

*Factsheet*

# National Slum Upgrading Project (NSUP) in Indonesia





**Please note: The World Bank – AIIB National Urban  
“Slum Upgrading” Project has not yet been  
implemented.**

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The administration of President Jokowi, in the National Mid Term Development Plan (Rencana Pembangunan Jangka Menengah Nasional - RPJMN) from 2015 to 2019, launched the “**Program 100-0-100**, i.e 100 per cent access to potable water, 0 slums, and 100 per cent access to sanitation, which will be completed in 2019. For urban target a Program of Kota Tanpa Kumuh/KOTAKU (My City, signifies the acronym of Cities Without Slums) has been prepared as a national platform funded by various sources, including the central and local governments, the private sector, the community, and multilateral funding agencies, as well. This Program will target 289 cities across Indonesia. According to the program document, the program goal is to achieve alleviation of urban slums to 0 Ha through real actions of prevention and improvement of the quality of slum area by 38,431 Ha.

Asian Infrastructure Investment Bank (AIIB) and the World Bank has approved the Indonesia’s government loan of \$ 216.5 million from each agency, for the *National Slum Upgrading Project / NSUP* program which will target 153 cities and one province of Special Capital Region of Jakarta. Meanwhile, the remaining 136 cities are being sought financing from other multinational development banks. This co-financing scheme between BD and AIIB is the first cooperation, and will run as first project of AIIB in Indonesia, of which Indonesia is the eighth shareholder (from 10 highest shareholders) and expects to be the largest client in AIIB. Therefore, it becomes very important to pay attention to all aspects of this program, including the impact on the environment and society,<sup>1</sup>

For civil societies this program Kotaku potentially violates the basic rights of citizens, and causes the poorest people become poorer than before. The reason is based on the following condition:


## 1. Absence of Meaningful Consultations

In this NSUP project there is no meaningful consultation as required by BD or AIIB. The only way done to this NSUP project is in January 2016, on behalf of “stakeholder consultation”, a small meeting held at the office of the Ministry of Public Works and Housing (Kementerian Pekerjaan Umum dan Perumahan Rakyat - PUPR) and attended by 26 participants. Topics of discussion included “*how to deal with the squatter issue and customary lands*”


From the minutes of this meeting, we can conclude that this meeting as fake consultancy, based on the following facts:

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1) ESMF, Annex 3: Results of Stakeholders Consultation, SFG177REV, February 2016

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- a. The number of participants is not proportional, between the State (represented by government agencies) and representatives of civil society. Whereas, consultations shall be made for people, not for inter-departmental at the government;
  - b. Representatives of civil society were not recorded expressly in the public document. There was only one NGO referred to in the documentation and this NGO served in religious organization specifically focused on charity issues, and not an organization recognizing issues on environmental and social impacts and safeguard mechanisms of AIIB and the World Bank;
  - c. The time provided only two sessions in one day in three hours consisting of the first session for the presentation and question and answer at the second session. While the document to discuss totaling 200 pages. Of course, in a short time the meaningful consultation outcome will not be obtained;
  - d. The wide scope of the project that covers 153 cities and one province with approximately 29 million WTPs. The project document identified 20 cities selected as the project site to implement in the first year. There is no documentation about consultations in these 20 cities and impossible represented by once meeting with 26 participants in Jakarta;
  - e. World Bank representatives who attended the meeting as an observer, at the end of a workshop held a closed meeting that essentially agreed on the revised ESMF based on the results of the workshop, although, in fact it was clear that no public feedbacks provided as a result of the meaningful consultation. This is a violation of BD and AIIB conditions.
2. **Violation of AIIB & BD Gender Conditions - Gender Perspective Mainstreaming Is Not Implemented.** According to the document, the project objectives are described to improve basic services infrastructure (water supply, drainage, roads, public latrine, etc.) that will provide benefits for women in performing their domestic works. However, this project is merely making women as beneficiaries, and their participation is limited only to fulfill the quota in number of women facilitators, or women attendance, whereas for women control and participation in the project is not reflected. Likewise, the analysis using “gender-disaggregated data,” which is a condition of AIIB and essential to meet the World Bank’s Gender Strategy is not also reflected. Suppose that in the data collection process to Project-Affected People (Warga Terdampak Proyek - WTP), the calculation is based on a household approach, which could mean the head of the family is a woman or a man. Contrarily, in the culture of patriarchy in Indonesia, the head of the family is more signified by a man (a father, or an oldest son). Whereas women’s economy in urban sector is often highly dependent on business in the residence which is also the economic center of informal sale or production (such as herbs, selling fish, cook food, etc.). Thus, from this project outcome, those will have access and decision-making are men.

It also has impact if there is compensation provided in the form of a house somewhere else, not necessarily assessing the ability of new housing to support the economic activities of women (*home-based business*); if the compensation was given in the form of money, it is likely the fund will be provided only to men and not to women that may have serious consequences for the economy and the fortune of women.. It may also violate the AIIB



and BD conditions that everyone - women and men - that are affected to the project need to be warranted that there will be no decline in income / quality of life and “standard of living” of the poor. AIIB and BD recognize the level of vulnerability for women in this case, so the gender-disaggregated data are required to use in calculating all the economic aspects of women, including in the informal sector and the right to land and housing, which will be affected to the project, before the project is commenced.

3. **Potential Corruption Project.** This Program Kotaku is a continuation of the Urban PNPM program. In the Evaluation of PNPM Mandiri, the Supreme Audit Agency (BPKP) found 3,570 cases of financial abuse from 2007 to 2012, amounting to Rp. 63,555,297,801, but the legal prosecution done throughout 2005-2013 was recorded only 128 cases. From these data, the number of cases<sup>2</sup> completed legally, is only a little compared to the reporting. Although the GOI ensures that the project is designed to ensure anti-corruption policies, but the World Bank and AIIB should encourage legal settlements, and prevent corruption from the beginning, given the corruption perpetrators of which can be committed by the facilitator.
4. **Potential Displacement (Eviction) In the Project.** Although the World Bank and AIIB lending safeguard and the project documents require a minimum as possible of committing eviction, but, it is recognized in the project document that this infrastructure development requires the availability of land. This means the project will need land acquisition, especially for the development connecting existing secondary and primary infrastructures, but as far as possible will avoid or minimize forced evictions. However, the “forced” definition of is not described as a plan that the community will be excluded from the land and their house will be discharged on a “voluntary” approach through a land grant program (“Voluntary Land Donation” / VLD)<sup>3</sup>.

Even on page 135 (Annex 17) regarding “Environmental and Social Management Framework”<sup>4</sup>, the form is attached to “*Voluntary Land Donation*”, which therein:

1. Not at all informing the public that the project is funded by the World Bank and AIIB and therefore, the public is entitled to participate in the process of resettlement planning, the right to seek “land for land”, the right to the increased level of economy or continues to maintain, including the right of access to mechanisms for accountability and complaints to and BD and AIIB;
2. Only recognizing the right of people holding “land certificate”, which is only secured by a small part of affected community, because in general, including farmers rarely have land certificates; whereas the terms AIIB and BD require “*displaced persons without title to land or any recognizable legal rights to land, are eligible for, and receive, resettlement assistance and compensation for loss of non-land assets... and that they are included in the resettlement consultation process.*”
3. VLD will be signed by the local authorities, including the Head of Sub-District,

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2) The Directorate of Sectoral Development Performance Evaluation of the Ministry of National Development Planning / National Development Planning Agency (Bappenas), Evaluation of PNPM Mandiri, 2013, page 54

3) World Bank, Environmental and Social Management Framework, February 2016, posted on the Bank website: <http://documents.worldbank.org/curated/en/689271468044640517/pdf/SFG1777-REVISED-EA-P154782-Box394869B-PUBLIC-Disclosed-3-4-2016.pdf>

4) *ibid*, Annex 17



the Head of Urban Village and the Land Deed Maker (PPAT), that the authorities are not only at the urban village, but in the sub-district.

4. There is a following statement in the form: *“This statement is duly made without any pressure from anyone.”*

The presence of VLD scheme, but in other part stating no land acquisition, and the land acquisition is possible makes this project contradictory.


Unfortunately, it seems no active monitoring process conducted by AIIB and BD that refers the land acquisition becomes the responsibility of the regional government. With legal-formalistic approach to land ownership conducted by the government will most likely lead to citizens who do not have proof of land title (certificate), will subject to loss of land title and will be poorer than before, a violation of the AIIB and BD conditions. Similarly, landowners securing lands with good faith (irrespective whether or not the disputed land or inappropriate designation), will lose the land and become poorer.

5. **Change in Risk Category from A to B** By the time the project was planned in 2015, the environmental and social impact of this project was classified as Category A, with potentially severe impacts on the environment and the community affected to the project. Therefore, there is a requirement to implement very comprehensive and detailed environmental and social analysis (*Environmental Impact Assessment*).<sup>5</sup> Suddenly, in 2016, and the project category was changed and reduced to category B where the impact is assessed much smaller than the impact of Category A and as a consequence requiring a simple and shorter analysis than a full EIA. Improvement in primary and secondary infrastructures and construction that will connect existing infrastructures with tertiary ones in uninhabitable areas considered to have non-significant/sensi-

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5) See for example, Project Information Document (Concept Stage) - Indonesia National Urban Slum Upgrading Program - P154782 (English) ,June 19, 2015.;Integrated Safeguards Data Sheet (Concept Stage) - Indonesia National Urban Slum Upgrading Program - P154782 (English) , November 18,2015;

6) AIIB: “12. Categorization. The Bank determines the Project’s category by the category of the Project’s component presenting the highest environmental or social risk, including direct, indirect, cumulative and induced impacts, as relevant, in the Project area.” Must assess “environmental and social risks and impacts of the activities” “to physical, biological, socioeconomic and cultural resources in the Project’s area of influence; these include impacts on air and water quality, including environmental health; natural resources, including land, water and ecosystems, livelihoods; vulnerable groups; gender; worker and community health and safety; and cultural resources;,” “Involuntary Resettlement that is likely to arise from such activities” “impacts on Indigenous Peoples,” “working conditions, community health and safety;,”**Project area of influence includes the area likely to be affected by the Project, including** all its ancillary aspects, such as power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow & disposal areas, & construction camps, as well as unplanned developments induced by the Project (e.g., spontaneous settlement, logging, or shifting agriculture along access roads). The area of influence may include, for example, (a) the watershed within which the Project is located; (b) any affected estuary and coastal zone; (c) off-site areas required for resettlement or compensatory tracts; (d) the airshed (e.g., where airborne pollution such as smoke or dust may enter or leave the area of influence; (e) migratory routes of humans, wildlife, or fish, particularly where they relate to public health, economic activities, or environmental conservation; and (f) areas used for livelihood activities (hunting, fishing, grazing, gathering, agriculture, etc.) or religious or ceremonial purposes of a customary nature.” See, also “Associated Facilities”. For more details, see “The World Bank and AIIB’s National “Slum Upgrading” Project: Safeguard Violations and Weak Country Systems Analysis” by ILRC, ELSAM, WALHI, WALHI SulSel, Ecological Justice, TuK Indonesia, INDIES, Ulu Foundation.



tive, non-permanent low level of impact or unprecedented until the medium level of impact. According to the terms of AIIB and BD safeguards the impact of all aspects of the project need to be analyzed and computed and included in the determination of Categories and the project is clear to form potential severe impact project, which is eligible for Category A.<sup>6</sup>


- 6. The Use of Country System Safeguard (CSS): Weak / unqualified analysis regarding “state system” in Indonesia.** AIIB stated that the project is subject to the safeguards of the World Bank. However, the project document refers to the Indonesian laws and regulations, which is weaker than the protection of social and environmental of AIB and BD safeguards and cause severe impact on the WTP and the general public. In addition, the so-called “gap analysis” presented in project document is poorly done and fails to include key Indonesian legislation and regulations, while citing old laws which are no longer in force and which have been long since replaced by newer legislation. Some brief examples are below and more details can be found in other analyses. In addition, given that this project is implemented under the World Bank Safeguards, including the Country Systems Safeguard, it is required to provide a detailed analysis of equivalence between World Bank Safeguards and Indonesian legal/regulatory system. Under the Bank’s Country System Safeguard, there is a clear and detailed checklist of requirements which must be part of this analysis (CSS Table 1A) and these requirements have not been met.

Indonesian EIA & Environmental Permit Requirements Substantially Weaker Than WB OP 4.01 and AIIB requirements. World Bank and AIIB safeguards require Environmental Impact Assessment which covers in detail all direct, indirect, cumulative and induced environmental and social impacts in a project’s area of influence; requires draft EIA available for public comment for approximately 120 days – (prior to appraisal) before the Board of the World Bank takes a decision whether to approve or reject a project.

However, under the EIA standard in Indonesia, further weakened by recent Presidential Regulations, project **implementation often begins prior to completion of an EIA**. Indonesia does not require a completed EIA for obtaining a business permit, location permit or land acquisition permit;. There is **no requirement for meaningful consultation in the EIA process**: Decision-making on an EIA occurs on an EIA Commission where the government chooses one person to join the Commission to “represent” the interests of all affected peoples. This one government-chosen “community representative” is allowed 30 days to comment on the Terms of Reference document for the EIA and 75 days to comment on the actual EIA document, but there is no requirement for direct input, consultation or involvement of the affected communities.

**Even worse is the decision-making on the Environmental Permit.** For projects with significant impacts, the public is only given **10 working days** to submit suggestions, opinions, and feedback. For projects with less than “significant” impacts, the public has **3 working days** to provide comment. This advice can only be delivered through through the “representatives” of the affected communities and / or community organizations that are members of the Audit Commission of the EIA. So there is no meaningful opportunity for robust public comment on an Environmental Permit.

**Land Grabbing:** A 2015 Presidential decree now makes it possible for private enter-



prises to carry out land expropriation for the “public good”, acting on behalf of the state. Objections by landowners to the seizing of their lands must be made to the Governor who has a maximum of **three working days** (recently reduced from 14 days) to consider the objections. Any objection not acted upon by the Governor within 3 days is considered rejected. This demonstrates the arbitrariness of the government’s approach to citizen concerns about their land rights. A period of three days (or 14 days) is completely inadequate to fully assess an objection to the seizure of lands by affected citizens.

**Rule of Law & Compensation.** If there are conflicts over land, a company may simply deposit a sum of so-called “compensation” in escrow with the District Court, even though the “compensation” is not necessarily agreed upon by the communities. Once these funds have been deposited with the Court, although no court decision has been made, the compensation is considered “paid”, and the company may move ahead, seize the land, evict the landowners, and initiate the project, despite the fact that the landowners have not necessarily agreed to the amount or type of compensation or received the compensation.


**Forests and biodiversity.** Presidential Decree No. 3 of 2016 concerning the Acceleration of the National Strategic Projects has initiated a new round of cuts to already weak environmental protections and will increase deforestation and environmental destruction by weakening the already weak Environmental Permitting and EIA process, vastly reducing the time for assessing plans to “borrow” or “use” forested areas, including those of importance to communities, and expanding the types of non-forestry activities allowed in forests.


7. **Potential conflicts and the strengthening of Xenophobia.** Eviction does not only lead to conflict between citizens and the state, but also horizontal conflicts among citizens. The politicization of religious issues, ethnic and racial by politicians, especially in local elections, pushing back the strengthening of xenophobia among people in urban areas. This example appears in the polemic foreign labor of Chinese origin and Chinese investment projects in Indonesia. If not managed properly, project NSUP indirect contact with the bottom of society will lead to hate speech based on race.

Based on those premises, we demand the following actions:

1. Given the flawed ESMF and violations of WB Safeguards, this project must be **completely reviewed by the World Bank and AIIB prior to implementation**. Substantial new environmental and social due diligence is required.
2. The World Bank must **correct all violations of WB Safeguards prior to implementation** of the project.
3. The AIIB has co-funded this project with an agreement that the project must comply with World Bank safeguards. The **AIIB must conduct its own due diligence** to ensure that current violations of WB Safeguards are corrected and the project comes into compliance with WB Safeguard requirements and fulfills the requirements of the AIIB’s ESF.
4. The Environmental and Social impact assessment (including ESMF) needs to be



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- re-written** (including assessments of/proposals for avoiding environmental and social impacts, including impacts on Indigenous Peoples, women and vulnerable populations).
5. **These corrected impact assessments and other relevant documents must be subject to meaningful public consultation, including to prevent the strengthening of xenophobia, including in each of the 20 cities planned for the first year of implementation,** prior to any decision to implement this project.
  6. If implementation occurs, it must be ensured that the affected communities participate and determine the process of the “improvement” of their areas, instead of continuing the pattern of fake consultations that are in violation of World Bank Safeguards and AIIB requirements. This project must use **World Bank Safeguards, including Country System Safeguards,** and not the Bank’s new ESF. Project planning began in June 2015 and was approved July 2016, under World Bank Safeguards. The project was meant to commence in September 2016.
  7. Given the apparent reliance on Indonesia’s “country system” for this project, the World Bank must make **public for comment a detailed Country Systems Safeguard assessment demonstrating the equivalence** or lack thereof between Indonesian “national systems” and World Bank Safeguard requirements (in accordance with WB OP 4.00).
  8. Given the potentially significant impacts on local communities and the environment, this project must be returned to its original **Category A** status.
  9. **A complete re-evaluation of the concept of “Voluntary Land Donation”** is required in the context of routine abuses by armed forces, including the military (TNI), police, satpol or armed thugs in areas designated as “slums” in Indonesia. In this context, the concept of “voluntary land donation” in an atmosphere “**free of intimidation or coercion**”, as required by both AIIB and WB, is not possible.
  10. Bank Dunia dan AIIB should **be responsible for monitoring the land acquisition** carried out by the Local Government.
  11. BD and AIIB should be **responsible for the monitoring** that Indonesia observes in whole the provisions of social and environmental protection of BD and AIIB.
  12. **Gender-differentiated baseline census of all women likely to be impacted by the project, gender-disaggregated analyses and a gender-sensitive approach** to ensuring full participation and recognition of rights, including land rights, of women must be used. Otherwise, this project is likely to lead to substantial impoverishment of women in over 150 cities.
  13. We note that, already, as of November 2016, civil society organizations which have voiced concerns about the NSUP project and World Bank and AIIB involvement have begun to experience **terror and intimidation** in Indonesia, including direct threats of personal harm. The World Bank and AIIB must send a clear public message to the public and to the Government of Indonesia that threats and intimidation against those raising concerns about the project must **cease immediately and not occur again** or the entire project will be called into question. Silence on this matter is unacceptable and implies complicity.

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14. Due diligence risk assessment is needed to assess **Security Force Risk**, specifically the risk of violence from armed parties including military (TNI), police, local police (Satpol PP) and armed thugs (preman) linked to the project. This is an **AIIB requirement**.
  15. There must be an explicit legally-binding ban on the use of armed security forces and threats and violence against communities with a **legally binding clause that any such threats made or use of violence against communities** or civil society organizations will result in the cancellation of the project. This is particularly important given the threats made against civil society to date in connection with this project. Full information must be provided to all project-affected people regarding the origin of the funds (WB/AIIB) as well as information regarding right of refusal to engage in “voluntary” land donation as specified in the project documents, and the right of access to WB or AIIB accountability mechanisms.
  16. **Corruption:** The World Bank and AIIB should encourage legal settlement against any misuse of the project budget. Jakarta, February 2017

### **Civil Society Coalition for Monitoring Indonesia’s Infrastructure Development**

