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THE TIME HAS (FINALLY) COME FOR 'COUNTRY OWNERSHIP'! BUT WHAT IS 'COUNTRY OWNERSHIP'? AND, DO SOCIAL AND ENVIRONMENTAL NORMS AND STANDARDS DESTROY IT?

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Summary. Governments and development finance institutions, such as the World Bank, should raise (i.e., "harmonize upwards") important norms and standards relating to: transparency, participation, social, environmental, and anti-corruption policies. In order to achieve positive development results, such standards are necessary.

However, in some respects, governments and development finance institutions view norms and standards in a negative light. For instance, some fear that they will be at a competitive disadvantage relative to countries or institutions with lower norms and standards. Some recipient governments believe that norms and standards are an imposition by Western nations that handicaps their development progress. Perhaps the strongest argument against norms and standards is that they undermine "country ownership." However, some supporters of "country ownership" are backers of the executive branch (the bureaucrats) of recipient countries, not citizens or their elected representatives.

This paper traces the way in which different processes (the "Aid Effectiveness" Forums) and institutions (the G20 and the Multilateral Development Banks (MDBs)) pursue "country ownership." It focuses on a new World Bank lending instrument – the Program-for-Results (PforR) which will be used to finance government programs in sectors (e.g., industry, agriculture, health). The standards that the World Bank has employed for decades (e.g., its set of 10 environmental and social safeguards, plus its financial management and procurement standards) do not apply to the PforR-financed operations. The World Bank should continue to use these standards to strengthen the "country systems" (e.g., policies and regulations) in recipient countries.

Due to pressure from the U.S. Congress, the Bank is using the PforR instrument in operations totaling only 5% of its total financial commitments for the next two years. We believe that safeguards and standards should be applied to all PforR-financed operations before this "cap" is lifted.

The paper concludes that a choice between "country ownership," on the one hand, and norms and standards, on the other, is a "false choice." Indeed, "country ownership" and forms of development assistance, such as support for national and sector budgets, are compatible with standards relating to transparency, participation, financial management, and social and environmental protection.

1. A NEW WORLD ORDER

When Christine Lagarde, the Managing Director of the IMF embarked on her first official visit to Latin America, Roberto Abdenur, a former Brazilian ambassador to the U.S., said that the visit *"marks a role reversal for a region that harbors deep-seated resentment over decades of IMF-imposed austerity measures. Previously local authorities trembled when even the most junior IMF official visited. Today, the chief is coming to seek aid. It's an historic about-turn.*"[1] Indeed, Latin American countries, which are grew at approximately 4.5% in 2011 compared with 1.6% for developed nations, are making contributions to the IMF in order to help the institution address the Eurozone crisis.

For decades, European countries have been among the most generous donors, both in their bilateral relations and through multilateral institutions, such as the International Monetary Fund, the World Bank, and the regional development banks. Yet, the donor-recipient relationship is being flipped on its head as the growth rates of emerging market countries outstrip those of advanced countries -- not just recently, but for at least a decade.

As a result, we see the structural transformation of the world -- a new order in which the U.S., Western Europe, and Japan are no longer dominant.[2] The U.S. and Europe triggered the 2008 and 2011 economic crises and Japan has been stricken by catastrophes. A sign of this transformation is the fact that the G-8 Summits of industrial nations no longer command the attention, or *gravitas,* that they once did. And, while the G-20 Summits have made little progress on their dominant financial agenda, they have moved quickly to implement a development agenda, particularly since the G20 Seoul Summit in November 2010.

These trends can be seen in the context of the aid effectiveness process, the G20, and the multilateral development banks (MDBs).

2. 'COUNTRY OWNERSHIP' AND THE 'AID EFFECTIVENESS' PROCESS

It is natural for donors and creditors to impose some conditions on their assistance to developing countries, particularly in order to ensure that the borrowing country has the capacity to repay its loans.[3] However, donors and creditors have often imposed such excessive and intrusive policy conditions on their assistance that they have <u>undercut</u> country ownership.

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[1] IMF Morning News, 28 November 2011.

[2] Kemal Dervis, "Policy Lessons for Emerging Markets," Brookings Institution and Asian Development Bank Forum, June 6, 2011:
http://www.brookings.edu/~/media/Files/events/2011/0606_emerging_markets/20110606_emerging_markets.pdf

[3] Policy 'conditionality' is particularly notorious for several reasons. First, the idea that a donor or creditor can 'buy' policy change is offensive to those who believe in democratic process -- i.e., that policies should not be imported, but rather developed through participatory and deliberative processes. Second, for thirty years, the approach to 'conditionality' has been formulaic. That is, it has been based on a set of policy prescriptions called the "Washington Consensus" that require a government to privatize and liberalize its economy in the context of strict budget discipline. However, development processes are unique to each country's time and circumstance and cannot be reduced to a one-size-fits-all formula.

For instance, for many years, the World Bank required countries to implement "Washington Consensus" policies (e.g., privatization, liberalization in the context of strict budget discipline) as a condition of receiving assistance. In some countries, this cocktail of policies curbed inflation and achieved price stability, but at an enormous cost: stunted growth and the inability of borrowers to service their debts. As a result of unproductive loans, debt reduction programs have been implemented since the 1980s.

Countries which experienced sustained growth, such as China, India, and Vietnam, applied "Washington Consensus" policies selectively and maintained a strong role for the state in providing services and guiding industrial policy.

Donors and creditors also undermined "country ownership" through the use of:
--"tied aid" (the requirement that recipient countries buy goods and services from donor country);
--project implementation units (PIUs), which implement donor/creditor projects in parallel with government operations. These projects may overlap or conflict with those of government programs.
--complex reporting requirements to ensure the accountable use of financing.

Because there may be dozens or even hundreds of donors and creditors, recipient governments are required to "dance" to the "tune" of many "pipers." Perversely, a government's accountability to external actors can distract from, or even conflict with, its accountability to domestic constituencies. In other words, aid systems can undermine democratic processes.

For such reasons, the 2005 Paris Declaration on Aid Effectiveness was a welcome attempt by donors and creditors, on the one hand, and recipient governments, on the other, to reach agreement about ways to support national development activities and reduce the high "transactions" costs associated with aid. These costs not only undermine "country ownership" but also diminish the effectiveness of aid.

However, aid effectiveness processes -- the 2005 Paris Declaration and its successors, the 2008 "Accra Agenda for Action" and the 2011 "Busan Partnership for Effective Development Cooperation" – represent both steps forward and steps backward. They are a step forward because, the Busan High-Level Forum (HLF), in particular, put an end to the "old order" divided into: "First World" and "Third World," "North" and "South," or "rich" and "poor." These descriptions no longer fit, if they ever did. Instead, the Busan HLF stresses South-South cooperation and triangular approaches to cooperation wherein developed and emerging countries work with low-income countries.

The High Level Forums on Aid Effectiveness also represent steps forward because they stress the importance of achieving "results" and establish systems to measure them. In addition, they promote 'program support' – namely, 'budget support' and 'sector support' (e.g., Program for Results) in order to strengthen country ownership by providing finance quickly and flexibly. For instance, a donor or creditor disburses 'program' support rapidly (e.g., within six months) whereas 'project' support disburses over 6 or 7 years -- typically when there are several stages of construction (e.g., a school, irrigation system, or power plant). Program support is "flexible" because it often supports progress toward general results (e.g., health for all) rather than a specific set of activities (e.g., purchase of certain equipment).

On the negative side, the efforts to build country ownership are not bearing fruit, as they should. In 2008, the Accra High-Level Forum on Aid Effectiveness found that donors were doing poorly in terms of supporting, or aligning with, country development strategies and priorities. The 2011 survey on aid effectiveness found that, in 78 countries, only 41% of aid was reflected in national budgets – well below the target of 85%. If aid is not reflected in budgets, then expenditures and results cannot be accurately tracked. This problem arises “from poor reporting of disbursement intentions by donors and limited information captured by budget authorities.”[4]

At the global level, progress toward the aid effectiveness targets, which were set in 2005, is poor. Only one out of the 13 targets established for 2010 has been met and progress towards many of the remaining 12 targets has been disappointing.[5]

Some of the targets, such as those related to environmental standards are not taken seriously, even though they mediate positive development results. Since standards for strategic environmental assessments were established in 2006, only 50 assessments have been performed.

Environmental and social norms and safeguards are unfairly under attack from both developing and developed countries. Many *developing* countries view standards and norms as another type of policy condition – or even a neocolonial imposition. At the same time, many *developed* countries feel that social and environmental norms/standards or “safeguards” inhibit their competition with emerging market countries with low standards. China is often cited in this regard.

At the Busan HLF on Aid Effectiveness, there was little interest in harmonizing standards. According to Anselmo Lee of the Korea Human Rights Foundation and an organizer of civil society participation at the HLF:
- Busan was strong in agenda-setting (from aid effectiveness to effective development) but weak in standard-setting and institution-building.
- CSOs asked for respect for 'universal human rights' and it was treated under the 'global light' framework.
“the Busan banquet was for development actors but the main menu of the head table was prepared for two VIPs - China and Private Sector (but they had different appetites).”[6]

On the one hand, China has a liberalizing, but still state-centered, development approach; on the other hand, the “outcome document” of the Busan HLF implies state deregulation.[7]

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[4] OECD-DCD-DAC 2011 Survey on Monitoring the Paris Declaration on Aid Effectiveness, p. 48: http://www.oecd.org/document/1/0,3746,en_2649_3236398_48725569_1_1_1_1,00.html
[5] Ibid.
[6] Private communication.
[7] The Busan outcome document calls for a “legal, regulatory and administrative environment for the development of private investment; and also to ensure a sound policy and regulatory environment for private sector development, increased foreign direct investment, public---private partnerships, the strengthening of value chains…”

China's official entry into a new development cooperation arrangement -- the Global Partnership for Effective Development Cooperation -- was seen as a major accomplishment of the HLP. According to the head of the Center for Global Development (U.S.), "This new entity looks to me like a development ministers' counterpart to the G20 finance ministers: a grouping meant to ensure implementation of the approach (transparency, accountability, results, etc.) `at the political level'."[8] The Global Partnership would be supported by not only the OECD, but also the UN Development Program.

Civil society is concerned with trends that would jettison human rights, social, and environmental norms and safeguards – despite the ample evidence that safeguards contribute to good outcomes/results. Moreover, the benefits and savings from safeguards are much greater than the costs. It is easier to institute protections than to clean up disasters (e.g., oil spills, epidemics, global warming, soil erosion, destruction of cultural heritage).

3. 'COUNTRY OWNERSHIP' AND THE G20

Whatever people think of the G20, most welcome the fact that it is not the G7. The G20 countries represent 85% of world output and trade and two-thirds of the world's population. At the same time, the G20 excludes 173 countries including those that are most in need of development assistance.

Because the G20 includes emerging market economies, one would hope that they would especially value 'country ownership.' There are 9 emerging market members of the G20 – China, India, Indonesia, Argentina, Brazil, Mexico, South Africa, South Korea, and Turkey.

Ideally, the G20 and especially some of the emerging market members would promote "bottom up" 'country ownership' characterized by:
--stronger leadership by citizens and their elected representatives,
--adhere to international treaties, including those relating to social and environmental norms and standards,
--support for sustainable development from the community to the national level, including greater social equity (e.g., universal health and education) and environmental stewardship, and
--selective intervention by the state in order to enhance economic competitiveness.

But, to date, the G20 has not fostered this type of 'country ownership.' Instead, its initiatives are:
--strengthening the role of finance ministries, technocrats and regional decision-making bodies rather than the national democratic processes;
--further deregulating the state in order to attract private sector investment; and
--shunning the social, environmental, and anti-corruption safeguards that have been associated with decades of development assistance.
However, that does not appear to be the case.

[8] http://blogs.cgdev.org/globaldevelopment/2011/12/aid-alert-china-officially-joins-the-donor-club-2.php

The G20's Role in Governing International Development

At the G20 Seoul Summit, the G20 launched its Development Action Plan (DAP) that features nine "pillars" of activity: infrastructure, food security, trade, private investment and job creation, resilient growth, financial inclusion, human resource development, domestic resource mobilization, and knowledge-sharing. To date, the top priorities of the G20 relate to promoting public-private partnerships (PPPs) in infrastructure and agriculture sectors in the context of trade liberalization.

With regard to the nine pillars, *the G20 gives dozens of mandates to about 26 international institutions*.[9] The G20 countries represent about two-thirds of the votes in the international financial institutions (IFIs) and have considerable weight in UN agencies, but the G20's practice of giving mandates to the IFIs and UN agencies undercuts the role of these institutions' governance systems. It marginalizes the voices of the 173 countries that are excluded from decision-making.

It would democratize global governance and strengthen country ownership if, instead of mandates, the G20 gave recommendations for consideration by the more democratic governance structures of these institutions and agencies.

Participation by non-G20 Countries in G20 Development Action Plan

The Development Action Plan was designed by the G20's Development Working Group, primarily in order to benefit low-income countries. Yet, low-income countries (and other non-G20 countries) were only marginally involved in designing the DAP. In 2011, there was only one representative from a low-income country – Ethiopia – serving on the Development Working Group. This raises questions about whether such a top-down plan -- the DAP -- can be a positive force in fostering 'country ownership'.

Environmental and Social Policies and Safeguards -- Neglected

The following reports and strategies were delivered to the French Summit in November 2011:
--The World Bank's updated infrastructure strategy (for fiscal years 2012-2015);[10]
--The MDBs Infrastructure Action Plan;[11]
--The report of the G20 High-Level Panel on Infrastructure;[12]
--The report of the G20 Development Working Group; and[13]
--The G20 Agriculture Ministers Action Plan.[14]

Social and environmental policies and safeguards are not seriously addressed by these reports and strategies. This is despite the fact that policy choices relating to infrastructure (e.g., energy

[9] The mandates are cited here: G20 Multi-Year Action Plan on Development and summarized in this matrix (EN).
[10] Transformation Through Infrastructure. World Bank Group Infrastructure Strategy Update, FY12-15
[11] MDB Infrastructure Action Plan
[12] The High-Level Panel report on Infrastructure
[13] The Development Working Group report
[14] The Agriculture Ministers' Action Plan on Food Price Volatility and Agriculture

and transport) and agriculture will lock in patterns of carbon emissions for generations to come and have profound social implications.

Therefore, the G20 was presented with a tremendously important opportunity to pave the way to a low-carbon future by deepening reliance on renewable energy and agroecology (rather than industrial agriculture). Instead, the G20 chose the status quo. For instance, the G20 Leaders were presented with eleven "exemplary" regional infrastructure projects (see attachment) – which include extensive roads, power pools dependent upon fossil fuels, and big dams. None of the primary criteria for project selection relate to the need to promote low-carbon development.

Role of the State

As noted above, ideally, the G20 would foster adherence to international treaties, including those relating to social and environmental norms and standards. With the leadership of Germany and Saudi Arabia, the G20 is leading work on "Promoting Standards for Responsible Investment in Value Chains." [15] It is also supervising work on other norms and standards (e.g., Principles for Responsible Investment in Agriculture (PRIA) and the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests. To date, the G20 has shown deference to the private sector and stressed the voluntary nature of norms and standards.

As a result, there are questions about whether key groups deputized by the G20 will weaken the World Bank's safeguards. It is our belief that, if countries do not like the World Bank's procurement and financial management standards or its social and environmental safeguards, they should <u>not</u> invent an instrument to which none of these apply. Instead, they should work through open and participatory processes to revise them in ways that are more consistent with commitments they have already made to international laws, including those relating to norms and standards.

One critical role of the state is to regulate the market and established, international norms and standards provide a basis for such regulation. This role is increasingly critical as the G20 and the development finance institutions promote public-private partnerships (PPPs) -- particularly in infrastructure and agriculture. Whereas the Washington Consensus sharply diminished the role of the state in development, one could hope that the G20 would expand the role of the state -- especially since so many emerging market economies prospered through strategic intervention and deregulation by the state.

However, it is a bad omen that, at the G20 French Summit, Leaders approved many development recommendations and reports which would marginalize the role of the state – except as guarantor of the private sector's risks and returns.[16]

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[15] http://www.unctad.org/Templates/Page.asp?intItemID=6125&lang=1

[16] The reports can be found here: http://www.boell.org/web/group_of_20-638.html. Individual reports are cited in footnotes 11-15.

Transparency and Participation by Civil Society

The G20 lacks transparent relations with civil society. Civil society has little information about the G20, its working and expert groups, who serves on them, and what they do. The few consultative processes have been *ad hoc.*

However, indirectly, the G20 is presenting an even greater problem for civil society by undermining its consultative arrangements with the Multilateral Development Banks (MDBs).

How is this happening? Two examples will suffice. First, at the Seoul Summit, the G20 asked that the MDBs collaborate in preparing an "Infrastructure Action Plan" for the French G20 Summit.[17] However, there was no arrangement in place for information disclosure or consultation in the design of the Action Plan. Each MDB has its own policies for information disclosure and consultation, but there are no policies governing preparation of strategies and policies by all MDBs. As a result, civil society was excluded from any engagement in preparation of this Action Plan.

Second, at the French G20 Summit, the G20 asked the MDBs to collaborate in preparing action plans on food and water, which will be submitted to the Mexican G20 Summit on June 18-19, 2012. To date, neither the Mexican Presidency nor the MDBs have disclosed information about the Action Plan or about any consultative process.

In contrast to civil society, the business community is deeply engaged with the G20. The business community, including the International Chamber of Commerce, conduct back-to-back summits with G20 Leaders as well as on-going processes of collaboration. The Business Summit (B20) has focused on shaping the Leaders' agenda in twelve specific policy areas.[18]

4. COUNTRY OWNERSHIP AND THE WORLD BANK

In many respects, the World Bank is a trend-setter for the other MDBs (e.g., the Asian Development Bank, the Inter-American Development Bank, the African Development Bank), therefore its role is particularly important.

New trends at the World Bank are weakening the democratic aspects of governance as well as the country systems and safeguard policies that have protected people and the natural environment for decades.

The World Bank is launching a new lending instrument – the *Program for Results* (PforR) – that will finance a slice of recipient countries' sectoral budgets. The norms and standards that the Bank has employed for decades will not apply to the PforR. Specifically, 10 social and

[17] See footnote 12 for the MDB Infrastructure Action Plan, which was submitted to the G20 by six institutions: the World Bank, the three regional development banks, the Islamic Development Bank and the European Investment Bank.

[18] The Cannes Business Summit is described here: http://www.b20businesssummit.com/ and its final report to G20 Leaders appears here: http://www.b20businesssummit.com/news/29-b20-final-report.

environmental safeguards[19] as well as procurement, financial management, appraisal and supervision policies do not apply to the PforR.

Of the Bank's two other primary lending instruments -- *project operations and budget support operations* – the World Bank's group of social and environmental standards apply only to project operations.

The Three Main Lending Instruments of the World Bank	
Lending Instrument	**Do the 10 Safeguard Policies Apply?**
National Budget Support (i.e., Development Policy Operations)	NO
Sectoral Budget Support (e.g., Program-for-Results)	NO
Project Investments	YES

On January 24, 2012, the World Bank's Board of Executive Directors is expected to approve a small PforR program – 5% of total financial commitments per year for two years.[20] Although the World Bank claims that the PforR will enhance transparency, build country systems, help prevent fraud and corruption, and protect the environment and vulnerable people, the actual policy language governing the PforR does not support these claims. Examples follow:

--<u>Transparency</u>: The PforR operational policy does not make provisions for people affected by these operations to be informed of them – much less to be consulted. The PforR documentation ("Bank Procedures") states, "Measures to address consultation, disclosure and grievance should be appropriate to the activities to be supported under the Program."[21] This promise does not support the rights of citizens to information or consultation.

--<u>Fraud and Corruption</u>: The PforR policy includes Fraud and Corruption Guidelines, but the Guidelines state the Bank and the Borrower can agree, in writing, that provisions of the Guidelines do not apply. Through such written agreement the borrower can be relieved of responsibility to report corruption to the Bank and cooperate in an investigation and the Bank can be relieved of its responsibility to inform the borrower of allegations of fraud and corruption, conduct an investigation, or sanction any individual or entity (other than the Member Country).[22] This language violates the Bank's Articles of Agreement, which state that the institution has a fiduciary duty to ensure that the proceeds of any loan are used only for the purposes for which it is granted.

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[19] See World Bank safeguards: http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTSAFEPOL/0,,menuPK:584441~pagePK:64168427~piPK:64168435~theSitePK:584435,00.html

[20] PforR Operational Policy and Bank Procedures, December 29, 201: http://www-wds.worldbank.org/external/default/main?pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64187510&searchMenuPK=64187283&theSitePK=523679&entityID=000333037_20120101223631&searchMenuPK=64187283&theSitePK=523679

[21] Ibid., Annex D, "Bank Procedures," p. 82, paragraph 30.

[22] Ibid., Annex E: Proposed Anti-Corruption Guidelines, pp. 87-88, paragraphs 6 and 7.

--<u>Results-Orientation</u>: The stated purpose of the PforR is to support a country in producing "results." To facilitate this objective, the Bank would disburse financing when a country achieves a "disbursement-linked indicator" (DLI). There are three problems with this process. First, to determine whether a DLI has been achieved, the recipient country must establish a credible baseline of performance data and implement a monitoring system (sometimes throughout most or all of a country) capable of determining the extent to which results are achieved. Many recipient countries are not capable of managing the level of sophistication required to make such determinations. (Historically, the performance of the World Bank's own monitoring systems has been abysmal.) Second, DLIs can be modified over the course of a PforR operation – so the "results" or "goal posts" can be constantly moving. Third, when a country achieves only partial results (relative to a DLI), the Bank can disburse a part of the financing. All of these facts imply that discerning whether or not results are achieved can be a very slippery and subjective process.[23]

--<u>Standards and Safeguards</u>. The multilateral development banks, such as the World Bank, do not observe or comply with international human rights law or multilateral environmental agreements. Therefore, for decades, protections for people and the environment have been built into Operational Policies (OPs) referred to as "safeguards." Historically, these have been identified by World Bank Management as being particularly important in ensuring that operations "do no harm" to people and the environment. There are 10 safeguard policies, comprising the Bank's policy on Environmental Assessment (EA) and policies on: Cultural Property; Disputed Areas; Forestry; Indigenous Peoples; International Waterways; Involuntary Resettlement; Natural Habitats; Pest Management; and Safety of Dams. Today, safeguards apply to about 48% of the World Bank Group's portfolio. When new instruments, such as the PforR are used, this will decline.

The safeguards do not apply to PforR operations. Instead, the Bank will perform an environmental and social assessment to determine the quality of a country's systems. The standards for such an assessment are unclear and, while the final product will be made public, the Bank's policy does not specify when it will be made public.

The Bank will perform fiduciary assessments as well, but the standards governing fraud and corruption are equally vague. The PforR policy states that "financial management systems are assessed as to the degree to which the relevant planning, budgeting, accounting, internal controls, funds flow, financing reporting, and auditing arrangements provide reasonable assurance on the appropriate use of Program funds and safeguarding of its assets."[24] However, little indication is given of what might constitute "reasonable assurance."[25]

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[23] Ibid., Annex D: "Bank Procedures," p. 77, paragraph 15.

[24] Ibid., p. 18-19, para. 39.

[25] Ibid. Although footnote 11 states that the World Bank's staff, management, and Board will determine the meaning of "reasonable assurance," a case-by-case definition of "reasonable assurance" for each and every PforR operation is unlikely to replace or reliably support high and consistent international standards. This is not the case because of the absence of good intent, but because of the daunting nature of establishing different standards and Action Plans for each and every operation with different baselines and monitoring programs, which the borrowing country is expected to establish and manage.

--<u>Country Systems</u>: The stated intention of the PforR is to give the recipient country the latitude to strengthen its own country systems (environmental, social, anti-corruption) without dictating how this should be done. Each PforR operations would release a "results framework" to citizens. The Busan HLF specified that such frameworks should govern all development activities:

> *Where initiated by the developing country, transparent, country---led and country---level results frameworks and platforms will be adopted as a common tool among all concerned actors to assess performance based on a manageable number of output and outcome indicators drawn from the development priorities and goals of the developing country.*[26]

However, this framework is essentially useless unless citizens also know the reforms and policies their government will implement to achieve the results and how their rights will be safeguarded in the process.

Most PforR operations will require an Action Plan, which will specify how country systems will be strengthened. The Action Plan may be included in the PforR operation or *in an entirely different operation* (which may be funded by *another* donor or creditor).[27] If the Action Plan is not included in the Bank's PforR operation, citizens will need to find out which donor or creditor is financing the Action Plan and whether all or some of it is publicly disclosed (since language may be removed for reasons of confidentiality or sensitivity). By definition, reforms to country systems will constitute sensitive information. Yet, citizens cannot work through democratic processes to strengthen country systems if they do not have access to the PforR Action Plan.

--<u>Material Weaknesses</u>: One would think that, if the Bank assesses the country systems of a recipient country and finds "material weaknesses" – weaknesses that are so severe that credible remedial measures at the program level are judged unlikely to work – that the Bank would not proceed with a PforR operation. However, the Bank does not preclude proceeding with a PforR operation under such circumstances, despite the fact that this would invite fraud, corruption and harm to social and environmental systems.[28]

<u>Use of PforR for Higher Risk Operations</u>: The Bank describes the level of social and environmental risks inherent in an operation in terms of categories. Ideally, the PforR instrument would only be used for low risk (Category C) operations.

The U.S. Congress took only a slightly different position in legislating that "operations with potential significant adverse impacts and operations that affect indigenous peoples" should be excluded from PforR financing or subject to the safeguard policies. This implies that the Bank would not use the PforR to finance Category A and much of Category B.

However, the Bank is moving in the opposite direction. The proposed Operational Policy for the PforR states that "activities that pose a risk of potentially significant and irreversible adverse

[26] Busan HLF4 Outcome Document:
http://www.aideffectiveness.org/busanhlf4/en/component/content/article/698.html
[27] The Bank is creating a Trust Fund to support these activities.
[28] See, World Bank "A New Instrument to Advance Development Effectiveness, Program-for-Results Financing," December 29, 2011, p. 15, para 28.

impacts on the environment and/or affected peoples…are not eligible for Program-for Results financing…"[29] Thus, the Bank will use the PforR instrument for Category A operations that pose significant adverse risks, *as long as these risks are not irreversible*. This is a step in the wrong direction that violates the intent of U.S. law.

5. CONCLUSION

For the above reasons, among others, the U.S. Congress took action in December 2011 to "cap" or put a "ceiling" on PforR operations. Now, according to U.S. law, the Bank must:

- --limit its PforR operations to no more than 5% of its total annual financial commitments for the next two years.
- --require that operations with potential significant adverse impacts and operations that affect indigenous peoples are excluded from PforR financing or subject to the World Bank's safeguard policies.
- --get agreement from borrowers on the Bank's jurisdiction and authority to investigate allegations of fraud and corruption in any lending program, including the P4R.
- --ensure that, before next steps are taken to expand the pilot, a thorough, independent evaluation of the PforR operations is conducted with input from civil society and the business community.

As noted above, the PforR is intended to fund a slice of a government sectoral budget in order to strengthen country ownership. However, the Bank already has a number of investment lending instruments that finance sectoral budgets.[30] These existing instruments all apply social and environmental safeguards as part of a larger program and the World Bank's evaluators never found that compliance with safeguards was a problem with these existing instruments. The World Bank has not demonstrated that the PforR has "additionality."

The development establishment poses a choice – either support "country ownership" or promote norms and safeguards. This is a false choice. There is no reason that providing basic protections against fraud and corruption and basic protections to prevent harm to people and the environment is incompatible with country ownership. Quite the contrary: such basic standards are necessary to deliver development results.

If developing countries do not like the World Bank's procurement and financial management standards or its social and environmental safeguards, they should <u>not</u> invent an instrument to which none of these apply. Instead, they should work through open and participatory processes to revise them in ways that are more consistent with commitments they have already made to international laws, including those relating to norms and standards.

[29] Ibid., p. 71, paragraph 9.
[30] Existing investment instruments: SWAp=Sector Wide Approach; OBA=Output-based aid; CDD=Community-Driven Development; APL=Adaptable program loan.