# REPORT ON NATIONAL CONSULTATION ON ENVIRONMENTAL AND SOCIAL SAFEGUARDS FOR FINANCIAL INSTITUTIONS

CFA
Centre for Financial Accountability

# National Consultation On Environmental & Social Safeguards for Financial Institutions

1st December, 2023

For Responsible, Accountable and Transparent Development Finance for a Sustainable Tomorrow

CFA
Center for Financial Accountability

# Introduction

The Centre for Financial Accountability held a consultative discussion on Environmental and Social Safeguards Policy for Indian financial institutions at the National Consultation on Safeguards in Delhi on December 1, 2023.

The National Consultation on Safeguards, sought to enable a collective direction to the push for environmental and social accountability mechanisms for Indian financial institutions such as banks, non-banking finance corporations, and development finance institutions. A set of participants from movements in the context of development projects, representatives of civil society organisations, and researchers from relevant fields were invited for their guidance and participation. Their experience on issues pertaining to sustainable financing, climate and impacts on grassroots communities greatly contributed to this consultation.

Environmental and Social safeguard mechanisms play a crucial role in holding banks and financial institutions accountable for the social and environmental consequences of the projects they give loans to. Such mechanisms can be an additional tool in the hands of communities reeling under the effects of big projects and built infrastructures, to hold the financiers accountable and demand remedies. These safeguards encompass criteria for assessing impacts, disclosure standards, and grievance resolution mechanisms.

# What are Environmental and Social Safeguards at Financial Institutions (FI)?

These are mechanisms to make financial institutions accountable for the social and environmental impacts of the projects they finance. Actual provisions may take the form of periodic and cumulative environmental and social impact assessment criteria, exclusion lists (prohibiting no-go activities such as coal-based power) transparency and disclosure specific to project/sectoral financing and grievance redressal mechanisms. The lending aspect of banks for development projects has to pass through and adhere to safeguards mechanisms. No loans if your project is causing landslides.

These safeguard mechanisms can also include well-defined investment standards that the financial institution seeks to fulfil. Such standards may take the shape of goals in terms of climate mitigation, environmental protection & rejuvenation, biodiversity conservation, securing rights of indigenous communities, fair labour practices and more, that the FI seeks to fulfil through its investments, and against which the FI's investments can be evaluated by concerned public.

# Why Do We Need Safeguards?

As the climate emergency worsens, the government and financial institutions seem to have finally woken up to notice a crisis at hand. It is the tireless efforts of the movements, communities, and experts who have for decades called for action on the climate crisis, that have forced this change globally. Domestic Financial institutions are discussing climate risks, and mitigation frameworks and being brought under scrutiny and there is a push from stakeholders, investors, communities and civil society for responsible financing. The opening of the space for a debate is much welcome, but a lot of it is still lipservice allowing for investments that amount to greenwashing or in promotion of false or market-biased solutions. We are aware that even now, the billions of dollars pushed for climate mitigation and green funds play a role in governments, financial institutions and corporations taking positions on climate crises.

Indian financial institutions have long evaded their commitment to responsible investments by shifting the onus on the existing domestic laws. Despite lending for high ecological and human impact development projects, Indian banks have not felt the responsibility to formulate a safeguards policy and accountability mechanisms. As a result of international agreements and domestic regulations, many Indian banks have now adopted environmental and social policies under the Environment Social and Governance (ESG) framework in the credit appraisal process. Lack of transparency makes it unclear if ESG is implemented by the banks in actual practice. Mere reporting and setting credit appraisal criteria is not enough. There is hardly any mechanism to hold them accountable in case of violations, without which safeguard policies are toothless.

We were served a stark reminder of the indifference of financial institutions towards the impacts of their investments in the beginning of this year. As the mountain town of Joshimath began sinking, displacing thousands of inhabitants, under the weight of highways, hydroelectric projects and tourism infrastructure, the locals gave the rallying cry of 'NTPC Go Back' against what they perceived as a consequence of irresponsible development of Tapovan-Vishnugad hydro power project run by National Thermal Power Corporation. As controversy raged and from the project developer, to the state government came to be questioned in public, the financiers remained comfortably hidden. As the government was compelled to order a temporary halt of the hydro project, there was no public statement from the financiers whether their loans to the project would be put on hold in view of the ecological and social tragedy that was unfolding.

Banks and financial institutions should adopt environmental and social safeguard policy policies. The need is for safeguard policies with mechanisms at the level of financial institutions for impact assessment, monitoring, compliance and grievance redressal that are set in the Indian context. In most instances it is India's vulnerable populations: Dalits, Adivasis, Women and the poor who are impacted the most by environmental and social consequences of mega projects financed by banks and other FIs. At a global scale, most institutions that lend for development projects have incorporated safeguard policies. It was people's movements including the Narmada Bachao Andolan that had foregrounded the need for safeguards in multilateral development banks. It was due to the efforts of global movements that the Multilateral Development Banks, such as World Bank or Asian Development Bank, today have safeguard policies, it is partly because of the efforts of the environmental action groups that today's governments and institutions are forced to address the climate crisis.

It's important to clarify that this discussion doesn't suggest international banks are blameless. They too might invest in harmful projects, and their safeguards may not always be effective. The point is, Indian financial institutions need to establish their own robust investment standards and accountability mechanisms to prevent environmental and social damage from their investments. True progress requires holding all financiers responsible for the long-term consequences of their investments.

Indian public banks, private non-banking financial institutions (NBFCs), and the government are stepping in to fund risky projects that international financiers and private investors avoid due to environmental and social concerns. These concerns often arise from potential disasters or high financial risks.

Examples include the Sardar Sarovar Dam and the Tapovan-Visnugad dam, where international funding was withdrawn due to such concerns. Lack of internal safeguards within Indian banks and NBFCs allows them to freely invest in such projects without facing consequences for the negative environmental and social impacts that may follow.
The Teesta dam, which was financed primarily by Indian institutions despite warnings from locals and experts about potential environmental damage. The dam's destruction in a flood last year is seen as an example of the potential consequences of such investments without proper safeguards.

# National Consultation on Safeguards: Objectives

The National Consultation on Safeguards sought to provide a collective direction to the effort to evolve such mechanisms. A set of invitees from different fields were invited for their guidance and participation in the campaign. The invitees encompassed a wide range of fields, especially those connected with the consequences of development projects such as dams, ports, power projects, and mining. Such fields shall comprise banking, climate, hydroelectric projects, port projects, forest conservation, displacement and compensation and many more. At the consultation, CFA updated the participants on where the work stands so far and sought their guidance and help in taking it forward. We also sought their advice on drafting a model safeguard policy for Indian financial institutions.

**Participants:**

- Ashok Shrimali, Secretary General of Mines, minerals and People (mm&P) Alliance
- Arundhati Dhuru, National Alliance of People's Movement
- Bharat Patel, Machimar Adhikar Sangharsh Samiti
- Dinesh Abrol, Professor Institute for Studies in Industrial Development
- Dayamani Barla, Journalist and Civil Rights Activist
- Debasis Shyamal, President, Dakshinbanga Matsyajibi Forum
- Jesu Rethinam Christy, Director, Social Need Education and Human Awareness
- Mayalmit Lepcha, Affected Citizens of Teesta
- Medha Patkar, Narmada Bachao Andolan
- Members of Yugma Collective
- M.J. Vijayan, General Secretary at Pakistan-India Peoples' Forum for Peace and Democracy
- Mrinali Karthick, Climate Research Lead, Land Conflict Watch
- Punit Minz, Bindrai Institute for Research Study and Action
- Priya Dharshini, Coordinator, Delhi Forum
- Prasad Chacko, National Coordinator, National Dalit Watch · National Campaign on Dalit Human Rights
- Rajkumar Sinha, Bargi Bandh Visthapit Evam Prabhavit Sangh
- Ravi Rebbapragada, Chairperson, Mines, Minerals and People
- Rupam Deb, Researcher on Tribal communities and Tea Garden workers in North Bengal
- Rudrath Avinashi, Kalpvriksh
- Sagar Asapur, Head of Sustainable Finance at Climate Risk Horizons
- Sandeep Patnaik, Centre for Public Policy Alternatives, Bhubaneswar
- Sharath, National Alliance of People's Movement, Kerala
- Soumya Dutta, Science / Knowledge activist/researcher/author
- Thomas Franco, Peoples' First and ex-General Secretary, All India Bank Officers Confederation
- Usmangani Sherasiya, civil rights activist
- Usman Jawed Siddiqui, FairSquare
- Vinod Koshi, Dynamic Action Group
- Radhika Jhaveri, Let India Breathe

# Decisions Taken

- A decision was made to form an advisory group to guide the development of safeguards mechanisms for Indian financial institutions.
- This advisory group will also assist in drafting a model safeguards policy throughout 2024.
- The model policy will address the concerns of communities, the environment, and climate change related to projects and sectors funded by financial institutions.
- To achieve this, the group will seek input from people's collectives, impacted communities, and civil society members with expertise in the social and environmental impacts of projects, sectors, and financial institutions.

# Thematic Summary of the Discussion

The discussion brought up a range of constructive suggestions on the notion of safeguards, on how to go about making a case for them, how to broaden their scope, what challenges lie ahead, and how to collectively chart out a path to make Indian financial institutions implement them. The discussions can be summarised around the following important thematic axes:

**i) Need for safeguards in Indian FIs**

The discussion brought into focus the dearth of any accountability or safeguards mechanism in Indian financial institutions such as banks and other lending institutions. This is especially true for environmental and social impacts of investments by Indian FIs. Such investments could be in a hydro power project, a port project, a mine, a highway through the forest, and so on. Such investments end up affecting communities, often polluting the environment, adversely affecting the wildlife and biodiversity, and exacerbating the carbon emissions. Indian financial institutions do not put any checks and balances, investment standards or even grievance redressal mechanisms where affected communities can raise their objections. Attention was drawn to projects such as the Mundra Port Project where the affected communities took the complaints of to the international financier i.e. the International Finance Corporation, the corporate funding arm of the World Bank. At the Mundra port project IFC's predictions of harm became a grim reality for fishing and farming families. The lifeblood of their communities - the freshwater supply and the marine environment - has been ravaged by the construction of the plant. Fish stocks, essential for their food and income, are depleted. Air pollution hangs heavy, causing a rise in respiratory illnesses, especially among the most vulnerable - children. For over a decade, these communities had sought accountability, compensation, and a way to rebuild their shattered livelihoods. The communities sought redressal at IFC's own accountability mechanism. The IFC's 2013 internal investigation exposed a shocking disregard for its own rules, finding violations at every stage of the project. Despite clear calls for action, IFC management simply walked away, leaving communities to shoulder the burden. The IFC was subsequently taken to court in the United States.

The participants pointed out that Indian financiers went scot free as they do not have environmental and social accountability mechanisms.

**ii) Need to broaden the scope of safeguards to newer modes of financing**

Participants emphasised that the scope of accountability and safeguards needs to be broadened in line with evolving modes of financing. The push for environmental, social and climate accountability cannot remain limited to project specific debt based financing. In this regard two main areas for broadening safeguards were pointed out .First, environmental, social and climate accountability measures need to be extended beyond banks and should include non banking entities, government bodies and government itself which finance big projects and sectors which take a huge environmental and social toll.

Second, safeguards need to go beyond project financing and explore ways to hold accountable other instruments of financing and investing too. In addition, there are a mix of financiers, domestic and international, and financial instruments involved, say in a given project. Thus, any safeguards policy should be imagined and implemented in a way which addresses these.

It was pointed out that the Indian government is aiding private investments and involvement at an unprecedented level. It is no longer about one project and one corporate but resource acquisition - of land, water, and minerals - is being enabled as a policy. How do we prevent that and how do we deal with this scale of things and safeguard people's and environmental interests? The scale and mode of privatisation has transformed.

**iii) Safeguards and the law**

How can safeguards be effective if they are not backed by the force of law, is an important question raised at the consultation. Unless financiers' accountability is fixed through state law any safeguard policy will remain at the level of positive sounding pronouncements and will not serve as an effective or justiciable tool of accountability. In this regard, it has been suggested that the state needs to be approached for implementation of safeguards policy rather than financiers. Even separately from this view, it was expressed that safeguards to be effective cannot remain limited to financial institutions alone but rather should also include in their ambit accountability of the state.

It was also stressed at the meeting that with regard to transparency on loans it is the state law which prohibits financiers from revealing financial information. Thus, a change in law is required to enable financiers to reveal loan information. Any safeguard policy for Indian financial institutions will have to address in what way it interacts with law.

**iv) Need to collectively work towards a model safeguard policy**

Several participants in the consultation raised the issue of collectively working towards a model safeguards policy for Indian financial institutions.They expressed that the issue of financiers' accountability has been highlighted for quite some time now and Indian financial institutions have so far not proceeded to address the issue of their responsibility towards the consequences of their investments. It was high time that civil society and movements took it upon themselves to prepare a model safeguard policy, some felt.

**v) How do safeguards address newer issues**

Safeguards policy needs to take up newer issues especially those engendered by climate emergency. For instance, there is a very strong argument for labour protections needing to be much stronger in developing countries on the count. South Asia is predicted to be one of the worst affected regions owing to global warming and climate change. One important way of achieving this is through the emphasis on heat stress and heat protection standards. It is something on which we can take initiative. Start to dictate terms. Heat is a very useful metric as it fuses labour and environmental concerns at an individual level.

**vi) Definitional challenges**

The consultation also brought to light several definitional challenges which a safeguards policy will need to resolve. Defining which financial activities fall under the policy's scope can be tricky. Should it cover all investments, only specific sectors, or just direct financing? This impacts implementation complexity and effectiveness. Defining what constitutes an "environmental" or "social" impact can be subjective. Where do indirect or cumulative impacts fall? What is the definition of land? This affects identification, assessment, and mitigation of potential harms. These are questions which safeguards policy will have to address.

Centre for Financial Accountability (CFA) engages in critical analysis, monitoring and critique of the role of financial institutions – national and international, and their impact on development, human rights and the environment, amongst other areas. Our body of work includes both research and programmes.

We produce information resources and policy analysis for a range of different readership – civil society, grassroots movements, general public, media houses, policy makers and parliamentarians. Our awareness programmes work towards demystifying finance through increasing public awareness and encouraging public debates about issues of financial accountability.

CFA
Centre for Financial Accountability

info@cenfa.org
www.cenfa.org