Foreign Aid and Development Outcomes: Is the U.S. Lagging Behind?

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The United States is the largest bilateral donor of foreign aid in the world, with U.S. government agencies (such as the U.S. Agency for International Development-USAID) working in more than 100 countries abroad. In addition, the U.S. also facilitates the investment of private capital in the developing world through U.S. institutions, such as the Overseas Private Investment Corporation (OPIC), that promote public-private partnerships or provide export credit guarantees, political risk insurance or direct or indirect financing.

When foreign assistance is administered effectively, it can save lives, support equality, combat poverty and promote more democratic and just societies. It can generate goodwill, improve security and livelihoods and thus make massive immigration unnecessary, and expand markets for U.S. businesses. However, too often development projects and initiatives create unintended negative impacts on the people and environment in the places they work, either because non-financial risks were not adequately considered in the first place or because a private-or public-sector actor thought the potential benefits outweighed potential environmental, social and/or human rights risks. So, tens of thousands have been forcibly displaced and impoverished (ICIJ, 2014) community leaders fighting large "development" projects have been attacked, killed and imprisoned (Human Rights Watch, 2016), and a movement to fight "bad" development projects exists in many parts of the world.

The U.S. has over 60 Executive Orders, internal agency mandates, and "best practice" guidelines intended to avoid such negative outcomes and ensure that development works for its intended beneficiaries. However, a forthcoming study has found that such safeguards and accountability policies are uneven and insufficient. (AJWS, 2016) The study concludes that the current patchwork has significant gaps, especially with respect to carrying out the U.S. commitment to human rights, and should be replaced and/or supplemented by a single minimum safeguard policy applicable to the whole of the U.S. government. That set of substantive rules – on the environment, gender, indigenous peoples, land, human and labor rights and other social issues – needs to be supplemented by a robust accountability policy that will provide for mediation of disputes, a way to require changes to or rejection of harmful projects, and compensation when all else fails.

The most important reason for the U.S. to embrace a holistic and consistent safeguards and accountability regime is because inadequate safeguards risk bad projects. A lack of up-front due diligence and continuing consultation and monitoring can lead to delays, increased costs, and poor outcomes, including human rights abuses that run directly counter to development goals. In addition to this "evergreen" argument, three new factors have combined to make it more important than ever for the U.S. to take a "whole of government" approach to safeguards whenever it provides, facilitates, finances, guarantees or is otherwise involved in overseas assistance:

Aid flows are increasing in sectors such as climate and energy that are particularly vulnerable to unintended negative consequences and human rights violations. The percentage of U.S. assistance funds going to finance infrastructure, natural resources-related, and climate-related projects (including energy generation as well as climate resilience) has increased, and is expected to continue growing. Among all OECD countries, foreign aid for the energy sector almost doubled from 2008 to 2014; agriculture, forests and fisheries spending grew approximately 50% during the same period (OECD-DAC, 2016). In the U.S., foreign aid budget, both agriculture and natural resources or environment-related spending have increased significantly in the last decade. (CRS, 2016). These sectors tend to be among the most problematic with respect to unintended negative consequences in both the environmental and social arenas, and require more intensive consultation and work with affected groups. Energy, even green energy projects, require land, and can affect water supplies; agriculture and forestry projects can also easily lead to displacement and dispossession, especially of indigenous or other poorly-demarcated land. Thus, dams have created resistance in many parts of the world; intensive agriculture and "villagization" programs in Ethiopia have led to lawsuits against banks and development agencies.

More foreign assistance initiatives are carried out through multi-donor or multi-agency collaborations. Much of our foreign assistance in these new focus sectors will be carried out in multi-donor or multi-agency collaborations, including an increasing number that require safeguards policies of their partners. A good example is the U.S. Power Africa initiative, which involves twelve federal agencies, working in conjunction with private partners (USAID, 2016). In particular, as the US ramps up its funding for climate-related projects and programs, it will intersect increasingly with international funders like the Global Climate Fund, the Global Environment Facility, the U.N.'s REDD+ initiative, and others who require partners to have policies in place regarding social and human rights safeguards.

Other bilateral development agencies, multilateral institutions such as the UN and the private sector are creating comprehensive due diligence and accountability standards. As development cooperation agencies in other developed states create and implement their own safeguard and accountability mechanisms, the U.S. risks looking like a laggard, despite the fact that some U.S. agencies have been early adopters of a safeguards regime (for example, Ex-Im Bank was the first export credit agency to develop an environmental safeguards protocol) (EX-IM Bank, 2016).The uneven nature of USG safeguards creates increasing reputational risk as well as policy incoherence and confusion regarding which standards apply for inter-agency collaborations. Similarly, on the private sector side, business partners or implementers of US agencies involved in overseas assistance are increasingly implementing their own due diligence procedures, under the rubric of the Equator Principles for banks (Equator Principles, 2013) or the U.N. Guiding Principles on Business and Human Rights (UN, 2011). The U.S. government has endorsed the Guiding Principles and is in the process of creating a National Action Plan to foster their implementation. It would be anomalous for the U.S. to be promoting due diligence obligations that its own agencies have not committed to.

While the overall findings of the research are too numerous to list here, three overarching observations stand out:

1) There is massive inconsistency in terms of the U.S. government safeguard regime at every level – between agencies and departments, between thematic areas and between levels of enforcement and/or implementation.

There is very little uniformity among USG agencies and departments in how they deal with environmental, social and human rights risk. Some have elaborate social and environmental safeguards and accountability systems, while others have only a handful of mandatory policies, supplemented by myriad guidelines and policy documents with little clarity about how they are to be implemented and how implementation is to be assessed. Agencies that do not think of themselves primarily as programmatic or project-focused tend to have limited or undeveloped safeguards or risk management. The Department of State, for example, has elaborate program design and evaluation guidelines, but they are focused on intended outcomes, not on unanticipated risks. Agencies with a mostly domestic mandate have few rules about overseas work and tend to rely on State Department guidance; small foundations like the U.S. Africa Development Foundation are similarly not designed or staffed to have more than minimal environmental guidance, and depend on program officers to evaluate other non-financial risks on a case-by-case basis.

Environmental and gender-related issues are the subject of more detailed requirements and expectations than other issues. Environmental impact assessment is almost universally required; environmental impacts extend to social issues like displacement or cultural heritage, but only if tied to the environment. The areas of human rights, conflict/atrocity prevention and mitigation and community land, resources and health/safety are much less developed. Defining concerns explicitly in human rights terms, rather than the language of social issues, is particularly problematic, and some agencies have relied instead on consultation with the State Department's human rights bureau.

There is also little uniformity in how the same safeguards are implemented in practice. For example, Ex-Im Bank, OPIC, and MCC all reference the International Finance Corporation's (IFC) performance standard on environmental impact assessment (International Finance Corporation, 2012); USAID uses its own Environmental Impact Assessment (EIA) mandatory regulation (22 CFR 216). However, in practice some agencies rely solely on project proponents (governments, implementers or private investors) to carry out and certify the EIA, while others hire consultants to review the process and the resulting plan, and still others use their own staff to carry out site visits, desk reviews and consultations with local groups on the quality and content of the EIA and the resultant action plan. Some agencies have explicit lists of excluded project types; most have some trigger of extra scrutiny ("category A", for example) while a few have a much vaguer cost-benefit analysis.

2) There is significant "cross-pollination" between U.S. agencies and multi-lateral institutions regarding safeguards.

U.S. agencies have been able to influence and lead international safeguard development. For example, the early work at Ex-Im Bank on environmental safeguards became the basis for the OECD Common Approaches used by all OECD export credit agencies.

A group of basic safeguards have been borrowed by U.S. agencies from other contexts. These include the IFC Performance Standards, the Equator Principles designed for private banks, the World Bank's Health and Safety standards, and rules regarding private security contractors or construction projects borrowed from private standard-setting groups. This facilitates adoption, cuts down on the time involved, and allows for some cross-agency collaboration and comparisons, but it also means that in some contexts additional tailoring is needed.

Even where agencies use the same externally-generated safeguards, like the IFC Performance Standards, they never use them as stand-alones but paired with additional, and varied, supplementary standards. For example, the IFC standards are particularly weak on labor, gender and human rights issues, so OPIC pairs them with labor standards generated from U.S. law ("special consideration" countries) and the Millennium Challenge Corporation supplements with its own gender and women's empowerment standards. This leads to inconsistencies between U.S. agencies (as detailed above).

3) Creating a holistic, robust U.S. safeguards regime requires significant political will, new structures and staff buy-in at headquarters and in the field.

Existing safeguards exist largely because of Congressional directives and Executive Orders that have defined many of the issues that agencies consider in project assessment and planning. Further specification and rigor in safeguards development has also come about as a result of General Accountability Organization (GAO) or Inspector General investigations, or because of civil society pressure (including media attention) arising from agency support for an egregiously bad project.

Safeguards and standards, to be effective, must be combined with adequate staffing, training, incentives for application, and monitoring and revision. For example, environmental and gender issues in USAID and MCC are incorporated through the use of a Compliance Officer or Point of Contact in each Mission, MCA and/or Bureau, whose job it is to revise and oversee adequate consideration of environmental and gender issues by project proponents (public or private). USAID Environmental Compliance officers have the authority to require changes, or even to stop, a project or program even if it has been approved by Mission leadership. The gender-related rules are implemented in part through mandatory training (including simulations and role-plays) of all new officers.

These best practices, however, do not extend to other issues. Even where a stated policy is in place, it is largely programmatic (i.e. we will support work on this issue) rather than aimed at checking for unanticipated impacts. For example, there is no formal, mandatory policy in place on indigenous peoples, or on avoiding forced displacement and dispossession of people from their land, or on labor rights (with a small exception) in USAID, although some voluntary guidelines do exist.

What Is to Be Done?

If we really care about infusing U.S. foreign aid and development assistance with human rights, environmental sustainability and social cohesion norms, or even if we simply care about spending taxpayer monies effectively, we need government-side minimum norms, and accountability mechanisms to make sure these norms are taken seriously. There are examples of parallel efforts in the areas of financial waste and corruption. Why should waste of our natural environment, community cohesion, or the rights of people around the world, get less attention?

There are undeniable advantages to a single, uniform standard. This is largely because it would maximize a 'whole of government' approach, and allow the US to play a leadership role internationally. Benefits of this approach include that it would ensure that all US development cooperation or investment assistance complies with a single minimum standard, allow for uniform application of an outside safeguards like the IFC performance standards, and facilitate government-wide training. Yet, some countervailing considerations counsel caution. For example, agencies are very different in size and complexity, and imposing uniformity on this diversity might result in a uniform common denominator that is too much for some and too little for others. Instead, it might make sense to consider a core set of safeguards supplemented by agency-specific protocols. This would allow for uniform training, materials, and a community of practice to emerge, without the straightjacket of total uniformity.

Any of these options will require institutional architecture, and this raises a variety of questions. For example, should there be a single government safeguards watchdog, or should this task by integrated into each existing agency? Both Japan and Germany have government-wide safeguards. Creating new federal agencies is likely to be Sisyphean task in the current political climate, while placing a safeguards unit within agencies can create tensions within the agency. A compromise between the two options might be a coordinating body of people from the major aid, investment promotion and trade agencies, with some support from the Department of State. An alternative compromise might be to give a single individual or office, housed in a single agency, power to exercise government-wide primacy in discussions over a given issue.

The accountability function raises an additional set of concerns. It is unclear whether every government agency should have its own Office of Accountability, or if it would be possible to combine them or to designate a single existing government agency as the appropriate forum. In Europe, Germany and the Netherlands have agreed to share such an office; surely U.S. agencies could do something similar. Issues of disparate agency culture, competition for resources and other ills of bureaucratic life would no doubt complicate efforts to designate a 'lead agency.'

Another option would be to expand the purview of the existing Inspector General's Offices. Each major US department or agency has an Inspector General who promotes economy, efficiency and effectiveness and roots our fraud, waste, and abuse (Inspector Generals Act of 1978, as amended). These auditors follow uniform protocols and are governed by a Council of the Inspectors General on Integrity and Efficiency, an Executive Branch Body. These bodies, or the Council of IGs, could broaden their mandate to consider environmental and social considerations as part of effectiveness and efficiency. Indeed, the Global fund to Fight to AIDS, Tuberculosis and Malaria houses its human rights complain mechanism within its Inspector General's Office (Global Fund, 2014). On the other hand, if specific IG offices have a tumultuous or tense history with program staff, it might best to start anew.

While the overall direction of the incoming Trump administration suggests that improving US agency performance in these areas might be a low priority, or indeed that overseas aid and engagement will decrease, there still may be reasons to think through these issues, if only for future implementation. Moreover, a Trump presidency may not be implacably hostile. Previous Republican administrations have spent slightly less than Democrats on foreign aid (OECD-DAC, 2016), but have still committed billions of dollars, and even a reduced foreign aid budget should be well spent. Foreign aid serves a variety of aims, including cushioning migration, improving human security, and promoting investment. For that reason, many aid priorities have been bipartisan.

More robust and effective safeguard and accountability policies will not by themselves ensure environmental sustainability or human rights observance. Communities will continue to be buffeted by resource extraction, limits on speech and protest, attacks on human rights and environmental defenders, and forced displacement, even as they are sometimes also the beneficiaries of improved energy, health and agricultural innovations. Improving safeguards and accountability will, however, allow people to have a voice and a choice in their own development. That is something the US should be proud to champion.

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