

**The International Network on Displacement and Resettlement ([www.displacement.net](http://www.displacement.net))  
comments<sup>1</sup> on**

**“Moving towards a Common Approach to Environmental and Social Standards for UN  
Programming: Draft for Public Comment”<sup>2</sup>**

30 November 2018

To: Erik Solheim, Chair, Hossein Fadaei, Head, EMG Secretariat, International Environmental House  
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From: The International Network on Displacement and Resettlement. Ad Hoc Committee on  
proposed Model Approach to Environmental and Social Standards for United Nations Programming.  
David Halmo, Chair, Brooke Wilmsen, Ted Downing, Jay Drydyk, Indrani Sigamany, and other  
INDR members. Respond to: Theodore E. Downing, [president@displacement.net](mailto:president@displacement.net)

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The International Network on Displacement and Resettlement (INDR) welcomes the opportunity to  
comment on the UN Environmental Management Group’s proposed common or Model Approach to  
environmental and social standards for UN programming.

The International Network on Displacement and Resettlement (INDR) is chartered as a non-profit,  
international professional association, founded in 2000. Its professionals work in all aspects of  
development-induced displacement and resettlement (DIDR) ranging from on-the-ground managers  
of displacement projects to socio-economic project designers, evaluators, policy developers,  
lawmakers focusing on takings, and more. Our primary concern is for people who are “in the way” of  
development and desire to prevent, avoid or mitigate the predictable but preventable negative  
outcomes.

Given INDR’s mission, the majority of comments below focus on Thematic Area 5: Displacement  
and Involuntary Resettlement. Specific comments on Thematic Area 5 are prefaced by more general  
comments on the proposed Model Approach.

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<sup>1</sup> These INDR comments are posted on [www.displacement.net](http://www.displacement.net) They are public and INDR grants  
permission to the EMG Secretariat to cite, distribute, publish and post our comments.

<sup>2</sup> Moving towards a Common Approach to Environmental and Social Standards for UN Programming: Draft of  
United Nations Environmental Management Group. 30 October 2018.

## General Comments

The Draft Model reproduces the Principles articulated in the UN Development Assistance Framework Guidance (UNDAF) of 2017. These in turn were meant to accompany the Sustainable Development Goals (SDGs). While the SDGs state what is to be done, and the Principles state how.

From a development ethics perspective, the Principles supplement the SDGs in important ways, addressing the social exclusion and disempowerment of poor people, beyond the narrow outcomes focus of the SDGs – addressing equity, power, and agency as well as outcomes. Leave no one behind prioritizes marginalized groups, not only to identify them and include them in programming benefits, but ‘to empower them as active agents of the development process’ through participatory methods and making space in planning for their voices. From a development ethics perspective, this approach is commendable in that it addresses the values of well-being, equity, and empowerment jointly. We suggest that the terms “participatory” and “participation” be replaced with “collaborative” and “collaboration.”

A by-product of this division of labour is that the Principles are too uncritical of the SDGs. From a development ethics perspective, there is a question about the degree to which SDG achievements have actually enhanced people’s well-being, which is the underlying value. This cannot be assumed, it must be examined. To do this, broad-based measures of well-being are needed, both baseline studies and outcome studies, using both subjective measures (e.g., life-satisfaction surveys) and objective measures (e.g., multidimensional poverty or other capability measures).

Presenting Human Rights and Gender Equality and Women’s Empowerment as a single principle also has merit, since women’s rights are human rights. And it is commendable that specific requirements for design and implementation of programming are listed separately, so that both set of requirements are explicit. On the other hand, women’s equality will require more than satisfying women’s human rights and relevant SDGs. Gender equality is an issue of equity (and power) that cannot be captured fully by human rights requirements. Measures are needed to assess impacts on gender inequality and domination overall.

The principle of sustainability is wisely combined with resilience. This is especially pertinent in light of the risks imposed by climate change, which can be countered in some cases only by enhancing peoples’ resilience. The statement of this principle refers confusingly to many risks and vulnerabilities that do not pertain to the natural environment: ‘violence, conflict, political and social instability or economic volatility’. These properly belong under a separate principle of human security, which overlaps with environmental sustainability.

The principle of accountability is formulated especially well in that it emphasizes ‘downward accountability’ to project-affected communities – which is lamentably ignored in some international agreements and conventions. The value of integrity is missing from the discussion of accountability. While there is little knowledge about how to build integrity against corruption, downward accountability would seem to play an important role. This should be mentioned as one of the purposes of accountability, bearing in mind that the primary purpose is to protect the ‘active, free and meaningful participation in development’ by ‘all individuals’ (Declaration on the Right to Development, preamble).

Another consequence of importing the UNDAF principles is that indigenous peoples' development has been relegated to a 'Thematic Area'. This is unconscionable, because the subjection of indigenous peoples is not just another inequality or form of discrimination. Indigenous peoples have several unique circumstances, including their close attachment to lands, communal cultures, historic oppression by later settlers, and their consequent need for de-colonization in order to enjoy their right as peoples to self-determination.

A separate Principle should be added to affirm that UN-led programs will (within their scope of operations) respect, protect, and fulfill the rights of self-determination by indigenous peoples, as articulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), especially Articles 3 and 4 (self-determination, self-government), 10 (no relocation without FPIC and just compensation), 18 (the right to participate in decision-making), and 23 (the right to determine and develop priorities and strategies for exercising their right to development).

Finally, care should be taken to eliminate any and all instances of gender-biased language throughout the document.

More specific comments on sections of the document appear below.

### **Introduction and Background (Pp.3-5)**

Page 3:

4: *“Robust environmental and social standards (e.g., safeguards) and related accountability mechanisms...are increasingly applied as best practice in programming.”*

On the contrary, INDR and its experts, as well as others, have documented in published analyses as well as in reviews of proposed IFI frameworks and standards that there has been a considerable weakening, replacing binding institutional policies that clients/borrowers were obligated to follow as a condition of lending, with non-binding, so-called “standards” which serve essentially as guidelines that clients/borrowers can voluntarily choose to follow or not. Experience demonstrates that even binding policies have historically been agreed to in principle and then routinely violated and subverted by both lenders and borrower governments; moreover, borrowers who felt too constrained by requirements of safeguard policies then in place simply walked away from the proposed loan agreements and sought out lenders with less restrictive policies.<sup>3</sup> The UN has a golden opportunity here to become a leader by example of ensuring more equitable, collaborative, real development by shifting its language and avoiding the now popular term “standards” and instead work to harmonize the development of binding social and environmental safeguard policies across UN entities to guide project planning, implementation, monitoring and evaluation.

Pages 3-5:

*“Moving toward greater alignment of environmental and social standards across UN entities...”*

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<sup>3</sup> See [www.displacement.net](http://www.displacement.net), particularly the programs of its annual meetings.

The Model Approach appears to be an effort to harmonize safeguard standards among the various entities comprising the UN. While a laudable objective, the harmonization process is entirely subverted and undermined when, on page 5, it is stated that the Model Approach “Ensure flexibility to allow for differing mandates, governance structures, operating modalities, but at the same time provide enough specificity to be a meaningful move toward greater alignment” and further, “The purpose of a Model Approach is neither to develop a framework for verbatim adoption by each entity nor to replace what already exists.” What, then, is the purpose of the Model Approach, if it is not actual harmonization among entities?

### **Overview of the Model Approach**

Page 6:

*“It [the Model Approach] seeks to ensure that minimum requirements promoting human well-being...are integrated in the definition, preparation and implementation of country programming...”*

Ensuring only “minimum” requirements “promoting human well-being” betrays the very notion of rights-based, equitable, sustainable development. Again, the UN is missing an opportunity to lead by example by not ensuring the highest possible requirements for promoting human well-being and development.

*“The proposed Model Approach as such is not a prescribed policy framework. Individual UN entities, on a voluntary basis, would seek to align their environmental and social standards...”*

*“...the proposed Model Approach benchmarks in themselves do not establish grounds for defining compliance and accountability, which must be established through entity-specific policies and procedures.”*

*“...the Model Approach...does not represent a mandatory architecture for environmental and social frameworks. The UN entity aligning with the Model Approach would identify the most appropriate organizational design for addressing safeguard requirements given their specific mandates.”*

If the objective of the Model Approach is to harmonize and “strengthen the sustainability and accountability of UN-entity programming and to improve policy coherence and collaboration...” (p.5), why is there not an overarching policy framework with benchmarks standards that applies mandatorily to all entities, within which specific entities, given their specific mandates, might make appropriate adjustments? That alignment of environmental and social standards would be on a “voluntary basis” undermines the whole notion of improving policy coherence and collaboration. This kind of convoluted language smacks of current IFI frameworks and standards, which ultimately provide both lender and client/borrower loopholes with which they can voluntarily align or not align with any particular benchmark standard. The Framework for Advancing Environmental and Social Sustainability in the UN System self-assessment of pilot project outcomes synthesis report

(2016) identified numerous “issues of common concern” within and among UN agencies (2016:12-13).<sup>4</sup> In INDR’s expert opinion, the questions raised in that section of the report are best answered by developing, implementing and institutionalizing a mandatory, binding, overarching policy framework with benchmark standards of the highest order that apply across all UN entities, albeit with room for tweaking and adjusting given specific mandates.

### Utilizing the Model Approach

Page 8:

*10. “The UN entity aligning with the Model Approach is encouraged to compare its existing environmental and social standards and safeguards for programming with the benchmarks of the Model Approach on a voluntary basis...Where gaps or inconsistencies are identified, the UN entity would consider incorporating the Model Approach benchmarks into its corporate policies.” (emphasis in original)*

In addition to the previous comments, the comparison should be mandatory, not voluntary, and it should be clearly stated that in instances where entity-specific standards/safeguards are stronger than the proposed Model Approach benchmarks, the entity-specific standards/safeguards will be adhered to. It follows that where gaps or inconsistencies are identified, the UN entity MUST incorporate the Model Approach benchmarks ONLY if they are stronger than the existing entity-specific policies.

*12. “...certain thematic areas should be considered always relevant for effective programming...”*

Replace “certain” with “all”; replace “should” with “must.”

*14. “The benchmark standards...should be interpreted in a way that is consistent with rights under international and national law...”*

Again, whichever of the benchmark standards is stronger, whether they be entity-specific or of the Model approach. Replace “should” with “must.”

### Operationalizing the Model Approach

Page 9:

*“Stakeholder Engagement and Accountability: “Programming shall promote meaningful and effective engagement with stakeholders and affected parties-in particular marginalized or disadvantaged groups-throughout the programming life-cycle; ensure stakeholders have timely access to appropriate, understandable information on programming activities and potential environmental and social risks and impacts...”*

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<sup>4</sup> UNEMG. 2016. *Framework for Advancing Environmental and Social Sustainability in the UN System: Self-Assessment Pilot Project Outcomes Synthesis Report, Summary Version*. June 29, 2016.

Define what is meant by “meaningful”, both here and throughout the document; for many in the development agencies, “meaningful” means that people are invited to a meeting in the project area and simply told what is going to happen. It is INDR’s position that all affected people/communities must be provided with paper copies of all safeguard policies/standards applicable to them, in their own language, but at least with a project-funded interpreter(s) who can translate the policy provisions into the local language(s) and independent legal representation at the very outset of a programming intervention. Ensuring the provision of these documents must be the responsibility of the programming agency. Project funds routinely underwrite the legal representation for one side, but not the weaker, affected party. Most significantly, project funds must be earmarked for legal representation for project affected peoples, independent from the project administrative control. Failure to disclose and distribute the policies/standards and provide for independent legal representation is a *prima facie* a human rights violation.

### **Screening, Assessment, and Management of Environmental and Social Risks and Impacts**

Pages 15-16:

*“Screening and Categorization:”*

Who decides whether a programming intervention is Low, Moderate, or High Risk? Are affected people/communities involved in making the determinations? If not, why not? Subjectivity should be minimized by explicit criterion.

*Footnote 9 to High Risk: “Additional thematic-specific types of analysis may also be necessary...”*

It goes without saying that High Risk programming interventions demand that the additional analyses identified (HIA, HRIA, etc.) and constant, not just periodic monitoring with results fully disclosed to the public and those being displaced.

### **Stakeholder Engagement and Accountability (Pp. 20-24)**

See comments above.

### **Thematic Area 5: Displacement and Involuntary Resettlement (Pp. 39-44)**

Whilst we welcome the United Nations attempt to address the detrimental social and environmental impacts of its programs around the world, the Model Approach, as it stands, contains numerous weaknesses. Much of the language in this section replicates the tired, obsolete, boilerplate language reflected in the watered down, weakened “standards” that have replaced “safeguard policies,” in contrast to those policy principles institutionalized by the UNDP in 2014 as “UNDP policy”, as has

been documented by INDR resettlement specialists. That UN entities are not mandated to formulate their own social and environmental standards to align with the Model Approach suggests that the draft is an exercise in appearance rather than a genuine commitment to avoiding and mitigating the detrimental impacts of UN supported programs. Adding to this weakness is the substance of the standards, which are inexplicably considerably weaker than similar standards promulgated by the Multinational Development Banks; see for example those recently put forward by the Asian Infrastructure Investment Bank.

Page 39:

*Objectives: “Improve or at least restore livelihoods and living standards of all displaced persons and to improve the living standards of displaced poor and persons belonging to marginalised or disadvantaged groups through the provision of adequate housing, security of tenure and access to services and facilities, by conceiving and executing resettlement activities as sustainable development programs;”*

Remove “or at least restore” – Commitment to improving the livelihoods of all displaced persons who are likely to suffer social and economic losses, regardless of the prosperity of their livelihoods before resettlement, should be standard. Anything less is not development, but impoverishment. The “at least restore” standard has been broadly repudiated. In the case of large UN programs, planning may have been in the pipeline for many months, years or even decades before the valuation of livelihoods is made and in the meantime people of all socio-economic positions would have experienced a decline in livelihoods and living standards as investment in the region declined. It is only fair that a commitment to improve all displaced people’s livelihoods and living standards is made regardless of their status as poor or not (noting that “displaced poor” is undefined).

*“... conceive and execute resettlement activities as sustainable development programs.”*

Define “sustainable development programs” and indicate whether additional investment and resources will be provided to support this. Most resettlements are based on compensation, but it is usually inadequate and does not support even rudimentary reestablishment of livelihoods and living standards. Without actions to address the socio-cultural damages of an involuntary resettlement, it becomes nearly impossible to build sustainable productive and meaningful, post displacement lives and livelihoods. Will the Model Approach require that displaced persons benefit directly from the project? Will there be benefit sharing and how would this work in a generic sense? Beyond this there should also be provisions for livelihood development through investment, training and the engagement of expertise in line with the preferences of the resettled persons.

*“Ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation and the informed participation of those affected.”*

Here, commitment to integrating the preferences and opinions of the displaced need to be explicitly stated. This statement reads as information provision without serious commitment to taking on the opinions, expert knowledge and preferences of the displaced.

Page 40:

6. *“The benchmark standards do not apply to (a) voluntary, legally recorded market transactions in which the seller is fully informed about available choices and has the genuine right to retain the land and refuse to sell it.”*

How will the UN entity ensure that the seller is given a genuine opportunity to retain the land and refuse to sell it? Market transactions are a grey area of voluntary/involuntary resettlement and land can be forcibly acquired under the guise of a market transaction. The exception fails to address the non-market impacts of an involuntary resettlement. Are they granted an exemption based on whether or not a market transaction did or did not take place?

7. *“UN entities typically do not lead efforts that might contribute to involuntary resettlement, which are typically the responsibilities of governments. However, a UN entity may be required to support aspects of a partner’s strategy or programme that could involvement displacement activities. In such cases, the UN entity shall undertake appropriate due diligence before engagement in such activities and advise partners to conduct displacement activities in a manner consistent with the below benchmark standards.”*

Although UN entities may not lead efforts that cause displacement, the entities must be aware that most governments in the countries in which they work do not have adequate legal frameworks and systems in place to manage resettlement and certainly not at a level that meets the objectives of the Model Approach. For this reason, stronger wording is needed that commits to conducting a gap analysis between the UN entities’ standards and the country systems in which its programmes are causing displacement. Put simply, this weak objective puts the UN entity at risk of enabling human rights abuses by relinquishing responsibility to the partner government.

The UN seems to have forgotten that its actions to develop its own facilities have displaced populations. For example, the CGIAR centers forcefully displaced communities in Syria.

### **Benchmark Standards**

9. *Forced evictions. “... in accordance with relevant provisions of international human rights and humanitarian law.”*

The draft should footnote to or reference the relevant international human rights and humanitarian law.

10. *Avoid and minimize displacement*

The wording needs to be stronger. Displacement and resettlement should be avoided in all instances unless a comprehensive, pre-project options assessment indicates that displacement



is absolutely unavoidable. Involuntary resettlement of indigenous peoples violates international law.

Page 41:

*12. " ...risks posed by natural and man-made hazards"*

Remove sexist language – “anthropogenic hazard” is more acceptable.

*13. "Participation in planning and implementation. Ensure meaningful consultations ..."*

Define “meaningful consultations” and “participation” in a manner that can be operationalized. Such terms are examples of tired, obsolete boilerplate language that characterizes the watering down and weakening of safeguard policies into “standards.” Strongly recommend replacing such language with “in collaboration with affected communities, including host communities, throughout the programming cycle, including during consideration of alternative programming designs, determination of eligibility for compensation, planning, development of action plans, implementation, and monitoring and evaluation.”

UN commitment to “*Ensure affected persons are informed of their rights and have access to effective remedies and expertise*” needs greater specificity. At minimum, the Model should state that affected peoples must be provided, in writing, copies of the relevant standards, preferably translated into their own language, or at least providing an objective interpreter who can translate to all affected persons, at the outset of project planning, as well as providing all affected persons with project-financed legal representation to ensure access to effective remedies and expertise, in addition to establishing an objective grievance mechanism. Effective remedies begin with independent, legal representation with financing built into the project financing. The Model should unambiguously so state. Failure to do so is a human rights violation.

*“... Ensure women’s perspectives are obtained and their interests are factored into all aspects of planning and implementation.”*

Need also to specify the aged, the poor and other vulnerable groups such as those with disabilities and minorities.

*“Undertake good-faith efforts to secure negotiated settlements with affected communities and individuals.”*

“Good-faith” is among the lowest of legal standards, a subjective standard that can be met with minimal efforts. It paves a path for abuse. Define “good-faith efforts” as far as they pertain to “negotiated settlements”. See comment for Benchmark Standard 13 above.

*15. "Develop plans to improve and restore livelihoods."*

*“Where displacement cannot be avoided, develop action plans designed to improve or at least restore the standards of living and livelihoods of affected persons and communities and*

*to improve the living conditions of displaced poor and persons belonging to marginalised and disadvantaged groups, in real terms to pre-displacement levels.”*

Remove “restore”. Include improvement of lives and livelihoods, recognizing that a forced displacement is not simply an economic action, but has psycho-social-and cultural impacts.

*“... Ensure fair and just compensation at full replacement cost.”*

Add “at full replacement cost based on the cost at the resettlement site”. Resettlement sites should provide living conditions that are an improvement on pre-displacement living conditions and not simply replace previous levels of impoverishment.

Pages 42-43:

*“Compensation and support shall aim to restore pre-displacement productive capacity and earning potential of displaced persons.”*

Define “and support” – compensation has been demonstrated around the world to fall short of restoring pre-displacement productive capacity and earning potential of displaced persons and so it is the additional support that is necessary to fill the shortfall. As stated earlier, to ensure that people are not impoverished through their displacement and resettlement a commitment to improving upon pre-displacement levels of livelihoods and living standards in real terms is essential. The draft Model appears to be unaware of the extensive work on the shortcomings of the compensation and social justice issue. INDR stands willing to assist in overcoming this serious failure.

*“Provide transitional support ...”*

This should be both financial as well as in kind. The Chinese experience is that the financial supports need to be in place for at least 20 years.

*“Provide to displaced individuals and communities secure access to necessary services, shelter, food, water, energy and sanitation ...”*

Services, shelter, food, water, energy and sanitation should be secure as well as an improvement on pre-resettlement conditions.

*16. “Physical displacement. Provide relocation assistance and a choice of replacement property with secure tenure of equal or higher value with equivalent or better characteristics for affected persons or communities with formal land rights or recognizable claims.”*

Remove “equal to” or “equivalent or” as it undermines the commitment of the standard to the improvement of living conditions after displacement. Equivalent is not improvement. This same commitment should be extended to those without formal tenure.

*“Resettlement sites provide ... where relevant agricultural sites of equivalent productive potential.”*

It must absolutely be stated here that land-based resettlement will be the foundational principle for the resettlement of land-based, primary producers, provided that it does not contradict the desires of those being displaced.

By stating that the agricultural sites in the resettlement location only need to be of equivalent productive value undermines the commitment to improve the livelihoods of the displaced (Benchmark 15, p.41), particularly the livelihoods of the rural poor. The agricultural land provided should be superior to the agricultural land lost and if not then there should be investment in improving its productivity, e.g., terracing, green manuring, irrigation). Commitments to improving livelihoods or even restoring them cannot be met if there is no investment in the fertility of land. The transition costs include extensive disruption of lives and livelihood income streams. Actions to compensate or correct these project-induced losses should never be considered “improvement” and the Model should so state.

*17. Economic displacement. “Provide replacement property ... of equal value.”*

The replacement value should be based on the cost of replacement in the resettlement site otherwise it cannot be replaced.

*“Where displaced livelihoods are natural resource based, offer replacement land and access to alternative resources with a combination of productive potential, locational advantage, and other factors with at least equivalent livelihood-earning potential and accessibility, wherever feasible. Provide alternative income earning opportunities if it is demonstrably not possible to provide replacement land and resources.”*

Once again, this standard undermines any plans for livelihood improvement or at least restoration. Livelihood plans should include a combination of land based and alternative income earning opportunities as part of a commitment to treating the resettlement as a “sustainable development program” (Objective 4, bullet point 3). Sustainable development also requires a commitment to improved livelihood potential and better accessibility than was available before displacement.

*“... establish a participatory process to determining appropriate restrictions and mitigation measures to improve or at least restore affected livelihoods while maintaining the sustainability of the park or protected area.”*

Replace “participatory” with “negotiated” and “collaborative”; Remove “or at least restore”.

*20. Monitoring and completion analysis. “Provide for independent monitoring by qualified experts of implementation of any action plans. Consult with directly-affected persons on implementation of plans. Prepare periodic monitoring reports and inform affected persons about monitoring results. Programming activities involving displacement shall not be considered complete until adverse impacts are addressed and plans are implemented. Utilizing experienced independent experts, undertake a completion analysis whether livelihoods and living standards of affected persons were improved or at least restored, and where necessary, propose corrective actions.”*

In the opening sections of Thematic Area 5 the Model Approach commits to treating resettlement as a “Sustainable Development” plan. If this is a serious commitment and not just jargon then monitoring and corrective action should be conducted for at least a decade, if not more, after completion to ensure that the resettlement is sustainable. It is common for livelihood plans to not be implemented by the time of “completion” and for the displaced to find the resettlement site unviable. To ensure “Sustainable Development” has been achieved, a long-term monitoring and evaluation plan is required – at least a decade.