

## How can public development banks improve human rights due diligence?

Each year, public development banks—international, multilateral and national—allocate financing to hundreds of projects and business activities around the world as part of development cooperation in support of the United Nations Sustainable Development Goals (SDGs). At the 2022 Finance in Common Summit, public development banks came together to issue the Statement on Human Rights and Human Rights-Based Approach in which they recognised their ‘special role and responsibility in raising the stakes of the human rights-based approach to development’.

The human rights-based approach (HRBA) adopted by the UN integrates the commitment to respect human rights and prevent infringements of people’s rights with the advancement and realisation of these rights through development programmes. In the context of development banks, adopting this approach means gearing operations to support public and private initiatives that align with SDGs while ensuring that human rights are not violated in the process.

Unfortunately, all too often, human rights have been abused in projects financed by development banks, despite environmental and social safeguards being in place. This is why organisations like CEE Bankwatch Network and the International Federation for Human Rights (FIDH) actively engage in policy dialogue with public development banks to strengthen their safeguard systems so that human rights are protected. We believe that when the policies, standards and procedures of these banks better align with international human rights standards, such as the United Nations Guiding Principles (UNGP) on Business and Human Rights, greater consideration will be given to potential human rights risks and impacts and the prevention of human rights abuses.

Existing environmental and social safeguards are based on human rights and aim to protect them. However, development projects do not take place in a vacuum, but in a variety of social, economic, environmental, cultural, institutional and political contexts that can either enhance the application of these standards or forcibly undermine them.

Thus, a wider consideration of human rights risks and the potential impacts of not aligning with social and environmental standards must be a fundamental aspect of the decision-making process from the very outset. In line with their commitment to respect human rights, public development banks should incorporate the relevant parameters and components of human rights due diligence into their appraisal, decision-making, monitoring and accountability systems. The people and communities in whose interests these development projects are undertaken must be allowed to participate, their voices must be heard and their concerns must be addressed.

Following the introduction of mandatory human rights, social and environmental due diligence laws at national and international levels, public development banks have updated, or intend to update, their own standards to better reflect the ‘do no harm’ dimension of the HRBA.

In relation to environmental and social project due diligence, the French Development Agency (AFD), the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD) and the International Finance Corporation (IFC) have all adopted some good practices that incorporate the parameters and components of the human rights due diligence process as defined in the UNGP on Business and Human Rights. For example, the AFD has developed Sustainable Development Analysis (SDA) grids covering six dimensions of sustainable development, including human rights. This mechanism will be used to assess the potential positive and negative impacts of projects and their contribution to achieving the Sustainable Development Goals. As such, the AFD's SDA is a unique attempt to fully operationalise the human rights-based approach.

The AFD, EIB, EBRD and IFC carry out contextual assessments at the early due diligence phase to identify issues that may affect the feasibility and sustainability of projects, including the ability to uphold human rights. To gain a broader understanding of these issues, development banks typically seek information not just from their own clients, but also from in-house specialists as well as external experts who have specific knowledge of country contexts and human rights issues. A number of development banks have developed very useful issue-specific assessment tools, such as the Approach to Fragility and Conflict (EIB), gender strategies (EIB, EBRD), the Internal Contextual Risk Screening (IFC) and the Global Map of Environmental and Social Risk in Agro-Commodity Production (IFC).

However, these assessments are problematic in many respects. Not only is there often a lack of transparency, but the arbitrary manner in which the likelihood and severity of human rights risks and impacts are determined, and risk categorisation applied to projects, undermines the legitimacy of the considerations. In practice, project categorisation tends to rely heavily on indicative lists of projects assigned to pre-defined risk categories. Traditionally, these lists are mostly geared toward addressing environmental risks. As a result, it is unclear how the results of these contextual assessments factor in the influence of human rights on project risk categorisation. Crucially, specific requirements for project promoters in relation to social and human rights assessment, mitigation measures and reporting are not clearly defined.

Concerningly, development banks' safeguard policies do not explicitly require their clients to conduct human rights due diligence. Nor do they expect human rights impact assessments, even in cases where the banks' internal tools indicate high human rights risks or the potential for considerable negative impacts on people and where the transparent and participatory development of preventive measures is merited.

Finally, although several development banks do engage with the rights holders who are likely to be impacted by projects during the appraisal process, this approach is more the exception than the rule. Meaningful engagement calls for a two-way exchange, where the development bank not only communicates its assessment and explains the rationale behind its decision, but also addresses the questions and concerns of the rights holders. Regrettably, this is undermined by inadequate project categorisation, which restricts transparency and public consultation. In the case of the EIB and the AFD, the due diligence process is even kept confidential until the final decision is made.

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