013.

³³⁰ Robert Carmichael, "World Bank Freezes Loans to Cambodia," *Voice of America*, <http://www.voanews.com/content/world-bank-freezes-loans-to-cambodia--127299183/167848.html> (accessed June 7, 2015).

³³¹ LICADHO, "The Impact of Development and Forced Evictions on Women in Cambodia," video report, October 20, 2011.

³³² Ibid.

³³³ "Citizens of 28 Boeung Kak Families Accept Ownership Titles from the Phnom Penh Capital Town Hall" (pularoat boeng kak 28 kruosar tutuol bankammaseut pi sala reachathani phnom penh), *DAP* (Phnom Penh), May 11, 2015, <http://www.dap-news.com/2011-06-14-02-39-55/90974-2015-05-11-02-14-21.html> (accessed May 11, 2015).

³³⁴ "The Capital Town Hall Peoples Defense Clash Violently with ex-Boeng Kak Women" (*prachea-karpear robas sala reachathany pa-tontich daoy heungsa loe adit satrey boeng kak*), *VODHOTNEWS* (Phnom Penh), May 7, 2015, <http://vodhotnews.com/29326> (accessed May 7, 2015).

community members. Community members say World Bank staff told them that they could not do anything publicly to assist those who were imprisoned or even appeal directly to the government. According to community members, World Bank staff said that they would try to encourage the UN Human Rights Office to “get involved.”³³⁵ In addition, according to Tep Vanny, some staff at the World Bank encouraged them not to be in contact with nongovernmental organizations because criticizing the World Bank and government was “their job.”³³⁶

World Bank country manager, Alassane Sow, told Human Rights Watch that while he has met with Boeung Kak activists on several occasions, he has never told them he will reach out to the UN human rights office on their behalf. He said that the focus of his conversations with the Boeung Kak activists has been on the status of provision of land titles. He emphasized, “We have systematically encouraged the activists to reach out to local authorities to discuss [the] status of provision of titles.” He does not recall the activists specifically raising arrests, threats, surveillance, and harassment with him. He said that the World Bank portfolio of projects in Cambodia is very small at the moment, something “he is not proud of given the World Bank mandate to fight poverty.” In view of the very small portfolio, he said, the issue of reprisals against people in relation to Bank projects is not relevant.³³⁷

When asked by Human Rights Watch whether the Inspection Panel enquired about security risks facing community members following their visit, the Panel responded:

The Panel continued to keep in touch with the Requesters’ representative and Bank Management about the situation on the ground. Although we were aware of the difficulties some of the community members were facing, we were not made aware of particular incidents that may have happened as a result of the request/investigation.³³⁸

³³⁵ The UN Office of the High Commissioner for Human Rights (OHCHR) has an office in Phnom Penh, Cambodia. Human Rights Watch interviews with Khek Chan Reaksmey, Boeung Kak community member, Phnom Penh, May 11, 2013; Kong Chantha, Phnom Penh, May 9, 2013; and Tep Vanny, Phnom Penh, May 9, 2013.

³³⁶ Human Rights Watch interview with Tep Vanny, Boeung Kak community member, Phnom Penh, May 9, 2013.

³³⁷ Human Rights Watch telephone meeting with Alassane Sow, World Bank country manager for Cambodia, June 15, 2015.

³³⁸ Inspection Panel, “Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects,” May 29, 2015, on file with Human Rights Watch, p. 10.

As the Panel was on notice of the general security risks facing the communities, Human Rights Watch believes that the Panel could have been more proactive in monitoring the security situation following its investigation, including by conducting a follow up visit to Cambodia.

Several community members described receiving very little support from World Bank officials after requesting their support for community members that were imprisoned. One community member, Ngat Sophat said, “I’ve not known the World Bank to do anything to make us safe.”³³⁹

Back in 2002 after a brutal government crackdown on a protest in Cambodia, a World Bank official condemned the crackdown, calling it “unacceptable ... You can’t talk about participation and consultation on one hand and beat people who express their opinions on the other.”³⁴⁰ Despite similarly brutal crackdowns in recent years, the World Bank has remained silent.

³³⁹ Human Rights Watch interview with Ngak Sophat, Boeung Kak community member, Phnom Penh, May 11, 2013.

³⁴⁰ Richard Sine, “World Bank Rips Handling of Forestry Protest,” *Cambodia Daily*, December 10, 2002, www.cambodiadaily.com/archives/world-bank-rips-handling-of-forestry-protest-36495/ (accessed May 11, 2015). Discussed at UN General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/69/365, September 1, 2014, para. 56.

VI. The World Bank Group's Failure to Assess Risks and Respond to Reprisals

UN special rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai has argued that the World Bank Group and other multilateral institutions should:

[T]ake aggressive action when ... reprisals [related to their projects] take place, including by intervening in specific cases and publicly condemning the Member State(s) involved.... There must also be a willingness to call out Member States who fail to respect fundamental rights.³⁴¹

Historically there have been occasions where the World Bank, particularly under the presidency of James Wolfensohn, has taken precisely that kind of “aggressive action.” While even then such action was sporadic, the Bank seems to have regressed on this front. Human Rights Watch found no evidence of the Bank proactively working to create a safe environment for participation and limited evidence of the Bank responding to reprisals related to the situations studied in the research for this report.

Many of the examples documented in this report demonstrate that the Bank does not do enough to ensure that critics of the projects it invests in can complain to the Bank without fear of reprisal. All of the 79 community members and activists interviewed in the course of this research told Human Rights Watch that, to the best of their knowledge, the World Bank and IFC had not taken any measures to create a safe environment for critics of the project they were affected by or working on. As the CAO highlighted in its response to Human Rights Watch's enquiries regarding this research, the “culture of intimidation and reprisals within a given context should form part of any pre-project assessment of the appropriateness for engagement.”³⁴² In practice, this is rare.

³⁴¹ UN Human Rights Council, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/69/365, September 1, 2014, para. 43. Kai went on to say, “Stating that some issues are “too political” – as the World Bank allegedly did when Human Rights Watch warned them that the Government was closing space for civil society in Egypt – is not acceptable.”

³⁴² Email from CAO to Human Rights Watch, “Response to HRW,” June 2, 2015, on file with Human Rights Watch.

The World Bank Group’s response to reprisals linked to their projects differs considerably depending on the staff involved. In certain instances, World Bank country directors have told Human Rights Watch that they have actively raised allegations of threats and harassment by government officials, security forces, or staff or contractors of private companies linked to their investments with the relevant authorities.³⁴³ But even in those cases, the community members are rarely informed of the outcomes of those interventions. The World Bank should reward efforts by staff who actively work to prevent and respond to reprisals, and encourage them to routinely report back to community members about the steps that they have taken.

A long-serving World Bank staff member that works on civil society engagement told Human Rights Watch that when community members or civil society organizations face threats, intimidation, arbitrary arrest, or similar attacks linked to Bank-projects, staff are not encouraged to raise issues that might cause a fight with the government that the Bank does not want. In the rare case where Bank staff do raise concerns, he said, it is at their own risk—with the risk being the loss of their job.³⁴⁴ He said, “Torture and repression are seen as political, and we interpret our articles as prohibiting [raising those issues with governments].”³⁴⁵ In the World Bank Group’s brief response to Human Rights Watch, World Bank Vice President Cyril Muller similarly stated, “the World Bank Group is not a human rights tribunal.”³⁴⁶

World Bank staff have often pointed to bilateral donors or the United Nations as the responsible body to deal with human rights issues. In the Bank Group’s response to Human Rights Watch, Muller said that “the international community has entrusted other organizations with that role.”³⁴⁷ While both bilateral donors and the United Nations have an important role to play in preventing and responding to reprisals, when there is a link to World Bank Group activities, the Group cannot palm off its responsibilities by pointing to others as the responsible actors. When determining how to respond to a reprisal, it is

³⁴³ Human Rights Watch telephone meeting with Onno Ruhl, India country director, World Bank, June 3, 2015.

³⁴⁴ Human Rights Watch interview with World Bank staff member, name withheld, Washington, DC, July 2, 2014.

³⁴⁵ Ibid.

³⁴⁶ Email from Cyril Muller, vice president, World Bank Group, to Human Rights Watch May 27, 2015, on file with Human Rights Watch.

³⁴⁷ Ibid.

reasonable for the Group to consider the links to its activities, the presence of other actors, and its own leverage. In all cases, however, it should develop an explicit strategy to provide a remedy to reprisal victims, with coordinated actions and accountability.

Muller said that the Bank shares Human Rights Watch's "concerns with the issues surrounding participation and accountability that threatens or prevents NGOs from conducting their work."³⁴⁸ He did not speak to threats, intimidation, or attacks against community members affected by World Bank Group projects or those working with them. Nor did he answer any of the questions that Human Rights Watch had put to him. Muller said:

While we cannot reveal details of Bank staff deliberations with our clients, there are several publicly documented occasions where the Bank has flagged concerns with client governments when the treatment of civil society has not conformed to internationally recognized standards. The World Bank Group has initiated appropriate discussions recognizing that our ability to save lives and improve livelihoods would be severely compromised in the absence of an enabling environment for civil society.³⁴⁹

Muller highlighted the Bank's safeguards policies and the amendments proposed in the new draft standards, the IFC's sustainability policy and performance standards, the Bank's new Grievance Redress Service to address complaints related to World Bank projects, the Inspection Panel, and the CAO in his response to Human Rights Watch.³⁵⁰ However, he did not provide any information as to how these mechanisms work in practice to prevent or respond to reprisals.

Historic Action Responding to Reprisal: Chad

The controversial Chad-Cameroon Petroleum Development and Pipeline Project went forward, with Bank support, in a context characterized by widespread government intimidation, including arrests of activists and physical attacks against them.³⁵¹ However,

³⁴⁸ Ibid.

³⁴⁹ Ibid.

³⁵⁰ Ibid.

³⁵¹ World Bank, "Petroleum Development and Pipeline Project," June 6, 2000, <http://www.worldbank.org/projects/Po44305/petroleum-development-pipeline-project?lang=en> (accessed May 11, 2015);

on this occasion the Bank displayed more willingness to intervene in the face of government repression linked to the project than it has shown in more recent years. This example is important because it shows that the Bank is fully capable of responding more forcefully to similar problems than it does today, if only it possessed the commitment and the political will.

In December 1999, Serge Michailof, then country director for the region, wrote to Korinna Horta of the Environmental Defense Fund, responding to concerns that local authorities and police forces were intimidating people opposed to the project. The letter seemed to recognize that the Bank should play a role in helping to prevent human rights abuses, and claimed credit for securing the release of Chadian parliamentarian Ngarlejy Yorongar, who had filed a complaint to the Inspection Panel. It said:

Unfortunately, it appears that some local officials have not fully understood the commitment of the national authorities to a peaceful and open consultation process.... *We have communicated our concerns about this type of practice to the Government....* Mr. Yorongar's pardon and release from jail were likely directly due to World Bank intervention, and he continues his activities at liberty.³⁵²

In May 2001, when Chadian authorities re-arrested Yorongar and detained five other opposition leaders, Horta telephoned then-World Bank President James Wolfensohn and asked him to intervene. Wolfensohn then personally telephoned Chadian President Idriss Deby and successfully pressed for the release of the six detainees, who were released a few hours after the telephone call.³⁵³ The Inspection Panel noted that Wolfensohn “personally intervened to help free local opposition leaders... on more than one occasion.”³⁵⁴

World Bank, “Chad and Cameroon - Petroleum Development and Pipeline Project, Project Appraisal Document,” April 13, 2000, <http://documents.worldbank.org/curated/en/2000/04/693181/chad-cameroon-petroleum-development-pipeline-project> (accessed May 11, 2015).

³⁵² Letter from Serge Michailof, country director, World Bank, to Korinna Horta, Environmental Defense Fund, “Subject: Chad-Cameroon Pipeline Project,” December 17, 1999, attaching “Response to Issues Raised in Environmental Defense Fund Report Entitled ‘The Chad Cameroon Oil and Pipeline Project: Putting People at Risk,’” September 1999, on file with Human Rights Watch, pp. 2, 3 .

³⁵³ Korinna Horta, “Note on release from prison of Ngarlejy Yorongar (May 31, 2001),” May 11, 2015, on file with Human Rights Watch; Korinna Horta, “Rhetoric and Reality: Human Rights and the World Bank,” *Harvard Human Rights Journal*, Vol. 15, <http://internationalhumanrightslaw.net/wp-content/uploads/2011/01/Rhetoric-and-reality-Human-rights-and-the-World->

While this was a rare, positive example of the World Bank’s intervention, Horta told Human Rights Watch how challenging it was to convey the message to Wolfensohn, even though he had personally told Horta to contact him should any significant human rights issues arise regarding the pipeline project, as the staff incentives at the Bank were, and continue to be, to keep “bad news” away from the president.³⁵⁵ Horta said, “For almost an entire day I got the run-around. I explained the dire situation of Yorongar ... my need to speak to Wolfensohn (and Wolfensohn’s invitation to me to do so) ... to the Vice President for Africa, Wolfensohn’s staff, and others.”³⁵⁶ While staff told Horta that they would pass the message to Wolfensohn, they did not. Eventually, Horta reached Wolfensohn’s scheduler who passed the message to the president, and he returned her call within minutes.³⁵⁷ He confirmed that he had not previously received Horta’s messages and proceeded to call President Deby.

Accountability Mechanisms

People who make use of the Inspection Panel, the CAO, or other channels to complain about negative impacts of or abuses linked to Bank-supported projects need to be able to do so safely.³⁵⁸ In particular, it is important that all accountability mechanisms implement effective confidentiality procedures, risk assessment protocols, and protection measures to avoid reprisals. Accountability mechanisms should also implement early warning systems, including monitoring mechanisms, so that they can react promptly and offer effective protection to affected communities, their representatives, and organizations working on their behalf.

On occasion, representatives from both the Inspection Panel and the Compliance Advisor Ombudsman (CAO) have spoken publicly about the significant risks that people and

Bank.pdf (accessed May 11, 2015), p. 228, 236; Bretton Woods Project, “Bank declaration of human rights,” July 24, 2002, <http://www.brettonwoodsproject.org/2002/07/art-4489/> (accessed May 11, 2015).

³⁵⁴ Inspection Panel, “Investigation Report, Chad-Cameroon Petroleum and Pipeline Project (Loan No. 4558-CD)”; Petroleum Sector Management Capacity Building Project (Credit No. 3373-CD); and Management of the Petroleum Economy (Credit No. 3316-CD),” 2002, [http://ewebapps.worldbank.org/apps/ip/PanelCases/22-Investigation%20Report%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/22-Investigation%20Report%20(English).pdf) (accessed May 11, 2015), para. 37, p. xvii., p. 61.

³⁵⁵ Email from Korinna Horta to Human Rights Watch, “Chad-Cameroon – reprisals,” May 11, 2015, on file with Human Rights Watch.

³⁵⁶ Korinna Horta, “Note on release from prison of Ngarlely Yorongar (May 31, 2001), May 11, 2015, on file with Human Rights Watch.

³⁵⁷ Ibid.

³⁵⁸ See, for example, UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/68/262, August 5, 2013, para. 70.

organizations can face from filing complaints with them. However, neither mechanism has systematically worked to identify risks of reprisals and address them.

Human Rights Watch welcomes the Inspection Panel's decision to develop a Guidance Note for its staff on how best to ensure confidentiality for complainants and how to respond to reports of reprisals when these are related to requests for inspection.³⁵⁹ We encourage the Panel to ensure that this note covers all who are involved in complaints, not only the listed complainants. Human Rights Watch similarly welcomes the CAO's commitment to look at how recommendations from this report can inform its systems moving forward.³⁶⁰

Concerns Regarding Confidentiality Procedures

According to the Inspection Panel's current chair, the Panel's primary measure for ensuring security is by offering complainants confidentiality. The Inspection Panel emphasized that it is clearly stated on their website and printed materials that complainants can ask for confidentiality when they have fear of retaliation and/or reprisals.³⁶¹ The Panel believes that it has "developed strict provisions to maintain the confidentiality of Requestors when they so ask."³⁶² The CAO also allows complainants to remain confidential should they desire to. The Panel also points to procedures allowing affected people to submit a complaint through a local representative or another representative in special circumstances.³⁶³

Several community members interviewed by Human Rights Watch stressed the importance of confidentiality procedures for them. A representative of the complainants in one case told Human Rights Watch:

³⁵⁹ Email from the Inspection Panel to Human Rights Watch responding to the draft report, June 9, 2015, on file with Human Rights Watch.

³⁶⁰ Email from CAO to Human Rights Watch, "Addendum to CAO Response," June 9, 2015.

³⁶¹ Inspection Panel, "Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects," May 29, 2015, on file with Human Rights Watch. In its response to the draft of this report, the Inspection Panel told Human Rights Watch further that it mentions to "complainants at the beginning of the Panel process (in email communication, or on the phone; in addition, the Sample Request Form available on our website has an option where Requestors can tell the Panel to keep their identities confidential) that they have the option of having their identities remain confidential." Email from the Inspection Panel to Human Rights Watch responding to the draft report, June 9, 2015, on file with Human Rights Watch.

³⁶² Inspection Panel, "The Inspection Panel at 15 years," 2009, p. 51.

³⁶³ CAO, "How to File a Complaint," undated, <http://www.cao-ombudsman.org/howwework/filecomplaint/> (accessed May 11, 2015); Inspection Panel, "How to File a Complaint to the World Bank Inspection Panel, General Guidelines," undated, http://ewebapps.worldbank.org/apps/ip/Documents/Guidelines_How%20to%20File_for_web.pdf (accessed May 11, 2015).

The main difficulty [in filing the complaint] was to persuade the local people to complain because they were afraid. [The company involved] is very powerful and there are agents and contractors of [the company] in the area and the potential complainants were scared that they may be targeted. The reason they finally agreed was confidentiality.³⁶⁴

This guarantee is not always meaningful, however. In some cases, despite the promises of confidentiality, public authorities or company officials have been able to identify the complainants during the Inspection Panel's visits.³⁶⁵

In its response to Human Rights Watch regarding this research, the Panel said that it gives "utmost importance to implement measures in keeping the Requesters' identity confidential, especially during field trips." It said:

In order to ensure confidentiality, the Panel: (i) prepares its itinerary in close consultation with the Requesters and their representatives in order to ensure that meetings with Requesters take place at venues where they feel most secure; (ii) does not share with the World Bank management or the government, or any other third party the details of its itinerary related to Requesters and the affected community; (iii) hires independent translators; (iv) if security measures allow, hires its own vehicles; (v) keeps a low profile during its visits and refrains from interaction with media, and (vi) depending on the circumstances applies other necessary measures in consultation with the Requesters and their representatives.³⁶⁶

The Panel has acknowledged that despite these efforts, World Bank management may identify the complainants based on community members having sent letters to the World Bank raising the same concerns and, in particular, using the same language that is included in the Inspection Panel complaint or making public presentations about the same

³⁶⁴ Human Rights Watch interview with Dr. Bharat Jhunjhunwala, Inspection Panel complainant, Tehri Garhwal district, Uttarakhand, date withheld.

³⁶⁵ See, for example, Case Study B: Threats and Intimidation against Community Members in Chamoli, India.

³⁶⁶ Inspection Panel, "Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects," May 29, 2015, on file with Human Rights Watch.

issues.³⁶⁷ In such cases, the World Bank should itself respect the community members' requests for confidentiality and should not disclose the identity of critics to the government or others.

Systematic Consideration of Risks

All of the complainants and NGO representatives interviewed told Human Rights Watch that neither the CAO nor the Inspection Panel had proactively enquired into their security or, throughout the complaint process, enquired whether they were experiencing any security risks.

For example, in Nepal, Sunil Pant, a prominent activist for LGBTI rights, filed a complaint in September 2013 regarding a project which he alleged excluded the LGBTI community.³⁶⁸ Pant and his organization at the time, Blue Diamond Society, had been targeted over several years because of their human rights work. Despite this, according to Pant, the Inspection Panel never enquired about his security situation or asked if he was likely to be at risk because of filing this complaint.³⁶⁹ The Inspection Panel explained to Human Rights Watch that it did not enquire in this case "as the issue of threats/security was never raised" by the complainant and the request was not sent in confidence.³⁷⁰

The only time that security issues were raised in the CAO process, according to one NGO representative, was during the filing of the complaint where people were told, "If you think there may be security issues, you can ask not to release your names."³⁷¹

When complainants have requested confidentiality, the Panel said that it asks complainants about threats or intimidation. The Panel further noted that it is:

[A]ware that certain country contexts are less 'open' and more prone to repressive reactions towards individuals seeking redress from external

³⁶⁷ Ibid.

³⁶⁸ Email from Sunil Pant to the Inspection Panel, "Attention to Inspection Panel, Serious matter of systemic exclusion of LGBTI community by World Bank funded support program in Nepal," September 25, 2013, on file with Human Rights Watch.

³⁶⁹ Human Rights Watch telephone interview with Sunil Pant, October 31, 2014.

³⁷⁰ Inspection Panel, "Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects," May 29, 2015, on file with Human Rights Watch.

³⁷¹ Human Rights Watch telephone interview with Sukhgerel Dugersuren, Executive Director, OT Watch, November 18, 2014.

entities, than other country contexts. In the former, regardless of whether Requesters requested confidentiality, the Panel is cautious how it interacts with Requesters so as to not jeopardize their personal security.³⁷²

The CAO told Human Rights Watch that as part of its “engagement with the complainants particularly related to the assessment phase and dispute resolution phase, [the] CAO would endeavor to learn about the complainants’ security situation and whether following provisions should be put in place to address these concerns.”³⁷³

Human Rights Watch urges the CAO and Inspection Panel to proactively enquire into potential security risks of complainants, rather than leaving it to complainants to raise concerns with the accountability mechanisms. This is particularly important as some complainants told Human Rights Watch that they had not noticed that they had the option to keep their identities confidential when filing complaints, and others said that they did not raise security issues with the mechanisms as they did not think that there was anything that the mechanisms would be able to do about risks or reprisals that they were facing.

On occasion, the Inspection Panel has taken proactive measures to identify security risks. For instance, regarding a complaint related to a project in Uzbekistan, the Inspection Panel said that it became aware of the pressures that the representatives of the complainants were already facing when it researched the names and organizations of the representatives and found that there was a “prevailing and worrisome security situation” in which the complainants were operating.³⁷⁴ In this case, the Panel took additional measures to mitigate the security risks, including hiring different drivers and interpreters than the ones it used when meeting with government officials.³⁷⁵

³⁷² Ibid. In its response to the draft of this report, the Inspection Panel emphasized that when it is made aware of security concerns, or when the environment in the country is repressive to begin with, it takes concerted actions to safeguard complainants’ security in connection with the issues under consideration by the Panel. Email from the Inspection Panel to Human Rights Watch responding to the draft report, June 9, 2015, on file with Human Rights Watch.

³⁷³ Email from CAO to Human Rights Watch, “Response to HRW,” June 2, 2015, on file with Human Rights Watch.

³⁷⁴ Ibid, p. 5.

³⁷⁵ Ibid.

The CAO provided Human Rights Watch with a list of provisions that it may put in place to address security concerns.³⁷⁶ However, it did not provide any information about how often these provisions are utilized in its cases or systems that the CAO has in place to ensure that security risks are identified and properly mitigated. These provisions include:

- Capacity building to complainants to help level playing field and power imbalances with other stakeholders;
- Immediate appointment of local practitioner to engage with the community and commence conflict mapping exercise;
- Offer of confidentiality, specifically ensuring non-disclosure of identities and documentation;
- Non-disclosure of meeting venues, off site meeting venues, shuttle meetings, bilateral meetings rather than group meetings; and
- Ensure proper contracting so that WBG security can be called into action where necessary.³⁷⁷

Both the Inspection Panel and the CAO largely rely on community members to bring security concerns to their attention. For example, in one case in which complainants had raised serious security concerns at the beginning of and throughout the complaints process, the Inspection Panel told Human Rights Watch, “After the visits we did not hear specific concerns about this issue so did not enquire.”³⁷⁸ Human Rights Watch urges the Inspection Panel to be more proactive in addressing ongoing security concerns beyond its formal process, routinely enquiring with complainants and other affected community members about their well-being and utilizing follow up visits become aware of possible reprisals.

Human Rights Watch also urges both offices to use the existing capacity they have to monitor for reprisals more robustly. The CAO could mainstream consideration of security risks and reprisals in its monitoring mandate. While the Inspection Panel does not have an express monitoring mandate, in past years it has undertaken a final mission following the conclusion of the Inspection Panel process. This creates a key opportunity for the Panel to

³⁷⁶ Email from CAO to Human Rights Watch, “Response to HRW,” June 2, 2015, on file with Human Rights Watch.

³⁷⁷ Ibid.

³⁷⁸ Inspection Panel, “Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects,” May 29, 2015, on file with Human Rights Watch.

identify whether there have been reprisals stemming from the Inspection Panel process or criticism of a World Bank project more broadly.

Response to Reprisals

Inspection Panel

The Inspection Panel's response in the face of threats, harassment, and other reprisals has differed greatly from case to case. In its 2009 report, it said:

The Panel also stands ready to report to the highest authorities any instances of pressure or reprisal faced by Requesters, both to limit the negative ramification on all people's desire to put forth claims, and as a fundamental concern for the protection of human rights.³⁷⁹

While this kind of response has in fact been evident in some cases, particularly regarding the Chad-Cameroon Petroleum Development and Pipeline Project and the Mumbai Urban Transport Project, it has not in others.³⁸⁰ Recently, the Inspection Panel has not treated reprisals with the same vigor, instead seeming to delegate this responsibility back to the World Bank. The most extreme example of this is regarding the arrest and detention of the Inspection Panel's interpreter during its investigation visit to a project site, as described in an earlier section of this report.³⁸¹

In its response to Human Rights Watch regarding this research, the Panel said that threats vary from case to case, and the Panel has addressed them on a case-by-case basis. It said that it takes reports of threats and intimidation seriously, and "addresses them depending on the nature of the threat, as there is no single response that will be suitable in all

³⁷⁹ The Inspection Panel, "Accountability at the World Bank: The Inspection Panel at 15 Years," 2009, p. 51. The Inspection Panel restated this in its response to Human Rights Watch regarding this research, adding the italicized phrase: "The Panel stands ready to report to the highest *government* authorities (*though senior WBG management*) any instances of pressure or reprisal faced by Requesters, both to limit the negative ramifications on people's desire to put forth claims, and as a fundamental concern for the protection of human rights." Inspection Panel, "Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects," May 29, 2015, on file with Human Rights Watch.

³⁸⁰ The Inspection Panel, "Accountability at the World Bank: The Inspection Panel at 15 Years," 2009, p. 51.

³⁸¹ See above, Case Study A: Arrest of Inspection Panel Interpreter.

instances.”³⁸² It also noted that it has documented threats and intimidation faced by complainants in some of its reports.³⁸³

Despite recognizing the severe security environment in Uzbekistan in its response to Human Rights Watch regarding this research, and noting that specific incidents of threats came to its attention during its visit to the country, the Inspection Panel did not raise these issues in its report regarding the case.³⁸⁴ Nor did the Inspection Panel press the World Bank management to address the broader security environment in its programming in the country.³⁸⁵

Compliance Advisor Ombudsman (CAO)

The CAO’s response to reprisals has also differed greatly from case to case. CAO has spoken publicly about the important role that the mechanism should play in understanding, mitigating, and responding to reprisals.³⁸⁶ In certain cases, as illustrated in the example involving communities in Ratanakiri province, Cambodia discussed above, the CAO has actively worked with community members, their representatives, government officials, and company officials to create an environment that minimizes the risk of reprisals in a mode welcomed by community members.³⁸⁷ However, the negative experience that complainants have had with some CAO cases when they sought support to prevent or respond to reprisals suggests that the CAO does not have systems in place to ensure an appropriate response in all cases.

In the CAO’s response to Human Rights Watch’s enquiries regarding this research, it noted that it has sought World Bank Group “support in instances where community perceives government as being the source of the threat. Where local government representatives

³⁸² Inspection Panel, “Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects,” May 29, 2015, on file with Human Rights Watch.

³⁸³ Ibid.

³⁸⁴ Inspection Panel, “Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects,” May 29, 2015, on file with Human Rights Watch, p. 5.

³⁸⁵ The Inspection Panel noted in its additional response to Human Rights Watch that it is not within its mandate to press management to address these issues: Email from the Inspection Panel to Human Rights Watch responding to the draft report, June 9, 2015, on file with Human Rights Watch. Human Rights Watch contends, to the contrary, that this is a key issue for the Inspection Panel when security risks are raised directly or indirectly in the context of a complaint, and firmly within its mandate.

³⁸⁶ Gina Barbieri, “Attacks on Civil Society, Communities, and the Media: What this Means for the World Bank and Other Donors,” Presentation at World Bank/IMF Spring Meeting Civil Society Forum, April 16, 2015.

³⁸⁷ See above, Cambodia: Community Members Threatened, Surveilled, and Arrested.

have appeared hostile, national government support in the form of a letter has been obtained and shared with the community.” It also noted that it has “reached out to the private sector directly in response to claims by the community that they are being harassed. In some instance this has been of assistance. In others not.”³⁸⁸

The lack of serious response to concerns about retaliation, and then to allegations of retaliation in some instances is illustrated by the following case.³⁸⁹ Human Rights Watch has removed all identifying information, including the country, project, and people involved, in order to minimize ongoing security concerns. Human Rights Watch asked the CAO a series of questions regarding a number of cases, including each of the CAO cases discussed in this report. The CAO elected “not to respond to the case-specific questions due to potential sensitivities with the complainants and confidentiality concerns that we would also be unable to address within the timeframe for requested inputs.”³⁹⁰ After viewing Human Rights Watch’s draft findings in this case, the CAO reiterated “the serious consideration that it gives to concerns raised by complainants regarding reprisals and security issues, and the importance of learning from these experiences to inform future practice,” and welcomed the opportunity for continued engagement with Human Rights Watch on its research and findings in this regard.³⁹¹

On March 26, 2013, an NGO representative wrote to the CAO and noted that many of the complainants, workers of the company the IFC was supporting, who had alleged labor violations had expressed fears and concerns about the potential for management to retaliate against them for meeting with the CAO. The NGO representative asked that the CAO request that the company issue a notice that “no one will be victimized to [sic] any actions by the company which will endanger their life or livelihood.”³⁹² The NGO representative emphasized this request in a March 30, 2013 email, noting that this should be achievable since the company had publicly indicated its full cooperation for the CAO process.³⁹³ The CAO representative responded that they would be happy to request such a written note, but they

³⁸⁸ Email from CAO to Human Rights Watch, “Response to HRW,” June 2, 2015, on file with Human Rights Watch.

³⁸⁹ Human Rights Watch has not investigated the allegations of retaliation themselves, but is drawing on this to illustrate the CAO’s response to such allegations.

³⁹⁰ Email from CAO to Human Rights Watch, “Response to HRW,” June 2, 2015.

³⁹¹ Email from CAO to Human Rights Watch, “Addendum to CAO Response,” June 9, 2015.

³⁹² Email from NGO representative to CAO, “On the assessment,” March 26, 2013, on file with Human Rights Watch.

³⁹³ Email from NGO representative to CAO, “Your Upcoming Visit,” March 30, 2013, on file with Human Rights Watch.

would likely need to provide location specificity and disclose the names of the NGOs involved—otherwise the company would be issuing a “blank check.”³⁹⁴ In response, an NGO representative restated their reasons for fearing retaliations should the names of their organizations’ be disclosed and reinforced their request for confidentiality.³⁹⁵

The NGOs agreed to disclose the locations where the complaints were stemming from. Soon after, they began receiving reports of alleged harassment and intimidation in retaliation for perceived involvement in the CAO complaint, which they reported immediately to the CAO.³⁹⁶ In a May 20, 2013 telephone conference with CAO representatives, the NGO representatives again sought a letter from company management undertaking that there would not be any form of retaliation.³⁹⁷ According to notes from the telephone conference, the CAO representative “agreed that she would again ask management for a letter from management that they would not interfere with the CAO,” but emphasized that the CAO does not have “police power” and can do nothing the company refuses. The NGO representatives asked that the CAO raise this with the IFC management, which she undertook to do.

On May 29, 2013, an NGO representative wrote to the CAO again, saying, “I am writing this mail with much concern about your silence. We have been constantly called by [affected people] who are enquiring about what steps CAO has been taking as they are continuously been [sic] harassed in one way or another and it is going unabated.”³⁹⁸ In a following skype conference, the CAO representative emphasized that “they cannot play the role of a judge and decide whether the allegations of retaliation are true.”³⁹⁹

A human rights professor who has closely followed this case told Human Rights Watch:

The NGOs could not have been more explicit about the risks of retaliation....
But once the retaliation began, the CAO response was defensive and

³⁹⁴ Email from CAO representative to NGO representatives, “Re: Your Upcoming Visit,” April 1, 2013, on file with Human Rights Watch.

³⁹⁵ Email from NGO representative to CAO, “On request for confidentiality,” April 10, 2013, on file with Human Rights Watch.

³⁹⁶ Email from NGO representative to CAO, “Intimidation and retaliatory actions by Management,” May 16, 2013, on file with Human Rights Watch.

³⁹⁷ Notes from conference call between NGO representatives and CAO, May 20, 2013, on file with Human Rights Watch.

³⁹⁸ Email from NGO representative to CAO, “Retaliation from the management,” May 29, 2013, on file with Human Rights Watch.

³⁹⁹ Notes from Skype call between NGOs and the CAO, June 20, 2013, on file with Human Rights Watch

resentful. I was on the call when the CAO officer claimed both that such retaliation had never occurred before—as if to explain why it was reasonable not to have done anything in advance—and also claim, incomprehensibly, that the CAO had been more concerned about the risks to workers than the complainants themselves. The NGOs were ready to take risks, but they expected the CAO to give them support and respond, particularly when workers were targeted.⁴⁰⁰

According to the CAO, it brought these allegations to the attention of the IFC and company management. The IFC undertook to visit the area where the allegations stemmed from in its next supervision visit. The CAO also convened and facilitated a meeting between the three NGOs and company management on July 3, 2013, where they talked about the nature of the allegations and agreed in principle on several ground rules going forward.⁴⁰¹ However, this in principle agreement later broke down for unrelated reasons. Since then, the CAO has not taken additional steps to address the allegations of retaliation or to prevent future acts of retaliation.⁴⁰² In addition to having done far more to prevent the risk of reprisals, once allegations of retaliation were reported, the CAO should have insisted that the IFC require an explicit undertaking from company senior management that there would be zero tolerance of any reprisals and allegations would be investigated, provided sufficient information about the allegations was available to the company to enable it to investigate. It should also have pressed IFC to monitor and report on this investigation.

In another case, a complainant told Human Rights Watch that he had advised the CAO ahead of a visit by email that media who were connected to the government were challenging the veracity of the complaint and the complainant's character.⁴⁰³ The CAO representative responded, "Thanks indeed for keeping us informed on these

⁴⁰⁰ Email from human rights professor, name withheld, to Human Rights Watch, May 12, 2015.

⁴⁰¹ CAO Assessment Report, project name, date, and web address withheld, p. 11.

⁴⁰² Human Rights Watch telephone interview with a CAO complainant, name withheld, April 30, 2015; with an NGO representative, Johannesburg, February 6, 2015; and with a human rights professor who has undertaken significant research in the region, name withheld, May 8, 2015.

⁴⁰³ Human Rights Watch telephone interview with a CAO complainant, name withheld, October 28, 2014; Email from complainant to CAO representative, October 25, 2012, on file with Human Rights Watch: "News Media channels which are close to the Govt in their stand and operations have launched a full-scale attack on the complaint made to the Ombudsman...."

developments.”⁴⁰⁴ According to the complainant, when the CAO representative was visiting the proposed project site, he said further, “We are really sorry to hear that, but there is nothing we can do about it.”⁴⁰⁵ At a follow up in person meeting in Washington, he told a different CAO representative that threats were continuing and a fellow complainant had been beaten up. According to the complainant, the CAO representative responded, “That is very common in our cases. In Latin America, somebody got shot. There is nothing we can do about it.”⁴⁰⁶

These examples suggest that the CAO has not yet developed a comprehensive set of tools for appropriately preventing reprisals and responding to allegations of reprisals. Human Rights Watch welcomes the CAO’s commitment to work to address any shortcomings and to look at how this research and recommendations below can inform its systems going forward.⁴⁰⁷

⁴⁰⁴ Email from CAO representative to complainant, October 25, 2012, on file with Human Rights Watch.

⁴⁰⁵ Human Rights Watch telephone interview with a CAO complainant, name withheld, October 28, 2014.

⁴⁰⁶ Ibid.

⁴⁰⁷ Email from CAO to Human Rights Watch, “Addendum to CAO Response,” June 9, 2015.

VII. The World Bank's Failure to Protect and Cultivate Space for Public Dialogue

As an international organization that supports and works with governments around the world, the World Bank Group has ample opportunity to support governments to open space for participation and accountability and confront governments that are actively working to close that space down. The Bank should see this as central to its work since it is a key avenue to assure itself that it has access to information about potential or actual harmful impacts from its projects that the Bank should seek to avoid or remedy. Unfortunately, the World Bank Group has done little to pursue these important objectives through its extensive engagement with governments.

Advancing Space for Participation, Accountability at the Country Level

Human Rights Watch has analyzed all World Bank country strategies, including interim strategies, from January 2011 until mid-2014 to assess the degree to which the Bank has considered whether there is an enabling environment for public participation and accountability. The presence or quality of discussion of the environment for civil society was greatly mixed from country to country. Out of the 98 country strategies, only a handful included discussion of the environment for civil society. The most comprehensive was in Egypt, which highlighted:

Despite a large number of non-Governmental organizations (NGOs) in Egypt, freedom of association remains severely hampered by a restrictive regulatory framework and discretionary administrative decision-making. The Ministry of Social Solidarity plays an important role in the oversight of NGOs, with control over NGO activities and sources of funding and authority to intervene in their internal affairs and governance, including the power to dissolve any NGO by decree.... In the medium term, it will be essential to ensure a vibrant civil society with access to information and freedom of

expression, and well-established mechanisms for providing feedback on the full range of public and private sector activities.⁴⁰⁸

In Rwanda, the Bank noted that “international human rights organization[s] have expressed concern over restrictions on journalists and civil society. National civil society advocacy is relatively underdeveloped in Rwanda, perhaps as a corollary to the firm Government presence.”⁴⁰⁹ In South Sudan, it noted that civil society “faces limits on its freedom to operate,” but proposed “capacity building” as the answer to this rather than working with the government to enhance freedoms.⁴¹⁰ And in Comoros, the Bank noted that “there is limited social accountability and Civil Society Organizations are generally excluded from real decision-making processes, with limited influence on development policies.”⁴¹¹

Other strategies included only a cursory mention of civil society, without analyzing the space within which it was operating, though about one-fifth of them included some discussion of the right to information. There are several countries where the lack of discussion of the obstacles to participation and accountability are particularly glaring, including in Ethiopia, Turkmenistan, Angola, and Pakistan where space for criticism is incredibly limited and the risk of reprisal for speaking out is significant.

The World Bank Group should lend its analysis and voice to opening space for civic participation and social accountability. It should consistently, privately and 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. In particular, the Bank should analyze the environment for speech, expression, and assembly in every

⁴⁰⁸ World Bank Group, “Interim Strategy Note for the Arab Republic of Egypt,” May 31, 2012, <http://documents.worldbank.org/curated/en/2012/05/16341961/egypt-arab-republic-interim-strategy-note> (accessed June 2, 2015), pp. 4, 8, 12.

⁴⁰⁹ World Bank Group, “Country Partnership Strategy for Rwanda FY2014-18 (Vol. 2)” June 2014, <http://documents.worldbank.org/curated/en/2014/06/19712279/rwanda-country-partnership-strategy-period-fy2014-18-vol-2-3-accelerating-economic-growth> (accessed June 2, 2015), pp. 11, 13.

⁴¹⁰ World Bank Group, “Interim Strategy Note (FY2013-2014) for the Republic of South Sudan,” January 30, 2013, <http://documents.worldbank.org/curated/en/2013/01/17234245/south-sudan-interim-strategy-note-fy2013-2014> (accessed June 2, 2015), p. 34.

⁴¹¹ World Bank Group, “Country Partnership Strategy for the Union of Comoros for the Period of FY14 - FY17,” April 16, 2014, <http://documents.worldbank.org/curated/en/2014/04/19402476/comoros-country-partnership-strategy-period-fy2014-2017> (accessed June 2, 2015), p. 9.

systematic country diagnostic, country partnership framework, or country engagement note and articulate 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, drawing on evidence indicating that such an environment leads to more sustainable development results, and share information that such concerns were raised publicly.

As a leading authority on development effectiveness, the World Bank Group can also play an important role by illustrating how an enabling environment for participation and accountability can advance sustainable development. The Bank should discuss the problems that illegal surveillance and internet blocking present in its next World Development Report, “Internet for Development,” and broader obstacles to participation and accountability in its 2017 report on “Governance and the Law.”⁴¹²

Ethiopia: The Bank’s Eyes Closed to Obstacles to Participation, Accountability

Human Rights Watch has long urged the World Bank to ensure that its approach to engagement with the Ethiopian government takes into account the extremely challenging human rights conditions in the country and the deterioration since 2005 in specific areas relevant to World Bank programming, notably freedom of expression, association, and assembly.⁴¹³

⁴¹² World Bank, “World Development Report: Internet for Development,” 2016, <http://www.worldbank.org/en/publication/wdr2016> (accessed June 7, 2015); World Bank, “World Development Report: Governance and the Law,” 2017, <http://go.worldbank.org/LBM5VYIFlo> (accessed June 7, 2015).

⁴¹³ Human Rights Watch Letter to Kenichi Ohashi, Ethiopia Country Director for the World Bank, “Ethiopia: Development Assistance Group Should Address Human Rights in Ethiopia,” December 17, 2010, <http://www.hrw.org/news/2010/12/09/ethiopia-development-assistance-group-needs-address-and-human-rights-ethiopia>; Ben Rawlence, “World Bank Feeding Repression in Ethiopia,” *Huffington Post*, October 22, 2010, <http://www.hrw.org/news/2010/10/22/world-bank-feeding-repression-ethiopia>; Tom Porteous, “Ethiopia: the Aid-Politics Trap,” *OpenDemocracy*, November 23, 2010, <http://www.hrw.org/news/2010/11/23/ethiopia-aid-politics-trap>; 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*.” For more discussion about the deterioration of civic space in Ethiopia after 2005, see also, “Ethiopia: Crackdown Spreads Beyond Capital,” Human Rights Watch news release, June 14, 2005, <http://www.hrw.org/news/2005/06/14/ethiopia-crackdown-spreads-beyond-capital>; Human Rights Watch, *Ethiopia – Suppressing Dissent: Human Rights Abuses and Political Repression in Ethiopia’s Oromia Region*, Vol. 17, No. 7 (A), May 2005, <http://www.hrw.org/en/reports/2005/05/09/suppressing-dissent-o>; and “Ethiopia: Government Repression Undermines Poll,” Human Rights Watch news release, May 24, 2010, <http://www.hrw.org/news/2010/05/24/ethiopia-government-repression-undermines-poll>.

Since the passage of the Charities and Societies Proclamation (CSO law), which regulates nongovernmental activity, and the Anti-Terrorism Proclamation in 2009, basic rights that are fundamental to civic participation and social accountability, such as freedom of expression, assembly, and association, have been increasingly restricted in Ethiopia. The effect of these two laws, which consolidated existing government efforts to repress free expression, coupled with the government's widespread and persistent harassment, threats, and intimidation of civil society activists, journalists, and any other individuals who express views critical of government policy, cannot be overstated.⁴⁴⁴

The government is particularly sensitive to reporting on problematic “development” initiatives. For example, journalists from private publications report being threatened and harassed by security officials for reporting on sensitive development issues such as the Grand Renaissance Dam and sugar production in the Lower Omo Valley.⁴⁴⁵

The current climate has profound implications for any efforts to enable participation and accountability and even for basic monitoring and information-gathering about any topic deemed sensitive to ruling party interests. This extends to government employees questioning government data, as discussed above.⁴⁴⁶ Despite this, the World Bank has not raised these issues in its country strategy for Ethiopia, including how it will ensure compliance with its own commitments to participation and accountability in light of these

⁴⁴⁴ Human Rights Watch, *“Journalism Is Not a Crime”: Violations of Media Freedoms in Ethiopia*; Joint Press Statement, “Ethiopia: Future of last remaining human rights monitoring NGO in the balance,” February 1, 2012, <http://www.hrw.org/news/2012/02/01/ethiopia-future-last-remaining-human-rights-monitoring-ngo-balance>; Human Rights Watch, “Analysis of Ethiopia’s Draft Civil Society Law,” October 13, 2008, <http://www.hrw.org/news/2008/10/13/analysis-ethiopia-s-draft-civil-society-law-0>; “Ethiopia: Draft Law Threatens Civil Society,” Human Rights Watch news release, October 13, 2008, <http://www.hrw.org/news/2008/10/13/ethiopia-draft-law-threatens-civil-society>; “Ethiopia: Terrorism Law Used to Crush Free Speech,” Human Rights Watch news release, June 27, 2012, <http://www.hrw.org/news/2012/06/27/ethiopia-terrorism-law-used-crush-free-speech>; “Ethiopia: Terrorism Verdict Quashes Free Speech,” Human Rights Watch news release, January 19, 2012, <http://www.hrw.org/news/2012/01/19/ethiopia-terrorism-verdict-quashes-free-speech>; Human Rights Watch, *Ethiopia – “One Hundred Ways of Putting Pressure”: Violations of Freedom of Expression and Association in Ethiopia*, March 2010, <http://www.hrw.org/node/89128>; Human Rights Watch, Ethiopia – “Analysis of Ethiopia’s draft terrorism law,” June 30, 2009, <http://www.hrw.org/news/2009/06/30/analysis-ethiopia-s-draft-anti-terrorism-law>.

⁴⁴⁵ Human Rights Watch, *“Journalism Is Not a Crime”: Violations of Media Freedoms in Ethiopia*, p.38. See also “Ethiopia holds reporter covering evictions in dam region,” Committee to Protect Journalists, May 30, 2012, <http://cpj.org/2013/05/ethiopia-holds-reporter-covering-evictions-in-dam.php> (accessed June 9, 2015).

⁴⁴⁶ See above, Branding Communities and Activists as “Anti-Development”

challenges.⁴¹⁷ Further, it has largely neither identified these challenges as risks to its projects in the country nor identified measures to mitigate these risks.⁴¹⁸

The World Bank should recognize the extreme obstacles that these government policies and practices create for participation and accountability in its analytical work, country programming, and in individual projects. It should also raise with the government the importance of participation and accountability for effective development, highlighting the problematic laws as well as repressive practices that undermine participation and accountability. At the project level, it should work to create space for people to be able to participate and critique the project, without fear of reprisal, as discussed above.

Creating Space for Participation, Criticism at the Project Level

The World Bank and the International Finance Corporation should take steps to help build an effective environment for participation and accountability in all of their projects, including and even particularly in complex environments. While this can be exceptionally challenging, it is essential if the World Bank Group's talk about participation and accountability is to carry real weight. The World Bank Group has consistently missed the opportunity to achieve this, particularly in complex environments.

The former UN special rapporteur on the situation of human rights defenders has emphasized:

When it comes to ensuring that local communities affected by projects and those defending their rights have an opportunity to participate effectively from the early stages of the project, it is essential that those implementing

⁴¹⁷ World Bank, "Country Partnership Strategy for the Federal Democratic Republic of Ethiopia," August 29, 2012, http://siteresources.worldbank.org/INTAFRICA/Resources/257994-1337109990438/Ethiopia_CPS_SECPO_31Aug2012_CLEAN.pdf (accessed June 2, 2015), p. 113. The only mention of the CSO law is in reference to its impact on NGOs promoting gender equality, in Appendix 6: Analysis of Gender Inequalities and Opportunities in Ethiopia: "The introduction of the Charities and Societies Proclamation law (CSO law) in 2010 has negatively affected the NGOs that promote gender equality, especially the Ethiopian Women Lawyers Association (which played a crucial role in changing the legislation towards gender neutrality in 2004-05)." The Country Partnership Strategy further cites to "the high profile some international NGOs, such as Human Rights Watch and the Committee to Protect Journalists give to publicizing their concerns about governance in Ethiopia" as one of the most visible examples of "a polarized dialogue on many key political and economic issues outside Ethiopia, as well as within".

⁴¹⁸ World Bank Group, "Country Partnership Strategy for the Federal Democratic Republic of Ethiopia," August 29, 2012.

projects acknowledge the existence of rights at the local level and the importance of protecting them.... In the context of large-scale development projects, the Special Rapporteur recommends making the protection of those affected by such projects and those acting on their behalf an integral part of an overall strategy, in order to ensure that those affected can effectively participate in the process without fear of retaliation.⁴¹⁹

The World Bank and the International Finance Corporation should consider the environment for expression, association, and assembly when analyzing the risks related to proposed projects or programs.⁴²⁰ 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. Social norms impeding women's participation may also hamper the ability of women's organizations or activists from coming forward with complaints. Laws, policies, and practices that marginalize other groups can present a similar hurdle. Therefore, the Group should identify these factors as risks 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, the World Bank Group should seek an undertaking from the government to protect the rights of protesters.

Uzbekistan: No Space for Participation, Accountability in Projects

In Uzbekistan, the World Bank is increasingly investing in projects that benefit the agricultural sector, particularly the cotton sector which is grounded in a state-forced labor system.⁴²¹

⁴¹⁹ UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/68/262, August 5, 2013, paras. 47, 59.

⁴²⁰ Currently, any such consideration would be at the discretion of project staff, though within a climate at the Bank that human rights considerations such as these are beyond the Bank's mandate. For further discussion, see Human Rights Watch, *Abuse-Free Development: How the World Bank Should Safeguard against Human Rights Violations*, July 22, 2013.

⁴²¹ See above, Uzbekistan: Activist's Family Members Intimidated, Harassed. See also World Bank, "South Karakalpakstan Water Resources Management Improvement Project," June 12, 2014; World Bank, "South Karakalpakstan Water Resources Management Improvement Project: Project Information Document," May 14, 2014.

The Uzbek government continues to deny freedom of speech, association, and assembly, and torture and ill-treatment are endemic to the criminal justice system, which suffers from a systemic lack of due process rights.⁴²² Many Uzbek citizens risk politically-motivated charges to expose the harsh realities of the government's forced labor system and document other human rights abuses. For this, some are routinely harassed, detained, imprisoned, and ill-treated in custody.⁴²³



Child picking cotton in September 2012, Suyima Pakhtakor, Jizzakh. © 2012 Uzbek-German Forum for Human Rights

On May 31, 2015, Uzbek police arrested and sexually violated Elena Urlaeva, head of the Human Rights Alliance of Uzbekistan, as she was documenting the Uzbek government's forced mobilization of teachers and doctors to clear weeds from cotton fields near the city

⁴²² Human Rights Watch, *World Report 2014* (New York: Human Rights Watch, 2013), Uzbekistan chapter, <http://www.hrw.org/world-report/2014/country-chapters/uzbekistan>.

⁴²³ See Human Rights Watch, *"Until the Very End": Politically Motivated Imprisonment in Uzbekistan*.

of Chinaz in Tashkent region.⁴²⁴ According to Urlaeva, kindergarten teachers told her that the mayor had ordered the schools to send them to weed the fields. Urlaeva also photographed 60 physicians who were required to work in the cotton fields by representatives of the city hall.⁴²⁵

Urlaeva told how, following her arrest while detained at the district police station, a police officer hit her on the head and interrogated her about where she hid a data card from the camera. She said that they swore at her, accused her of bringing shame on Uzbekistan, and asked why she had not left the country and was still “making trouble for them with photographs and pickets.”⁴²⁶ Urlaeva described a doctor giving her three injections, which made her feel weak. The police then ordered a doctor to search for the data card in her vagina, causing her to bleed, and then her rectum, before x-raying her chest and abdomen. Urlaeva said:

After the x-ray I needed to use the toilet but they would not allow me and so I asked for a bucket but they said “you’ll go outside and we will film you bitch and if you complain about us then we’ll post the video of your naked ass on the internet.” I couldn’t stand it any longer and was forced to relieve myself outside in the presence of police officers who filmed me.”⁴²⁷

Urlaeva said, “I have never experienced such humiliation in my life. The police were laughing and enjoying humiliating me.”⁴²⁸ The police confiscated Urlaeva’s camera, notebook, and information sheet of International Labour Organisation (ILO) conventions. Urlaeva said that the authorities’ “brutal approach is an indication of how much they fear information about forced labor getting out.”⁴²⁹

⁴²⁴ Email from Elena Urlaeva, June 1, 2015, on file with Human Rights Watch.

⁴²⁵ Ibid.

⁴²⁶ “Uzbekistan: Brutal Police Attack On Activist,” Human Rights Watch news release, June 4, 2015, <http://www.hrw.org/news/2015/06/04/uzbekistan-brutal-police-attack-activist>.

⁴²⁷ Email from Elena Urlaeva, June 1, 2015, on file with Human Rights Watch.

⁴²⁸ Ibid.

⁴²⁹ Ibid.

Human Rights Watch alerted senior World Bank officials and the Inspection Panel of the attack against Urlaeva on June 2, 2015.⁴³⁰

The attack on Urlaeva is not an isolated incident. For example, in 2013 Uzbek authorities imprisoned Bobomurad Razzakov, a farmer and regional chairman of Uzbekistan's only legally registered human rights organization, *Ezgulik*, for his human rights work on behalf of farmers and agricultural communities.⁴³¹ The Uzbek government continues to hold dozens of human rights activists, journalists, political opposition activists, and other perceived government critics for no other reason than their legitimate and peaceful civil society work. Many other individuals are imprisoned on overly broad and vague politically-motivated charges of "anti-constitutional activity" and "extremism."⁴³² In its latest report on Uzbekistan, the UN Human Rights Committee reported it remained "concerned about the number of representatives of independent nongovernmental organizations, journalists, and human rights defenders imprisoned, assaulted, harassed or intimidated, because of the exercise of their profession."⁴³³

In the autonomous republic of Karakalpakstan, where the World Bank is financing an irrigation project, authorities continue to crack down on local civil society and have

⁴³⁰ Email from Human Rights Watch to senior Central Asia World Bank officials, "Uzbek police brutalize human rights monitor Elena Urlaeva," June 2, 2015, on file with Human Rights Watch.

⁴³¹ "Uzbekistan: Trial of Activist on Trumped-Up Charges," Human Rights Watch, September 24, 2013, <http://www.hrw.org/news/2013/09/24/uzbekistan-trial-activist-trumped-charges>.

⁴³² For example, Gaybullo Jalilov, a human rights activist who has worked to document the government's arbitrary arrest and detention of Muslims, was sentenced on January 18, 2010 by the Kashkadarya Criminal Court to nine years in prison on charges of "anti-constitutional activity," "production and distribution of banned material," and "membership in a banned religious organization." Activists have been sentenced under Criminal Code statutes for "anti-constitutional activity" (article 159), participation in "banned religious, extremist" groups, or possession of "banned literature" (articles 216, 242, and 244). These statutes contain provisions which are so vague and overbroad that they are wholly incompatible with international human rights norms. In particular, any religious activity not sanctioned by the government is criminalized. Strict punishment is set out (up to 15 years imprisonment) for "extremism" and participation in "forbidden organizations," in spite of these two terms having no basis or definition in national legislation and the absence of any official list of "forbidden organizations." These statutes allow for arbitrary application of the law. The definition of "terrorism" is unnecessarily wide, expanding almost without limit the scope of those persons who may be charged. A number of Criminal Code provisions, for example, do not sufficiently differentiate between the qualification and the punishment of the preparation for or carrying out of a violent act on the one hand, and the mere expression of an opinion deemed extremist on the other. Nor do the statutes differentiate between direct and indirect participation in an "extremist" act. Other provisions regarding defamation and insults against the people and the president of Uzbekistan can be used to punish individuals who express opinions critical of the regime. Human Rights Watch, *"Until the Very End": Politically Motivated Imprisonment in Uzbekistan*.

⁴³³ United Nations Human Rights Committee, "Concluding observations of the Human Rights Committee: Uzbekistan," New York, 8-26 March 2010, CCPR/C/UZB/CO/3, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/UZB/CO/3&Lang=En (accessed June 11, 2015), paragraph 24.

imprisoned dozens of peaceful Karakalpak activists, imposing strict controls on the freedom of expression, association, and assembly.⁴³⁴

In this environment, the World Bank has not taken any measures—or pressed the government to take measures—to ensure that community members and independent groups can monitor forced labor and other rights issues in Bank-financed project areas without risk of reprisal. Nor has the World Bank taken steps to ensure that individuals and groups can complain to the Bank or the Inspection Panel without risk of retaliation. The Bank is working with the ILO to monitor its projects in Uzbekistan and set up a feedback mechanism, but this is not enough on its own.⁴³⁵

At a minimum, as Human Rights Watch and others recommended at the time, the Bank should have included a covenant in the loan agreement allowing independent civil society and journalists unfettered access to monitor forced labor and child labor, along with other human rights abuses within the Bank’s project areas and to ensure that no one faces reprisals for monitoring human rights violations in the area, bringing complaints, or engaging with monitors.⁴³⁶ World Bank staff advised in response that their legal advisors had told them such a covenant was not possible.⁴³⁷

Despite recognizing the severe security environment in Uzbekistan in its response to Human Rights Watch regarding this research and noting that specific incidents of threats

⁴³⁴ For example, a court sentenced Solijon Abdurakhmanov, 64, to 10 years in prison for narcotics possession on October 10, 2008, following a trial that did not meet fair trial standards. Based in Karakalpakstan, he reported for the independent news portal Uznews.net, *Ozodlik* (the Uzbek service of Radio Free Europe/Radio Liberty), *Amerika Ovozi* (Voice of America), and the Institute for War and Peace Reporting covering sensitive issues such as social and economic justice, environmental problems of the Aral Sea, corruption, and the legal status of Karakalpakstan within Uzbekistan. Even though the charges brought against him were drug-related, Abdurakhmanov told his lawyers that the investigator mostly questioned him about his journalistic work. Human Rights Watch, *“Until the Very End”: Politically Motivated Imprisonment in Uzbekistan*.

⁴³⁵ “World Bank: No Probe of Link to Abuses in Uzbekistan,” Human Rights Watch news release, February 2, 2015, <http://www.hrw.org/news/2015/02/02/world-bank-no-probe-link-abuses-uzbekistan>; World Bank Group, “Republic of Uzbekistan Second Rural Enterprise Support Project (P109126) and Additional Financing for the Second Rural Enterprise Support Project (P126962), Final Eligibility Report and Recommendation,” December 19, 2014, [http://ewebapps.worldbank.org/apps/ip/PanelCases/89%20-%20Final%20Eligibility%20Report%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/89%20-%20Final%20Eligibility%20Report%20(English).pdf) (accessed June 4, 2015); Jessica Evans, “Dispatches: Wrong Message to Uzbekistan on Forced Labor,” January 28, 2015, <http://www.hrw.org/news/2015/01/28/dispatches-wrong-message-uzbekistan-forced-labor>.

⁴³⁶ Human Rights Watch and the Cotton Campaign, “World Bank: Reconsider Uzbekistan Projects,” June 9, 2014, <http://www.hrw.org/news/2014/06/09/world-bank-reconsider-uzbekistan-projects>.

⁴³⁷ Several meetings between Human Rights Watch and other Cotton Campaign representatives and World Bank representatives, Washington DC, June-December 2014.

came to its attention during its visit to the country, the Inspection Panel did not raise these issues in its report regarding the case.⁴³⁸ Nor did the Inspection Panel press the World Bank management to address the broader security environment in its programming in the country. When Human Rights Watch and other NGO representatives asked the Inspection Panel about this during a 2014 meeting, a Panel member, said that it was not the role of the World Bank to create a safe environment for independent monitors of its projects, including independent groups and journalists.⁴³⁹

⁴³⁸ Inspection Panel, “Response to Human Rights Watch Research into Reprisals Linked to World Bank Projects,” May 29, 2015, on file with Human Rights Watch, p. 5,

⁴³⁹ NGO meeting with the Inspection Panel, October 14, 2014.

VIII. Human Rights Obligations

Under international law, both states and the World Bank Group have an obligation to respect and protect international human rights law, including the rights to freedom of opinion, expression, association, and peaceful assembly, the right to take part in the conduct of public affairs, the right to information, and the right to liberty and security of person. They also have an obligation to guarantee that these and other human rights can be exercised free from discrimination, including on the basis of sex and gender. States also have additional human rights obligations. Companies, including those that receive money from the International Finance Corporation, similarly have a responsibility to respect human rights and remedy human rights abuses that they have contributed to.

The Right to Participate in Development

The right to participate in the conduct of public affairs, directly or indirectly, without unreasonable restrictions, and individually or in association with others, is a means of ensuring respect for other human rights in addition to being a right itself.⁴⁴⁰ The Human Rights Committee has confirmed that this right “covers all aspects of public administration and the formulation and implementation of policy at international, national, regional, and local levels.”⁴⁴¹

⁴⁴⁰ International Covenant on Civil and Political Rights (ICCPR) adopted December 16, 1966, G.A. Res. 2200A(XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc A/6316 (1966), 999 U.N.T.S. 171 entered into force March 23, 1976, art. 25(a); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981., art. 7; United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), adopted March 8, 1999, G.A. res. 53/144, U.N. Doc. A/RES/53/144 (1999), art. 8. See also the United Nations Declaration of the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, which provides for the right of minorities to participate in decision-making and the obligation of States to ensure such participation, including in economic progress and development: G.A. res. 47/135, annex, 47 U.N. GAOR Supp. (No. 49) at 210, U.N. Doc. A/47/49 (1993), arts. 2 and 4. The UN Special Rapporteur on the situation of human rights defenders has emphasized that this right includes “the right to submit to governmental bodies and agencies concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.” UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/68/262, August 5, 2013, para. 27.

⁴⁴¹ Human Rights Committee, General Comment No. 25, The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25), U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996), para. See also CEDAW Committee, General Recommendation No. 23, Political and Public Life, U.N. Doc. A/52/38 (1997).

Governments have also committed themselves to participation in the context of several development-related declarations and environmental conventions, and have endorsed (through the inter-governmental Committee on World Food Security) voluntary guidelines that promote consultation and informed participation.⁴⁴² The right to development further reinforces the importance of participation. The right to development requires active, free, and meaningful participation in development choices, free of coercion, pressure, or intimidation.⁴⁴³ The former UN special rapporteur on extreme poverty and human rights has underscored the difference between “active, free, informed, and meaningful participation of persons” and “participatory processes that are pro forma ... or undertaken to give predetermined policies a veneer of legitimacy.”⁴⁴⁴ The right to development also involves a substantive element that should include benefit-sharing, improve the capabilities and choices of people, and is violated if the development in question decreases the well-being of the community.⁴⁴⁵

⁴⁴² Through the Paris Declaration on Aid Effectiveness, countries commit to encourage “broad participation of a range of national actors in setting development priorities” as well as in “formulating and assessing progress in implementing national development strategies.” Paris Declaration on Aid Effectiveness, 2005, <http://www.oecd.org/dac/effectiveness/34428351.pdf> (accessed June 7, 2015), paras. 38, 48. The Rio Declaration on Environment and Development states that individuals have the right to “participate in decision-making processes,” asserts that women’s *full* participation is “essential to achieve sustainable development,” and calls on States to ensure Indigenous peoples’ *effective* participation: Rio Declaration on Environment and Development, 1992, <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163> (accessed June 7, 2015), principles 10, 20, and 22. See also United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), adopted on 25 June 1998, entered into force on October 30, 2001, <http://ec.europa.eu/environment/aarhus/>; Food and Agriculture Organization of the United Nations (FAO), Voluntary Guidelines on the Responsible Governance of Tenure, of Land, Fisheries, and Forests in the context of National Food Security, 2012, <http://www.fao.org/docrep/016/i2801e/i2801e.pdf> (accessed June 2, 2016); and Committee on World Food Security (CFS), Principles for Responsible Investment in Agriculture and Food Systems, October 15th, 2014, <http://www.fao.org/3/a-au866e.pdf> (accessed June 2, 2016).

⁴⁴³ United Nations Declaration on the Right to Development, art. 2(3); African Commission on Human and Peoples’ Rights (ACHPR), “276/03 Center for Minority Rights Development, Kenya and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya,” May 2009, paras. 278, 279, and 283; Arjun Sengupta, “The Right to Development as a Human Right,” Francois-Xavier Bagnoud Centre Working Paper No. 8, 2000, p. 8; Antoanella-Iulia Motoc and the Tebtebba Foundation, Preliminary working paper on the principle of free, prior, and informed consent of Indigenous peoples in relation to development affecting their lands and natural resources that they would serve as a framework for the drafting of a legal commentary by the Working Group on this concept. U.N. Doc. E/CN.4/Sub.2/AC.4/2004/4 (2004), para. 14(a).

⁴⁴⁴ UN Human Rights Council, Report of the Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona, A/HRC/23/36, March 11, 2013, <http://www.un.org/esa/socdev/egms/docs/2013/EmpowermentPolicies/Report%20of%20the%20Special%20Rapporteur%20on%20extreme%20poverty%20and%20human%20rights.pdf> (accessed May 11, 2015), para.17.

⁴⁴⁵ ACHPR, “276/03 Center for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya,” May 2009, paras. 283 and 294. “Benefit sharing is vital both in relation to the right to development and by extension the right to own property: Endorois,” para. 294.

Free, Prior, and Informed Consent for Indigenous Peoples

The World Bank Group and states have a duty under international law to consult and cooperate with Indigenous peoples through their own representative institutions in order to obtain their free and informed consent. This is supposed to occur before the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization, or exploitation of mineral, water, or other natural resources.⁴⁴⁶ This duty is derived from Indigenous peoples' land and resource rights.⁴⁴⁷

The Right to be Free from Retaliation

States and the World Bank Group have an obligation to respect and protect the right to hold opinions without interference, to freedom of expression, peaceful assembly, and association, and to life, liberty, and security of person.⁴⁴⁸ These rights are equally fundamental and protected at the international level.⁴⁴⁹ As the former UN special rapporteur on the situation of human rights defenders has emphasized:

Communities and those defending their rights should participate actively, freely and meaningfully in the process and be protected from retaliation and other violations at all stages. Ensuring such participation and protection is a responsibility of both State and non-State actors involved....⁴⁵⁰

⁴⁴⁶ United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted September 13, 2007, U.N. Doc. 61/295, U.N. Doc. A/61/L.67/Annex, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/No6/512/07/PDF/No651207.pdf?OpenElement> (accessed June 15, 2015), art. 32(2).

⁴⁴⁷ Human Rights Watch, *"How Can We Survive Here?": The Impact of Mining on Human Rights in Karamoja, Uganda*, February 3, 2014, <http://www.hrw.org/reports/2014/02/03/how-can-we-survive-here-o>, section II. Land and Resource Rights.

⁴⁴⁸ Right to Public Participation, 12; ICCPR art. 19(1); ICCPR art. 19(2). In addition to the International Covenant on Civil and Political Rights, the right to freedom of opinion and express is also set forth in the Convention on the Rights of the Child, article 12(1); the Convention on the Rights of Persons with Disabilities, article 21; the Convention on the Elimination of All Forms of Racial Discrimination, article 5(d)(viii); the American Convention on Human Rights, article 13; and the European Convention on Human Rights, article 10. Restrictions on the right to freedom of opinion and expression must be "provided by law" and "necessarily: (a) For the respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals." ICCPR art. 19(3)(a)-(b).

⁴⁴⁹ See, for example, UN General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/69/365, September 1, 2014, para. 14.

⁴⁵⁰ UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/68/262, August 5, 2013, para. 46.

An enabling environment for civil society are indispensable for the enjoyment of these rights.”⁴⁵¹

States must refrain from violating the rights of community members who speak out against proposed development projects and those working to protect the rights of community members, and act with due diligence to prevent, investigate, and bring to justice the perpetrators of any attack against these community members and human rights defenders.⁴⁵² The World Bank Group should similarly act with due diligence to prevent, investigate, and help ensure access to a remedy, and ensure that none of its employees or contractors are involved in such attacks.

States also have an obligation to provide an effective remedy for human rights violations.⁴⁵³ The World Bank Group similarly has an obligation to provide an effective remedy for any such violations that it has contributed to or is responsible for. Such a remedy includes prompt and impartial investigations into alleged violations, prosecution of the perpetrators, and provision of redress, including appropriate compensation to victims.⁴⁵⁴ The World Bank Group can play an important role in pressing the state to provide such remedies, as well as independently investigating alleged violations and providing compensation when states refuse to do so.

Human Rights Obligations of the World Bank Group

As an international organization and a UN specialized agency, the World Bank has legal obligations to respect and protect human rights. The World Bank Group’s member states

⁴⁵¹ UN General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/69/365, September 1, 2014, para. 5.

⁴⁵² Enshrined in art. 3 of the UDHR and articles 6(1) and 9(1) of the ICCPR, emphasized in arts 2, 9, 12 of the Declaration on Human Rights Defenders.

⁴⁵³ Art. 2(3)(a) ICCPR. Art. 9 of the Declaration on Human Rights Defenders further underscores that everyone performing activities in defense of human rights has the right to benefit from an effective remedy and to be protected in the event of violations. See UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/65/223, August 4, 2010, <http://www2.ohchr.org/english/issues/defenders/docs/A-65-223.pdf> (accessed June 7, 2015), para. 44.

⁴⁵⁴ UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/68/262, August 5, 2013. See also, Report of the Special Representative of the Secretary General on Human Rights Defenders, Hina Jilani, A/58/380, September 18, 2003, <http://www.refworld.org/pdfid/403b132c7.pdf> (accessed June 7, 2015), para. 73; UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/65/223, August 4, 2010, para. 44. Special rapporteurs and the Special Representative have emphasized that failure to take these actions leads to further attacks against human rights defenders and further violations of their rights.

also have their own similar and additional specific human rights obligations that they continue to be bound by as members of the Bank and with which their agents are required to comply.

As an international organization, the World Bank derives human rights obligations from customary international law and general principles of law.⁴⁵⁵ As a UN specialized agency, the World Bank has an obligation to respect and promote human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.⁴⁵⁶ UN member states are obliged under article 103 of the UN Charter to comply with the Charter over other international agreements in the event of a conflict between the two.⁴⁵⁷ The International Bill of Rights, which refers to the combination of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), is recognized as the key source used to interpret the rights provisions in the UN Charter.⁴⁵⁸

⁴⁵⁵ ILC, “Draft Articles on the Responsibility of International Organizations,” Report of the International Law Commission, Sixty-third session, UNGAOR 66th session, U.N. Doc. A/66/10, http://legal.un.org/ilc/reports/2011/All%20languages/A_66_10_E.pdf (accessed July 11, 2015), commentary to art. 4 (b), para. 2, p. 14. International Law Association, “Final Report of the International Law Association Committee on Accountability of International Organizations,” 2004, p. 26: “Human rights obligations, which are increasingly becoming an expression of the common constitutional traditions of States, can become binding upon IO-s in different ways: through the terms of their constituent instruments; as customary international law; or as general principles of law or if an IO is authorized to become a party to a human rights treaty. The consistent practice of IO-s points to a recognition of this. Moreover, certain human rights obligations may have attained the status of peremptory norms.” International Law Commission, “Yearbook of the International Law Commission, Report of the Commission to the General Assembly on the work of its fifty-third session,” Vol. II pt. 2, U.N. Doc. A/CN.4/SER.A/2001/Add.1, 2001, pp. 49-50: “Peremptory norms that are clearly accepted and recognized include the prohibitions of aggression, genocide, slavery, racial discrimination, crimes against humanity and torture, and the right to self-determination.” See also the Furundzija case before the International Criminal Tribunal for the former Yugoslavia, where the prohibition of torture was recognized *jus cogens*: *Prosecutor v. Anto Furundzija*, ICTY, The Judgement of the Trial Chamber, JL/PIU/372-E, December 10, 1998, <http://www.icty.org/sid/7609> (accessed June 7, 2015); See also the related concept of *erga omnes* obligations (owed by all States to the international community) in the Barcelona Traction case (*Belgium v. Spain*), ICJ Rep. 1970, paras. 33 and 34; See also the East Timor case (*Portugal v. Australia*), judgment of 30 June 1995, ICJ Rep, 1995, p. 90.

⁴⁵⁶ Charter of the United Nations, June 26, 1945, 59 Stat.1031, T.S. 993, 3 Bevans 1153, entered into force Oct.24, 1945, art. 55, 56. The World Bank is a specialized agency of the UN as a result of an agreement between the Bank and the UN’s Economic and Social Council (ECOSOC) in 1946: Agreement between the UN and the IBRD, entered into force, 1946, 16 U.N.T.S. 346.

⁴⁵⁷ Charter of the United Nations, *Supra* note 44, art. 103: “in the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.”

⁴⁵⁸ The UN special rapporteur on the right to food has stated that “[t]he growing consensus is that most, if not all of the rights enumerated in the [UDHR] have acquired a customary status in international law.” Olivier De Schutter, *International Human Rights Law: Cases, Materials, Commentary*, (Cambridge: Cambridge University Press, 2010), p. 50; See also “Tilburg Guiding Principles on World Bank, IMF and Human Rights,” 2002, <http://www1.umn.edu/humanrts/instree/Tilburgprinciples.html>, (accessed June 7, 2015): “The Universal Declaration of

While some have argued, incorrectly in the opinion of Human Rights Watch, that the non-political mandate of the Bank outlined in the articles of agreement precludes it from considering human rights, few argue that the World Bank itself is permitted to violate human rights protected under international law.⁴⁵⁹ The World Bank's own rules do not supersede these human rights obligations.⁴⁶⁰ 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."⁴⁶¹

In addition to the World Bank bearing human rights obligations in its own legal capacity, each of its member countries has similar and additional specific human rights obligations that derive, for example, from treaties to which they are a party. As a matter of international law, governments retain all their human rights obligations when they become members of an international organization and therefore cannot abandon them in their capacity as governing members of the Bank.⁴⁶² In that capacity, governments are obliged

Human Rights of 1948 is a 'common standard of achievement for all peoples and all nations' (Preamble of the Declaration). At the beginning of the new Millennium, the Declaration goes far beyond being merely a moral or political obligation, as large parts of it belong to international customary law, while some rights have developed into *jus cogens* standards."

⁴⁵⁹ The World Bank's articles of agreement state that the Bank "shall not interfere in the political affairs of any member ... Only economic considerations shall be relevant to their decisions..." World Bank, "IBRD Articles of Agreement," June 27, 2012, <http://go.worldbank.org/oFICOZQLQo> (accessed May 1, 2013), Article IV, Section 10. Language to the same effect appears in Article V, 6 of the IDA Articles of Agreement; World Bank, "IDA Articles of Agreement," <http://www.worldbank.org/ida/articles-agreement/IDA-articles-of-agreement.pdf> (accessed March 1, 2013).

⁴⁶⁰ ILC, "Draft Articles on the Responsibility of International Organizations," Report of the International Law Commission, Sixty-third session, UNGA R 66th session, U.N. Doc. A/66/10, art. 32.

⁴⁶¹ World Bank, "Development and human rights: the role of the World Bank," p. 2.

⁴⁶² The Maastricht Principles on extra-territorial obligations of States in the area of economic, social, and cultural rights observe that: "[a]s a member of an international organisation, the State remains responsible for its own conduct in relation to its human rights obligations within its territory and extraterritorially. A State that transfers competences to, or participates in, an international organisation must take all reasonable steps to ensure that the relevant organisation acts consistently with the international human rights obligations of that State." Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights, 2011, http://www.rfn-watch.org/uploads/media/Maastricht_ETO_Principles__EN.pdf (accessed April 30, 2013), principle 15. See also, Responsibility of International Organizations, adopted by Drafting Committee in 2011, U.N. GAOR, Int. Law Comm'n, 63d Sess., art. 61 1, U.N. Doc. A/CN.4/L.778 (2011); and Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephias Lumina, Guiding principles on foreign debt and human rights, U.N. Doc. A/HRC/20/23, April 10, 2011, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-23_en.pdf (accessed May 1, 2013), para. 6: "All States, whether acting individually or collectively (including through international and regional organizations of which they are members), have the obligations to respect, protect and fulfill human rights. They should ensure that any and all of their activities concerning their lending and borrowing decisions, those of international or national public or private institutions to which they belong or in which they have an interest, the negotiation and implementation of loan agreements or other debt instruments, the utilization of loan funds, debt repayments, the renegotiation and restructuring of external debt, and the provision of debt relief when appropriate, do not derogate from these obligations."

to exercise due diligence with respect to their human rights obligations.⁴⁶³ According to UN human rights bodies and academics expert in this area, the World Bank's board of executive directors also have an obligation to ensure that the policies and decisions of the World Bank are consistent with their governments' human rights obligations, including those obligations derived from human rights treaties that they have ratified.⁴⁶⁴

The Bank's view towards human rights has evolved over the last 15 years. There is now not only recognition that consideration of human rights is permitted, but that in some cases it is required. For example, former Bank General Counsel Roberto Danino wrote in 2006 that the Bank should "recognize the human rights dimensions of its development policies and activities, since it is now evident that human rights are an intrinsic part of the Bank's mission."⁴⁶⁵ However, in practice, the World Bank still uses the constraints of its articles of agreement to avoid human rights issues that it does not wish to address.⁴⁶⁶

The World Bank's articles of agreement with the United Nations state that the Bank operates independently of the UN and that the UN is to refrain from making recommendations with regard to particular loans and terms or conditions of financing.⁴⁶⁷

⁴⁶³ International Law Association, "Final Report of the International Law Association Committee on Accountability of International Organizations," 2004, p. 240.

⁴⁶⁴ See for example the Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15 (2003) U.N. Doc. E/C.12/2002/11, para. 36: "States parties should ensure that their actions as members of international organizations take due account of the right to water. Accordingly, States parties that are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should take steps to ensure that the right to water is taken into account in their lending policies, credit agreements and other international measures." The Committee made the same observation regarding the right to health in General Comment No. 14, U.N. doc. E/C.12/2000/4, July 4, 2000; For more examples see, María Magdalena Sepúlveda Carmona, *The Nature of States Obligations under the International Covenant on Economic, Social and Cultural Rights*, (Utrecht: Intersentia, 2003), p. 237. The Maastricht Principles on extra-territorial obligations of States in the area of economic, social and cultural rights further observe that "A State that transfers competences to, or participates in, an international organization must take all reasonable steps to ensure that the relevant organization acts consistently with the international human rights obligations of that State." Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights, 2011.

⁴⁶⁵ R. Dañino, Senior Vice-President & Gen. Counsel, World Bank, "Legal Opinion on Human Rights and the Work of the World Bank," January 27, 2006; World Bank, "Human Rights," June 2012, <http://go.worldbank.org/72L95K8TNo> (accessed June 7, 2015); Ana Palacio, "The Way Forward: Human Rights and the World Bank," World Bank Institute, October 2006, <http://go.worldbank.org/RR8FOU4RGo> (accessed June 7, 2015). The World Bank's consideration of human rights "is 'permissive': allowing, but not mandating, action on the part of the Bank in relation to human rights."

⁴⁶⁶ Daniel Bradlow, "The World Bank, the IMF, and Human Rights," *Journal of Transnational Law and Contemporary Problems*, Vol. 6, 1996, p. 79.

⁴⁶⁷ Agreement between the UN and the IBRD, entered into force, 1946, 16 U.N.T.S. 346, art. IV, para 3.

As the Tilburg Guiding Principles on World Bank, IMF, and Human Rights state, this “provides an organizational independence from the UN, not from international law.”⁴⁶⁸

In addition, the World Bank Group can play an important role in advancing human rights protections. The UN special rapporteur on the rights to freedom of assembly and of association, Maina Kiai has emphasized that “multilateral institutions are uniquely positioned to help foster the rights to freedom of peaceful assembly and of association at the national level by pressing member states to comply with international laws and standards, or even requiring it.”⁴⁶⁹ He has further stated that multilateral institutions, as well as states, “bear the responsibility to recognize the positive role of peaceful protests....”⁴⁷⁰

Human Rights Responsibilities of Businesses

Companies are the subject of a number of international human rights standards. These include international norms that elaborate the respective roles of governments and companies in upholding human rights and avoiding complicity in violations, as well as standards developed to specifically address concerns related to security and human rights.

In 2008, then-Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie elaborated the “Protect, Respect and Remedy” framework for business and human rights, which was further supplemented by a set of “Guiding Principles on Business and Human Rights” endorsed by the United National Human Rights Council in 2011.⁴⁷¹ This framework sets out: 1) the state duty to *protect* human rights, 2) the corporate responsibility to *respect* human rights, and 3) the need for a *remedy* for victims of business-related human rights abuses.⁴⁷²

⁴⁶⁸ “Tilburg Guiding Principles on World Bank, IMF and Human Rights,” 2002, <http://www1.umn.edu/humanrts/instree/Tilburgprinciples.html>, principle 6 (accessed April 30, 2013).

⁴⁶⁹ UN General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/69/365, September 1, 2014, para. 21.

⁴⁷⁰ *Ibid.*, para. 18.

⁴⁷¹ Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, A/HRC/17/31, March 21, 2011, <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf> (accessed August 20, 2013).

⁴⁷² “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework,” Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, A/HRC/17/31, Annex, I.A.1, March 2011, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed August 20, 2013). See also,

All businesses should have adequate policies and procedures in place to identify, prevent, mitigate, and account for their impact on human rights. To meet its human rights responsibilities, a company should carefully assess potential human rights risks, monitor the impact of their activities on an ongoing basis, seek to prevent or mitigate harm, and adequately address any adverse human rights impacts it causes or to which it has contributed.

“Voluntary Principles on Security and Human Rights,” 2000, <http://www.voluntaryprinciples.org/what-are-the-voluntary-principles/> (accessed May 11, 2015).

IX. Action Plan for the World Bank Group

The World Bank Group has a responsibility to help ensure an environment in which people can participate in development decisions that affect them, and publicly critique World Bank Group-supported projects that have caused them harm openly and without fear. It also has considerable power to do so, and considerable ability to push back against governments who threaten or punish people who engage in public debate about projects financed by the World Bank Group. This action plan outlines how the Group's management and accountability mechanisms can better support such an enabling environment and appropriately respond when reprisals related to World Bank Group supported projects do occur in spite of those measures.

The World Bank Group's shareholder governments, and their appointees on the board of executive directors, should urge the Group to promptly and effectively implement these recommendations. They should also press the Group to respond to reprisals that do occur in a meaningful and effective manner. Governments should actively work to ensure that their human rights commitments, particularly regarding human rights defenders, are conveyed in the course of board discussions.

Take All Necessary Measures to Prevent Reprisals

Country Engagement

Analyze the environment for freedom of expression, assembly, association, and information in all systematic country diagnostics

The World Bank Group's engagement with many countries is rooted into a multi-year strategy of engagement agreed upon with the government. To help inform the process of creating those strategies, the World Bank Group in each case prepares a systematic country diagnostic that analyzes the opportunities for and constraints to poverty alleviation efforts in the country. Management should ensure that every diagnostic includes an analysis of the legal and regulatory environment for freedom of expression, assembly, association, and information. It should also outline any constraints that this environment presents for public participation in development processes, advocacy by civil society organizations (CSOs), public expression including protests, and criticizing

government and specific projects supported by the World Bank Group. This should include assessments of the following:

- The legislative environment for CSOs, including an analysis of whether CSO legislation meets international human rights standards and whether there are other laws, including anti-terrorism legislation, that are used against activists, journalists, and other critics. The assessment should draw on the analysis of human rights treaty bodies and special procedures as well as independent groups that specialize in this area;⁴⁷³
- Any laws or practices that tend to prevent people from peacefully demonstrating or constrain their exercise of that right in violation of international law, or punish peaceful demonstrators through criminal sanctions or other means;
- Whether there is a pattern of surveillance of government critics or independent groups;
- Whether there is free access to information within the country, or whether there are significant obstacles to this including, for example, a pattern of internet blocking;
- Whether community activists or organizers, people working for CSOs, labor union leaders, journalists, or other government critics are arbitrarily detained or victims of extrajudicial killings;
- Whether there is direct or indirect discrimination against women or marginalized groups that is likely to undermine their opportunity to participate in development decisions; and
- Whether there are security issues that are likely to undermine the opportunity of people or groups of people—particularly women and girls as well as sexual and gender minorities—from participating in development decisions, for instance, where homosexuality propaganda laws are in place.

⁴⁷³ The work of the Human Rights Committee and the special rapporteurs on freedom of expression, freedom of assembly and association, and human rights defenders will be particularly relevant as well as that of NGOs that specialize in this area, including ICNL. The World Bank may wish to consider existing checklists that will assist in this analysis, such as: International Center for Not-for-Profit Law (ICNL), “Checklist for CSO Laws,” 2006, <http://www.icnl.org/research/library/files/Transnational/checklisten.pdf> (June 4, 2015).

Initiate a dialogue with all World Bank member governments emphasizing the importance of an enabling environment for public participation and accountability for sustainable development

At all levels of management, particularly through routine engagement through the country director and high-level engagement through the president and vice president, the World Bank management should speak with government officials about the importance of public participation and accountability for sustainable development and the environment that is necessary to achieve this. The World Bank should raise these issues publicly, as well as privately, particularly in countries that are increasingly limiting the space for participation and accountability.

Make protection of potential critics of World Bank Group programs, projects, or activities a core element of dialogue with every government, particularly governments known to crack down on dissent.

The World Bank should consistently emphasize to member states that criticism of World Bank Group-financed activities is welcomed and seen as an important part of enhancing the impact and effectiveness of development initiatives, and that reprisals against critics or people otherwise involved in such activities will be publicly and vigorously opposed.

The Bank should emphasize that this includes reprisals carried out by state and non-state actors, and that governments have an obligation to prevent, investigate, prosecute, punish, and remedy reprisals by non-state actors, including companies, as well as by government officials. The Bank's dialogue with governments on this should include an elaboration of how the Bank will respond to any reprisals including the potential for concrete negative consequences for cooperation should governments carry out, condone, or fail to respond appropriately to reprisals.

Proactively and publicly denounce the labeling of critics as “anti-development”

The Bank should make a public point of denouncing the rhetorical trend among some governments to label critics of controversial development projects as being “against” development or accuse them of undermining the government's efforts to realize development. The Bank's public messaging should emphasize that it is in fact the stifling of criticism that is likely to result in negative development outcomes, while public criticism of and debate about development efforts is likely to improve development outcomes.

Design a participatory process for developing systematic country diagnostics and country partnership frameworks

While the Bank has made efforts to make its processes for developing systematic country diagnostics and country partnership frameworks more participatory, experience is mixed across different countries. The Bank should ensure that across all countries, meaningful consultations with affected communities and other key stakeholders are held at the very beginning and then throughout the lifespan of a project, with sufficient information being provided in an accessible form a reasonable time in advance of in-person consultations.

The Bank should publish draft diagnostics and frameworks for a defined comment period to ensure public participation and substantive exchange with civil society. It should then publish comments received (with consent of the interveners) and provide a meaningful summary of them to the board of executive directors.

Agree with governments how protests outside World Bank country offices or linked to World Bank Group-financed projects will be policed in a rights-respecting manner, and monitor such protests

Ensure that all security personnel tasked with policing protests outside World Bank country offices or linked to World Bank Group-financed projects are required to comply with and trained on international standards, that use of force is investigated, and that those who use excessive force are held accountable through administrative sanctions and, where appropriate, criminal charges. Request that domestic authorities regularly produce a report detailing how demonstrations, protests, and other public gatherings outside the World Bank or linked to World Bank Group-financed projects were managed by police, and request that such reports be made public. Independently monitor all such protests and investigate any reports of excessive use of force.

At the Project Level

Undertake due diligence to ensure the World Bank and IFC do not support activities that will contribute to or exacerbate human rights violations

This should include identifying the human rights impacts of its activities and taking steps to avoid or mitigate adverse impacts. The Bank and IFC may wish to do this in the course of its social risk assessment and social impact assessment, rather than undertaking a stand-alone human rights impact assessment.

Consider the environment for expression, association, assembly, and information when analyzing the risks related to proposed projects or programs

Both the World Bank and the IFC should identify obstacles to participation and accountability as a risk facing potential projects, and put targeted measures in place to create an environment as conducive to participation as possible. Mitigation measures should include, amongst other things, seeking an undertaking from the government that they will not carry out reprisals against project critics or tolerate them from non-state actors or, in countries where there is a history or practice of crackdowns on peaceful protests, an undertaking from the government to protect the rights of protesters. Similarly, where appropriate, the IFC should seek an undertaking from the borrowing company that they will not retaliate against project critics and will investigate all allegations of retaliation by employees or contractors.

Ensure meaningful participation of affected people in all World Bank Group-financed activities in order to obtain their free, prior, and informed consent for Indigenous peoples and endeavor to obtain broad community support in other cases

Ensure engagement with all stakeholders in development efforts is in good faith, not just as a formality. Require borrowers to consult and cooperate with communities in an effort to obtain broad community support for all World Bank Group-financed activities and free, prior, and informed consent from Indigenous peoples whose lands or territories and other resources are affected in any way. When working in countries where there is not an enabling environment for participation, the World Bank Group should take an active role in the consultation process, including in its design, by being present throughout consultations, by putting in place enhanced monitoring of consultations, including independent, third party monitoring, and, where necessary, requiring consultations to be organized and run by an independent group.

Take all necessary measures to ensure that people who are traditionally marginalized or often excluded from decision-making have the opportunity to meaningfully participate in decisions about World Bank-financed activities that affect them

The Bank should make every effort to strengthen the capacity of those traditionally marginalized or excluded from decision-making, including women, to actively and meaningfully participate in decision-making processes related to projects that affect them. The Bank should also take additional measures where there is a risk of violence against

some participants, to ensure that they can freely participate without risk of violence, criminal charge, or other reprisal.

Routinely consult communities to determine their protection needs and work with the government to provide protection accordingly

Human Rights Watch found that many community members that it interviewed said it did not occur to them to raise their security concerns with World Bank staff, either because the security concerns were obvious or because the staff did not indicate an interest. Therefore, it is important that staff proactively and periodically consult with communities to identify risks, determine their protection needs, and work with the government and other donors to provide the necessary protection.

Develop project level grievance mechanisms that are well-resourced, impartial, effective, protected against corruption, and free from political and other types of influence

Ensure that affected communities and civil society organizations have information about how and to whom to submit a complaint, as well as on the established timeline and stages for processing their complaint. In addition, ensure they are provided with particular material of other avenues for complaint should they be threatened or intimidated in any way. Ensure that such mechanisms are accessible to the most marginalized of those affected, and that special efforts are made to inform marginalized groups of these mechanisms.

In high-risk operating environments, in cooperation with independent civil society organizations, create independent oversight mechanisms including third party monitoring and an independent grievance redress mechanism. Include as a key component of all grievance mechanisms an early warning system in case of threats or other violations against those who have filed or are considering filing a complaint, with proper risk assessment and protection measures available, and require borrowers to report on complaints received.

Enshrine protection of whistle-blowers at the World Bank Group in policy and in practice

The World Bank Group should develop policy protections for whistle-blowers on Group-financed activities that are not Bank Group staff. It should also improve its 2008 Staff

Rule 8.02: “Protections and Procedures for Reporting Misconduct” to meet best practice standards.⁴⁷⁴

Identify and respond to any indications of discontent

Be attentive to displays of concern and discontent regarding proposed and ongoing projects and work with all partners to ensure that people who are expressing their discontent are not stigmatized in any way, including by monitoring local media for information about public protests, sit-ins, or complaints. Explicitly monitor for public labeling of critics and immediately address them with the government.

Incentivize staff to prevent, respond to reprisals

In order to incentivize staff to take all necessary measures to prevent reprisals and vigorously respond if reprisals occur, integrate the above duties into the job descriptions and performance appraisals of employees, particularly managers.

Include relevant criteria in project completion reports and evaluations

The World Bank and IFC should integrate into their project completion reports and evaluations of projects consideration of measures taken to support meaningful participation, to prevent reprisals, to monitor and respond to for early signs of a risk of reprisals, and to respond vigorously to any reprisals that may occur.

Through the New Environmental and Social Framework

The World Bank’s review and update of its safeguard policies provides a key opportunity for the Bank to institutionalize measures to prevent reprisals against critics of Bank Group-financed projects. In order to achieve this, the draft framework should be amended to:

- Prohibit the borrower from punishing, retaliating, or otherwise acting against a stakeholder who has made his or her views heard, however critical they may be, and require the borrower to take all necessary measures to prevent others from similarly acting against a stakeholder.

⁴⁷⁴ Governance Accountability Project, “World Bank Whistleblower Policy Lacks Protections,” June 12, 2008, <http://whistleblower.org/node/467> (accessed June 2, 2015).

- Ensure that due diligence extends beyond the project to consider risks posed by the broader operating environment
- Require the Bank to:
 - Carry out independent consultation activities where there are concerns about whether the environment is conducive to civil society and all potentially impacted community members, including those from marginalized groups, freely participating without risk of reprisal.
 - Design grievance redress mechanisms in a way that allows all potentially impacted community members and civil society to complain freely without risk of reprisal, including by creating independent grievance mechanisms and allowing for anonymous complaints to be raised and addressed.
- Require borrowers to:
 - Communicate to communities how their inputs have been taken into account in the design and implementation of a project; and identify any obstacles to participation or security risks that groups or individuals may face in the course of its Stakeholder Identification and Analysis and to describe measures that will be used to remove obstacles to participation and address security risks.
 - Work with independent intermediaries to consult with stakeholders and ensure confidentiality of participants, in high-risk situations.
 - Promptly report any indication of opposition to a project by affected community members, workers, civil society organizations, or any others.
 - Inform stakeholders where they can go to access independent information about project risks, impacts, and mitigation measures, including nongovernmental organizations, academics, and national human rights institutions.
 - Prevent, investigate, prosecute, and remedy security incidents, including by putting in place protections for victims and witnesses to ensure confidentiality and appropriate treatment.

Accountability Mechanisms

Analyze the risk of reprisals and other security risks linked to every complaint received

Upon receiving a complaint, proactively discuss with the complainants and any independent groups working with them what are the security risks linked to the complaint, encouraging them to think about each of the actors involved (often government, company, and other community members) and to take into consideration the unique risks of individuals and those associated with them based on their gender, race, ethnicity, age, disability, sexual orientation or gender identity, or other status that might heighten vulnerability to abuse. Discuss with the complainants and those working with them:

- What measures they can put in place to address these risks, with a focus on providing information about measures that are sensitive to gender, race, ethnicity, age, disability, sexual orientation or gender identity, or other status;
- A process for reassessing the risks routinely throughout the accountability process and beyond;
- Encourage the complainants to report every threat, show of intimidation, security issue, or something similar to the accountability mechanism; and
- Agree preliminarily how the complainants would like the accountability mechanism to respond should problems arise. In the course of this discussion, agree a dispute resolution or investigation process which fully addresses any security concerns for complainants or people closely associated with them, including their children or others in their households.

Improve confidentiality processes

Take all necessary measures to ensure complainants who ask to have their identities be kept confidential are kept so throughout the process. This will likely require additional measures to ensure that other community members, government officials, and any company employees do not see staff from the accountability mechanisms alone with the complainants at any point. Do not utilize photographs in reports without express consent from everyone in the photo, following a conversation about the security risks. In high-risk scenarios, irrespective of consent, do not use photographs in which people are identifiable.

Actively monitor for and report on reprisals

Throughout and following the accountability process, actively monitor for reprisals including by asking each of the complainants whether they or people closely associated with them had any security concerns or had faced any problems whatsoever, particularly following community visits. Provide all interviewees with the contact details of an appropriate staff member of the accountability mechanism and urge them to contact that person, either directly or indirectly, should any security issue develop. In the past, the Inspection Panel visited affected communities at the conclusion of its process. These follow up visits should be reinstated in all cases in which there are risks of reprisal. The CAO and Inspection Panel should also include discussion of all instances of threats, intimidation, or other reprisals in their reports, while respecting the confidentiality of complainants and interviewees.

Discuss with the World Bank country office early and throughout the accountability process security concerns and risks of reprisals

Work with the country office to develop an early warning system to identify threats or other security issues particularly for those who have filed or are considering filing a complaint or are otherwise critical of a project, to analyze the risks, and to promptly implement protection measures. Identification and analysis of risks should take into consideration the unique risks of individuals and people closely associated with them based on their gender, race, ethnicity, age, disability, sexual orientation or gender identity or other status or classification that might heighten vulnerability to abuse.

Vigorously Respond to All Reprisals

Implement protection measures in close cooperation with those they are intended to protect

As soon as there is a reprisal of any kind, World Bank and IFC management should work with those at risk to develop and implement all necessary protection measures that are sensitive to gender, race, ethnicity, age, disability, gender identity or sexual orientation, or other status or classification, including whether measures should be taken for people closely associated with them or in their household. Protection measures should not significantly hinder those at risk from continuing their work as advocates or human rights

defenders. The efficacy of protection measures should be monitored periodically with the close participation of those at risk.

Publicly denounce every instance of reprisal

The World Bank should publicly denounce every instance of reprisal, using messaging that emphasizes the links to development, consistent with its mandate. These public statements should strive to maintain confidentiality of the individuals facing reprisals if requested by those at risk after considering whether public identification may increase risk and to mitigate future risks.

Intervene in specific cases

Raise specific incidents of reprisals with senior government officials and actively seek an appropriate response, including the unconditional release of critics detained on trumped-up or fabricated charges. Visit imprisoned detainees.

Accountability mechanisms should work with management to respond strongly to any reprisals linked to their cases

If the CAO or Inspection Panel receives information about reprisals or security risks, immediately engage senior-level World Bank Group officials to ensure that the security of complainants and others is restored and maintained, as is their ability to continue their work as human rights defenders. Accountability mechanisms should urge the World Bank president to raise any reprisal with the government involved at its most senior levels and, should management not do so, make that call publicly. Accountability mechanisms should also press management to emphasize that any such reprisal indicates a lack of respect for the role of the accountability mechanism, which is required of every World Bank Group member. It should also use every avenue available to it to respond to such reprisals directly, for example, seeking information from government agencies and visiting detainees in prison.

Acknowledgments

This report was researched and written by Jessica Evans, senior researcher and advocate on international financial institutions at Human Rights Watch. Follow up research was undertaken by Steve Swerdlow, Central Asia researcher at Human Rights Watch and two other researchers in Human Rights Watch's Asia Division.

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Human Rights Watch expresses its deep gratitude to the individuals and organizations that assisted with this research, particularly activists and community members who have faced reprisals for their work. We are also most grateful to those external experts who reviewed the report and shared their valuable insights.

Human Rights Watch extends its appreciation to the World Bank Group, CAO, THDC, and the Inspection Panel for responding to our enquiries. We wish to acknowledge the Inspection Panel for its in-depth responses to our questions both in writing and in person.

Human Rights Watch also extends its appreciation to individuals and organizations that have generously supported its work on development and human rights.

Appendix A: Human Rights Watch Letter to the World Bank Group

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April 21, 2015

Cyril Muller
Vice President, External and Corporate Relations
World Bank Group
1818 H Street, NW
Washington, DC 20433

Re: Research into Reprisals Linked to World Bank Projects

Dear Mr. Muller,

I am writing to solicit your views for Human Rights Watch research on reprisals linked to World Bank Group projects.

Human Rights Watch is one of the world's leading independent organizations dedicated to protecting human rights. We conduct objective, rigorous field research in more than 90 countries worldwide and produce reports on our findings to raise awareness about human rights issues and to develop and promote policy recommendations for change.

I am currently researching reprisals and crackdowns against community members, non-governmental organizations, and others linked to World Bank Group projects. Reprisals and crackdowns take various forms including threats to livelihoods and job security, threats against NGOs' existence, and physical threats, as well as arbitrary arrest and detention and violent crackdowns on protestors. We believe that the World Bank Group and its accountability mechanisms have an important role to play in supporting an enabling environment for participation and accountability and in preventing and responding to reprisals and crackdowns, particularly linked to its projects.

Human Rights Watch is committed to producing material that is well-informed and objective. We hope you and your staff would be able to answer the attached questions so that your views are accurately reflected in our reporting. In order for us to take your answers into account in our forthcoming report, we would appreciate a written response by May 15, 2015.



HRW.org

I would also be most happy to discuss this research with you or your staff in person.

Thank you very much and I look forward to your response. Please contact me on [REDACTED] should you wish to discuss.

Sincerely,



Jessica Evans
Senior Advocate/ Researcher on International Financial Institutions
Human Rights Watch

Questions for the World Bank

1. In light of the World Bank's commitment to civic participation and social accountability, how does the World Bank work with governments to safeguard space for independent organizations and media at both the country and project level? Please share examples.
2. How does the World Bank support an enabling environment for civil society, particularly when the government is implementing reforms that shrink civil society space?
3. Are you aware of instances in which persons or communities affected by World Bank projects, workers involved in World Bank projects, nongovernmental organizations working on World Bank projects, journalists reporting on World Bank projects, or any other persons involved directly or indirectly in World Bank projects have been subject to security risks? If so, please share with us the details of these risks, how you became aware of them, and how you responded.
4. How are risks to the security of affected persons and potential critics of World Bank projects, including journalists, activists, and nongovernmental organizations, analyzed in the context of the World Bank's risk management processes?
5. How are risks to the security of affected persons and potential critics of World Bank projects, including journalists, activists, and nongovernmental organizations, analyzed during project design?

6. Does the World Bank monitor its projects to identify evidence of heightened risk for affected persons and potential critics? If so, how does the World Bank respond to information gathered?
7. What steps does the World Bank take to minimize risks to the security of complainants or other people affected by World Bank projects? Please share with us details of the timing of these steps and how routinely the World Bank takes them.
8. Please can you advise for each of the following projects:
 - (a) Was the World Bank aware of security risks facing community members or their representatives?
 - (b) If yes, how did the World Bank become aware?
 - (c) If yes, how did the World Bank respond?
 - (d) Did the World Bank at any point enquire about security risks facing community members or their representatives? If so, please detail. If not, why not?

List of Projects

1. [REDACTED]
2. [REDACTED]
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4. [REDACTED]
5. [REDACTED]
[REDACTED]
6. [REDACTED]
[REDACTED]
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[REDACTED]
12. [REDACTED]
13. [REDACTED]
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14. [REDACTED]

Appendix B: World Bank Group Response to Human Rights Watch

From: Cyril Muller

Sent: Wednesday, May 27, 2015 6:44 PM

To: Jessica Evans

Cc: Margaret Anne Muir; Edith Jibunoh

Subject: RE: HRW Research into Reprisals Linked to World Bank Projects

Dear Jessica,

Thank you for your letter of April 21, 2015, in which you asked for information on accountability mechanisms linked to World Bank Group projects.

The World Bank Group's goals are to support countries end extreme poverty and boost shared prosperity. We share your concerns with the issues surrounding participation and accountability that threatens or prevents NGOs from conducting their work. We view the principles of human rights and development as mutually reinforcing, essential for sustainable development, and this ethos is consistently applied in our development activities. While we cannot reveal details of Bank staff deliberations with our clients, there are several publicly documented occasions where the Bank has flagged concerns with client governments when the treatment of civil society has not conformed to internationally recognized standards. The World Bank Group has initiated appropriate discussions recognizing that our ability to save lives and improve livelihoods would be severely compromised in the absence of an enabling environment for civil society.

Our scorecard on the MDGs demonstrates the Bank's contribution to the delivery of essential human services, i.e. water, health, education, and jobs, which we have achieved while maintaining high standards in the execution of Bank Group projects. While the World Bank Group is not a human rights tribunal – the international community has entrusted other organizations with that role – we see our role in protecting and supporting the poor, and promoting inclusive, sustainable development in line with goals.

The World Bank Group has created opportunities for participation of, consultation with and feedback from communities in the project design, implementation and evaluation phases of our activities. Allow me to highlight a few institutional mechanisms that support this.

Our approach begins with our policies. To this end, core principles - transparency, accountability, non-discrimination and equality of opportunity, governance, empowerment, participation and inclusion - have been incorporated into the World Bank's draft environmental and social safeguards policy, which have been designed to prevent and mitigate undue harm to people and their environment in the development process. Our current policy already includes meaningful consultation, effective public participation, property rights, and other key principles.

The World Bank Group is following a new approach to country engagement called the Country Partnership Framework (CPF). This new approach aims to make our country-driven model more systematic, evidence-based, selective and focused on the goals of ending extreme poverty and increasing shared prosperity in a sustainable manner. Before a CPF is defined, a Systematic Country Diagnostic (SCD) is undertaken to inform each new country partnership. Throughout the preparation of the CPF, the team engages in consultations with civil society and other stakeholders in the country. This is critical in determining the most important challenges and opportunities at the country level for reaching our corporate goals. Beyond consultations, engagement with stakeholders also includes collaborative processes—such as third-party monitoring, social assessments, citizen report cards, and community score cards—to help increase the effectiveness of WBG interventions and improve the implementation of the CPF program.

The International Finance Corporation (IFC) has long recognized the responsibility of the private sector to protect human rights, and incorporated human rights responsive principles into its Sustainability Policy and Performance Standards. IFC's standards include provisions for stakeholder engagement, disclosure of information and access to a grievance redress mechanism. For more information see www.ifc.org/sustainability.

In this regard, the World Bank has also just introduced a new Grievance Redress Service (GRS), to address complaints related to World Bank projects. Through this service, individuals and communities that may be directly and adversely affected by a World Bank-financed project can bring their concerns directly to the attention of World Bank management. The GRS ensures that complaints are being promptly reviewed and addressed by the responsible units in the World Bank. The objective is to make the World Bank more accessible for project affected communities and to help ensure faster and better resolution of project-related complaints.

The Inspection Panel (IPN) is the Bank's independent accountability mechanism for people and communities who believe that they have been, or are likely to be, adversely affected by a World Bank-funded project. The IPN was created in 1993 by the World Bank Board of Executive Directors, as a three-member body, in an important step to increase the transparency and accountability in Bank operations. The IPN provides independent investigation, subject to Board approval, to determine whether harm has occurred from noncompliance with Bank Policy in connection with the implementation of a project financed by the World Bank. The IPN is the first body of its kind to give voice to private citizens in an international development context.

The Office of the Compliance Advisor Ombudsman (CAO), the independent accountability mechanism for the IFC, also provides redress for communities by ensuring that their concerns are heard through a process that can achieve positive solutions for all parties. Today, the Panel's and CAO's success have provided other international financial institutions (IFIs) the example and value of an independent accountability mechanism upon which to model their own accountability mechanisms.

The referenced projects include completed and ongoing IPN and CAO reviews. You can find Management Responses to the completed reviews of IFC projects on the CAO's website (www.cao-ombudsman.org). Management Responses on all World Bank project cases that have completed the IPN process are available on the IPN's website (www.inspectionpanel.org).

Best regards,

Cyril

Cyril Muller
Group Vice President

Appendix C: CAO Response to Human Rights Watch



HRW Research into Reprisals Linked to World Bank Projects Questions for the Compliance Advisor Ombudsman

CAO RESPONSE, JUNE 2, 2015

- 1. Are you aware of instances in which community members, requestors, their representatives, or anyone else connected with a CAO case have been subject to security risks? If so, please share with us the details of these risks, how you became aware of them, and how you responded.**

Communities bringing CAO complaints have faced intimidation, victimization and death threats. Such sources of intimidation and risks include from government officials supportive of the project (national and local level), traditional leaders, employees of the private sector client, private security forces employed by the private sector client, community members who are in support of the project, and unknown sources. These are allegations made by complainants/communities that have not been independently verified by CAO. Some consultants working for CAO in the field have also been subjected to threats and violence.

- 2. Does the CAO routinely ask complainants about their security situation? If so, what leads to such enquiries and how does the CAO respond to information gathered?**

As part of CAO's engagement with the complainants particularly related to the assessment phase and dispute resolution phase, CAO would endeavor to learn about the complainants' security situation and whether following provisions should be put in place to address these concerns (see response to question 3).

- 3. What steps does the CAO take to minimize risks to the security of complainants or other people affected by IFC projects? Please share with us details of the timing of these steps and how routinely the CAO takes them.**

CAO may put the following provisions in place to address security concerns:

- Capacity building to complainants to help level playing field and power imbalances with other stakeholders
- Immediate appointment of local practitioner to engage with the community and commence conflict mapping exercise
- Offer of confidentiality, specifically ensuring non-disclosure of identities and documentation
- Non-disclosure of meeting venues, off site meeting venues, shuttle meetings, bilaterals rather than group meetings.
- CAO has sought WBG support in instances where community perceives government as being the source of the threat. Where local government representatives have appeared hostile, national government support in the form of a letter has been obtained and shared with the community.



- CAO has also reached out to the private sector directly in response to claims by the community that they are being harassed. In some instance this has been of assistance. In others not.
- Ensure proper contracting so that WBG security can be called into action where necessary.

4. Please can you advise for each of the following cases:

- (a) Was the CAO aware of security risks facing community members, requestors, or their representatives?
- (b) If yes, how did the CAO become aware?
- (c) If yes, how did the CAO respond?
- (d) Did the CAO at any point enquire about security risks facing community members, requestors, or their representatives? If so, please detail. If not, why not?

List of Cases

1. [REDACTED]
2. [REDACTED]
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4. [REDACTED]
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6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. [REDACTED]

CAO elects not to respond to the case-specific questions due to potential sensitivities with the complainants and confidentiality concerns that we would also be unable to address within the timeframe for requested inputs.

In terms of general challenges that apply to CAO's casework, we can make the following observations:

- Merely responding to the receipt of a complaint sets in motion a series of events, events which may increase a communities' vulnerability in the face of intimidation or threats.
- In this context, CAO is unable to provide any guarantees, regarding either the nature of those events, or the extent to which we can provide protection against resulting threats.



- CAO does not replace judicial recourse mechanism and so where these are weak, a community's ability to seek protection and redress is challenging, if not impossible.
- Where there are a set of ground rules in place, and a party does not comply with those ground rules, either party may decide to withdraw from the dispute resolution process. CAO has no ability to enforce application of those ground rules.
- The culture of intimidation and reprisals within a given context should form part of any pre-project assessment of the appropriateness for engagement.
- The end decision regarding whether to proceed or not with dispute resolution remains with the parties. CAO can reality test in situations of fear and do scenario planning, but the end decision to engage in the process rests with the community and company.

ADDENDUM TO CAO RESPONSE. JUNE 9, 2015

CAO appreciates HRW soliciting its views for ongoing research into reprisals linked to World Bank Group projects. In requesting CAO inputs, HRW noted that the World Bank Group and its accountability mechanisms have an important role to play in supporting an enabling environment for participation and accountability and in preventing and responding to reprisals and crackdowns, particularly linked to its projects.

CAO submitted a response to questions posed by HRW related to its ongoing research on June 2, 2015. HRW subsequently shared with CAO excerpts of its findings as pertain to CAO's work and practices, and gave CAO an opportunity to provide additional comments and clarifications before the report went to press. These comments have been included here as an addendum to CAO's initial response and were submitted to HRW on June 9, 2015.

CAO acknowledges the importance of the issues raised by HRW regarding reprisals against community members, NGOs, and others linked to projects. CAO recognizes that these issues are difficult to address within the confines of its mandate, operational scope, and procedures. CAO will take findings and recommendations from the HRW report that will help CAO reflect on current practice, inconsistencies over time, and, to the extent possible, address any shortcomings identified by the report. In particular, CAO will look at how recommendations from the HRW report can inform its systems moving forward.

The HRW report notes CAO's decision not to respond to questions regarding CAO's awareness of, and response to, security issues related to 15 cases between 2001 and 2014. CAO made this determination on the basis of potential sensitivities with the complainants and confidentiality concerns that CAO would also be unable to address within the timeframe for requested inputs. At that time, HRW had not made CAO aware of specific concerns from complainants in relation to these cases. Subsequent to submitting its response, CAO learned from HRW that the report would cite specific concerns in relation to CAO's handling of two cases. CAO is grateful that these concerns have been brought to its



attention and anticipates engaging with HRW and relevant parties on these issues. CAO reiterates the serious consideration that it gives to concerns raised by complainants regarding reprisals and security issues, and the importance of learning from these experiences to inform future practice. CAO welcomes the opportunity for continued engagement with HRW on its research and findings in this regard.



The World Bank has long highlighted the importance of public participation and accountability for its development efforts. But the Bank's repeated failure to confront intimidation or harassment of people who criticize the projects it funds risk making a mockery out of its own stated commitments.

At Your Own Risk details how people in Cambodia, India, Uganda, Uzbekistan, and elsewhere have faced reprisals from governments and powerful companies for criticizing activities financed by the World Bank and its private sector lending arm, the International Finance Corporation (IFC). Based largely on interviews with activists, victims of abuse, and their family members, the report documents failures by the World Bank and IFC to secure a safe environment in which people can express concern or criticism about projects funded by the Bank Group without risk of reprisal. In spite of this, many community members in these countries have taken grave risks to speak out about the problems that they see with these projects and faced threats, harassment, trumped-up criminal charges, and violent crackdowns. The World Bank Group has largely left these critics to their fate, choosing to turn away rather than engage in difficult conversations with governments.

Human Rights Watch calls on the World Bank Group to consistently emphasize to its partner governments that criticism of World Bank Group-financed activities should be not only tolerated but welcomed as an important way to improve development efforts. It should take all necessary measures to prevent intimidation of critics, closely monitor for reprisals, and, should reprisals occur, respond promptly, publicly, and vigorously.

(above) An activist holds a placard during a march in a protest in Cancun Mexico against the World Bank's participation in climate finance in December 2010.

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(front cover) Members of the Boeung Kak Lake community in Cambodia demonstrate at a police blockade in December 2012 on the second day of community activist Yorm Bopha's trial, on trumped up charges apparently brought for speaking out on forced evictions linked to a World Bank financed project.

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