

**INTERNATIONAL FINANCIAL INSTITUTIONS  
AND HUMAN RIGHTS**

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**HEARING**

BEFORE THE

**TOM LANTOS HUMAN RIGHTS COMMISSION**

**HOUSE OF REPRESENTATIVES**

ONE HUNDRED AND FOURTEENTH CONGRESS

FIRST SESSION

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SEPTEMBER 30, 2015

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**C O N T E N T S**

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WITNESSES

Obang Metho, Executive Director, Solidarity Movement for a New Ethiopia..... 11  
Milton Sánchez, General Secretary, The Interinstitutional Platform of Celendin ..... 22  
Nezir Sinani, Safeguards Coordinator and Climate Change Coordinator, Bank Information Center ..... 26  
Professor Philip Alston, U.N. Special Rapporteur on Extreme Poverty and Human Rights ..... 51

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Prepared Statement of the Honorable James P. McGovern, a Representative in Congress from the State of Massachusetts and  
Cochairman of the Tom Lantos Human Rights Commission..... 8  
Prepared Statement of Obang Metho..... 14  
Prepared Statement of Milton Sánchez..... 24  
Prepared Statement of Nezir Sinani ..... 30  
Prepared Statement of Professor Philip Alston ..... 54

APPENDIX

Hearing Notice ..... 60



## INTERNATIONAL FINANCIAL INSTITUTIONS AND HUMAN RIGHTS

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WEDNESDAY, SEPTEMBER 30, 2015

HOUSE OF REPRESENTATIVES,  
TOM LANTOS HUMAN RIGHTS COMMISSION,  
*Washington, D.C.*

The Commission met, pursuant to call, at 1:30 p.m., in Room 215 Capitol Visitor Center, Hon. James P. McGovern [co-chairman of the Commission] presiding.

Mr. McGOVERN. All right. Thank you. Let me apologize to everybody for being late but I am on the Rules Committee and we just met to provide a rule to keep the government from shutting – prevent the government from shutting down. So I hope that was worth the ten-minute delay.

Anyway, good afternoon and thank you all for coming to this very important hearing on international financial institutions and human rights, and I want to thank the Commission staff for their work in putting this event together.

I am pleased to welcome all of our witnesses and recognize your hard work on these important issues. Some of you have traveled long distances to be here and you are bringing deep expertise and on-the-ground experience from three regions – Europe, Africa and Latin America – to share with us today and I am grateful for all of your efforts.

I would like to extend a very special welcome to the United Nations Special Rapporteur for extreme poverty and human rights, Professor Philip Alston.

Professor Alston is an internationally known expert on human rights and international law who has served the U.N. in various capacities since the 1980s. I know him as a strong advocate for economic and social rights including the right to food that is so important for ending hunger and we are honored by his presence here today.

Every morning I get up and I listen to the news and often it is bad. Lately, it seems like we are constantly confronted with new or worsening human rights situations and crises.

Some, like Syria, Iraq, Egypt, Burma are due to armed conflict or internal unrest or a combination of the two. But others are due to ongoing longstanding situations in which large numbers of people are relegated to the margins of national life and living in conditions that are wholly inconsistent with human dignity.

I am talking about poverty, which, in spite of some progress in recent decades, still affects nearly half – 44 percent – of the world’s 7.3 billion people. In 2011, more than a billion people were living on less than a \$1.25 per day, the threshold for extreme poverty.

Another 2.2 billion lived on less than \$2 a day, the average poverty line in developing countries. These are mind boggling numbers. But poverty is not merely about a lack of income.

It is also about not being able to access even minimal levels of food, water, education, health care and housing. Poverty is about not having work or an adequate standard of living – conditions that are indispensable for the full development of one’s being as is recognized in the Universal Declaration of Human Rights.

Or let me put it another way – not having work that helps provide an adequate standard of living because we all know that the poor work very, very, very hard every day but still remain mired in desperate circumstances.

So the figures that I just cited are from the World Bank, an international financial institution whose goals include ending extreme poverty – the World Bank Group, which works to achieve those goals through development programs and projects.

It is a development agency – not the only one but certainly one of the most important in terms of the amount of resources it expends each year in the scale of funded projects.

If you take a look at the Bank’s annual world development report, you will find information on the state of poverty worldwide defined by income level.

You will also find information on a range of other issues that the Bank has identified as key for achieving development, gender equality, child labor, rule of law, anti-corruption, fostering good governance and ending discrimination against indigenous peoples, amongst others.

When the Bank talks about these issues, it links them to human rights, which is appropriate. As early as 1998, the World Bank acknowledged that creating the conditions for attainment of human rights is a central and irreducible goal of development and that the world now accepts that sustainable development is impossible without human rights.

Yet, for a variety of historical reasons, the Bank has long resisted explicitly incorporating human rights into its policies and practices at the operational level, and this is the topic we are here today to explore.

On one hand, the failure to incorporate human rights standards in the design, implementation and evaluation of bank projects has generated a number of adverse effects at the local level such as land grabs, mass evictions and forced displacement that, obviously, could have been prevented.

We will hear testimony today about three such cases in Kosovo, Ethiopia and Peru in which the people who are supposed to be helped by development initiatives end up being harmed.

A country's own formal commitment to protect its people's rights, even when it exists, is not enough in the face of the temptation of millions of dollars in international investment.

But if the Bank's own operating standards incorporated rights protections, these outcomes could be avoided.

On the other hand, by not incorporating human rights the Bank is foregoing guidance that could help ensure that its projects and programs contribute as effectively as possible to improving the conditions of human dignity because that is the real goal of development.

Increasing income is a means to that end, not the end itself. The World Bank is not the only international financial institution nor the only development – nor the only development agency. But it is, arguably, among the most influential.

It is a major source of funding and technical assistance for developing countries and it has contributed to relieving many crises around the world. Its policies and practices exert considerable influence.

The U.S. Congress has played and continues to play an important role vis-a-vis the World Bank and other international financial institutions. U.S. contributions to the Bank require legislation. Congress oversees U.S. participation in the Bank.

The U.S. commercial interests engage with the Bank. So I believe that Congress is well positioned to encourage the Bank to incorporate human rights into its operational policies and practices which, in turn, would have a positive effect on the entire development field.

Now, I mentioned at the beginning of my remarks the bad news that confronts us on a daily basis. I will close by repeating something I've been saying all year.

As a member of Congress, I am looking not just to criticize but to identify new and creative ways to contribute to improving the human rights situation around the world.

We need to understand what's gone wrong in the past and what is still going wrong today. But we especially need to focus on what to do to change things for the better future.

So I very much look forward to hearing the testimonies today and especially the recommendations for what needs to change and how the U.S. Congress can support that change.

[The statement of Mr. McGovern follows:]

**Prepared Statement of the Honorable James P. McGovern, a Representative in Congress from the State of Massachusetts and Cochairman of the Tom Lantos Human Rights Commission**

Good afternoon. Thank you all for coming today to this very important hearing on International Financial Institutions and Human Rights, and thanks to the Commission staff for their work in putting together this event.

I am pleased to welcome all our witnesses and recognize your hard work on these important issues. Some of you have traveled long distances to be here, and you are bringing deep expertise and on-the-ground experience from three regions – Europe, Africa, and Latin America – to share with us today. I am grateful for your efforts.

I would also like to extend a very special welcome to the United Nations Special Rapporteur for Extreme Poverty and Human Rights, Professor Philip Alston. Prof. Alston is an internationally-known expert on human rights and international law who has served the U.N. in various capacities since the 1980s. I know him as a strong advocate for economic and social rights, including the right to food that is so important for ending hunger, and we are honored by his presence here today.

Every morning I get up and listen to the news, and often it's bad. Lately, it seems that we are constantly confronted with new or worsening human rights crises. Some – like Syria, Iraq, Egypt, Burma – are due to armed conflict or internal unrest or a combination of the two. But others are due to on-going, long-standing situations in which large numbers of people are relegated to the margins of national life and living in conditions that are wholly inconsistent with human dignity.

I'm talking about poverty, which in spite of some progress in recent decades, still affects nearly half (44%) of the world's 7.3 billion people. In 2011, more than a billion people were living on less than \$1.25 per day, the threshold for extreme poverty. Another 2.2 billion lived on less than \$2.00 a day, the average poverty line in developing countries. These are mind-boggling numbers.

But poverty is not merely about a lack of income; it is also about not being able to access even minimum levels of food, water, education, health care and housing. Poverty is about not having work or an adequate standard of living, conditions that are indispensable for the full development of one's being, as is recognized in the Universal Declaration of Human Rights. Or let me put this another way – not having work that helps provide an adequate standard of living because we all know that the poor work very, very hard every day but still remain mired in desperate circumstances.

The figures I just cited are from the World Bank, an international financial institution whose goals include ending extreme poverty. The World Bank Group works to achieve those goals through development programs and projects – it is a development agency, not the only one, but certainly one of the most important in terms of the amount of resources it expends each year and the scale of funded projects.

If you take a look at the Bank's annual *World Development Report*, you will find information on the state of poverty worldwide, defined by income level. You will also find information on a range of other issues that the Bank has identified as key for achieving development: gender equality, child labor, rule of law, ending corruption, fostering good governance, and ending discrimination against indigenous peoples, among others.

When the Bank talks about these issues, it links them to human rights, which is appropriate. As early as 1998, the World Bank acknowledged that "creating the conditions for attainment of human rights is a central and irreducible goal of development" and that "the world now accepts that sustainable development is impossible without human rights." Yet for a variety of historical reasons, the Bank has long resisted explicitly incorporating human rights into its policies and practices at the operational level. And this is the topic we are here today to explore.

On the one hand, the failure to incorporate human rights standards in the design, implementation and evaluation of Bank projects has generated a number of adverse effects at the local level, such as land grabs, mass evictions and forced displacement, that could have been prevented. We will hear testimony today about three such cases, in Kosovo, Ethiopia and Peru, in which the people who are supposed to be helped by a development initiative end up being harmed. A country's own formal commitment to protect its people's rights, even when it exists, is not enough in the face of the temptation of millions of dollars in international investment. But if the Bank's own operating standards incorporated rights protections, these outcomes could be avoided.

On the other hand, by not incorporating human rights, the Bank is forgoing guidance that could help ensure that its projects and programs contribute as effectively as possible to improving the conditions of human dignity, because that is the real goal of development. Increasing income is a means to that end, not the end itself.

The World Bank is not the only international financial institution, nor the only development agency. But it is arguably among the most influential—it is a major source of funding and technical assistance for developing countries, and it has contributed to alleviating many crises around the world. Its policies and practices exert considerable influence. The U.S. Congress has played and continues to play an important role vis-s-vis the World Bank and other international financial institutions: U.S. contributions to the Bank require legislation; Congress oversees U.S. participation in the Bank; and U.S. commercial interests engage with the Bank. So I believe the Congress is well-positioned to encourage the Bank to incorporate human rights into its operational policies and practices, which in turn would have a positive effect on the entire development field.

I mentioned at the beginning of my remarks the bad news that confronts us on a daily basis. I will close by repeating something I've been saying all year: as a Member of Congress, I'm looking not just to criticize, but to identify new and creative ways to contribute to improving the human rights situation around the world. We need to understand what's gone wrong in the past and what is still going wrong today. But we especially need to focus on what to do to change things for a better future. So I very much look forward to hearing the testimonies today, and especially the recommendations for what needs to change and how the U.S. Congress can support that change.

Mr. McGOVERN. So I am very pleased to welcome the members of our first panel who will present case studies of the negative consequences of development projects funded by the World Bank in partnership with other international financial institutions.

Mr. Obang Metho – am I pronouncing that? – yeah, executive director Solidarity Movement for a New Ethiopia; Mr. Milton Sánchez, general secretary of the Institutional Platform of Celendin; Mr. Nezir Sinani – I am from Massachusetts, my English is bad so I mean I just wanted to– Safeguards Coordinator and Climate Change Coordinator, Bank Information Center. I, again, I thank you for your presence today.

I would like to formally – I would like to formally submit the written testimonies of all the witnesses in this hearing. And Mr. Metho, why don't we begin with you? And just make sure your green light is on here.

STATEMENTS OF OBANG METHO, EXECUTIVE DIRECTOR, SOLIDARITY MOVEMENT FOR A NEW ETHIOPIA; MILTON SÁNCHEZ, GENERAL SECRETARY, THE INTERINSTITUTIONAL PLATFORM OF CELENDIN; NEZIR SINANI, SAFEGUARDS COORDINATOR AND CLIMATE CHANGE COORDINATOR, BANK INFORMATION CENTER

STATEMENT OF OBANG METHO, EXECUTIVE DIRECTOR, SOLIDARITY MOVEMENT FOR A NEW ETHIOPIA

Mr. METHO. Yes, it is on now. Thank you, Mr. Chairman, for giving us this opportunity to talk about these issues. That is very, very critical. I, you know, would be – would love my statement to be put on the record.

Mr. MCGOVERN. No objection.

Mr. METHO. This is a very crucial issue that really we are talking about today. The financial institutions, especially the World Bank, was set up to help those who are the most vulnerable people or to help the peoples, not to harm the peoples.

The example that I am going to give today or the talk, I am not here as an expert but I am here as a witness, especially speaking on behalf of the Ethiopian people who have no voice. Being an individual from Ethiopia, not alone, I could say that I could speak for on behalf of all Ethiopians. The organization that I run is a social justice of a diverse Ethiopia and it is on social justice that are based on principles and that principle is to have an Ethiopia where our humanity comes before anything else, an Ethiopia that where justice and the well being of Ethiopians are all protected. In other words, no one will be free until we are all free.

With that in mind, the example that I am going to use is start almost, I would say that, in 2008. In 2008, the Ethiopian government evicted a local people from their lands. I think that you mentioned it already in statements.

In around 2008, they were food shortages around the world, and there were people who were protesting, looking, you know, for food and some of the investors realized that investing in food will be the most needed. And so what happened was they realized that we have almost in the next few years will have 9 billion people and these people need food to be fed.

And they are really looking for a more spiritual land and where do you find the lands? Africa will become one of the key place. And so when they did that, some of this land that the investor won was not a land that nobody lived in.

It is a land that belonged by the indigenous people who live in that place, and this is where the case of Ethiopia come in. The Gambella region of southwest of Ethiopia where I come from today is a most fertile area.

By that time, the Ethiopian government decided that they would remove the people for what they call the larger issue. Moving the people from the place where they have been living for generations and to someplace they were told that you are here on your own.

Keep it in mind that you see here. The image of Ethiopia what we know is its starvation, no food, lack of food. That is what Ethiopia has been known. It is not because Ethiopians don't have personal land to feed themselves.

Ethiopians don't have the system that will be able to sustain to feed their own peoples. So these Ethiopians then were evicted from the land. These were not people who depend on food aid.

It was people that who used the land to feed their families. I am one example of those. I was not raised by the income that had been brought from the office. I was raised from the income that come from the land.

To me, the land is my identity, my culture, my value and when you take a land away from me then you take away my future and my livelihood. To me, it is not a land grab. It is a life grab.

So when the local people were evicted from Gambella regions in southwest Ethiopia, at that time, there was a study that which was done with Oakland Institute.

What we found was 78 percent of the land grabber are domestic local peoples, 22 almost that from abroad and based on the Human Rights Watch and other when they studied they found that the local people who had been displaced from their land, especially the indigenous Anuak people, was evicted by the money that which was given by the World Bank PBS.

And then by that time the local Anuak that, you know, requested and thanks to the Congress that, you know, a few years back the Congress has introduced to make sure that the World Bank is accountable, to have inspection panels where the World Bank will be able to investigate what's going on with themself.

So these local people that, you know, submitted the fields, and thanks to those, field committee an inspection panel went to Ethiopia. They interviewed the local people. Those Anuak who, you know, left Ethiopia and Kenya and South Sudan they went there and then the report came out. According to the report, the World Bank has violated their law.

Even Dr. Kim admitted that. And when someone violates the law there is supposed to be an enforcement of that law. If there is no real enforcement of the law, it is meaningless.

The World Bank admitted it. Just last month, Dr. Kim gave a lot of money, \$350 million, to Ethiopia. Why? Because what I see now is Ethiopia, for most of you who don't know, is a country that being considered by Obama administration, Bush administration as ally on war on terror. But Ethiopia lived with it. Ethiopian futures have been ignored because for the security. As a result, Ethiopians are suffering.

So because of that, the World Bank pretty much can do whatever they want and now that's where we come in. The Congress if the World Bank cannot live up to their own violation of their own laws, then the Congress has to go up to do that and this is why we are coming here to tell the Congress.

We had people that has who has been, you know, harmed by the money that which has been given by the World Bank, the money that World Bank got by being approved by the Congress and these money no one has been made accountable.

Transparence accountability is nonexistent. So in Ethiopia this is a country where they pass a law charity proclamation big. In Ethiopia, civil society is nonexistent. Journalists are being put in jail.

The brokers are being put in jail. This is a country that where it is against the law for woman rights, child rights, disabled rights, the conservation the value and the principle that America is founded on. And then this is a country that passed a law anti-terror laws. All the Ethiopian political dissents are being put in jail. The journalists are being put in jail for writing. Just simply just because they are a friend or alliance on war on terror they have been allowed to get away with it.

So now let us come to this. If in Ethiopia we don't have the rule of law, the people in Ethiopia are looking for somebody else to speak for them and if the World Bank cannot speak up for those peoples where else do these people go to?

I don't lose hope because, again, in this country we live in the World Bank gets a portion of money from the U.S. and they cannot get it without approval from the Congress. So this is where I come in to my conclusion remarks. The World Bank has failed miserably.

The money that is supposed to help the people harm the peoples. The World Bank is supposed to be the adult in the room to tell the kids. But in other words, they did not live up to their responsibility.

I want to end my remark with this. We already know the World Bank did not relieve, there is no compensation. Those local people who have been evicted, even though it is been proved, they did not do anything.

What I am hoping from the Congress, you know, to include in Appropriation Committee to making sure that if the World Bank money is to go and harm the people, maybe it is not worth giving it in the first place.

At the end of the day, I am not against helping the poor peoples but I am against ignoring the suffering of the peoples. In the case if the World Bank don't lead them what made them different in Ethiopian government that has a constitution they don't follow the constitution? If Ethiopia that declare that they are democratic when they win election 100 percent, Ethiopia would say that there is rule of law when, you know, anyone being put in jail without any trial. What's the difference if the rhetorics of Ethiopian government claiming that they are democratic, winning 100 percent? There is no civil societies. Rule of law doesn't exist.

Journalists are being accused of being a terrorist because journalists usually have been terrorists are known by harming people but not by pens. So with any of these in mind, I just want to say that yes, it has been proved with no without reasonable doubt it has been proved. But the World Bank has lived up to that and I hope that the Congress will live up to their responsibility.

At the end of the day, our humanity has no boundaries. The suffering that which is being done by those governments. Those governments should not get away with it because they are an alliance on war on terror.

U.S. can have it both ways to have a government that respected the Ethiopian people have the rule of law and have a government that really can protect the national interest of the U.S.

In the long run, all of us have a right, have a responsibility for the well being of those who are vulnerable who cannot speak for themselves.

Thank you.

[The statement of Mr. Metho follows:]

#### **Prepared Statement of Obang Metho**

I would like to thank the Chairman of the Commission for inviting me to testify at this important issue International Financial Institutions and Human Rights. I want to especially thank the Chairman and Co-Chair, of the TLHRC for their extraordinary leadership in bringing the case of International Financial Institutions and Human Rights to the attention of this Commission; particularly in light of the many pressing global issues.

Mr. Chairman, I am not here as an expert, a scholar or researcher; but instead, I am here as a defender of human rights for human beings. I am the Executive Director of the Solidarity Movement for a New Ethiopia, (SMNE) a social justice organization of diverse Ethiopians, which is based on the principles of "*putting humanity before ethnicity or any other differences*" and caring about the well being of others as we do about ourselves not only because it is right, but also because "*none of us will be free until all are free.*"

I am here today on behalf of the people of Ethiopia; in particular, the Anuak people living in the Gambella region of southeastern Ethiopia regarding their appeal to the World Bank. In that appeal, they requested an inspection of the World Bank's project in Ethiopia, known as *Promoting Basic Services (PBS), Phase III, in regards to the harm it was causing to the Anuak people in the Gambella region of the country. Their appeal was based on claims of harm caused as a result of the WB's non-compliance with its own*

*policies; in particular, regarding a resettlement program that had led to the mass eviction of Anuak from their ancestral homes. That appeal ultimately led to a full-scale investigation by the World Bank's Inspection Panel; the outcome of which was a determination that the World Bank had violated its own rules, safeguards and protocols; and in doing so, had harmed the Anuak, the same people they had intended to help.*

*While the results are encouraging, my concern today is the failure of the WB to take meaningful action in response to this determination, which had been submitted in a formal report to WB Management on November 21, 2014. Even though these Anuak, and many others living in the region, have suffered significant damage to life, livelihood and property; no reparations have been made, no corrective actions have been taken and no one has been held accountable, including the Government of Ethiopia (GoE). In fact, even though the GoE was found responsible for the misuse of funds, the lack of the required financial accounting records for where the money went, and for much of the harm suffered by the Anuak; the WB recently provided \$350 million in new funds to the GoE, without requiring any satisfactory resolution of these serious issues. Where are the WB mechanisms meant to deal with such egregious violations? Where is the assurance to the victims that WB funds will not again be used to harm them?*

*In 2015, the Anuak people are at greater risk of extreme poverty and human rights abuses than ever. Since 2008, according to a study by Oakland Institute, some 60% of Anuak have been forced from their indigenous land. Many have been victims of human rights abuses and more are in extreme poverty. Many of these many have fled to refugee camps; not only for safety, but because they no longer had a means to feed themselves. Health care does not exist and education is extremely lacking. Older boys from the rural areas often leave their homes to seek an education in Gambella Town; however, they often are targeted by the GoE. Numbers of them have been arrested and jailed for no reason; others have disappeared. **Anuak who speak out are silenced, including one Anuak man, Omot Agwa, a well-respected pastor who provided translation to the World Bank's appeal team and inspection panel.***

*The close link between his arrest and his translation work is similar to the outcome of others who speak out. In a one-party, ethnic-based government, which recently claimed 100% of the votes in the May 2015 election, it is not surprising. They have no appetite for truth, especially when it jeopardizes the receipt of hundreds of millions of dollars of WB money. Pastor Omot is now in prison, charges with trumped up crimes. In nearly every aspect of well being, the Anuak are worse off today than they were in 2008.*

*The basis for my representation today is also personal. The people affected by the actions of the WB are people I know. They are family members, friends, former classmates, community members and people I have known from a young age as I am also of Anuak ethnicity. These are people I know by name. The areas affected are villages, towns and places where I have been. This region, Gambella, is where I was born and raised.*

*Ethiopia is my motherland; yet, the current ruling government has failed to view the Anuak, other indigenous people of Gambella, as well as many of the other people of Ethiopia—like those in the Omo Valley, Benishangul-Gumuz, the Somali region, the Afar region and in other places, as equal members of society even while desiring their resources.*

*As an example in regards to the Anuak, in December 2003, the federal government brutally targeted Anuak leaders, killing 424 persons within 3 days. The leaders were seen as a threat to the GoE's plan to exploit the oil reserves discovered on Anuak land. Human rights violations continued for over three years while the drilling of wells proceeded until found dry. Government-led forces destroyed property, schools, health clinics, wells and other limited infrastructure in the region. Countless numbers of Anuak were arrested and jailed. Others fled to refugee camps where they remain.*

*Anuak indigenous land is located in the rivers of the upper Nile and is seen as highly desirable. It is rich in resources, including extremely fertile land, water, minerals, virgin forests and abundant wildlife. However, **the people are seen as obstacles to those in power who want access to such resources. In countries like***

*Ethiopia, the WB's burden to protect the people from harm is intrinsically linked to ensuring government compliance with WB policies. This did not happen.*

Despite this, I want to give appreciation to members of the initial appeal team who worked diligently so as to discover whether or not there was justification to launch a full-scale inspection. They persevered through numerous obstacles, including government roadblocks put in their way to stop the process. However, the conclusion of their efforts provided the factual basis necessary to proceed with a full-scale inspection. *I also want to recognize the efforts of the WB Inspection Panel for their arduous work in finding the facts of the case that led to their determination of fault on the part of the bank as well as on the part of the Government of Ethiopia (GoE). So often, a small minority group like the Anuak finds no way for their voice to be heard so I want to give much credit to those who served in this capacity.*

There is no debate in regards to the Panel's findings. *After the report was leaked to the public, WB President Dr. Jim Yong Kim, himself, publically acknowledged the findings of the Inspection Panel. He admitted to WB's error in not following their own protocols and that they failed to implement WB safeguards which could have intervened to protect the Anuak from harm. However, since this time, the Management has stopped short of taking corrective action—actions that are required as part of WB protocols. Such a finding should have had an effect on future disbursements to Ethiopia. Leverage should have been used to require reparations and other appropriate corrective actions, but it did not happen. Therefore, if the WB Management is not enforcing their protocols, someone else should do so. That is why a hearing like this before US Congressional members is so important. If the WB fails to take action, the Congress is in a position to do so in order that the law is upheld in this regard.*

**Specific requirements:** The goals of the Protective Basic Services, Phase III were to expand access and quality of basic services through block grants (mostly salaries) and by strengthening capacity, accountability, transparency, and financial management of the government at the regional and local levels. *It was to include increased citizen engagement as a mechanism of accountability and the results would be evaluated in terms of such things as improved access and quality of services, inclusiveness, sustainability, fairness, equity and regular checks on financial accountability and transparency.* Funding of salaries accounted for 80% of the block grants, leaving 5% for recurring expenses and 15% for other expenditures.

**What happened:** The GoE used the PBSIII block grants to implement their own villagization program, the Commune Development Programme (CDP), with the goal of resettling Anuak from the rural areas to villages they chose under the pretext that they were moving them to more central locations where more services would be available, such as schools and health clinics. Instead, **this program was used as a means to force Anuak from their highly fertile ancestral land in an involuntary resettlement program.** Vacated Anuak land was then leased to foreign and domestic investors. These mass evictions resulted in the loss of livelihoods, food and stability.

*Human rights abuses, rape, arrests, and even death accompanied these massive land grabs as the government forces and regional authorities punished any who resisted, often in conjunction with those carrying out this WB program through officials receiving their salaries from WB funds.*

The Anuak left food sources, crops ready for harvest, homes and village communities behind; however, when they arrived in these new settlements, supposedly meant to provide more services; they ended up under trees, with little access to clean water. They had to build their own shelters and clear their own land without the tools to do so. *The land itself was not as fertile or well-watered as what they left. The services promised were lacking. Food was scarce and some died of starvation. Many had to depend on food aid if and when it was available. In desperation, many Anuak left for refugee camps in Kenya and South Sudan due to the hardship they faced and the human rights abuses perpetrated by the government.* Although the GoE insisted the program was voluntary and that the Anuak would benefit; none of it was true. Funds from the PBS block grants were utilized to implement this program that instead, harmed the Anuak.

**Concerns:** At the time, Human Rights Watch, Oakland Institute and others conducted investigations on the land grabs and their effects on the Anuak people of Gambella. In the results, they found ample evidence that strongly substantiated the grievances of the Anuak. Human Rights Watch shared this information with the 70 members of the Development Assistance Group (DAG) and the WB Management; however, when WB Management received the reports, they gave responsibility to other donors from DAG to conduct a mission on these allegations. In those missions, DAG found no evidence existed of the forced relocations or of systematic human rights abuses of the Anuak. However, *when the WB Inspection Panel later investigated the appeal, it was determined there was evidence of harm, which is the basis of the current acknowledgement of failing to follow WB safeguard protocols.*

**Obstacles:** The task of determining whether or not violations occurred has not been easy due to the government's obstructions put in place in order to manipulate the results. The initial WB appeal team, whose duty it was to determine whether or not there were grounds for a full-scale investigation, found that those Anuak they interviewed in Gambella were fearful of consequences if they revealed the truth. However, *in a leaked recording of a regional government meeting in preparation for Anuak to be interviewed by the appeal team, one can hear regional authorities intimidating those in attendance to give the government's spin on the villagization program, stating that \$650 million dollars of WB money was at stake.*

When this WB appeal team later interviewed these Anuak in Gambella, people were hesitant to talk or to say anything negative about the program; however, *when the team traveled to the refugee camps in Kenya and South Sudan to interview others, the evidence was found in abundance. This is a government that has gone to great lengths to silence the people; not only in Gambella, but throughout the country. It is why Ethiopia has been found to be the second greatest jailer of journalists and political prisoners in Africa, only following Eritrea.*

*Now, they have punished Omot Agwa, the WB interpreter for making the truth known. He was on his way to a conference on food security when he was arrested under false charges in May of this year. Failure of the WB and others to demand his release will send an alarming message to others that will ensure that future investigators will find it difficult to find someone willing to take such risks.*

**Comment on the exclusion of human rights violations as a mandated component of the report:** There existed a close link between the GoE's resettlement program, which was heavily funded by WB funds, and the widespread commission of human rights violations in association with it. *Despite this, the Inspection Panel was limited in its mandate from including the violation of human rights in association with the project. Neither were they able to consider the underlying purposes of the GoE's resettlement program as it also exceeded their mandate. However, the underlying goal of the resettlement program—to take over Anuak land—has been largely accomplished with the use of WB funds to carry out its implementation. Both are major negative and harmful outcomes to the Anuak that resulted from the PBS Phase III program. It is believed that the exclusion of these two very important components should not be overlooked.*

**Conclusions:** Despite the clarity of the report regarding the WB's failure to follow their own protocols and as a result, *the harm done to the Anuak people; and despite the lack of any corrective measures, why has the WB still provided \$350 million in new funds to Ethiopia? You in the US Congress have a responsibility now. If the bank's role was to help the people and instead it harmed them, does it not reinforce wrongdoing on the part of Ethiopia if there are no consequences? If our world's leading institutions choose to live this way; our world is in danger. If the intention of the WB is to help and it does not, it is no different than the rhetoric coming out of countries with autocratic governments who say one thing but do another.*

*Like in Ethiopia, they claim to be democratic, but yet they violently and illegally close off all political space. They hold an election, but regardless of the votes or will of the people, they declare an absurd 100% victory for themselves in the last election. They claim to follow the rule of law, but instead use it to target the innocent and to support their own wrongdoing. They claim to fight terrorism; but instead, they have criminalized dissent, labeling those who speak the truth as terrorists. They claim to have civic*

*institutions, but instead have closed down those that are independent and then propped up their own. They produce mountains of propaganda while denying others freedom of expression. They claim double-digit economic statistics to the world although no one is allowed to authenticate it. Crony capitalism thrives while those of the wrong ethnicity or politics are blocked from participation. The only place people can reasonably expect to find the accountability and transparency that is outlawed in Ethiopia, is from outside institutions like the WB; but if the WB fails to do their job, what is left? The world is in trouble.*

*The gap between extreme poverty and the rich has been exacerbated by the failure of institutions like the WB when they turn a blind eye to their own internal reports. Will members of the Congress who have set up this hearing and those others who care about doing what is right, take the higher moral ground? We need truth, action and accountability; not rhetoric or image preservation.*

*What is the reason for laws, constitutions, international goals and challenges if they do not protect the well being of the most vulnerable from those who are misusing their power? We should not take the higher road only when it is expedient or because someone is watching, but because it is the right thing to do. If such laws and guidelines are open to be ignored, it is better to discard them rather than use them as a pretense.*

In Gambella, despair is everywhere as the Anuak and other indigenous people are actively blocked from opportunities. Many have left and have found life in refugee camps to be difficult, but still they are not going back. The ancestral land of the Anuak no longer welcomes them. Forests of Shea trees have been cut down. Hundreds of thousands of hectares of land are now in the hands of new investors, both foreign and domestic.

*A recent report from the Ministry of Investment and Trade that was leaked several months ago tells more about what happened to the ancestral land of the Anuak since 60% of them were forced to leave. Who is there now? According to the report, 22% of that land is now being leased to foreign investors from places like Saudi Arabia, India and China. The other 78% is reportedly leased to domestic investors. Who are those domestic investors? In the report, 155 individual investors are listed by name. Also included is their property location, the amounts on the loans they have received from the government and their ethnicity. First off, where else in the world is ethnicity included as part of such a report other than in Ethiopia?*

*Here are the conclusions. All but three of those out of 155 domestic investors are listed as “Tigrayan,” the same ethnicity as the ethnic group in control of the GoE. The Tigray region is in the northeastern part of Ethiopia. Tigrayans make up approximately 6% of the population. Not one Anuak is on that list; nor are any others from the local indigenous people. These domestic investors have had easy access to loans in the millions from the government-controlled banks of Ethiopia. This is the conclusion of the outcome of the Protection of Basic Services Plan Phase III. This should tell it all. The program has failed the people, forced them into more serious poverty, driven them from their homes and now those in power have taken over. Is there any outrage from anywhere? Let me explain who is in power.*

The Tigrayan Peoples Democratic Front (TPLF) is one of the four ethnic-based parties that makes up the ruling coalition party of the Ethiopian People’s Revolutionary Democratic Front (EPRDF). The EPRDF has been in power since 1991, but it is the central committee of the TPLF that controls all aspects of the government as well as every sector of society. The TPLF was classified as a Marxist-Leninist terrorist group by the US State Department prior to taking over the government. *Their robbery, corruption, repression, human rights crimes and favoritism towards one ethnic group and political party has led to simmering tensions in the country. Many fear these are ingredients that could explode into ethnic-based violence and greater instability. Donor funding of such programs where the TPLF/EPRDF controls and misuses the funds to the great harm of the people, such as in this case, is widespread and may result in contributing to this frightening outcome. It is time do what is right.*

WB Management has not yet come out with any statement condemning the arrest of their translator, Pastor Omot Agwa. This is a man who took positive action when there was local violence between different ethnic

groups in the past. He established an organization to prevent further violence and to advance peace and reconciliation among the people. *He is known as a family man who was not involved in politics in the past, but was willing to speak the truth. The reason why he is now locked up is because the Ethiopian government sought to punish him; believing he was the one that helped to get the information out. They are angry and embarrassed by the report; however, because they cannot go after the WB, they go after the little guy, the translator. It is shocking to the people to see Omot Agwa as an innocent man locked up in jail for no other reason than for his translation work for the WB. The government will never admit to this and will give assurance of other crimes; but this is false and not to be trusted.*

*Meetings between the GoE and the WB Management may have taken place behind the scenes, but there is no transparency, no accountability and no results. In the name of trying to help the people, they have abandoned those they intended to help. This man was never arrested before and it is dismaying to his family and those who know him to be a man of great faith, peace and integrity. If he had not translated for them, he would not be in jail today. He probably never thought the WB would be absolutely silent on his arrest. This is unconscionable and a sign of the moral failing of the international donor community. I call on them to use their leverage to gain the release of this man and all other prisoners of conscience because the credibility and image of the bank and others in the international community who involved in Ethiopia are at stake.*

In closing, we have learned that discussions have taken place regarding possible reparations to the Anuak for harms done; however, we have also learned that discussions are at an impasse because the TPLF/EPRDF insists that any funds received must be channeled through the GoE government, not through a neutral second party or non-governmental organization.

*Why is the GoE calling all the shots, but still receiving WB monies? Is there any reason why the WB and now the US Congress should support such a dictate when the GoE has already abused the specified conditions to receive WB funds? It is time to be accountable to the people by either finding a mutually agreed upon alternative or to stop WB disbursements to Ethiopia altogether. Do the Anuak or other Ethiopians really want more WB funding if it is used by a corrupt and opportunist government to rob the people of our land, our livelihoods, our lives and our futures? I think not.*

Every incentive in Ethiopia: financing, budgetary or military support, market access must be contingent on independent committee monitoring the expenditure and the disclosure of the background of all party owned and affiliate businesses and nongovernmental org involved. Private Foundation must be required to do the same. For example USAID supports Alameda Textile and Guna Trading place (both the largest exporters) that receives help as exporter of textile and coffee and other commodities with AGOA incentive.

**SMNE will continue to reach out to Congress and the justice department to help in the criminal probe of these ruling party's affiliated corrupt businesses operating in US and at home taking advantage of the incentive provided for real businesses to face charges and to lift the shielded by the state department. The bottom-line is, the ruling party TPLF/EPRDF is systematically robbing the country and the international community in daylight while the World Bank and State Department and Foundation pour in money to finance its corruption and failed to demand basic transparency and disclosure. The Obama administration is shooting itself allowing such blunt corruption to go on. Only congress can intervene and congressional budget office can investigate to identify where they money goes and who is involved**

In World Bank's President Dr. Kim's recent speech before the United Nations General Assembly last week he spoke of setting "clear goals that would enable our wills, our minds and our actions to actually help those in need;" showing "greater boldness to help the poor lift themselves out of misery and extreme poverty."

These are all lofty goals and principles. Will they apply to the Anuak, other Ethiopians and others similarly suffering throughout the world? This is an opportunity for the WB to demonstrate they mean what they say. We hope so! Many of us are watching!

## **Recommendations:**

1. For the World Bank other International Financial Institutions system to meet its goals, it will require increased scrutiny, modifications, ongoing evaluation—both internal and from partners and shareholders, and their own transparency and accountability, especially in upcoming decisions that may lead to loosening rather than tightening regulations that will affect many of the most voiceless people in our world.
2. To best ensure improved food and livelihood security on the continent, borrowers should show successful progress towards increased land ownership, basic freedoms, respect for human rights, good governance, entrenching the rule of law, political space, independent institutions and increased transparency and accountability. These components should become more, not less, integral to those countries seeking participation in the WB's projects.
3. What the World Bank and other International Financial Institutions needs are more safeguards, not fewer. The bank and other International Financial Institutions don't have to accept the statistics given by a government, like in the case of Ethiopia, where evidence of the manipulation of data and statistics exists. Instead, the WB should require greater transparency and accountability.
4. The regime in Ethiopia has become the darling of the foreign aid community, but its own people, especially the most vulnerable, views it as a robber baron. If no one from the World Bank challenges Ethiopia's self-proclaimed statistics, the people will suffer and are already experiencing that. The people themselves will tell you that Ethiopia is exploiting WB loopholes. The privileged elite are in fact doing much better, but food and livelihood security are not improving for the majority. This was not the intention of these funds.
5. Where freedom is denied to the majority, we cannot hope to attain genuine economic growth or sustainable development by underwriting the means for the elite to stay in power. Indicators must be accurate, based on verifiable facts in order to enable the most vulnerable peoples' participation in a free market where opportunity is available not only to the families, cronies, and tribe of one exclusive group.
6. If the government does not want to comply, there should be real consequences. If the World Bank and other International Financial Institutions do not demand it, then it is not just undermining the goals of their own organization, it is increasing insecurity, the exploitation of their target beneficiaries by the powerful, and decreasing the freedom and wellbeing of the people.
7. Currently, there is a move to ease restrictions on money, trade and aid as various international players vie for a piece of Africa. Increased willingness to cater to African strongmen at the expense of democratic ideals, human rights and inclusive development is putting the African people at risk. Some are gravitating toward the Chinese model of aid, development and trade where such values as human rights, basic freedoms and protecting the environment are "non-issues."
8. The World Bank and other International Financial Institutions should not take the short-cut, forgetting about these issues that are so important to Africans. It is a moral question that requires standing firm to the original goals of the bank. Are these goals just rhetoric or meaningful policy guides? Reportedly, 15 million people around the world are displaced every year in the name of development. The majority of them are among the most vulnerable people in our world—those who should benefit the most from these development projects. This must change.
9. If the World Bank and other International Financial Institutions don't require transparency and accountability, the indicators will be flawed and used as propaganda against the people like as in Ethiopia. World Bank indicators, if incorrect, still gain further legitimization when they are repeated and utilized by the international community and others who believe in their authenticity. It traps the neediest in a cycle of poverty.

10. The opportunity for Africans to rise is coming, but African people want partners who support inclusive development not crony capitalism development. It is a challenge for the International Financial Institutions and international community members who want to “do business” and partner with Africans in the coming years to choose between the people of Africa and the authoritarian governments that exploit them. I hope the World Bank and other International Financial Institutions will stand up for the people and remain true to its calling!

May God help us! Thank you!

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Please do not hesitate to contact Mr. Obang Metho, at [Obang@solidaritymovement.org](mailto:Obang@solidaritymovement.org) if you have any further questions or concerns

Mr. MCGOVERN. Thank you very much.

Mr. Sánchez.

STATEMENT OF MILTON SÁNCHEZ, GENERAL SECRETARY, THE INTERINSTITUTIONAL PLATFORM OF CELENDIN

[The following testimony was delivered through an interpreter.]

Mr. SÁNCHEZ. Good afternoon, and thank you for this opportunity to present our case. My name is Milton Sánchez Cubas. I come from the province of Celendin of the region of Cajamarca in the north of Peru.

I represent an organization called the Inter-Institutional Platform of Celendin which is a group of social organizations from city and rural areas including farmers, those who raise livestock, women, youth, teachers unions, et cetera.

What has brought me here today is to share with you some worries that are affecting our community. A company by the name of Minera Yanacocha, composed of Newmont Mining Corporation, the IFC of the World Bank and a Peruvian company, is seeking to develop a mine called Conga.

I have come to Washington, D.C., to meet with representatives from the IFC, with directors from the World Bank and to share with them a report that we have written with a group of organizations from the provinces of Celendin and Hualgayoc that states that in light of the IFC's social and environmental sustainability standards the project is unviable.

I am going to show you now some images which will help elucidate how this project will affect our lives. You can tell that the project is located in a very fragile sensitive ecosystem that provides important ecological services for the neighboring communities and their subsistence and their lives.

In this area, they intend on building the mining project and it is the headwaters of five rivers that provide water to communities for agriculture, animal husbandry and human consumption.

The project intends on destroying four Andean mountain lakes so that it can extract gold and copper and silver. The project also entails the depositing of toxic mine tailings, millions of tons of toxic mine tailings and hard rock waste precisely in the area where our rivers form.

The hard rock and liquid tailings waste, according to the mine's own environmental impact assessment, will produce acid water drainage in the region which will contaminate the water and create impacts on people's health and will require the treatment of water in perpetuity.

The company proposes to replace the lost water resources with manmade reservoirs. But we have manifested and we have stated through technical studies that you cannot replace a mountain lake a natural mountain lake that has been around for thousands of years with an artificial reservoir which has a limited life span.

Our concerns about this project are based not only in the technical studies that we have conducted but also in our experience with the company and its mining projects in Cajamarca.

The mine, when it entered, promised that it would take us out of poverty but in practice the opposite has occurred. We have actually gone back and we are now the poorest region in the country.

Our concerns are also based on the environmental impacts of the Yanacocha mine in Cajamarca. Here, we are looking at a photograph of the Yanacocha Lake in 1992 and in the next slide we will show you how the mine what the lake looks like today.

This is what has happened in Cajamarca and particularly with the water, which is a resource that is important for our subsistence.

I mentioned that the mine has destroyed our lakes but it has also destroyed our rivers and here is a photograph of a river that was once formed and born in the wetlands and in the mountain lakes and now it is born in the pipelines that come from the mine.

There has also been diverse studies that have shown that the rivers are contaminated with heavy metals exceeding the maximum permissible limits, specifically lead, cadmium and arsenic, and these chemicals enter the human body, where they stay.

These contaminated waters have resulted in the death of animals. We have repeated our rejection of this project in numerous ways including through demonstrations, marches and letters that we have submitted to the World Bank, the Peruvian government and the company, Newmont.

And, in response, we have received the militarization of our cities, the criminalization of our protests, the repression of our protests as well. I personally have been accused of crimes over 50 times but in none of these cases have they been able to demonstrate any proof of any wrongdoing.

But what is worse is for those of us who have been protesting and were killed during protests including five individuals who were killed, one of which was a minor.

And what we have been asking for in these meetings with the IFC is a review of the environmental impacts of the project in light of the performance standards of the IFC.

And despite the fact that the company wants to proceed with this project, the IFC has not conducted any assessment of whether or not the project is in line with its own standards.

And just today I received a phone call from my brothers in Celendin, who reported that the mining company is seeking to encroach upon the lakes with their

machinery with the intent of destroying the lakes, which could produce a social conflict even greater than what we have seen before.

This is what we came here to tell you, and I thank you for listening to us.

[The statement of Mr. Sánchez follows:]

**Prepared Statement of Milton Sánchez**

The proposed Conga gold, copper and silver mine planned for my province in the Cajamarca region of Peru risks causing irreparable damage to the environment and harm to our communities in violation of World Bank standards.

The project would require the loss of four mountain lakes and over a hundred hectares of wetlands for the purposes of creating massive open pits and waste dumps. These lakes and wetlands form the headwaters of five river basins, and their loss threatens to significantly reduce water resources and biodiversity. The additional risks of contamination from the mine would present a constant threat to human health and environmental sustainability in the region.

The lakes, the fertile soil, and the entire ecosystem are a source of survival and cultural heritage for the dozens of communities living nearby, and their loss is nothing short of a threat to our existence. The company's promise to create artificial reservoirs to supplement the loss of water does not provide a sufficient substitute, nor a sufficient guarantee of access to clean water. Instead, the reservoirs would require continuous water treatment in perpetuity, would not replace lost drinking water or water to support aquatic life, and would likely impose a burden on future generations.

The project is being promoted by Minera Yanacocha, a company majority-owned by Colorado-based Newmont Mining Corporation with a 5% equity investment from the International Finance Corporation, the private investment arm of the World Bank. To ensure that its investments lead to sustainable and positive development outcomes, the IFC has adopted a series of social and environmental Performance Standards that both guide the behavior of the companies in which the IFC invests, and set the normative baseline for the IFC's monitoring and supervision of its investments. The Performance Standards include protections for water access and quality, safeguards for ecosystems and biodiversity, respect for indigenous populations and cultural heritage, restrictions on forced displacement of affected communities and individuals, and limitations on the use of force by security personnel.

The Conga project risks violating all of these aspects of the Performance Standards, and is not a viable way to achieve the sustainable development sought by the IFC. Together with my testimony, I am submitting a report that argues in great detail why the Conga project is unviable in light of the IFC's Performance Standards.

Our concerns with what the Conga project would mean for our future are based technical analysis, but also our experience with the mining company in the region. Minera Yanacocha has operated the Yanacocha gold mine in Cajamarca, not 80km away from the proposed new project, for nearly twenty-three years. Despite the magnitude of the Yanacocha mine, the region remains the poorest in the country, with over 50% of the population living in poverty. Minera Yanacocha's presence in the region has been marked by serious environmental and health concerns as well as social conflicts. A mercury spill in the year 2000 poisoned approximately 1,200 people living in the community of Choropampa, causing health and social problems that continue impacting the community to this day. There are also serious concerns about how the long-term operations of the Yanacocha mine have impacted the availability and quality of water in Cajamarca. A number of studies suggest that mining activity is linked to acidity and heavy metal contamination (including lead, cadmium, and arsenic) in rivers, drinking water, and food sources of local communities, presenting risks to the environment and human health.

With the same risks before us with the proposed Conga mine, we have been strong and united in our opposition to the project. A 2012 public opinion showed that 78% of all Cajamarcans oppose the Conga project, with opposition rising to 83% in rural areas. Indeed, Minera Yanacocha acknowledges that it lacks a social license to proceed with the project. We have repeatedly demonstrated our rejection of the project in letters, petitions, marches, strikes, and protests. We demonstrate to protect our water, our environment, our livelihoods, and our lives.

Yet in spite of these concerns, and the discord with the IFC's Performance Standards, the IFC has yet to take a public position with respect to the project. This silence is of particular concern given that the preliminary project activity undertaken to date has already led to serious conflict and harm to local communities. Five of us have already died in the defense of our future, killed in July 2012 in the towns of Celendín and Bambamarca while demonstrating against the project: Paulino García Rojas, Faustino Silva Sánchez, Antonio Sánchez Huamán, Joselito Vásquez Jambo, and César Medina Aguilar, a sixteen-year-old child.

Those providing security services to Minera Yanacocha have also used force to repress local protests, causing serious injury to unarmed demonstrators, and have harassed, intimidated, and damaged property of those refusing to leave their home near the project site, raising serious concerns about potential forced eviction. Hundreds of individuals participating in protests have faced, or are currently facing, criminal proceedings for their opposition to the project. These actions violate the IFC's Performance Standards and undermine the IFC's mission of supporting sustainable development, which is only achievable with full respect for human rights.

If this were not enough, another great threat appears poised to arrive in our territory. The mining projects that are being planned for northern Peru will require great quantities of energy, for which the national government has proposed the construction of over 20 massive hydroelectric dams along one of Peru's most important rivers. The dams would mean the displacement of entire communities and the flooding of thousands of hectares of productive and fertile valleys that provide food to the coast and the Inter-Andean cities of the North of Peru. It appears that the dams would also be developed with financing from the World Bank.

These mega-projects in environmentally sensitive and agriculturally important areas do not match our vision of sustainable development. Through our social organizations and local governments, we have articulated an alternative vision of sustainable development based on agriculture, animal husbandry, artisanry, and tourism. These are the types of projects that should be supported, as they better take advantage of, and protect, the unique ecosystem and local culture of the area.

The IFC is well positioned to use its influence as an equity investor in Minera Yanacocha to stand with the affected communities, declare the Conga project unviable, and defend the right of the communities to express and demonstrate opposition to the project. Indeed, our human rights depend on it. This project must not move forward. It has caused enough harm already and too much is at stake. *Conga no va.*

STATEMENT OF NEZIR SINANI, SAFEGUARDS COORDINATOR AND CLIMATE CHANGE COORDINATOR, BANK INFORMATION CENTER

Mr. SINANI. Thank you so much, Mr. Chairman. It is a great pleasure to be here and have this opportunity to address you and everyone else.

So I would also like to thank everyone involved with the work here at the Commission and the staff for really doing extraordinary work in unearthing different stories that bring to light, you know, the breach of basic human rights in World Bank-related projects.

But not just the World Bank, it is the other IFIs as well and that way you help a lot in bringing the voice of those who don't have a voice at the global stage and we are really grateful from that perspective.

Mr. Chairman, I am a Kosovar citizen. I was born in a small town called Podujevo. I was raised there my whole life as well and this time this town is just 15 miles away from a large lignite or coal-based mine which produces coal for Kosovo's two coal-based power plants that today produce 98 percent of all the electricity for the country.

And the Kosovar government right now is trying to build a third coal-based power plant in the country to meet the country's future demand by basically adding more coal to the system and in this they are not alone. They have the support of the U.S. government to start with but also the support of the World Bank.

What this project really involves is resettlement and resettlement that has already happened, and I wouldn't even call it resettlement.

It is forced evictions that has happened and resettlement that is due to happen amongst the community that lives in a small village called Hade but also other surrounding villages as well.

I have been involved in this project myself ever since the mid-2000s when I used to work for Kosovo's energy company and ever since 2011 I keep following this project from the civil society perspective, first, as a civil society activist in Kosovo and now I continue working for Bank Information Center here in Washington, D.C., and I am highly involved with the project itself.

So this basically, this neighborhood that is being resettled is just a few miles away from where I grew up and most of the people there are people that I personally know and have spent a lot of time in the last years trying to raise my voice to help their voice in meeting the demands by the World Bank and the Kosovar government.

A decision on the coal plant by the World Bank hasn't to support a coal plant in Kosovo by the World Bank hasn't happened yet. It is due to happen some time next year, probably within nine to 12 months from now.

But the World Bank has been already involved in this project ever since 2004 and I am going to explain the whole project from that perspective on how the World Bank got involved and how the whole resettlement and the communities have been affected so far and what is expected to happen in the next few months.

So what really this project is about is creating more producing more electricity for a country based on coal and that means expanding the existing coal mines. It is expected that 7,000 people will be resettled in order to make way for the mine to be operationalized, basically, and this mine lies just seven miles outside Kosovo's capital city, Prishtina.

So besides the effect that we will see on resettlement, the project itself will have many environmental and social impacts not just on the communities around the mine itself but also on the people living in the capital city itself.

And the resettlement, as I said, has already happened. There has been forced evictions that have already happened in 2004 when there was in the current existing mines there was a landslide.

So the governing bodies at that time, which was the U.N. Administration and also our government itself, did the enforce an emergency evacuation from the area which saw many hundreds of people actually resettle from this place.

And it was 22 families that refused to be evicted at that time from their houses and that is when the government, together with the U.N. Administration, sent in the bulldozers to remove people forcefully and basically just destroy their houses and put them in temporary houses. And this all all of this happened in between May and June 2005, the forced evictions.

While the World Bank in 2004, amid all this, plan to resettle the people from Hade, basically, sent a two-man inspection team to Kosovo to see how the whole resettlement was handled and this team at that time did recognize that the government's emergency procedure approach to involuntary settlement was unacceptable and noncompliant with bank policies.

It was in 2004 when they decided to provide technical assistance to Kosovo to basically develop legislation that was in line with the bank policies on resettlement. It took them nine years to produce two legislative pieces on this.

One was a resettlement framework for the country and another one was an appropriations law and both of these policies are actually, to our surprise and shock, are not in line with the World Bank policy on resettlement itself.

What happened out of this process is that they developed the resettlement framework, as I said, which is not the most commonly and doesn't considered the good practice today in the world to start with, and it is not the most commonly used tool to resettle people in such large infrastructure projects.

What is used is called the Resettlement Action Plan, basically, that is developed to deal with these kind of situations and the difference between the two is that the framework only has 13 elements that deal with the protection of the people who will be resettled whereas the Resettlement Action Plan has a total of 59 elements that are very specific and very more detailed and offer more protections for the resettled people.

And, basically, in Kosovo the World Bank invested for nine years to produce two legislative pieces to produce legislation that's not in line with the policies itself, which is one of the first problems that we see in this project where the World Bank is involved.

And it goes without saying, you know, these whole policies have resulted, you know, in the situation where the Hade villages are today. And I will have to go back again to the year 2004 and 2005.

That's when the U.N. Administration and the Kosovar government declared the whole area around the mine a special interest zone, which meant that even for the people who hadn't been resettled whatever they build from that time they were first told that they would be resettled at a point to make way for the new mine. They were not told when that's going to happen.

And the second thing they were told whatever they built from that moment on they wouldn't be compensated for because they have been already told that they had to settle from there.

Mr. Chairman, now it is 2015. Those people still live in the same zone and under the same sort of restrictions. So whatever has happened in these last ten years they have been told that they have they won't be compensated for but they are still being told that they will be resettled to make way for the mine, which hasn't happened yet.

And that's a breach of human rights at the whole different level where both the World Bank and the Kosovar government are involved, and that is the result directly of noncompliance with World Bank policy itself on resettlement because if that were to happen there are strong principles in that policy right now that would help the communities a lot to deal with all the problems.

In my testimony that I sent to be put on the record there is a technical background paper that describes in detail what those principles are and how all of those implications come out of that.

And the second problem that we see in this whole engagement of the bank in this project is that the Kosovo constitution does have very strong language on protection of the human rights.

The communities in Kosovo are dealing with the government through legal means there to deal with rights that are protected under the constitution and this project. But our problem with the World Bank is that it doesn't adhere in any way to the national laws on protection of the human rights when the bank gets involved and that's the case also with the international rules as well on the protection of the human rights.

So in all of this, like, there is the constitution has the rights in the country but the government isn't delivering and the World Bank doesn't adhere at all. On the other side, there is World Bank policies that would protect to some extent the communities that are not being enforced in the country which is a dual problem that we see.

And all in all, that's resulting in the breach of basic rights in different fronts, starting from the right to housing, right to food, to water and right to health as well because of all the other environmental and social impacts this project is going to have.

So understanding the situation and how everything is evolving, the World Bank hasn't decided yet to jump and to basically provide the money to build another coal plant itself, although they are providing technical assistance to the government to make everything happen so that they get to the project.

I come here with three very straightforward recommendations to leave this Congress and to you, Mr. Chairman, to help in this situation. And the first one is to ensure adequate protections and redress the four displaced communities.

So there are policies in place at the World Bank that deal with resettlement so we want those to be enforced. We want that to see happen and Kosovo isn't the only place where the World Bank has done a lot of harm in dealing with resettlement.

Just this year, there was a big study that was published by investigative journalists and which did point out that 3.4 million people have been affected by World Bank resettlement and it was it remained unknown on how they are being treated and how they were what were sort of the compensation that they received.

So it is a huge problem and this problem itself was also then put into light by the internal watchdog of the World Bank itself that put a report on the matter, and the president of the World Bank did react with an action plan that is very insufficient and doesn't really address all the issues that have identified in all these problems.

So from that light, we do request from the U.S. government to request from President Jim Kim of the bank and the U.S. government a thorough plan to address the serious problems identified in the bank's resettlement practices to start with and such a plan should ensure redress for harms already caused, as in Kosovo.

And to this end, the bank must urgently address the ongoing unfair treatment of hundreds of families in Hade village in Kosovo.

The second recommendation is very straightforward respect for human rights. As I said, Kosovo government has strong policies on protection of the human rights but the World Bank doesn't recognize no request from its borrowing countries the protection of the rights in its projects.

The World Bank currently is reviewing its environmental and social policies and this represents a huge opportunity for the U.S. Congress to push the World Bank to include and address human rights in its policies and that is our second request that you reach out to them and demand that this happens at this time.

And the third thing comes out of the principles on resettlement itself that the World Bank has in its own policies and one of those principles is that whenever you get involved into a project consider alternatives.

Coal is a bad option for Kosovo because 98 percent of their electricity is already produced by coal in that country and that makes Kosovo the most polluted country in Europe right now because of burning all the fossil fuels.

If you add more coal at this time then you would lock Kosovo in burning coal for another 40 years and that is going to have continue having more impacts environmental and social impacts on the Kosovar citizens.

As I said, there is the support isn't coming just from the World Bank. The U.S. government is also supportive of having a third coal plant in Kosovo.

So from that perspective, we do demand and request that the U.S. government drops their support and we would be grateful if you could reach out to the U.S. government and to President Jim Kim to look into alternatives for Kosovo and move away from coal and all the bad impacts that this project is going to have in my country.

There are technical analyses that I provided with my written testimony that provide what the options are to coal for the country as well as a very detailed analysis on the resettlement issues that provide more insight into the into the matter. So I hope you'll look into that as you deal with this.

So thank you very much for your attention.

[The statement of Mr. Sinani follows:]

**Prepared Statement of Nezir Sinani**

**Refugees Not to War but Development**

## **Introduction**

I am a Kosovar citizen – born and raised in a small town called Podujevo. The town I grew up in is only 15 miles away from a large lignite mine. The mine is used to produce coal for two large power plants that produce 98% of Kosovo's electricity. The Kosovar government, with the support of the World Bank, is planning to build a third lignite-based power plant. This has affected many communities living in the area – hundreds of them being already forcefully evicted and thousands waiting for the same outcome - in order to make way for the expansion of the lignite mine. I have been involved in the struggle to defend these communities' rights for many years. In mid-2000, I used to work for Kosovo's energy company and as of 2011 I joined the efforts of Kosovar civil society organizations to ensure the World Bank and Kosovar government address the many social and environmental issues related with the project. As of May 2013 I continue engaging in the project as a Bank Information Center activist. The testimony I am offering is based on my personal knowledge having been involved in the project for as long as 10 years in my different capacities. The basic human rights of the neighbors I grew up with are being breached – and as such this testimony couldn't be more important and heartfelt than it is as I continue raising my voice to defend the rights of the people of my country.

## **Forced displacement for the Kosovo Power Project and Bank involvement**

The World Bank is considering a \$58 million Partial Risk Guarantee (PRG) to the government of Kosovo. A decision is expected within the next 9 - 12 months. This loan is sought to support the Kosovar government's plans to construct an estimated US\$2B lignite coal-based power plant and its associated mining infrastructure. The proposed Kosovo Power Project (KRPP) requires an expansion of an open pit mining operation. This expansion is expected to cause a sizable and complex forced displacement<sup>i</sup> of over 7,000 people living on 16 km<sup>2</sup> of land mostly in the rural Municipality of Obiliq, just outside Kosovo's capital city Prishtina. Hade village is at the forefront of such displacement.

Hade citizens are all too familiar with what forced displacement means. In 1999, as a recent ICIJ report brought into light: “Serbian commandos wearing hoods over their heads and greasepaint on their faces entered this mountain village and executed five men ages 25 to 80. The soldiers forced the surviving inhabitants onto buses headed for Albania and Macedonia. Then they set nearly every home in Hade ablaze. After an American-led bombing campaign ran Serb forces out of Kosovo, the people of Hade returned from refugee camps and from havens higher in the mountains. Over the next few years they rebuilt their village and resumed tending their cows and gardens and mining coal for KEK, Kosovo's state-owned power company.”

In 2002, a major mudslide at the existing lignite mines threatened the town's southernmost neighborhoods. In response, the United Nations Interim Administration Mission in Kosovo (UNMIK) and Provisional Institutions of Self-Government (PISG), in charge of governing Kosovo at the time, ordered an emergency evacuation, bypassing the expropriation process previously used by Kosovo's energy company - KEK<sup>ii</sup>. As a result, between November 2004 and February 2005, 158 families (664 people) were forcefully evicted.

In May and June 2005, about 22 families that had refused to move voluntarily were forcibly evacuated to pre-identified shelters, and their houses were bulldozed. Their belongings were stored in the Municipality warehouse. Resettlement experts visiting Hade in March 2013 found that the families were still living in two temporary apartments in Obiliq. An inspection of a planned relocation site at Shkabaj found the site uninhabited with unfinished infrastructure. The fate of the remaining evicted households remains unclear. The displaced families claimed that their food subsidies were being terminated.

UNMIK and the provisional government (PISG) declared the area surrounding Hade a “Zone of Special Economic Interest”, intending to expand the coal mine for power production needs. This move significantly restricted the rights of families remaining there to use their property. Consequently, residents of Hade, Sibovc, Leshkoshiq and Cerna Vodice villages were ordered to stop new construction or construction of

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<sup>i</sup> [http://action.sierraclub.org/site/DocServer/Final\\_Draft\\_Downing\\_Involuntary\\_Resettlement\\_at\\_KPP\\_Repo.pdf?docID=15541](http://action.sierraclub.org/site/DocServer/Final_Draft_Downing_Involuntary_Resettlement_at_KPP_Repo.pdf?docID=15541)

<sup>ii</sup> UNMIK's order 2004/6 of March 29, 2004

additional floors for the indefinite future in anticipation of possible mining needs<sup>iii</sup>. Until the present day, those families continue living in the same “zone” under the same restrictions.

In July 2004, a World Bank pre-identification mission visited Kosovo amid Hade evictions. They recognized that the Government’s “emergency procedure” approach to involuntary resettlement was unacceptable and noncompliant with international financiers’ policies (OP/BP 4.12 and IFC PS5).<sup>iv</sup> The Bank arranged and financed technical assistance to hastily build a new legal, policy, and institutional structure to deal with resettlement issues.

### **An inadequate policy response**

By the summer of 2013, all the elements of this new structure were in place. The Bank claimed that the Kosovar Resettlement Policy Framework (RPF) and Law on Appropriations, which resulted from this assistance, reflected general international human rights standards.

The World Bank policy permits, in special circumstances, the use of an alternative involuntary resettlement instrument, called a “Resettlement Policy Framework” (RPF), to that commonly used when Bank-funded projects displace people. An RPF is used for sector investment or financial intermediary operations.<sup>v</sup>

However, the difference between the requirements of an RPF and the more commonly-used Resettlement Action Plan is crucial. Given the scale of forced displacement threatened by the KRPP, it is clear that an RPF does not provide adequate protections to affected communities.

The more comprehensive instrument, the Resettlement Action Plan, is intended for such large infrastructure projects as the KRPP. This full resettlement plan has 19 mandatory elements of which 7 have an additional 33 sub-elements. But the RPF is far less comprehensive, requiring only 13 elements. With an RPF, the World Bank’s resettlement policy principles - essential measures to protect people from harm - are completely avoided. These principles are:

- Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs;
- Involuntary resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits;
- Resettlement activities must be implemented with appropriate disclosure of information, consultation, and informed participation of those in the way;
- Projects must assist displaced persons in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms and in the shortest possible time, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

Hade citizens have not witnessed any such protections or outcomes in this World Bank-funded project. The alternatives to coal in Kosovo have never been taken into account and Hade citizens were never offered adequate resettlement, as prescribed by Bank policies.

The World Bank has recently come under fire over its resettlement practices. A study released this year by the International Consortium of Investigative Journalists (ICIJ) found that over the last decade, projects funded by the World Bank have physically or economically displaced an estimated 3.4 million people, forcing them from their homes, taking their land or damaging their livelihoods. Kosovo coal project was one of the cases ICIJ investigated.<sup>vi</sup> The ICIJ’s findings were echoed by the Bank’s own internal

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<sup>iii</sup> MESP Executive Order No. 4/119 dated 11/3/2004

<sup>iv</sup> Main Mining Plan for New Sibovc Mining - Technical Planning, Part II. 2005, pages 44-45.

<sup>v</sup> OP 4.12 ¶ 22 and 25. An abbreviated resettlement action plan is an option for displacements of less than 200 people and is inapplicable to the KPP.

<sup>vi</sup> <http://www.icij.org/project/world-bank/war-torn-village-faces-new-threat-world-bank-considers-power-plant>

watchdog's audits, which found similar figures and exposed major fault lines in the Bank's implementation of its own policies. The Bank admitted its fault, with President Kim declaring the Bank "must and will do better".<sup>vii</sup>

With the World Bank agreeing to such a resettlement policy for Kosovo, communities are being negatively affected and their rights are being breached. Remaining Hade citizens fear that they will be forcefully evicted at any time. Their human rights have been breached ever since 2004 when the area was declared a zone of special interest. These communities have requested twice from the World Bank's Inspection Panel to investigate their case. The first request was submitted in March 2012, and the second in June 2015.<sup>viii</sup> An investigation is now underway.

### **Other rights affected by the Kosovo Power Project**

Besides resettlement, the project is expected to have many other serious environmental and social impacts - discussed in more detail below. Such impacts will greatly affect the lives and livelihoods of communities of Obiliq and beyond. Some of the basic rights, described below, are being breached or at risk of being breached in the near future. The Bank must demonstrate how project activities would respect the following relevant rights within the context of the broader environmental and social impacts of this project:

**The right to health:** the Kosovar Constitution guarantees the right to health. The proposed project will have numerous negative, long-term impacts on the health of the population in the affected region. The Bank has identified these impacts<sup>ix</sup> and must address them in the context of the right to health.

**The right to food:** The United Nations Declaration on Human Rights recognizes the right to food, and the same is guaranteed by the Kosovo Constitution.<sup>x</sup> The project will have impacts on land-use patterns in the project area as well as serious broader impacts on access to water for irrigation for agricultural uses. Moreover, pollutants emitted from the power plants and mines can contaminate local produce and livestock. The Bank must assess and address the impacts of the project on the right to food.

**The right to water:** The right to water is necessary for the enjoyment of the right to food. This right should further be viewed in the context of the 2010 United Nations General Assembly resolution recognizing the right to water and sanitation.<sup>xi</sup> The project is likely to have severe impacts<sup>xii</sup> on local water supplies and the Bank should assess and address these impacts in the context of the right to water.

**The right to housing:** Kosovo recognizes "the right to a standard of living adequate for the health and well-being of himself and of his family, including ... housing."<sup>xiii</sup> Particularly, in the context of resettlement related to the project, the Bank must assess and address the impacts on this right. Furthermore, the Bank must assess whether the implementation of the resettlement schemes, and the application of the "special economic interest" designations are sufficiently protective of affected communities' rights under the Kosovo Constitution and their interests under Bank policies.

### **Recommendations**

To prevent further rights abuses and to redress harms already suffered by affected communities as a result of the Kosovo Power Project, the World Bank should take immediate action as follows:

1. **Ensure adequate protections and redress for displaced communities:** Affected communities' demands for their basic human rights to be protected and to be treated in accordance with Bank policies when it comes to resettlement need to be met right away. We urge the US Congress to

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<sup>vii</sup> <http://www.worldbank.org/en/news/press-release/2015/03/04/world-bank-shortcomings-resettlement-projects-plan-fix-problems>

<sup>viii</sup> <http://ewebapps.worldbank.org/apps/ip/PanelCases/103-Request%20for%20Inspection.pdf>

<sup>ix</sup> <http://siteresources.worldbank.org/INTKOSOVO/Resources/KosovoCEA.pdf>

<sup>x</sup> UDHR, supra note 205, art. 25(1).

<sup>xi</sup> United Nations General Assembly Resolution, The Human Right to Water, A/Res/64/292 (Aug. 3, 2010) available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/479/35/PDF/N0947935.pdf?OpenElement>

<sup>xii</sup> [http://www.huffingtonpost.com/justin-guay/world-bank-coal-plant\\_b\\_2496695.html](http://www.huffingtonpost.com/justin-guay/world-bank-coal-plant_b_2496695.html)

<sup>xiii</sup> Id.

request from President Jim Kim of the Bank and the US Government a thorough plan to address the serious problems identified in the Bank’s resettlement practices.<sup>xiv</sup> Such a plan would ensure redress for harms already caused as in Kosovo: the Bank must urgently address the ongoing unfair treatment of hundreds of families in Hade village in Kosovo. The plan should also aim to put in place policies and adequate plans for their implementation to ensure that communities do not suffer the same fate in future.

2. **Respect human rights:** The World Bank does not recognize nor requests from its borrowers the protection of basic human rights in its projects. The current ongoing review of World Bank environmental and social policies represents a rare opportunity for the Bank to introduce language on the matter. We urge the US Congress to request from the World Bank President Jim Kim and the US Government to commit to adhere to international human rights law and to ensure its projects do not violate human rights.
3. **Consider alternatives:** When engaging in a project, the Bank must carry out a full alternatives assessment, including the no-project option, to mitigate possible negative environmental and social risks. Kosovar communities and civil society are demanding the Bank to look deeper into Kosovo’s energy options to avoid coal-based projects. The Bank’s former chief renewables and energy czar, Daniel Kammen, has produced an analysis on Kosovo’s Energy Options and has publicly called on the Bank to avoid more coal for Kosovo – as it is the most costly option for the country.<sup>xv</sup> The US Government, however, supports<sup>xvi</sup> the Bank’s approach to Kosovo’s energy sector, without adequately considering alternatives. Such a coal-based power plant would not be possible to be constructed in the US. We urge the US Congress to demand from the US Government to support an agenda that helps Kosovo diversify its energy sector. Currently, 98% of Kosovo’s electricity needs are met through coal-burning plants. More coal would lock the country into burning fossil fuels for another 40 years to come – with devastating environmental and social impacts.

## Background

### World Bank’s Involvement History

The Bank is proposing to assist the Government of Kosovo to address problems associated with the energy sector through building a new coal-based power plant, known as “Kosova e Re Power Plant” (KRPP). Kosovo’s energy sector is plagued with a host of problems: regular electricity outages and blackouts, continuing reliance on polluting lignite power, and an inefficient transmission and distribution grid that results in enormous losses.<sup>xvii</sup> The stated objective of the KRPP, a Category A project per World Bank’s risk categorization procedures, is “to reduce the environmental impact of electricity generation and strengthen security of supply in Kosovo in an economically efficient, environmentally sustainable, and a carbon-neutral manner.”<sup>xviii</sup>

Kosovo’s second largest lignite-based power plant (“Kosovo A”) is due to be decommissioned in 2020s (initially it was planned to be shut down in 2017) and is expected to cause a shortfall in power supply. As originally proposed, the KRPP would have three components: (1) replacing the lost capacity of Kosovo A by rehabilitating the existing Kosovo B Power Plant (“Kosovo B”); (2) construction of a new lignite-based Kosovo C Power Plant, also known as Kosova e Re (“KRPP”), with an installed capacity of 600MW<sup>xix</sup> and

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<sup>xiv</sup> The current Action Plan that the Bank has produced is not satisfactory, CSOs wrote to the Bank: <https://www.hrw.org/news/2015/04/15/world-bank-address-failings-resettlement>

<sup>xv</sup> <http://energyblog.nationalgeographic.com/2012/03/12/coal-rich-kosovo-can-lead-on-clean-energy/>

<sup>xvi</sup> [http://www.eenews.net/assets/2011/07/11/document\\_cw\\_02.pdf](http://www.eenews.net/assets/2011/07/11/document_cw_02.pdf)

<sup>xvii</sup> See Kosovo Institute for Policy Research and Development (KIPRED), Forum for Civic Initiatives (FIQ), and Gap Institute, Energy projects in Kosovo, 8 (Sept. 2011), [http://www.kipred.net/web/upload/Energy\\_Projects\\_in\\_Kosovo.pdf](http://www.kipred.net/web/upload/Energy_Projects_in_Kosovo.pdf).

<sup>xviii</sup> World Bank, Project Information Document for the Kosovo Power Project (July 27, 2011), [http://www.wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2011/08/04/000001843\\_20110808120850/Rend ered/PDF/1108030Kosovo00PID000concept0stage.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2011/08/04/000001843_20110808120850/Rend ered/PDF/1108030Kosovo00PID000concept0stage.pdf) [hereinafter KPP PID]

<sup>xix</sup> Strategic Framework for Development and Climate Change Expert Panel, Kosovo: Kosovo Power Project, Report of the SFDC Expert Panel to the World Bank (Jan., 2012) [hereinafter SFDC Expert Panel Report]

associated infrastructure; and (3) the development of a new lignite coal mine in Sibofc to meet the fuel needs of the power plants (“Sibofc mine”). Later in the process, the project was modified to foresee only the construction of a new lignite-based power plant (KRPP), with the associated lignite mine left to be developed by the Kosovar government. If approved, the KRPP will be financed through private sector investment, with support of a partial risk guarantee (PRG) from the International Development Association of the World Bank.

The proposed KRPP is closely linked with the World Bank’s technical assistance project (known as LPTAP), spanning from 2006 - 2011. The stated objectives of the LPTAP are: (1) to help the Kosovo government strengthen the enabling policy, legal, and regulatory frameworks conducive to new investments in the energy sector; and (2) to assist the Kosovo government in attracting qualified private investors<sup>xx</sup>. The project focused on three areas: an assessment of expanded lignite mining in the Sibofc Basin, to determine feasibility for providing sufficient raw material to fuel a 600MW thermal power plant for 25 years; feasibility and market analysis for the construction and interconnection of a new power plant; and technical assistance to the Government of Kosovo to develop policies and strategies to promote renewable energy and energy efficiency in Kosovo<sup>xxi</sup>. It was also to provide capacity-building assistance to relevant government ministries; provide a mechanism for civil society input into the design of a new plant; and provide funding to the government to improve public consultations<sup>xxii</sup>. Through the LPTAP, a Category B project as per World Bank risk categorization, the Bank has supported certain preparatory activities related to the KRPP, including completion of a Strategic Environmental and Social Assessment (SESA) in 2008<sup>xxiii</sup> and a Resettlement Policy Framework (RPF) in 2011.<sup>xxiv</sup> The Bank also prepared an Economic Analysis, but it is unclear whether this was developed through the LPTAP. Nevertheless, this analysis was presented for consideration by the Expert Panel that assessed the project against Bank policies and, in this testimony, is assumed to have taken place in the context of the LPTAP.<sup>xxv</sup> Additionally, during the Expert Panel’s deliberations, the Bank released a more recent analysis of power supply options, updating aspects of an economic analysis, which for the purposes of this testimony, should be considered together with the 2006 Economic Analysis.<sup>xxvi</sup> The Bank has also prepared an environmental analysis for Kosovo, identifying the impacts of burning coal on the citizens of Kosovo.<sup>xxvii</sup>

Given the nature of the proposed activities under the KRPP, a Category A project, these preparatory studies should have followed the higher standards applicable to Category A projects, particularly on consultation and disclosure. These studies are inadequate and violate a number of World Bank policies, as detailed below in this testimony.

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<sup>xx</sup> World Bank, LPTAP Project Information Document (Mar. 22, 2006), [http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/03/27/000104615\\_20060327144114/Rend ered/PDF/finalaprpid32206.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/03/27/000104615_20060327144114/Rend ered/PDF/finalaprpid32206.pdf)

<sup>xxi</sup> Id. at 5-6

<sup>xxii</sup> Id. at 6

<sup>xxiii</sup> Republic of Kosovo Government, Ministry of Energy and Mining and Ministry of Environment and Spatial Planning, Strategic Environmental and Social Assessment (July 11, 2008),

[http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/07/16/000333038\\_20080716012909/Rend ered/PDF/E13670VOL130Box327408B.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/07/16/000333038_20080716012909/Rend ered/PDF/E13670VOL130Box327408B.pdf) [hereinafter SESA]

<sup>xxiv</sup> Republic of Kosovo Government, Ministry of Environment and Spatial Planning, Resettlement Policy Framework for Land Acquisition for the New Mining Field Zone, (July 29, 2011),

[http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/08/03/000333037\\_20110803021703/Rend ered/PDF/RP11800v20P0970F0ECA0RI0P0976350RPF.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/08/03/000333037_20110803021703/Rend ered/PDF/RP11800v20P0970F0ECA0RI0P0976350RPF.pdf) [hereinafter RPF] (noting that the 2008 SESA also contains a version of the RPF in Annex D). The RPF draws from the Government of Kosovo’s Spatial Plan. Kosovo Government Ministry of Environment and Spatial Planning, Spatial Plan: Area of Special Interest ‘New Mining Field (Mar. 2011), available at [http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/08/03/000333037\\_20110803021315/Rend ered/PDF/RP11800v10P0970IP0976350SpatialPlan.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/08/03/000333037_20110803021315/Rend ered/PDF/RP11800v10P0970IP0976350SpatialPlan.pdf) [hereinafter Spatial Plan]

<sup>xxv</sup> World Bank, Kosovo Lignite Power Initiative, Proposed Lignite Power Development Project: Economic Analysis (2006), available at [http://siteresources.worldbank.org/INTENERGY2/Resources/27\\_KosovoLignite\\_EconomicAnalysis.pdf](http://siteresources.worldbank.org/INTENERGY2/Resources/27_KosovoLignite_EconomicAnalysis.pdf) [hereinafter Economic Analysis]

<sup>xxvi</sup> World Bank, Background Paper: Development and Evaluation of Power Supply Options in Kosovo (Dec. 2011) available at [http://siteresources.worldbank.org/INTENERGY2/Resources/Kosovo\\_generation\\_options\\_report\\_12312011.pdf](http://siteresources.worldbank.org/INTENERGY2/Resources/Kosovo_generation_options_report_12312011.pdf) [hereinafter Kosovo Power Supply Options]. While this analysis contains more information on project economics, it still does not adequately consider viable alternatives or provide complete information on externalities. See Bruce C. Buckheit & Sierra Club, Reevaluating Kosovo’s Least Cost Electricity Option, (Jan. 2012), available at <http://www.youtube.com/watch?v=bnVUHCynig&ob=av2e> [hereinafter Kosovo’s Least Cost Option]

<sup>xxvii</sup> <http://siteresources.worldbank.org/INTKOSOVO/Resources/KosovoCEA.pdf>

The new coal power plant is expected to be developed in the Obiliq municipality, one of the most polluted municipalities in Kosovo<sup>xxxviii</sup>, near the site of the existing Kosovo B coal-based power plant, which is ten kilometers southwest from Prishtina, Kosovo's capital, and five kilometers from the Sibofc lignite mine. The mine project will acquire approximately 13% of the territory of the Obiliq municipality, and the Bank notes that this area is "largely composed of fertile land."<sup>xxxix</sup> Within the municipality, a number of areas will be impacted by the proposed activities, including: the town of Obiliq; and the villages of Dardhishte, Hade, Cerna Vodica, Sibofc, Shipitulle, Leshkoshiq, Fushe Kosova, Vushtrria, and Drenas<sup>xxx</sup>. The municipality is more densely populated than the rest of Kosovo: according to the latest Kosovo Agency of Statistics data, 21,056 people live in Obiliq, with density of approximately 205 persons per km<sup>2</sup>, which is above the Kosovo average of 175 per km<sup>2</sup><sup>xxxxi</sup>. The land surrounding the villages is mainly used for agriculture<sup>xxxii</sup>; 48% of the municipality is composed of agricultural land (6800 hectares)<sup>xxxiii</sup> and the majority of the local population (approximately 60%) is farmers, many of whom are subsistence farmers<sup>xxxiv</sup>. It is expected that the KRPP's approval by the Bank's Board will happen sometime in 2016.<sup>xxxv</sup> The Expert Panel tasked with assessing the project's compliance with the Bank policies has screened the project and recommended that it go forward<sup>xxxvi</sup>. However, for reasons discussed below, this assessment (including the underlying studies conducted under Bank's technical assistance projects) is inadequate and incorrectly finds that the project is consistent with the Bank policy criteria<sup>xxxvii</sup>. If the project proceeds as proposed, it will cause significant harm to Obiliq communities.

### Project Related Environmental and Health Harms

Obiliq is one of the most polluted municipalities in Kosovo.<sup>xxxviii</sup> The main source of pollution is the existing coal-burning power stations (Kosovo A and Kosovo B), along with heating and drying processes associated with coal production. The burning of coal releases toxic substances and dust into air and ground water, causing significant contamination of the surrounding environment. Despite deficiencies in pollution monitoring in the area, preliminary studies indicate that emissions levels and heavy metal contamination is concerning. In this context, replacing Kosovo A with a new power plant would significantly extend the time span during which this area would have to continue facing pollution from coal mining and combustion. Although the new plant will be more efficient than the existing plants, efficiency will also increase capacity, therefore it is unclear (absent strict pollution controls, which are as yet undecided) how much the project will result in diminished pollution overall. Due to the already fragile environmental conditions in this area, the cumulative impacts of the KRPP are substantial. The proposed project will contribute significantly to the pollution in the area. While effects of pollution can be far ranging, the Obiliq municipality and the dense urban capital of Prishtina will be the most heavily impacted by the proposed project.

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<sup>xxxviii</sup> Municipality of Obiliq, Local Economic Development Plan 2007-2010 (Nov. 2007), available at <http://lgi.osi.hu/publications/2008/389/Obiliqi.pdf> [hereinafter Obiliq Municipality Development Plan]

<sup>xxxix</sup> Government of Kosovo, Ministry of Energy and Mining, Strategic Environmental and Social Assessment: Executive Summary, 31 (June, 2008),

[http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/07/16/000333038\\_20080716005201/Rendered/PDF/E13670VOL1020Box327408B.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/07/16/000333038_20080716005201/Rendered/PDF/E13670VOL1020Box327408B.pdf) [hereinafter SESA Ex. Sum]

<sup>xxx</sup> [http://aoa.pbe.eea.europa.eu/tools/virtual\\_library/bibliography-details-each-assessment/answer\\_7742098328/w\\_assessment-upload/index\\_html?as\\_attachment:int=1](http://aoa.pbe.eea.europa.eu/tools/virtual_library/bibliography-details-each-assessment/answer_7742098328/w_assessment-upload/index_html?as_attachment:int=1)

<sup>xxxxi</sup> Population and Housing Census in Kosovo, Preliminary Results (June, 2011), available at <http://esk.rksgov.net/rekos2011/repository/docs/REKOS%20LEAFLET%20ALB%20FINAL.pdf>

<sup>xxxii</sup> SESA Ex. Sum., supra note 9, at 13

<sup>xxxiii</sup> Obiliq Municipality Development Plan, supra note 7, at 17

<sup>xxxiv</sup> SESA Ex. Sum., supra note 9, at 31

<sup>xxxv</sup> KPP PID, supra note 5

<sup>xxxvi</sup> SFDCCC External Expert Panel Report, supra note 6

<sup>xxxvii</sup> See Steve Herz, Sierra Club, Issues of Non-Compliance with World Bank's Criteria for Screening Coal Projects Under the Strategic Framework for Development and Climate Change (Mar. 6, 2012) (on file with author) [hereinafter Issues of SFDCC Non-Compliance]; see also Bruce C. Buckheit & Sierra Club, Affordable Electricity for Kosovo?: A Review of World Bank Group Cost Estimates For New Lignite-fired Plants in Kosovo (Oct. 2011), available at

[http://action.sierraclub.org/site/DocServer/Review\\_of\\_TOR\\_Final.pdf?docID=8341](http://action.sierraclub.org/site/DocServer/Review_of_TOR_Final.pdf?docID=8341) [hereinafter Affordable Electricity]; GAP,

KIPRED & FIQ Press Release: Significant errors in the Terms of Reference document for the World Bank's Expert Panel assigned to review new Kosovo lignite based power plan (Sept., 2011), available at <http://institutigap.org/repository/docs/ToREnglish.pdf>

<sup>xxxviii</sup> Obiliq Municipality Development Plan, supra note 7, at 19

The communities of Obiliq and beyond will suffer health risks arising from the construction and operation of both the proposed lignite power plants and the lignite mine. These harms include specific disease burdens caused by pollutants and industrial waste, nuisances caused by noise or dust from the operation of the coal mine and coal-fired power plants, and the effects of pollution on vulnerable populations, like children. The Sibofc coal mine and the operation of the Kosovo B and KRPP power plants will release toxic pollutants into the atmosphere, including particulate matter, sulfur dioxide, mercury, lead, heavy metals, oxides of nitrogen, carbon dioxide, and acid gases. These air pollutants cause damage to the nervous and circulatory systems. They also exacerbate existing health conditions, like asthma, prevalent in the populations living in the project area due to years of exposure to air pollution.<sup>xxxix</sup>

Prishtina Children are also at risk from exposure to lead and mercury, which impair cognitive development, and the acid gases like hydrogen chloride, which cause lung damage. The Requesters will also suffer harms from water and land pollution. Pollution of the water will occur from industrial materials including coal ash containing heavy metals, fly ash laced with mercury, wastewater from the washing of lignite coal containing selenium, and overflow or failure of impoundments storing “coal sludge,” a toxic waste product. Impoundments can fail, causing toxic floods of sludge that render rivers dead zones and contaminate ground water sources. The harm from this water pollution will be exacerbated because the riparian systems of the Kosovo Valley are already highly stressed.

The impact of water and land pollution on farmers, who comprise 60% of the population in the affected area, will be particularly profound: farmers rely on agricultural land and water for crop cultivation (including commercial and subsistence farming), thus their livelihoods will be significantly affected by pollution. Food contamination from such pollution is also likely. Moreover, coal waste not only creates surface water contamination, it also pollutes soil and ground water.

### **Project Related Social Harms - Resettlement**

Coal mining and the operation of coal-fired power plants will require the resettlement of populations throughout the 16 km<sup>2</sup> area of the “New Mining Field” (NMF), assessed in the spatial plan for the KRPP prepared under the LPTAP.<sup>xi</sup> Impacts resulting from involuntary resettlement will cause widespread harm to Obiliq communities. Many, including complainants of the Inspection Panel cases, expressed concern during consultations about the adequacy of the resettlement plans, and in particular about proper compensation for destroyed homes and impacts on their work and livelihoods. Physical and economic displacement will also harm subsistence farming in the region, and diminish the livelihoods earned from forest timber products and other secondary income streams. Resettlement will require compensation for agricultural families in the form of productive agriculture lands. However, there is significant doubt that sufficient fertile land exists for this purpose. Resettlement will also harm the social and cultural fabric of communities such as Hade, Leshkoshiq, Shipitulle, and Sibofc. Resettlement could also mean the destruction of important mosques, schools and historic monuments in the region.<sup>xii</sup> As described above, Kosovo’s legislation on resettlement is not in line with World Bank’s policy on resettlement<sup>xiii</sup>, despite Bank’s involvement in producing such legislation. Implementation of such legislation will ultimately lead to forced evictions and will fail to meet the basic resettlement principles laid out in Bank policies. These principles are:

- Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs;
- Involuntary resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits;

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<sup>xxxix</sup> <http://www.psr.org/news-events/press-releases/coal-pollution-damages-human-health.html?referrer=https://www.google.com/>

<sup>xi</sup> Spatial Plan, supra note 21, at 19

<sup>xii</sup> See section V(B)(2), infra, on “Consideration of the Full Extent of Impacts” from Involuntary Resettlement. The destruction of these landmarks such as the Holy Tomb of Sultan Murat II near Obiliq, mean a reduction in cultural tourism

<sup>xiii</sup> [http://action.sierraclub.org/site/DocServer/Final\\_Draft\\_Downing\\_Involuntary\\_Resettlement\\_at\\_KPP\\_repo.pdf?docID=15541](http://action.sierraclub.org/site/DocServer/Final_Draft_Downing_Involuntary_Resettlement_at_KPP_repo.pdf?docID=15541)

- Resettlement activities must be implemented with appropriate disclosure of information, consultation, and informed participation of those in the way;
- Projects must assist displaced persons in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms and in the shortest possible time, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

### Project Costs and Externality Costs

The Bank claims “Kosovo’s lignite is currently the least-cost option even after accounting for externalities.”<sup>xliii</sup> However, the Bank failed to adequately consider project costs, including externality costs. For example, the analysis fails to appropriately account for the costs of: improved water provision and transportation infrastructure; employee training; environmental and health harms, abatement technologies and associated impacts; lost agricultural production and resettlement; and mine closure. These costs, if properly factored in, will significantly increase overall project costs.

The Bank’s analyses are silent on the costs of managing and already stressed water system, and the costs of building adequate transportation infrastructure.<sup>xliv</sup> Stress on the supply of water is a significant concern in the Iber-Lepenc water system,<sup>xlv</sup> which is the expected source of water for the new mine and power plant. To meet the increased demand, the costs of improving the water systems must be accurately measured.<sup>xlvi</sup> Additionally, the project will require updating transportation infrastructure. The heavy industrial equipment needed for the KRPP may need to be shipped from outside of Kosovo and airlifted into the project site.<sup>xlvii</sup> Updating this infrastructure, or alternatively airlifting industrial parts around it, has not been adequately priced.

With respect to local employment, although the Bank’s analysis assumes that the project will create jobs,<sup>xlviii</sup> it does not examine the cost of training programs necessary to ensure that local populations will have employment at the coal mine and the coal-fired power plants. The Bank does not adequately address costs associated with damage to the environment and human health. First, the analyses so far focus solely on the environmental costs of air pollution.<sup>xlix</sup> Beyond air pollution, the Bank’s analysis fails to cover other relevant costs, such as waste management and health impacts of land and water pollution. Furthermore, the cost of abatement technologies and related impacts, particularly for dealing with harmful air pollutants is not adequately considered.<sup>1</sup> Also, the Bank’s economic analysis compares the environmental costs of the lignite power plants only with fuel and gas alternatives, not renewables.<sup>li</sup> This significantly affects the cost benefit analysis in relation to project alternatives. Second, the assumptions used for the 2006 environmental

<sup>xliii</sup> KIP PID, supra note 5

<sup>xliv</sup> See generally Economic Analysis, supra note 22 (failing to examine water supply costs)

<sup>xlv</sup> SESA, supra note 20, at 303 (“The Water Exploitation Index (WEI), calculated on the basis of the yearly average water demand (198 million m<sup>3</sup>), and the yearly water availability, equal to 410 million m<sup>3</sup> as the multi-annual average and 250 million m<sup>3</sup> as the worst year case, is 48% and 79% respectively which are significantly above the WEI warning threshold of 20%, distinguishing the non-stressed from a stressed region.”)

<sup>xlvi</sup> KIPRED, World Bank Kosovo Lignite Power Project: Full Cost Accounting, 2 (Oct., 2011) (citing reports and concluding that “[t]he cost of these required water system improvements needs to be accounted for by the project financial analysis.”) (on file with author) [hereinafter Full Cost Accounting]

<sup>xlvii</sup> Affordable Electricity, supra note x, at 10 (“Kosovo does not have the capacity to manufacture the specialized components needed – only a few countries do. Accordingly, the plant will essentially be imported and likely have to be shipped several thousands of miles. Kosovo is land locked and so, the large components that will be fabricated elsewhere will then have to be trucked many miles over poorly maintained roads or rails – negotiating switchbacks, tunnels and possibly requiring air lifting of heavy components at certain points.”)

<sup>xlviii</sup> SESA, supra note 20, at 337

<sup>xlix</sup> Accord Economic Analysis, supra note 22, at 8 (“The model used here is the latest dispersion modeling (ECOSENSE) developed and maintained by the University of Stuttgart.”) with ECOSENSE 4.0: USER’S MANUAL, INSTITUTE OF ENERGY ECONOMICS AND THE RATIONAL USE OF ENERGY 1 (2005), available at available at: [http://ecoweb.ier.uni-stuttgart.de/ecosense\\_web/ecosense4um.pdf](http://ecoweb.ier.uni-stuttgart.de/ecosense_web/ecosense4um.pdf) (“Ecosense provides relevant data and models required for an integrated impact assessment related to airborne pollutants.”)(emphasis added). Note that Kosovo Power Supply Options analysis also relies on this 2006 analysis

<sup>1</sup> See generally, Economic Analysis, supra note 22

<sup>li</sup> See id. at 8 (for the purposes of environmental costs, only “two comparator plants were considered – a heavy oil and a combined cycle gas turbine.”)

cost estimates are unclear and the estimates do not provide a clear picture of the environmental and health costs associated with the project. The Bank's projection for environmental costs for the Kosovo plants is 15 Euros per MWh, and it is unclear what assumptions were made in the modeling that led to this figure.<sup>lii</sup> As yet, it is unclear what specific pollution controls will be in place for Kosovo B and KRPP, and thus what the emission levels and associated costs will be.<sup>liii</sup> The Bank's analysis also does not adequately account for lost agricultural land and costs of resettlement. Sixty percent of the population in the project site relies on agriculture for their livelihood, either through subsistence farming or cash crop production. In addition to lost production because of competition for water resources, the mine is converting fertile land. The Bank's analysis does not account for these opportunity costs, nor does it account for the lack of agricultural land to resettle persons who rely on farming for their livelihoods.<sup>liiv</sup> Furthermore, the SESA contemplates the use of "reclaimed land" for agricultural uses, presumably for populations displaced by the project.<sup>liv</sup> Converting reclaimed land into land suitable for farming will entail substantial costs.<sup>lvi</sup> These costs were not included in the Bank's analysis.<sup>lvii</sup>

Finally, at the end of the project period, the Sibofc mine will need to be closed and the land returned to its previous condition.<sup>lviii</sup> The Bank's economic analysis does not address these costs, though the costs associated with mine closure and reclamation will be substantial.<sup>lix</sup>

### Meaningful Alternatives to the Project

The omissions of significant costs and a failure to capture key variables in its risk analysis are symptoms of the Bank's general failure to conduct a proper analysis of meaningful alternatives, which is "one of the most important features of proper project analysis."<sup>lix</sup> The Bank's analysis does not examine a meaningful mix of base, load-following and peaking units.<sup>lxi</sup> It also fails to analyze the cost-effectiveness of a common clean source peaking unit: hydropower.<sup>lxii</sup> Hydropower resources are particularly relevant for the KRPP project area, as the Bank describes the Kosovo's river system as a "well developed hydrological network."<sup>lxiii</sup> The Kosovo Energy Plan discusses at least two feasible hydropower sources: the HPP Zhur and the HPP Ujman.<sup>lxiv</sup> In another study the Bank and the EU Commission describe Kosovo as having "significantly more potential" for hydropower development than is currently utilized.<sup>lxv</sup> Furthermore, the analysis does not contain assessments of other renewable energy sources, such as the potential for wind and solar power, nor adequate consideration of energy efficiency measures.<sup>lxvi</sup> As noted above, recent studies

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<sup>lii</sup> Kosovo Power Supply Options, supra note x, at 97-15

<sup>liii</sup> Additionally, it is useful to assess whether new models are available for calculating externality costs. European Environmental Agency's (EEA) damage cost figures, based on 2009 data, for damage costs of air pollutants released from coal plants is presented as an aggregated range. See EEA Report, *Revealing the Costs of Air Pollution in Europe*, 25 (2011), available at <http://www.eea.europa.eu/publications/cost-of-air-pollution>. For example, the TETs Maritsa Iztok-2 coal plant in Bulgaria (at 1450MW, which would be 250 MW more than Kosovo B and KRPP combined), has an aggregated damage cost range of 1432-3339 million Euros for select air pollutants. *Id.*

<sup>liiv</sup> See generally Economic Analysis, supra note 22 (failing to evaluate the opportunity cost of agriculture and the economics of agricultural land provision)

<sup>liv</sup> WORLD BANK, DRAFT SIBOVC DEVELOPMENT PLAN, 22 (contained in the SESA, contemplating land reclamation for agricultural activities)

<sup>lvi</sup> Full Cost Accounting, supra note 163, at 2 ("The Resettlement Framework seems to imply that it will rely heavily on the usage of reclaimed land, which would pose substantial costs and time to make it suitable for living/farming – costs currently not accounted for in the World Bank project analysis.")

<sup>lvii</sup> See generally Economic Analysis, supra note 22

<sup>lviii</sup> This is required by THE WORLD BANK, TOWARD SUSTAINABLE DECOMMISSIONING OF OIL FIELDS AND MINES: A TOOLKIT TO ASSIST GOVERNMENT AGENCIES, (2010)

<sup>lix</sup> *Id.* at Forward. ("These operations and the associated infrastructure will require complex and costly dismantling; technical and environmental restoration and rehabilitation measures; and socioeconomic investments to counteract retrenchment, post-closure economic downturns and other effects associated with the end of the project's productive life.")

<sup>lxi</sup> OP 10.04(3)

<sup>lxii</sup> For definitions of these terms see Affordable Electricity, supra note 16, at 10-11 ("[B]ase load units [] have a high capital cost, but low operating costs and overall COE [“cost of electricity”], load-following units [] have lower capital costs, higher operating costs and overall COE and peaking units, with lowest capital costs, but high operating costs and COE.")

<sup>lxiii</sup> *Id.* at 14

<sup>lxiiii</sup> SESA ex. sum., supra note 8, at 22 (emphasis added)

<sup>lxv</sup> Energy Law Strategy for Kosovo, 25-26

<sup>lxvi</sup> THE WORLD BANK & EU COMMISSION, KOSOVO: TECHNICAL BACKGROUND PAPER ENERGY SECTOR, 15 (July 7, 2008)

<sup>lxvii</sup> See generally, Economic Analysis, supra note 22

show that Kosovo could meet its energy needs by using a combination of an upgraded Kosovo B, energy efficiency measures, and renewable energy sources.<sup>lxvii</sup> The Bank should consider these alternatives before deciding to fund a new power plant in an already stressed environment.

The World Bank is expected to publish two new studies on the project within 2015 – an Energy Alternatives Options Study and the Environmental and Social Impact Assessment for the KRPP project. University of California Berkley in the meantime has produced its third version of Kosovo’s Energy Options that recommends a shift from coal-based energy sources to renewables as a cheaper and cleaner option for Kosovo.<sup>lxviii</sup> The Bank is yet to comment on this new version.

### **Compliance with Human Rights Protected by the Kosovo Constitution**

Bank policies require that financed projects do not contravene country obligations as found in “national legislation[] . . . related to the environment and social aspects[] , , , and obligations . . . under relevant international environmental treaties and agreements.” Similarly, the Bank “tries to work within existing law to the extent possible.”<sup>lxix</sup> Kosovo’s Constitution incorporates the following agreements and instruments directly into their constitution: (1) Universal Declaration of Human Rights; (2) European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols; (3) International Covenant on Civil and Political Rights and its Protocols; (4) Council of Europe Framework Convention for the Protection of National Minorities; (5) Convention on the Elimination of All Forms of Racial Discrimination; (6) Convention on the Elimination of All Forms of Discrimination Against Women; (7) Convention on the Rights of the Child; (8) Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.<sup>lxx</sup> Article 22 of the Constitution guarantees the human right and freedoms protected by these instruments. Further, Article 3(2) of the Constitution accords “full respect for internationally recognized fundamental human rights and freedoms.”<sup>lxxi</sup> Additionally, Article 53 of the Constitution states that Kosovar interpretation of those “human rights and fundamental freedoms” shall be consistent with the jurisprudence of the European Court of Human Rights.<sup>lxxii</sup> The human rights guaranteed pursuant to those provisions are incorporated directly into Kosovo’s national laws via the Constitution. Thus, the Bank must evaluate whether the project complies with Kosovar law and what effect this project will have on relevant human rights. There are a number of areas where rights are implicated. The Bank’s SESA currently under consideration makes no mention, nor provides even a framework for assessing the impact on the following rights.

The Bank must demonstrate how project activities would respect the following relevant rights within the context of the broader environmental and social impacts of this project:

**The right to health:** the Kosovar Constitution guarantees the right to health. The proposed project will have numerous negative, long-term impacts on the health of the population in the affected region. The Bank has identified these impacts<sup>lxxiii</sup> and must address them in the context of the right to health.

**The right to food:** The United Nations Declaration on Human Rights recognizes the right to food, and the same is guaranteed by the Kosovo Constitution.<sup>lxxiv</sup> The project will have impacts on land-use patterns in the project area as well as serious broader impacts on access to water for irrigation for agricultural uses. Moreover, pollutants emitted from the power plants and mines can contaminate local produce and livestock. The Bank must assess and address the impacts of the project on the right to food.

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<sup>lxvii</sup> Kosovo Power Supply Options, supra note 97; Kosovo’s Least Cost Option, supra note 23

<sup>lxviii</sup> [http://www.kosid.org/file/repository/Sustainable\\_Energy\\_for\\_Kosovo\\_Energy\\_Policy\\_kosid.pdf](http://www.kosid.org/file/repository/Sustainable_Energy_for_Kosovo_Energy_Policy_kosid.pdf)

<sup>lxix</sup> World Bank Operational Policy 7.00, Lending Operations, 7.00(14)

<sup>lxx</sup> Kosovo Constitution, art. 22, available at

<http://www.kushtetutakosoves.info/repository/docs/Constitution.of.the.Republic.of.Kosovo.pdf>

<sup>lxxi</sup> Id. art. 3(2)

<sup>lxxii</sup> Id. art. 53

<sup>lxxiii</sup> <http://siteresources.worldbank.org/INTKOSOVO/Resources/KosovoCEA.pdf>

<sup>lxxiv</sup> UDHR, supra note 205, art. 25(1).

**The right to water:** The right to water is necessary for the enjoyment of the right to food. This right should further be viewed in the context of the 2010 United Nations General Assembly resolution recognizing the right to water and sanitation.<sup>lxxv</sup> The project is likely to have severe impacts<sup>lxxvi</sup> on local water supplies and the Bank should assess and address these impacts in the context of the right to water.

**The right to housing:** Kosovo recognizes “the right to a standard of living adequate for the health and well-being of himself and of his family, including ... housing.”<sup>lxxvii</sup> Particularly, in the context of resettlement related to the project, the Bank must assess and address the impacts on this right. Furthermore, the Bank must assess whether the implementation of the resettlement schemes, and the application of the “special economic interest” designations are sufficiently protective of affected communities’ rights under the Kosovo Constitution and their interests under Bank policies.

## Recommendations

To prevent further rights abuses and to redress harms already suffered by affected communities as a result of the Kosovo Power Project, the World Bank should take immediate action as follows:

1. **Ensure adequate protections and redress for displaced communities:** Affected communities’ demands for their basic human rights to be protected and to be treated in accordance with Bank policies when it comes to resettlement need to be met right away. We urge the US Congress to request from President Jim Kim of the Bank and the US Government a thorough plan to address the serious problems identified in the Bank’s resettlement practices.<sup>lxxviii</sup> Such a plan would ensure redress for harms already caused as in Kosovo: the Bank must urgently address the ongoing unfair treatment of hundreds of families in Hade village in Kosovo. The plan should also aim to put in place policies and adequate plans for their implementation to ensure that communities do not suffer the same fate in future.
2. **Respect human rights:** The World Bank does not recognize nor requests from its borrowers the protection of basic human rights in its projects. The current ongoing review of World Bank environmental and social policies represents a rare opportunity for the Bank to introduce language on the matter. We urge the US Congress to urge World Bank President Jim Kim and the US Government for the Bank to commit to adhere to international human rights law and to ensure its projects do not violate human rights.
3. **Consider alternatives:** When engaging in a project, the Bank carry out a full alternatives assessment, including the no-project option, to mitigate possible negative environmental and social risks. Kosovar communities and civil society are demanding the Bank to look deeper into Kosovo’s energy options to avoid coal-based projects. The Bank’s former chief renewables and energy czar, Daniel Kammen, has produced an analysis on Kosovo’s Energy Options and has publicly called on the Bank to avoid more coal for Kosovo – as it is the most costly option for the country.<sup>lxxix</sup> The US Government, however, supports<sup>lxxx</sup> the Bank’s approach to Kosovo’s energy sector, without adequately considering alternatives. We urge the US Congress to demand from the US Government to support an agenda that helps Kosovo diversify its energy sector. Currently, 98% of Kosovo’s electricity needs are met through coal-burning plants. More coal would lock the country into burning fossil fuels for another 40 years to come – with devastating environmental and social impacts.

## ANNEXES

1. “Does the Kosovo Power Project’s Proposed Forced Displacement of Kosovars Comply with International Involuntary Resettlement Standards?” by Dr. Theodore E. Downing

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<sup>lxxv</sup> United Nations General Assembly Resolution, The Human Right to Water, A/Res/64/292 (Aug. 3, 2010) available at

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/479/35/PDF/N0947935.pdf?OpenElement>

<sup>lxxvi</sup> [http://www.huffingtonpost.com/justin-guay/world-bank-coal-plant\\_b\\_2496695.html](http://www.huffingtonpost.com/justin-guay/world-bank-coal-plant_b_2496695.html)

<sup>lxxvii</sup> Id

<sup>lxxviii</sup> The current Action Plan that the Bank has produced is not satisfactory, CSOs wrote to the Bank:

<https://www.hrw.org/news/2015/04/15/world-bank-address-failings-resettlement>

<sup>lxxix</sup> <http://energyblog.nationalgeographic.com/2012/03/12/coal-rich-kosovo-can-lead-on-clean-energy/>

<sup>lxxx</sup> [http://www.eenews.net/assets/2011/07/11/document\\_cw\\_02.pdf](http://www.eenews.net/assets/2011/07/11/document_cw_02.pdf)

2. “Sustainable Energy Options for Kosovo”, by Daniel M. Kammen
3. Hade citizens and others Inspection Panel complaint

Mr. MCGOVERN. Well, let me let me thank all three of you for your testimony and let me state at the outset that this Commission will work with you on the specifics in each of your countries.

So the staff is happy to work with you to figure out how we can follow up, whether it is with our government or whether it is with the World Bank on some of the specifics that you outline in your testimony because, you know, this is more than just about taking testimony.

I mean, we want to we want to be helpful and constructive to some of the issues that you outlined. So I just want to make sure that you know that that's a standing offer and we are happy to follow up on all the things that you mentioned here today.

And the beepers that you are hearing in the background is a vote. So I will have to leave in a little while and come back. But just so you know we are not being cleared out of this room. It is just there is a vote going on.

You know, I am trying to understand. I mean, when the World Bank gets involved in projects like the ones that you all outlined, when it comes to human rights and environmental protections and land rights, I mean, obviously, there are the laws in your country.

And I have yet to see a country that doesn't have a really good constitution and really nice sounding laws. Whether they enforce those laws and uphold those laws is always a is always a challenge.

But there is that there is that avenue of trying to, you know, go through the courts or go through the process in a particular country. I guess I am curious about the process for people like you and community advocates when it comes to dealing with the World Bank.

I mean, what how do you make these concerns known to the bank? How do they how do they receive you? What is the process that you go through? Do they listen to you? That is, I guess

Mr. METHO. Yes. You know, as I was saying that an example of Ethiopia, for instance, it is the local people that to send a complete plan detailing the World Bank that according to the World Bank there is a law that, you know, if your money has been given to someone and that money does harm to the peoples, the World Bank not the countries but the World Bank have a responsibility.

Mr. MCGOVERN. Right.

Mr. METHO. And this is something which was really the work of Congress, you know, that put the World Bank to make the World Bank accountable. And so for that then the World Bank did their own investigation you know, the inspection panels.

So this investigation was not done by a human rights activist, was not done by anybody. The very same World Bank, part of their own body investigated and they found that there is a flaw.

They found that yes, there was even Dr. Kim admitted, as here, into that. So where we have the problems once that is admitted there is supposed to be some kind of compensation or somehow to change it

Mr. MCGOVERN. Right.

Mr. METHO. and then where I come where there is a problem. So they did not do that. Even, for instance, one of the things which I opined that this same you know, when the World Bank went to do an investigation in Ethiopia they hired a local gentleman, a pastor, to translate the language Omat Agwa.

So the Ethiopian, when the report came out, they locked this man in jail, the man who translated for the World Bank. Even the World Bank did not have audacity to go in and make a statement.

Dr. Kim did not even come out and make a statement for someone that who translated. These men come out to help them and then when he was locked up then we did not hear from the World Bank.

So in other word, like someone saying that you know what, I know how to swim when I jump in the rivers you, I know, will be there and then once you get in they are not going to come to you here.

So in this case that we know the Ethiopian law is there. The Ethiopian government law is there. Well, that law is really not good for their own people. This is the country there which is, for example, that's why I say that.

Mr. MCGOVERN. Just so the World Bank did an investigation, right?

Mr. METHO. Yes. They found their finding.

Mr. MCGOVERN. And you agree with the findings?

Mr. METHO. Yes. The findings, we agreed with it. The finding was good.

Mr. MCGOVERN. Right. So nothing happened in the aftermath of those findings?

Mr. METHO. Exactly. They found a finding. The finding was that their money has done harm to the local indigenous people.

Mr. MCGOVERN. Right.

Mr. METHO. The people they intend to help are some that have been actually hurt as a result of the money that the World Bank has given to the Ethiopian government.

So in that case, then the World Bank supports to change the way things are and not give them money. But what they have done is give another more money to that country without any correcting anything at all and that's where we have the problem. So they admitted that we have a problem and not doing anything about it is just

Mr. MCGOVERN. And so when you approached the World Bank are what was the what was the response? They issued a report that you agree with the findings but they have done nothing to do anything that will correct the situation. What is their and they are giving more money, right?

Mr. METHO. Exactly.

Mr. MCGOVERN. So what is the response of the World Bank to not acting on their report?

Mr. METHO. So the management was saying that yes, you know, we agree what's wrong with the you know, we agree that you know, our work, our you know, our money has done harm to the peoples and then we will try to make sure that this thing doesn't happen again. That is what Dr. Kim said.

But giving more money what make her thing that this will not happen again? Then what I was saying that you cannot just say that yes, we will do it, if you don't do it.

MR. MCGOVERN. So what you are telling me in the case of Ethiopia that you see no nothing changed in how they deliver aid or how they condition aid?

MR. METHO. Correct.

MR. MCGOVERN. Okay. And in the case of Kosovo, I mean, I am just trying to understand, I mean, with all that's going on, you know, with the coal plant.

And I agree with you. I don't know why the hell we are building more coal plants. They should listen to the Pope's speech on climate change. But the point is, like, I have been trying to say, you know, you have these concerns. You know, people are being displaced, no reparations. I mean, and what is the response of the bank to that?

Mr. SINANI. Like, from my perspective, the problem is very systematic within the bank because when the bank gets engaged with a country they usually produce a strategy for that country.

Today, they call it with different names but it is basically a three-year strategy for the country where they look at the different projects they are going to invest in and then

they are supposed, according to their policies, to talk to the people that will be affected about if those projects are a good idea or a bad idea before they jump into a project itself.

While in the Kosovo case, they just jumped in the middle of something that was going on without really thinking what they were doing. So there was no discussion whatsoever what any of the environmental and social impact into all of that were.

Mr. MCGOVERN. But they if I understood you correctly they haven't yet decided as to whether or not they are going to fund the plant, right?

Mr. SINANI. Not the plant itself but they are given a lot of money as technical support to produce legislation that's enabling the coal plant to happen, basically.

But so the that is one of the problems. Like, they jump just in the middle of something that was going on and when they did that, of course, they did talk to civil society and they did have they did hire survey companies to go and talk to the communities and get their you know, their thoughts and demands in place.

But they have been put into paper but nothing they don't act on them, first, because they say there is still no projects from their perspective. There is still no coal project.

And what they mean with that is before they can vote on a project, before they decide to give the money they don't consider it a project already despite being involved in technical support of all sorts in the country itself and because of that they basically say whatever demands we bring to our status point we cannot meet them because we don't have a project that's going on while the communities continue to suffer like be put in this sort of prison where, you know, they have been told they will be resettled but they are not being resettled and whatever they have been building in the last ten years they are not going to be compensated because of something that was in force ten years ago and none of that is being fought.

So whatever, you know, the discussion happens between the community and the bank has gone on deaf ears.

Mr. MCGOVERN. And how would you how would you characterize the level of communication between the bank and civil society?

Mr. SINANI. I think what the bank is doing is ticking boxes to make something happen. That's what sort of exercise they are doing in the country and the only thing the communities have been able to do so far is reach out to the inspection panel, which is sort of the only means for them to get someone to investigate the matter.

And they reached out twice to the panel in the last four years. The first one was in 2012 when the panel decided they couldn't investigate again on the same reason that there wasn't an official project in place and they couldn't be you know, no policies

were basically triggered and the second complaint was just sent a month ago to the panel and the panel finally decided that they would investigate because now they found a legal basis for that.

So that basically remains the only element for them right now to use and we'll see what outcomes they are going to get out of that.

Mr. MCGOVERN. And but you said there is you mentioned the five people who died in the protests in July of 2012. Are there investigations underway into their deaths and if so what's the status of those investigations?

Mr. SÁNCHEZ. First, I wanted to mention that we have presented formal letters to the World Bank in Lima but to this date we haven't received a response.

This visit here we also went to the offices of the World Bank in Washington to present the report that we mentioned in which we described the project and mentioned how the project would cause a series of human rights violation that in light of its performance standards make it unviable.

And I would just like to reiterate our concern that the IFC has not done an evaluation of the project in light of its standards nor has it done an evaluation of the different risks that the project poses to our people while it is already causing serious harms.

Mr. MCGOVERN. Do you consider the IFC performance standards to be sufficiently strong from a human rights perspective? I mean, if they were fully adhered to would they protect the community?

Mr. SÁNCHEZ. First, I just want to mention that they have improved substantially from the years in which the mine first arrived. But even at their current state, they are sufficient that the mine or the IFC should be able to declare the project unviable.

With respect to the five deaths, there does exist a criminal investigation and there is been forensics that have shown that the bullets came from the police officers and the police officers were responsible for the deaths.

But despite of all of these facts, they are seeking to archive the criminal investigation.

Mr. MCGOVERN. Let me ask let me ask you all. I mean, your experience I mean, look, I look at we are all trying to make this better, right?

So in your experience, have you seen instances of good practices and practices supportive of human rights on the part of the bank that we should be we should encourage and reinforce? Have you had are there things that you can tell me that are going the way you would like them to go or is there just a lot of room for improvement?

Mr. METHO. Mr. Chairman, as I was saying earlier before that we are not against the bank. The intention of the bank was for the good help of the people.

Mr. MCGOVERN. Right.

Mr. METHO. And if there is a practice that helping the people we are very happy about. But what we tend to see in particular now these days the word human right, the terminology human right, has become a term that no one want to use. Even the World Bank is leaning to that.

Last year there was a meeting here with the World Bank. What I find it that's appalling that because China has created these banks now the World Bank is the safeguard.

They want to minimize that. What kind of things we talk about now in the next few years to be continued they want to water it down.

So when you in some countries like, for instance, in Ethiopia, the regime that which has claimed to win an election 100 percent, a regime that civil society none exists, when you have a country like that the only place where there is safeguard, where there is a human right, the only place where you can find a voice is from the financial institution like a World Bank or outsider because it doesn't exist in that country.

And when the World Bank ignored that, then where I see to be having a bigger problem. And so if they can do a practice that is really helping the people it is good. But sometimes they don't do that and what we find is in case of example of Ethiopia people talk with Ethiopia we call economy booming.

An example there is no any countries where the corruption is rampant that can help development. So in other word, a beggar cannot have a choice. So in these case if the World Bank is doing the right thing and helping we will definitely endorse that and support that.

But when they are in cahoots with the regime that doesn't care for the well-being of the people then we are really this world we live in is much more serious and dangerous.

Mr. SINANI. Just very briefly, I think that some of the policies of the World Bank has operational policies they have in force have great principles that would ensure a lot of rights without referring to them as human rights.

But they still would, you know, enable a lot of things to happen in a good way. But the problem is just, you know, enforcing them and following it in the case of Kosovo.

As I said, like the resettlement policy if effectively, you know, implemented in Kosovo that would have resulted in something different from what we see today and, you know, just the failure to act on that to enforce the policies is the problem itself because the principles are there and the problem that the World Bank sees itself in from that perspective is that they haven't found a way to really address all the problems that they themselves have identified.

So the action plan to act on the problems they identify just, you know, is missing. It is nonexistent and that's a problem itself.

And as I said, there is always room to improve that and that's what we are asking in the current review of their environmental and social policies. There is clear space for human rights to be referenced and put into place that they deserve to be in and that's what they should do and that would help a lot of the communities in the future if it happens.

Mr. SÁNCHEZ. There is a lot of good in the standards and they are very important and I really truly believe there is much importance in these standards.

But if the standards are not enforced then they don't amount to anything and I believe that is exactly what's happening with respect to the Conga project.

Mr. MCGOVERN. So I am going to go vote and so what I want to suggest is that during our brief little intermission here that the Commission staff kind of we get reacquainted with all of you and we figure out what our assignments are on the specific cases, you know, in Ethiopia, Kosovo, you know, and Peru and how we can be of assistance.

And I am also interested you had some great suggestions on what the you know, not just the World Bank, the U.S. government is part of the issue and we are happy to follow up on those things.

And look, I hope you'll stay in touch with us on concrete ways to make this better. I mean, look I mean, the whole point of this is to try to alleviate some of the poverty and some of the inequality in the world and help people who are struggling and if it is not doing that then we got to figure out how to do it better.

And so I appreciate very much all of you being here and we are going to take a temporary recess while I go and vote and I got two quick votes. I am hoping it will not take at all very long. So I apologize but, as I said, we are trying to keep the government open here. So

[Whereupon, the above-entitled matter went off the record at 2:48 p.m. and resumed at 3:06 p.m.]

Mr. MCGOVERN. All right. Well, here we again, I apologize for the break but we now turn to our second panel. Once again, I welcome Professor Philip Alston, who

was appointed United Nations Special Rapporteur on Extreme Poverty and Human Rights in June 2014 by the Human Rights Council.

Previously, he chaired the U.N. Committee on Economic, Social and Cultural Rights. He served as special advisory to the U.N. High Commissioner for Human Rights on the Millennium Development Goals.

The professor also teaches at New York University School of Law and co-chairs the NYU Center for Human Rights and Global Justice and I would like to formally submit his testimony into the hearing record but we are thrilled to have you here, Professor, and welcome.

STATEMENT OF PROFESSOR PHILIP ALSTON, U.N. SPECIAL RAPPORTEUR  
ON EXTREME POVERTY AND HUMAN RIGHTS

Mr. ALSTON. Yes, okay. Many thanks, Congressman. I am very grateful to you and to this Commission for your efforts in holding these hearings, both this one and ones previously.

I think the Commission has a very important role to play as does the Congress. I am here in my capacity as U.N. special rapporteur on extreme poverty and human rights and I want to emphasize the extent to which the World Bank in this sort of setting is arguably the single most important international agency.

Some people would question that characterization on the grounds that the \$40 billion or more that the bank committed to borrowing countries in 2014 represents only a fraction of total private capital flows to developing countries from all multilateral and national development banks, bilateral donors and private investors.

But not only is the elimination of poverty one of the bank's two central goals, its research is more voluminous and influential than that of its peers. It remains the case standard setter in many areas and its knowledge and expertise are often crucial.

Its seal of approval frequently encourages the persuasion of other donors or investors. So the bank does, in my view, still have a preeminent position.

That position is being challenged by the emergence in 2015 of two new major multilateral development banks – the New Development Bank set up under the BRICS and the Asian Infrastructure Investment Bank.

The World Bank has been depicted by some of its critics as being dominated by the United States and its allies. But the new banks, on the other hand, are being championed by China.

The NDB presents itself officially on its website as an alternative to the existing U.S.-dominated World Bank and IMF.

Notwithstanding spirited denials by its leadership, the World Bank is under pressure to change in order to be able to compete more effectively with the new banks and it sometimes suggests that this is one of the reasons why it is not keen to engage substantively with human rights.

In a report that I'll be presenting next month to the U.N. General Assembly, I argue that the bank's policies are – the bank's policies on human rights are inconsistent and even incoherent.

I argue, in fact, that the bank doesn't have a single human rights policy. It has quite a range of them. But in the area that counts most, which is its real project and program lending, the bank is actually a human rights-free zone.

In its operational policies in particular, I say in my report, it treats human rights more like an infectious disease than universal values and obligations.

The biggest single obstacle moving forward to a more constructive approach is the anachronistic and inconsistent interpretation of the political prohibition contained in the articles of agreement of the bank.

This 1945 document is interpreted as saying that the bank is unable to engage meaningfully with the international human rights framework or to assist member countries in complying with their own human rights obligations.

That inhibits the bank's ability to take adequate account of the political economy aspects of its work within countries and contradicts and undermines the consistent recognition by the international community of the integral relationship between human rights and development.

It also prevents the bank from putting into practice much of its own policy research and analysis which actually points to the indispensability of certain human rights dimensions in many core development issues.

In my view, the bank's current approach can be boiled down to the following propositions. A, pay lip service to human rights in official settings because there are no consequences for doing that; B, acknowledge the theoretical significance of human rights in studies and analyses of issues in relation to which they are incontestably relevant gender equality, to give an example; C, ensure that, as a general rule, the bank does not engage with any aspect of human rights in its actual operations and lending; and D, be prepared to make exceptions when political imperatives require it even if that involves a high level of inconsistency.

I want to emphasize, despite the sort of stories that we've heard earlier today, which really, obviously, raise very major problems, that I believe the World Bank is an organization that has immense potential to do good in the world.

I believe it has done immense good in the world in the past in many areas. I don't wish to denigrate it. I don't wish to tarnish its reputation.

But I do believe firmly that the bank is effectively shooting itself in the foot by insisting on a policy approach that seeks to insulate itself from human rights standards and norms and acts as though these are matters that should be considered entirely independent of the bank's own work.

The real challenge, of course, is to think constructively about how things might change. In my report to the U.N. next month, I canvass a number of recommendations. I

would like to recount those here but to emphasize that they are directed more to the bank than to the U.S. and especially the Congress as such.

The struggle for the integration of human rights into the work of the World Bank and other international financial institutions has been long and not always successful. But I have faith in the willingness and ability of this Congress to act on an issue that has such enormous implications for the future of development.

In terms of the specific recommendations in my report, I argue, first of all, that the president of the bank needs to take the initiative in developing a coherent and consistent human rights policy.

There are many options and paths that could reasonably be taken. The bank is a very special organization and it will need a carefully tailored policy that takes adequate account of the many concerns that will certainly be expressed.

Most of all, there needs to be a transparent discussion based on carefully thought through proposals. Next, the bank needs to remove the roadblock that has been erected by its anachronistic interpretation of the political prohibition in the articles of agreement. Just as the phrase economic considerations has been interpreted to allow bank measures to combat corruption and promote the rule of law in criminal justice reform, so too can that phrase, the emphasis on economic considerations, accommodate a human rights policy.

The starting point for any policy is simply to acknowledge that human rights are relevant to the twin goals of the bank. Engagement with human rights experts and mechanisms should become routine.

A good starting point would be for the Human Rights Council to invite the president of the bank to address it and engage in dialogue.

The bank should have a human rights due diligence policy that spells out some of the circumstances under which it would be unable to continue providing support for a given project. The U.N. has such a policy.

Another key principle in any bank policy should be to encourage and assist governments to meet their existing obligations. The bank already does that in the environmental area.

In general, the policies of the bank should emphasize the ways in which it can provide positive support, advice and assistance to states in relation to human rights. Bank policy should, in my view, also address economic, social and cultural rights as human rights.

Next, address to member countries I think all member states need to begin to grapple seriously with what a human rights policy should look like rather than simply saying they are for or against such a policy. We've got to start getting specific.

Civil society, I think, needs to start to think through in a more systematic and nuanced way exactly what they would like to see from a human rights initiative. For me, it is debatable whether some of the roles that the bank has been called on to undertake in the past are appropriate.

My general sense is that too much of the general policy of civil society towards the World Bank is driven by specific disaster stories and that's not the best way to fix any ship, just to point to the great holes that are there.

One needs to look at the overall structure, make that stronger and make sure that it doesn't generate those holes in the future. I think we need to move away from the emphasis on sanctions which dominates too many of the debates around the World Bank.

When sanctions are adopted, and I refer in my report to the controversial case about the response to draconian laws against LGBT people in Uganda, those policies are often the response of the bank is often arbitrary and inconsistent and, in my view, counterproductive.

As long as sanctions are considered to be the main element in a human rights policy, many governments will continue to resist progress in this area and based on what's happened today their position is not difficult to understand.

Finally, I would just emphasize, as I said before, that what the bank does is going to be very relevant in terms of the approach adopted by these new development banks that are coming on to the scene so that is yet another reason why we need to pay more attention to trying to get the bank itself to develop a constructive human rights policy.

Thank you.

[The statement of Mr. Alston follows:]

#### **Prepared Statement of Professor Philip Alston**

Co-Chairs and Members of the Commission, it is a privilege to be able to address you today on this very important issue. This Commission has previously made an important contribution to furthering understanding of the role that human rights could and should have in the work of the World Bank, and of course the United States is a key actor in helping to shape the Bank's policies.

In addition to being a Professor of Law at New York University Law School, where I have taught since 2002, I am currently the Special Rapporteur on extreme poverty and human rights, appointed by the United Nations Human Rights Council. The Council has a number of independent experts who are appointed to advise it on specific issues such as extrajudicial executions, torture, violence against women, the right to education, and many other topics.

In the context of my mandate on extreme poverty and human rights, the World Bank is arguably the single most important international agency. Some might question this characterization on the grounds that the \$40 billion or more that the Bank committed to borrowing countries in 2014 represents only a fraction of total private capital flows to developing countries from all multilateral and national development banks, bilateral donors and private investors. However, not only is the elimination of extreme poverty one of its two central goals, its research is more voluminous and influential than that of its peers. It remains the key standard-

setter in many areas, its knowledge and expertise are often crucial and its seal of approval frequently encourages the participation of other donors or investors.

But the World Bank's pre-eminent position and its policies are being challenged by the emergence in 2015 of two new major multilateral development banks, the New Development Bank BRICS (NDB), and the Asian Infrastructure Investment Bank (AIIB). While the World Bank has been depicted by some of its critics as being dominated by the United States and its allies, the new banks have been championed by China. The NDB presents itself officially "as an alternative to the existing US-dominated World Bank and International Monetary Fund."

<sup>1</sup> Notwithstanding spirited denials by its leadership, the World Bank is under pressure to change in order to be able to compete more effectively with the new banks and this is sometimes suggested to be one of the reasons why it is not keen to engage substantively with human rights.

In a report which I will be presenting next month to the UN General Assembly I argue that the Bank has a number of inconsistent, indeed incoherent, approaches to human rights.

For most purposes, the World Bank is a human rights-free zone. In its operational policies, in particular, it treats human rights more like an infectious disease than universal values and obligations.

The biggest single obstacle to moving towards an appropriate approach is the anachronistic and inconsistent interpretation of the "political prohibition" contained in its Articles of Agreement. As a result, the Bank is unable to engage meaningfully with the international human rights framework, or to assist its member countries in complying with their own human rights obligations. That inhibits its ability to take adequate account of the political economy aspects of its work within countries and contradicts and undermines the consistent recognition by the international community of the integral relationship between human rights and development. It also prevents the Bank from putting into practice much of its own policy research and analysis, which points to the indispensability of the human rights dimensions of many core development issues.

In my view the Bank's approach can be boiled down to the following propositions: (a) pay lip service to human rights in official settings, as long as there are no consequences; (b) acknowledge the theoretical significance of human rights in studies and analyses of issues in relation to which they are incontestably relevant; (c) ensure that, as a general rule, the Bank does not engage with any aspect of human rights in its actual operations and lending; and (d) be prepared to make exceptions when political imperatives require it, even if that involves a high degree of inconsistency.

The Bank's formalistic acceptance of the relevance of human rights in public relations statements and general publications which do not bind it, contrasts dramatically with its steadfast refusal to incorporate human rights dimensions into the programs and projects it supports. Let me give an example of the incongruity. About a year ago, World Bank President Jim Yong Kim gave a speech at Howard University entitled "Boosting Shared Prosperity". He spoke of the far-reaching reorganization of the Bank over the previous two years and explained that it was designed to enable it to better achieve its twin goals of ending extreme poverty by 2030 and boosting shared prosperity among the poorest 40 percent in developing countries. He called for an increase in individual incomes through economic growth. And he called for "improving gender equity and low income people's access to food, shelter, clean water, sanitation, health care, education and jobs."

President Kim's speech made no mention of rights, let alone human rights, but he ended with a lengthy tribute to the Reverend Martin Luther King, Jr., whom he called a childhood hero of his. After recalling some of King's eloquent but unsettling comments about the horrors of poverty, President Kim observed that the Bank's "two main goals stand in lockstep with the agenda Dr. King laid out ...". He concluded by saying: "To paraphrase Dr. King, we will bend the arc of history toward justice."

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<sup>1</sup> <http://ndbbrics.org/>

The implication of this analysis seems to be that poverty eradication can be severed from the struggle for rights that defined everything that Martin Luther King, Jr. stood for and spoke about. It is as though King's 'dream' was about the creation of a large and benevolent bureaucracy, perhaps based here in Washington DC, which could, by working through governments and not talking about rights, bring prosperity and dignity to the poorest in our societies. But King's legacy is really all about how people who are not free, people whose rights are not respected, will never really be able to escape from poverty.

I want to emphasize that I think the World Bank is an organization that has immense potential to do good in the world. I do not wish to denigrate the Bank, I do not wish to tarnish its reputation. But I believe firmly that the Bank is effectively shooting itself in the foot by insisting on a policy approach that seeks to insulate itself from human rights standards and norms and acts as though these are matters that should be considered entirely independently of the Bank's own work.

But the real challenge is not to point to the Bank's refusal to take human rights seriously, but to think constructively about how change might be brought about. In my report to the UN General Assembly in late October I canvas a number of recommendations directed primarily at the Bank itself. I would like to recount those here. But before doing so I would also like to acknowledge that the challenge for the United States, and thus for Congress, is to work out how it can best encourage and facilitate that process. I plan to return to this issue in the follow-up to this important process. The struggle for the integration of human rights into the work of the World Bank and other international financial institutions has been long and not always successful, but I have faith in the willingness and ability of this Congress to act on an issue that has such enormous implications for the future of development.

## **Recommendations**

### ***The World Bank***

1. The President of the World Bank, assisted by his staff, needs to take the initiative in developing a coherent and consistent human rights policy, as has been the case in relation to almost every major policy initiative of this kind. There are many options and paths that could reasonably be taken. The Bank is a very special organization and it will need a carefully tailored policy that takes adequate account of the many concerns that will undoubtedly be expressed. Most of all, there needs to be a transparent discussion, based on carefully thought-through proposals. Even though an outsider cannot prescribe an ideal recipe for the Bank to follow in adopting a human rights policy, certain next steps and elements of such a policy are crucial:

a) The Bank needs to remove the roadblock that has been erected by its anachronistic, artificial and unjustifiable interpretation of the political prohibition contained in its Articles of Agreement. Just as the phrase "economic considerations" has been interpreted to accommodate Bank measures to combat corruption and to promote the rule of law and criminal justice reform, so too can the phrase accommodate a policy which takes account of the economic consequences of ignoring or violating human rights in a given project.

b) The starting point for any policy is to acknowledge that human rights are relevant to the twin goals of the Bank.

c) Engagement with human rights experts and mechanisms should become routine. A good starting point would be for the Human Rights Council to invite the President of the Bank to address it and engage in a dialogue with its members. The Bank should also set up a forum in which it could engage human rights leaders on a regular basis, just as it has done with religious and faith leaders.

d) The Bank should have a human rights due diligence policy that spells out some of the circumstances under which it would be unable to continue providing support for a given project. The United Nations due diligence policy in relation to peacekeeping is of direct relevance here.

e) Another key principle in any Bank policy should be to encourage and assist Governments to meet their existing obligations under international law in relation to human rights. Other international organizations explicitly seek to do this and the Bank has long done it in relation to international environmental treaty obligations.

f) In general, the policies of the Bank should emphasize the ways in which it can provide positive support, advice and assistance to States in relation to human rights. It could start by establishing a program to assist

Governments that wish to establish domestic institutional mechanisms to promote the integration of human rights into development policies.

g) The Bank human rights policy should address economic, social and cultural rights as human rights. Its frequent claims to be almost inadvertently doing this already are not persuasive, but there is much that it could do to promote a basic program in this area, which would add enormous value to what the international community has so far been able to achieve.

#### ***Member countries***

2. At the same time, member countries and especially Executive Board members, need to begin to grapple seriously with what a policy should look like, rather than simply saying they are for or against any such policy. Governments especially need to explore ways to ensure that there is policy coherence between the positions they take in human rights forums and those they take in the context of the Bank.

#### ***Civil society***

3. Diverse civil society actors also needs to think through in a more systematic and nuanced way what exactly they would like to see from a human rights initiative. In the view of the Special Rapporteur, it is debatable whether some of the roles that the Bank has been called upon to undertake in the past are appropriate. The Bank cannot be expected to carry the burden of the expectations of every human rights demand that might be made in a given situation. Placing unreasonable demands on the Bank merely reinforces the fears of those who are currently resisting change in that area.

#### ***A move away from sanctions***

4. All stakeholders need to rethink the approach to “sanctions” imposed upon borrowing States in response to human rights violations. In the past, such policies have too often been arbitrary, inconsistent, and even counterproductive. If the Bank were to sanction every member State that is accused of a serious human rights violation it would have very few borrowers and just as few lenders. As long as sanctions are considered to be the main element in a human rights policy, many Governments will continue to resist progress in this area. Based on experience to date, their position is not difficult to understand. The debate needs to move beyond the sanctions mentality and take a far more positive and nuanced turn.

#### ***Relevance for other lenders, including NDB and AIIB***

5. Finally, those calling upon the World Bank to adopt a human rights policy need to pay equally focused attention to the policies being adopted by other multilateral lenders. The recently established New Development Bank and Asian Infrastructure Investment Bank are particularly relevant in that regard.

Mr. MCGOVERN. Thank you very much, and I appreciate your testimony and the report as well.

You know, the World Bank commits many billions of dollars per year on projects that are aimed to improve service delivery in borrowing countries including in areas of health care, education and water and sanitation.

The bank has often stated that it enhances the enjoyment of human rights of people in these countries because it works because they are improving access to goods and services and more generally by lifting people out of poverty.

So I guess my question is why is it necessary for the bank to refer to the rights refer the right to health, the right to education or the right to water in the context of projects in those areas. In other words, if the bank is trying to do good by improving service delivery, why is there a need for a reference to a human rights framework?

Mr. ALSTON. So I think that's an excellent question. I think it is the leading question, in a way what difference does it make and the bank will often say look, you don't understand, everything we do promotes human rights.

We're on the same page. You just speak a different language from us. We're economists. You're lawyers. You get obsessed with this sort of language so why does it make a difference.

For me, it makes an enormous difference. I would take one of the areas that you've given. If you take, for example, education which is an area, or water areas in which the bank works very extensively as the key player, it makes a huge difference if your policies are premised on the existence of a right to education versus a general policy that we will do our best to enhance opportunities.

In this country, there is what I would characterize as right to education legislation in virtually every state constitution. The state shall provide education. It is, therefore, a right of a citizen's. Much can flow from that. We wouldn't put up with a policy in the United States where the where I live the government of New York would say we are going to do our darnedest to provide good educational opportunities. We're going to have a huge number of programs and that really should satisfy you. The state of New York has a right to

Mr. MCGOVERN. I think Donald Trump has said that, you know.

Mr. ALSTON. Well, bon courage, as they say in French, if that happens. But I think it does make a very big difference. It brings in an acknowledged framework. When we talk about the right to education we know what we are talking about.

Mr. MCGOVERN. Right.

Mr. ALSTON. We've spelled that out in some detail. We're talking about obligations that each of these states have themselves voluntarily accepted. We're not talking about programs and projects that the bank is making up as it goes along.

We are talking about programs in particular that recognize, and I am sorry if I sound like an academic here, but recognize agency and autonomy.

In other words, the individual is recognized as having the right and is thus empowered in some way. Even a girl living in a society where girls are not given access to education, if the starting premise for the government is that there is a right to education, that has its ways of trickling down through government agencies, through the community and even into the family Dad, I thought I had a right to education why can't I go to school.

That is hugely empowering and vastly different from a technocratic approach where the bank comes in and says we are very cognizant of all the problems you've got

here we've got the greatest experts in the world we've studied it and we've come up with these programs.

That's great, but also empower the people. Recognize that there is a right. Work with those governments to use that as your starting point.

Mr. MCGOVERN. So you teach international law and international human rights and the World Bank has often invoked a legal argument to explain why it cannot integrate human rights into its operations.

World Bank's articles of agreement contain a so-called political prohibition that forbids the bank to interfere in the political affairs of its members and only allows it to take economic considerations into account.

So that's what they say, and according to the World Bank human rights fall outside of its mandate because they are according to the bank "political" and I would like to get your view of that argument.

Mr. ALSTON. The starting point before I respond directly is, of course, to note that the bank has actually gone through various phases and the current blanket interpretation that is applied is much more rigid inflexible than was put forward even 20 years ago.

So the starting point is the articles of agreement date from 1945 70 years old. At that time, Lord Keynes and others were very keen to ensure that there would be a separation between the political and the economic.

They particularly didn't want a bank that could only deal with governments of a particular political persuasion so they put this in. Very quickly the bank started to change dramatically in terms of its role from post-war reconstruction and quite limited development economic development into a wide range of areas.

So today we see a bank that is involved in every aspect of society, basically. Along with that had to go a reinterpretation.

The bank would only allow to act in relation to issues which have some economic significance taking account of economic considerations. So you get, for example, in 2012 to the area which had for a long time been a no-go zone surprisingly, but not surprisingly in other ways, and that is the criminal justice system.

In the past, we didn't want the bank or the bank didn't want to be supporting didn't want to get into those areas. It is very easy for you, as a dictator, to say well, I am just using the criminal justice system and it just happens to lock up all of my opponents.

And so the bank says well, we don't want to get into that too dangerous. But by 2012, the writing was on the wall.

It was very clear that a criminal justice system has a huge impact on the way in which a society is developing on the capacity to deliver justice generally and the bank simply put out a legal opinion that there are many ways in which criminal justice affects the functioning of the economy.

But there are also limitations. So we can do a lot of projects in support but there are also limits and we are going to identify certain safety valves. If we think things are getting too political, if we think they are problematic, we are going to subject them to extra levels of scrutiny and we reserve the right to say no we don't go down that road.

With human rights, however, the bank has never deviated. That is almost the sole exception apart from giving assistance to the military or intelligence or whatever. Human rights remains the only area that is apparently entirely political and what they are doing is reflecting the position as it was, if you like, back at the height of the Cold War.

In those days, human rights was political and more importantly the human rights regime, to use the legal term, was almost nonexistent. Very few treaties, very few countries had ratified those treaties, very few institutions to uphold them either internationally or domestically.

Today, that has changed radically. There is a huge international human rights regime. Every country in the world has ratified quite a few of the treaties. Most of those countries have domestic human rights institutions and for the bank to stand back and say oh, no, that's all just politics, that's these are not issues that we can look at is just out of date.

Mr. MCGOVERN. What is the most we can expect from the World Bank's review of its existing safeguards process? Do you expect this to move us toward the engagement with the human rights framework that you consider to be necessary or

Mr. ALSTON. Well, it is been very highly contested. The bank that is, the extent to which the new framework will new safeguards framework will recognize human rights in any way has been highly contested.

The bank would point to a number of key member states and say they are the ones who are preventing this. They don't want it. When we have consultations these countries push back.

But one of the problems is, again, that the bank has provided no leadership, has not provided any indication of how constructively human rights could be incorporated and the bank seems to have been very happy to settle for a common denominator, which is extraordinarily low.

So the current version of the safeguards reads as follows the key statement in the vision statement area. The World Bank shares the aspirations of the Universal Declaration of Human Rights and helps its clients fulfill those aspirations.

Did you know that the United States government has aspirations in the field of human rights? It doesn't, my friend. It has obligations.

Mr. MCGOVERN. Right.

Mr. ALSTON. But for the World Bank, these are suddenly all reduced to aspirations and we share them. Nice guys. To help ensure development effectiveness, the World Bank intends to maintain in a manner consistent with its articles of agreement the promotion of such an approach in the design and implementation of the development projects that it supports.

This is classic taking away with one hand what you've given with the other. In other words, yeah, we are going to take account of human rights but subject to the articles of agreement.

But we have interpreted the articles of agreement unilaterally as forbidding us from taking account of human rights.

So in other words, where things stand these safeguards are an example of the bank as a human rights-free zone, for me.

Mr. MCGOVERN. You know, I just, you know, listening to our previous panel and listening to you as well and knowing what I know about the World Bank, it always has been a puzzlement to me why there is been such a reluctance to understand the importance of human rights and the success of what their investment may be.

You know, I had a discussion the other day with some people on this USAID program called Feed the Future and, you know, investments in sustainable agricultural development in poor countries.

And, you know, one of the things they were saying is that, you know, it is a great idea but, you know, you got to but it is more than just investing you got to think about things like human rights.

You have think about things like land rights because if we invest in a community and a project to help, you know, people be able to, you know, grow things and sustain the community only to have once it gets up and running to have somebody come and say, I am throwing you off the land I own it, then it all it is a big waste of money.

It all falls apart. And so these things really you can't compartmentalize humans rights when it comes to, you know, investing in projects or in communities because it is an important part of whether they are going to be successful.

Those people in Kosovo who are being displaced, you know, without getting reparations, I mean, yeah, you may be building a coal plant at the end of the day but look at all the destruction and poverty you left in the wake.

And, you know, whether it is in Ethiopia or whether it is in Peru, I mean, it just and again, I am not a banker but if, you know, but I know a little bit about development and it is supposed to be about lifting everybody up, not just you know, and not putting people down.

And so it is just always been kind of a puzzle to me that there is been such a reluctance. And I also think that, you know, countries right now in the world that are in upheaval are countries where rights are not respected. I mean, that is it ultimately leads to instability and if I am a bank, I am investing in something I want it to be in something that will be there for a long, long time that it is a stable investment.

But which brings me kind of my to my last question. You know, how do we influence this process in a way where, you know, we can encourage the kind of change that we all want.

And so from your knowledge, I think, what would be one or two specific steps that the U.S. Congress could take to encourage the bank to incorporate human rights into its operational standards? I mean, what would be useful for us to do up here that might move us toward the goal that we share here?

Mr. ALSTON. Let can I make a very quick comment first

Mr. MCGOVERN. Sure. Yes.

Mr. ALSTON. on the earlier part of your analysis, which I, of course, agree with very strongly? One of the great ironies, in a way, and I was talking to a journalist about this earlier, is that the private sector is increasingly moving to acknowledge the relevance of human rights to what they are doing.

They, of course, are resisting taking on major human rights obligations because they are corporations. But for reasons of prudence, for reasons of good management and so on they are increasingly taking account of human rights, engaging in the human rights framework, endorsing the United Nations guiding principles on business and human rights and so on.

We turn to the bank and the bank does what any good banker should do and emphasizes in all of its policies the notion of risk management we have to manage risks.

Now, one would have thought that the best way to manage some risks is to factor human rights considerations into the design of the program of the project.

But because the bank has this almost ideological position that it can take no account of human rights, it is not able to do that.

And so I think you can read many of its evaluation reports which criticize the way in which it is actually done business as acknowledging but without saying it that if there have been a broader notion of risk management that explicitly took account of human rights dimensions you would get better development outcomes from the bank's policies.

Mr. MCGOVERN. This is good business what we are talking about here.

Mr. ALSTON. Yes.

Mr. MCGOVERN. This is, you know, not just we all want to we all have a moral obligation to, you know, uphold human rights. It is smart it is a smart business practice to

Mr. ALSTON. Right.

Mr. MCGOVERN. you know, to do this.

Mr. ALSTON. I mean, it is like a domestic banker. I walk in off the street and the guy wants to know everything about me but he doesn't probably if he can break through privacy considerations he doesn't just want to know that I have got a certain amount of money in the bank, he wants to know if I've got a reputation as an alcoholic, a reputation as an abusive employer or whatever because that's going to make a difference.

So if a country walks in off the street and it has a very bad record in terms of suppressing all freedom of expression and so on, I don't advocate myself that the bank should say sorry, get out of here, we don't deal with you because you're a bad guy.

I think the bank would be turning away the great majority of its clients if it was to take that approach. But what the bank should do, in my view, is to say you've got a pretty bad record in terms of press freedom, in terms of freedom of association.

So the question is how can I develop or shape this particular project and program in such a way that it is not simply going to fail because there is no real feedback, there is no participation by the community and so on.

So, you know, give me some suggestions of how we can get around that issue because otherwise, as I look at the environment in which this investment would be required it is going to fail.

Mr. MCGOVERN. Right.

Mr. ALSTON. And so back to the U.S. Congress. I would like to come back to you, I think, with perhaps more elaborate suggestions if it is not too late at some stage. But my

general sense, and I don't know how to formulate this, as I said earlier I think that there needs to be a strong encouragement for the bank to develop a constructive and nuanced human rights policy that would permeate all of its operations and by that I don't mean a rigid inflexible policy that calls for it to withdraw from investments and withdrawal from countries.

I mean a constructive and nuanced policy that enables it to work out where taking account of human rights considerations can best promote the objectives that it is working towards, can best facilitate its efforts and ideally be employed right at the outset.

And so when I sit and listen to these disaster stories that are presented to us earlier, I ask myself if this had been more effective up front process where going into the original design phase involved looking at the potential human rights risks, looking at the potential ways human rights could mitigate, perhaps you would have had a much better outcome.

So and the second thing I wonder about the United States has played a very positive role in the past in relation to IDA replenishment debates. In the IDA context the countries of the north that are the contributors have a particular role and responsibility.

The United States has ensured that in the last two rounds of IDA there has been a strong focus on gender equality and on climate change and I think that's very been very productive.

There is a new IDA replenishment debate coming up 18 and I think it would be very appropriate if human rights were to be the theme there. I would be happy to try to work with representatives of this committee or with the Congress generally and even with World Bank to work out what to discuss what that might look like.

Mr. MCGOVERN. That would be helpful because I think what you know, again, not being an expert on, you know, what the appropriate language would be because I agree with you.

I mean, it has to be somewhat nuanced, I mean, and, you know, can't be rigid to the point that it is unworkable. But as I am listening to the stories of the previous panel, I mean, that you had five people killed in Peru, you know, as they were talking about this project.

And I am just curious where does that fit into the calculation as to whether or not a project will be funded, you know, or the displacement of people, you know, or, you know, the you know, or a government crackdown on people.

You know, there has to and, you know, and I and that's why I was asking the previous panel sometimes I wonder whether the conversation is too much between the bank and the government and not enough between the bank, the government and civil

society or the people who live in the neighborhood or the people who are going to be directly affected by the project.

But, you know, we would love to stay in touch with you about, you know, appeals that we can make directly to the bank and about, you know, potential legislative fixes or ideas that might help, you know, kind of move us in a direction that's more constructive. And but I think your point about it has to be carefully designed so that we don't basically make it impossible for the bank to do business with any country in the world including our own.

You know, I always tell people the United States, you know, we are not perfect. Some of my colleagues –

Mr. ALSTON. Would contest that.

Mr. MCGOVERN. contest that. But we are not, even on the human rights and even in our development policies. You know, I mean, there sometimes I think human rights issues get put aside more for, you know, strategic and, you know, security, you know, considerations and I regret that very much because I think, you know, whatever short-term gain you get in the long term you lose.

But, you know, having been on this Commission now for seven years issues about the bank and human rights have come up repeatedly and, you know, and I think a lot of us on this Commission would just like to figure out a constructive way to kind of move the human rights agenda along, you know, in a way that would be beneficial to a lot of the people that we've heard here today and, you know, a lot of the concerns that have been raised. So we will we will definitely stay in touch.

Mr. ALSTON. Thank you, Congressman. I think  
(Simultaneous Speaking.)

Mr. MCGOVERN. Thank you very much for your patience and for your testimony and I appreciate it and look forward to working with you.

So this hearing has come to a conclusion. Thank you.

[Whereupon, at 3:42 p.m., the Commission was adjourned.]

# **APPENDIX**

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MATERIAL SUBMITTED FOR THE HEARING RECORD



**Tom Lantos Human Rights Commission Hearing**  
**International Financial Institutions and Human Rights**  
**Wednesday, September 30, 2015**  
**1:30 – 3:30 PM**  
**HVC-215**

Please join the Tom Lantos Human Rights Commission for a hearing on international financial institutions (IFIs) and human rights.

International financial institutions exert considerable influence on international development through their lending, grant-making, technical assistance and research. The World Bank, which has set itself the goal of eliminating extreme poverty, is arguably the most important international development agency. However, the World Bank has resisted incorporating human rights standards into its work. Many World Bank projects have been strongly criticized for generating highly prejudicial effects at the domestic level, such as land grabs and forced displacement. The inclusion of human rights standards in the design and evaluation of World Bank and other IFI development projects could assist in preventing such effects. Human rights observations could furthermore play a positive role by offering guidance to the World Bank and other IFIs on programs and projects to promote at the country and project level.

The first panel of hearing witnesses will discuss case studies of the negative consequences of development projects funded by IFIs. The second panel will focus on recommendations for advancing towards the incorporation of human rights into the work of the World Bank and other IFIs.

**The following witnesses will testify:**

**Panel I: Case studies**

- **Obang Metho**, Executive Director, Solidarity Movement for a New Ethiopia
- **Milton Sanchez**, General Secretary, The Interinstitutional Platform of Celendin
- **Nezir Sinani**, Safeguards Coordinator and Climate Change Coordinator, Bank Information Center

**Panel II: Recommendations**

- **Professor Philip Alston**, UN Special Rapporteur on extreme poverty and human rights

The hearing is open to Members of Congress, congressional staff, the public and the press. The hearing will be live-streamed at <https://www.youtube.com/channel/UCRoohKNpVS4cEIAVNTgSwyA>.

For any questions, please contact Kimberly Stanton (for Rep. McGovern) at 202-225-3599 or [Kimberly.Stanton@mail.house.gov](mailto:Kimberly.Stanton@mail.house.gov) or Carson Middleton (for Rep. Pitts) at 202-225-2411 or [Carson.Middleton@mail.house.gov](mailto:Carson.Middleton@mail.house.gov).

Sincerely,

James P. McGovern  
Co-Chair, TLHRC

Joseph R. Pitts  
Co-Chair, TLHRC