

Safeguard Social Policies in Africa: A Continent-Wide Public Debate

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Internal displacement caused by conflicts or by development projects is one of Africa's major social and economic problems, raising critical challenges to national governments and to international donors alike. These displacement processes—some erupting unexpectedly as a result of conflicts and others being planned deliberately under both public and private sector projects—are now likely to get a thorough scrutiny due to a major initiative taken by the African Development Bank (henceforth, AfDB). Indeed, in 2011 the AfDB decided to update and improve its set of protective social policies, often known collectively as “safeguard policies” and has chosen a welcome and transparent form for this policy re-examination: the form and structure of a vast public consultation that started in March 2012.

The detailed “Plan” for conducting this broad public discussion, approved by the AfDB's Board of Executive Directors, is now posted on the Bank's website, being itself submitted to comments and suggestions. The goal of AfDB's international Public Consultation (PC) is to design a new, comprehensive Integrated Safeguard System (ISS) policy. Obviously, this is a most important exercise, apparently the first of its kind undertaken by AfDB. It may have far-reaching impacts, not just on AfDB's performance, but also on the development of the continent's countries and the livelihood and rights of Africa's people, especially the poorest.

The AfDB's public consultation is one of those initiatives in which the process is almost as important as the product. It is therefore important that the consultation be conducted in a way which will achieve well-informed and in-depth communication of experiences and opinions between all those who have a stake in the mission with which AfDB is entrusted by the African countries and the international community: to support development and reduce poverty in Africa. AfDB's supporters and clients expect the Bank to be open to all inputs, even when such inputs are critical of AfDB's performance and approaches to date. After all, the aim of the consultation is to improve not only the wording of the new Integrated Safeguard System, but to actually equip AfDB and its staff with the knowledge and approaches needed to implement these policies consistently, more effectively than they have been implemented so far.

For these reasons, AfDB's initiative deserves the praise, full support, and attention of all stakeholders, including first and foremost, African governments, as well as other development agencies, civil society organizations, private sector corporations, and academic institutes, including the Brookings-LSE Project on Internal Displacement. As the consultation unfolds and the Bank learns from the feedback about the population's expectation the “Plan” itself must be seen as a “living document,” one that can be

adjusted and improved as the PC advances.

The three principal objectives of this public consultation, as defined by AfDB, are to:

- (I) Enhance AfDB's understanding of stakeholders' perspectives on development's various impacts, and thus the Bank's responsiveness to all its stakeholders' needs;
- (II) Establish a shared understanding with its member countries of the goals, principles and requirements that must be embodied in AfDB's future safeguard policies and the protections these must provide against the risks of adverse impacts; and
- (III) Guide and craft, through this consultative process, the formulation of the new ISS.

Over the last decades, the understanding of safeguard policies by the international community and the humanitarian community has considerably evolved. Research on “the politics of protection” demonstrates the built-in great power of these policies, but also underscores that their success ultimately depends on the political will of governments and project sponsors to implement them effectively.¹ It is therefore important that as it moves forward, AfDB's Public Consultation remains fully consistent with these objectives.

The Need for Some Adjustments

After some preliminary working meetings in 2011, the AfDB took an important “transparency step” by announcing that the PC will comprise five sub-regional open consultative meetings, to cover East Africa (in Nairobi), West Africa (in Dakar), North Africa (in Rabat), South Africa (in Pretoria) and Central Africa (in Yaoundé). To AfDB's credit, scheduling no less than five public consultations that will blanket all African sub-regions testifies to its serious interest in feedback and offers a promising approach to grasping regional differences relevant to the future ISS.

However, it is well known that a vast amount of expertise on African issues is also available outside Africa, primarily in Europe and the USA. In light of this, AfDB could consider holding consultations in the United States and Europe. In the U.S., these consultations could perhaps occur in Washington, D.C., with development agencies, civil society groups, and universities, while those in Europe could be open primarily to specialists, researchers and development practitioners from various countries. By the same token, squeezing the five sub-regional consultations in Africa into only a three-four month period is too short an interval for absorbing and digesting the rich feedback that each one is expected to generate and to accordingly better prepare subsequent consultations. Therefore, spacing out the sub-regional consultations and including meetings in Europe and the U.S. may help enhance the quality of the envisaged consultations and their policy and operational benefits.

¹ See Elizabeth G. Ferris, *The Politics of Protection: the Limits of Humanitarian Action*. (Washington, D.C.: Brookings Institution, 2011).

The Plan for conducting the PC leaves out one significant element, which is how the AfDB staff will become apprised about the comments, criticisms and constructive proposals that the five consultations will generate. No explicit provisions are made in the Plan to ensure significant participation of key staff, including mid- and high-level AfDB managers in the consultations. Yet these AfDB staff members will play an essential role in implementing the Integrated Safeguard System. Relying only on the very small group of staff members charged with organizing the consultations to convey the substantive results of the PC to other key staff is risky and insufficient.

A useful lesson for the AfDB in this respect can be derived from the recent experience of comparable public consultations on safeguard policies carried out in 2010-2011 by other multilateral development agencies such as the Asian Development Bank (ADB) and the International Financial Corporation (IFC). Their experience has shown that absorption by agency staff of the messages that such consultations generate is an indispensable condition for improving the implementation of revised policies. After all, change is always difficult. Past habits and dogmas are deeply entrenched and tend to create resistance to internalizing critical feedback and improved policy norms. This is why the direct participation and exposure of a significant number of relevant AfDB staff to the envisaged public consultations on safeguards, content and practices must be incorporated into the organization and implementation of the sub-regional meetings. In fact, it appears that the AfDB staff group charged to organize the PC and keep track of its outputs is itself small and understaffed. Hence, reinforcing the PC's human and financial capacity would serve to facilitate both the consultations themselves and the distilling of the vast volume of feedback produced by the process. Distilling that material and translating it into ISS provisions are certainly complex tasks which should be carried out transparently (as IFC did, posting the additions and improvements made on their website). The scale and importance of this pan-African and international consultation are such that they deserve commensurate intellectual and financial resources, adequate to each stage, in a manner that ensures high-quality final results.

The Need for Information on AfDB's Practice and Performance

The success of the Public Consultation will also depend on the informational inputs that AfDB itself will offer to PC participants about its own performance in implementing the Bank's previously existing safeguard policies and the approaches it used including staffing and resource allocation patterns for ongoing monitoring and oversight. In fact, the unspoken premise of the Consultation itself is that previously existing policies are no longer sufficient to carry out AfDB's development responsibilities as they are presently defined. Yet, serious weaknesses have come to light not only in terms of the policy itself, but also in the operational practices of the AfDB, particularly those regarding due diligence in project preparation, in the economic analysis and financial resourcing allocated for safeguard measures, and in ongoing project monitoring and the evaluation of final outcomes.

A further logical question that the AfDB and the managers of the PC should ask themselves is: how are the participants in the public consultation going to discuss and contribute, if AfDB does not provide them with its own analysis and evaluation of its successes and weaknesses in executing the prior safeguard policies? Surely, participants in the Public Consultation will bring much fresh information and facts from their own experiences with AfDB projects. But the institution that convenes the Consultation has itself an implicit fundamental duty to inform the public about its own self-evaluation of past performance and its own identification of the good practices that deserve to be continued as well as persisting weaknesses which should be overcome. Regretfully, however, the AfDB Plan for conducting the PC does not promise to offer such retrospective analyses as its input into the discussions and as a starting point for public comment. The Plan does provide for very few, perhaps only two, broad studies which are still to be commissioned. The date when they will become available is unknown while the sub-regional consultations are scheduled to unfold very soon. This discrepancy between information made available and the PC appears to be a shortcoming in the planning of the PC. AfDB would be well-advised to reexamine this aspect because its self-analysis of past performance is an indispensable ingredient for the success of the forthcoming ISS and the planned Consultation.

One example could demonstrate how necessary such incisive self-evaluations are as background for the Public Consultation. In January/February 2010, AfDB finalized an independent evaluation report examining how AfDB carried out its supervision of projects over a period of eight years (2001-2008) focusing in particular on how supervision dealt with the risks in AfDB-financed projects. That report made a strong theoretical argument for including risk-related concepts and analysis in AfDB's on-the-ground work and evaluations. But even a cursory review of that report reveals that the report papered over most of the specific risks present in AfDB projects, or caused by the projects themselves, particularly in displacement and involuntary resettlement components. Rather the discussion of risks was non-specific and remained at a general level. Except for a few references to AfDB's own financial risks from lending for those projects, the report was conspicuously silent about the severe direct risks which the project imposed upon the to-be-displaced populations, despite the fact that these populations are usually poor, vulnerable, and risk-averse.

The report, which examined Bank project documents, was also totally silent about the fact that AfDB's own appraisal reports routinely avoided mentioning even the risks identified in AfDB's own safeguard resettlement policies for projects causing population displacement. Neither the appraisal, nor the supervision reports for the Bank's projects under review had described and examined candidly the risks that were mentioned verbatim, and correctly so, in AfDB's own policy document. Indeed, the AfDB safeguard resettlement policy, valid for the period of the evaluation review, had explicitly listed the impoverishment risks inherent in displacement, expropriation and involuntary resettlement, such as: the risk of landlessness; the risk of homelessness; the risk of joblessness; the food insecurity risk; the increased risks to the health of the IDP population; and the risk of IDPs losing access to common property assets. Contrary to this, the so-called "independent evaluation report of project supervision" shied away from

mentioning by name any of these actual risks. The same “independent report” glossed over the inconsistencies in the staff’s and middle management’s work, between the correct identification of these risks in the Bank’s policy document and their failure to monitor the same risks in real-life project practice. This incomplete reporting and evaluation left AfDB’s top management and Board of Directors uninformed about that dangerous inconsistency. This case illustrates a category of previous weaknesses in dealing with safeguards, which needs to be brought under public scrutiny during the forthcoming Public Consultation.

To meet this need, AfDB should take two key steps. It should commission and prepare the needed, and genuinely independent, background studies on its previous safeguard policy implementation performance and should also make available existing studies on the issue which have not yet been published. AfDB’s evaluation of its own performance must tap into the rich repository of lessons from its past performance that are still uncollected and unexamined. It is not too late to pursue these two options in order to increase the effectiveness, transparency, and actual benefits of the important PC exercise that AfDB management is initiating.

The Absence of an AfDB Policy on Indigenous People

Many state-financed interventions, and especially private sector projects in Africa, are devoid of appropriate mitigation and restoration measures, although they visibly and adversely affect the livelihoods and rights of tribal populations. It is a fact that the majority of African countries still lack domestic policies and/or legal frameworks on some key social and environmental issues, including population displacement, and that they still sometimes display inadequate project design, implementation and supervision. Such persistent vacuums in domestic policies at the country level have pernicious effects on livelihoods and human rights. Therefore, studies on such gaps in social safeguards must be conducted by genuinely independent specialists, recruited through a transparent process, who are not inclined by previous association with AfDB to hold back from uncomfortable facts and findings that may result from an objective analysis of its performance.

AfDB’s Public Consultation also has to address an unusual situation in current international development assistance: the fact that presently the AfDB is the only multilateral development bank that has not formulated its own policy framework on indigenous people for projects carried out and situated in areas inhabited by such populations. As the Terms of Reference document for a study on indigenous people admits, “The AfDB does not have a stand alone policy on indigenous people.”² In contrast, institutions based outside Africa have adopted such policies. For instance, agencies including the World Bank, the European Bank for Reconstruction and Development (EBRD) the International Finance Corporation (IFC), and some bilateral aid agencies of the Organization for Economic Cooperation and Development (OECD) member states have long had specific policy guidelines regarding the protection of the civil and human rights of indigenous and tribal people which seek to take into account the

² See www.afdb.org: Terms of Reference, p. 1.

particular economic and cultural vulnerabilities these groups may have.

Since the AfDB is still behind its counterpart organizations in terms of adopting specific policy guidelines on indigenous and tribal people, the public consultation can reasonably be expected to ask: what are the consequences for the African continent of the AfDB operating without such a policy? The independent study that AfDB is preparing on this matter must address this question and needs to be made available in time for the five regional consultations envisaged for 2012.

The Guiding Principles on Internal Displacement

Internally displaced populations are the subject of a set of internationally-supported principles, which have been developed in parallel with, but also in consonance with, the relevant social policies on population resettlement formulated by multilateral development agencies. These principles are set out in the Guiding Principles on Internal Displacement,³ which were prepared and presented to the UN Commission on Human Rights in 1998 by the Representative of the UN Secretary-General on Internally Displaced Persons (IDPs). The Guiding Principles apply to development projects that forcibly displace people from their homes as well as to those displaced by conflicts and natural disasters. Yet to date, the Guiding Principles (GPs) have not been taken adequately into consideration in AfDB's operational guidelines. This oversight deprives the AfDB of a valuable compass for conducting its operations. The studies being prepared by AfDB for the Public Consultations need to address this absence and make recommendations on how the AfDB could use the GPs in its future work.

It is also worth emphasizing that AfDB's documents on human rights cannot be left to lag behind the positions taken by many African AfDB member countries themselves. In its turn, in September 2007, the UN General Assembly formally issued the Declaration on the Rights of Indigenous Peoples, which has subsequently been adopted by many governments around the world. This adoption was achieved with the votes of the African states themselves. The Declaration sets standards for international financial institutions, inviting these institutions to apply safeguards, while also demanding the strengthening of the states' own domestic policies on indigenous people. Similarly, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted in 2009, expresses "the will and determination of African States and peoples to address and resolve the problem of internal displacement in Africa." The Kampala Convention is rooted in the UN Guiding Principles on Internal Displacement and represents an important normative framework that has already been embraced by African States; this is another reason that the Guiding Principles should be incorporated into AfDB's forthcoming ISS policy.⁴

³ UN Commission on Human Rights, The Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, 1998 (www.brookings.edu/projects/idp/gp_page.aspx).

⁴ Chaloka Beyani, "Implementation of the African Union Convention for the Protection and Assistance of Internally Displaced Persons 2009 (The Kampala Convention)," Statement by Chaloka Beyani to the Economic Community of West African States, 7 July 2011 (www.brookings.edu/speeches/2011/0707_implementation_au_convention_beyani.aspx).

The UN Declaration on the Rights of Indigenous Peoples takes the same position on internal displacement and involuntary resettlement as the Guiding Principles on Internal Displacement. The UN Declaration states that the involuntary displacement and resettlement of indigenous peoples should not take place without the free and informed consent of the respective indigenous peoples, and, when such resettlement takes place, it should be ensured that just compensation is paid, with the option to return when feasible (Article 10). In the same manner, even before the adoption of the Declaration, the Guiding Principles stated that "States are under a specific obligation to protect against displacement of indigenous people, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands" (Principle 9). Overall, the Guiding Principles could serve as an important instrument for both AfDB's staff and its work on project design and implementation.

The importance of the wide continental debate that the AfDB's Public Consultation is poised to trigger, as well as the major benefits which Africa and its people could derive from improved social safeguard policies, are paramount reasons to wish for, and help achieve, full success to AfDB in its complex initiative. It is to be hoped that all stakeholders will provide their needed support to AfDB's Board and management in pursuing this goal.