



COALITION FOR
HUMAN RIGHTS IN
DEVELOPMENT

MISPLACED TRUST

*Why development banks should not
rely on their clients to address reprisal risks*



MISPLACED TRUST Why development banks should not rely on their clients to address reprisal risks.

Coalition for Human Rights in Development, July 2023

This report was written by Dalile Antúnez, Collaborative Researcher at the Coalition for Human Rights in Development. We additionally acknowledge the valuable insights of Maia Seeger (Executive Director, Sustentarse), Nina Lesikhina (Policy Officer, CEE Bankwatch Network), Hannah Storey (Policy Advisor on Business and Human Rights, Amnesty International), Christian Donaldson (Senior Policy Advisor, Oxfam International), and the various participants of the Defenders in Development campaign. The views expressed herein, and any errors or omissions, are solely the authors’.

“Misplaced Trust” is based on the analysis of 38 case studies included in three other reports previously published by the Coalition for Human Rights in Development. We acknowledge all the organizations and human rights defenders who contributed to these case studies.

This report is an initiative of the Defenders in Development Campaign, which engages in capacity building and collective action to ensure that communities and marginalized groups have the information, resources, protection and power to shape, participate in, or oppose development activities, and to hold development financiers, governments and companies accountable.

More information:
rightsindevelopment.org/misplaced-trust
contact@rightsindevelopment.org

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ACRONYMS

AfDB	African Development Bank
ADB	Asian Development Bank
CSO	civil society organization
DFI	Development Finance Institution
EBRD	European Bank for Reconstruction and Development
EIB	European Investment Bank
ESCP	Environmental and Social Commitment Plan
ESF	Environmental and Social Framework
ESIA	Environmental and Social Impact Assessment
ESP	Environmental and Social Policy
ESS	Environmental and Social Standards
FPIC	free, prior and informed consent
HRD	human rights defender
HRDD	human rights due diligence
IDB	Inter-American Development Bank
IFC	International Finance Corporation
ISS	Integrated Safeguards System
MICI	IDB's Independent Consultation and Investigation Mechanism
NGO	non-governmental organization
PR	Performance Requirement
UN	United Nations
UNGP	UN Guiding Principles on Business and Human Rights

GLOSSARY

Client

In this report, with the term “client” we refer to the public or private entities directly receiving any type of financial support (grants, loans, equity, etc) from development banks. Clients can therefore include governments, state agencies, private corporations, or consortiums made up of a mix of public and private actors.

Development finance institutions

Development Finance Institutions (DFIs) are national or international institutions that provide loans, grants and other types of financial or technical support for projects, activities and policies around the world. National DFIs receive money from the States that own them, while multilateral institutions often receive a contribution from each of their member countries, as well as additional funds from wealthier countries. Much of these funds come from public, taxpayer money, but DFIs may also raise money in other ways, such as charging interest on their loans. DFIs are owned and governed by governments, and they generally have public interest missions, such as poverty alleviation and sustainable development. In this report, we will also interchangeably use the generic word ‘banks’ or ‘development banks’.

Human rights defenders

According to the Declaration on Human Rights Defenders, adopted by the United Nations (UN) General Assembly in 1998, human rights defenders (HRDs) are “individuals or groups who act to promote, protect or strive for the protection and realization of human rights and fundamental freedoms through peaceful means.” See: www.ohchr.org/en/issues/srhrdefenders/pages/declaration.aspx.

Human rights due diligence

Human rights due diligence (HRDD) describes an ongoing process necessary to identify, mitigate, and address adverse human rights risks and impacts. For DFIs, HRDD

should be considered as an ongoing process necessary to ensure that they respect, protect, and work toward the fulfillment of human rights. This involves identifying human rights risks and impacts directly or indirectly connected with the DFI’s activities; preventing human rights abuses; mitigating adverse human rights impacts, and maximizing positive human rights impacts where possible; accounting for how human rights are impacted and impacts are addressed, and remedying any adverse impacts.¹

Retaliation/reprisal

In this report, the terms ‘retaliation’ and ‘reprisal’ will be used interchangeably to indicate any type of intimidation or attack against human rights defenders and community members who are targeted for expressing their opinion, sharing information, raising concerns, criticizing or opposing a development project. Retaliation can include different types of targeted attacks, such as: defamation or stigmatization campaigns, harassment, intimidation, threats, arrests, detention, criminalization, travel or work bans, extortion, unfair administrative measures, gender-based violence, attacks on livelihoods, attacks on properties, physical attacks, maltreatment, torture, kidnapping, enforced disappearance, and killings.

Retaliation risk assessment

Retaliation risk assessment is part of HRDD. It is an ongoing process necessary to identify and mitigate risks of reprisals in or related to a project or a bank activity, or that might impact the outcome of that project or bank activity. Reprisal risk assessment should take into account information related to the project, project implementers, the general context, and the civic space situation in the country. It should include specific risk factors for vulnerable groups. The elaboration of such assessment should be carried out in reprisal-sensitive consultations with civil society organizations and HRDs, especially those who have experienced reprisals and their allies.

¹ For further information about human rights due diligence, please see the annex B in the report “Wearing Blinders: how development banks are ignoring reprisal risks” [hereinafter *Wearing Blinders*], Coalition for Human Rights in Development, June 2022, <https://rightsindvelopment.org/wearing-binders>; and “Guiding Principles

on Business and Human Rights: guidance on ensuring respect for human rights defenders”, A/HRC/47/39/Add.2, UN Working Group on Business and Human Rights, 2021 (pp 36-39), https://www.ohchr.org/sites/default/files/2022-02/Formatted-version-of-the-guidance-EN_0.pdf

EXECUTIVE SUMMARY

*Members of the community living near the
Toro Semliki Wildlife Reserve, Uganda.
Credit: Twerwaneho Listeners Club.*

EXECUTIVE SUMMARY

Too often, human rights defenders (HRDs) and community members who express their views or speak out against projects funded by development banks face high risks of reprisals, ranging from threats to killings. “Misplaced Trust,” which is based on the analysis of 38 case studies of reprisals in the context of development projects,² shows that in most cases development banks’ clients play a direct role in the perpetration of these attacks. Yet, development banks continue to entrust their clients with addressing reprisals, assessing the project risks and impacts, and conducting consultations.

The first part of this report shows how clients – in almost all the cases – are directly or indirectly responsible for the retaliation in the context of their projects. In some instances, they are directly behind the reprisals or coordinating the actions of the perpetrators. In others, they are instigating the attacks, intentionally dividing the community, and creating tensions.

Time is money, and clients benefit from hastening project development and minimizing scrutiny. In responding to these incentives, they typically fail to create opportunities for meaningful participation or to proactively prevent reprisals. They often avoid disclosing possible reprisal risks or opposition to their projects. In highly repressive

contexts, they can also take advantage of the silencing of dissent by state agencies.

In the second part, this report provides a review of the relevant aspects of the policies, declarations and guidelines published by eight major multilateral development banks, in relation to the prevention and response to retaliation, stakeholder engagement, and consultations with the communities affected by their projects.³ This section shows how development finance institutions (DFIs) are relying heavily on the clients for their due diligence, including crucial steps such as mapping stakeholders, conducting consultations, and addressing reprisal issues.

Finally, “Misplaced Trust” offers a series of recommendations that development banks should follow to ensure an independent analysis of retaliation risks in the context of their projects, as well as adequate prevention and response measures. Implementing zero tolerance for reprisals requires DFIs to stop delegating reprisal risk assessment and response to clients. Instead, DFIs should develop – in close consultations with human rights defenders and civil society organizations – protocols and guidelines for what they will do themselves on reprisal issues during the entire project cycle.

² The 38 case studies were included in three reports previously published by the Coalition for Human Rights in Development with its members and partners (see methodology section for further details).

³ Asian Development Bank (ADB), African Development Bank (AfDB), European

Bank for Reconstruction and Development (EBRD), European Investment Bank (EIB), Inter-American Development Bank (IDB), IDB Invest, International Finance Corporation (IFC), and World Bank.

INTRODUCTION



INTRODUCTION

As many CSOs have documented, community members and defenders expressing concerns, voicing their opinion, or sharing information about activities supported by development banks are often threatened, criminalized, attacked, and even murdered.⁴ Reprisals send a chilling message to the wider community, curtail the opportunities for participation and engagement – which are mandatory according to most bank policies⁵ – and end up jeopardizing the success of the project itself.

REPRISALS SEND A CHILLING MESSAGE TO THE WIDER COMMUNITY, CURTAIL THE OPPORTUNITIES FOR PARTICIPATION AND ENGAGEMENT WHICH ARE MANDATORY ACCORDING TO MOST BANK POLICIES AND END UP JEOPARDIZING THE SUCCESS OF THE PROJECT ITSELF.

The need to prevent and address reprisals is clear, and it should be an essential component of human rights due diligence (HRDD). Ongoing advocacy efforts and campaigns – led by HRDs and civil society organizations (CSOs) around the world – have led to some development banks recognizing, in their safeguards policies or ad-hoc statements, the importance of addressing reprisals in the context of the projects they fund.⁶

⁴ See for example: “Uncalculated Risks: Threats and attacks against human rights defenders and the role of development banks” (hereinafter *Uncalculated Risks*), Coalition for Human Rights in Development, May 2019, <https://rightsindevelopment.org/uncalculatedrisks>; “Unhealthy Silence: Development banks’ inaction on retaliation during COVID-19” (hereinafter *Unhealthy Silence*), Coalition for Human Rights in Development, ARTICLE 19 and IFEX, July 2021, https://rightsindevelopment.org/wp-content/uploads/2021/07/Unhealthy-silence_full-report.pdf; “In the line of fire: Increased legal protection needed as attacks against business & human rights defenders mount in 2020”, Business and Human Rights Resource Centre (BHRR), February 2021, <https://www.business-humanrights.org/en/from-us/media-centre/attacks-and-risk-to-business-and-human-rights-defenders-worsened-in-2020>; “Right to be Heard: Intimidation and Reprisals in World Bank Inspection Panel Complaints”, World Bank Inspection Panel, December 2021, https://inspectionpanel.org/sites/inspectionpanel.org/files/publications/Emerging-Lessons-Series-07-Intimidation-and-reprisals-in-IPN-Cases-Dec2021_0.pdf.

⁵ See for example: Environmental and Social Standard 10, World Bank, <https://thedocs.worldbank.org/en/doc/837721522762050108-0290022018/>

Yet, DFIs – even though they acknowledge this need – tend to make a fundamental mistake, which turns their commitments to ensuring participation and tackling reprisals into empty words. In the vast majority of cases, development banks place the primary responsibility to assess/mitigate reprisal risks and respond to reprisals on the clients, despite the fact that clients are often directly or indirectly responsible for perpetrating the attacks. Clients also have conflicts of interest⁷ that might prevent them from disclosing or addressing reprisal risks.

IN THE VAST MAJORITY OF CASES, DEVELOPMENT BANKS PLACE THE PRIMARY RESPONSIBILITY TO ASSESS REPRISAL RISKS AND RESPOND TO REPRISALS ON THE CLIENTS, DESPITE THE FACT THAT CLIENTS ARE OFTEN DIRECTLY OR INDIRECTLY RESPONSIBLE FOR PERPETRATING THE ATTACKS.

This report shows how development banks rely too heavily on the client for carrying out crucial steps related to HRDD, such as mapping the affected communities, conducting consultations, engaging with stakeholders, and assessing the project’s environmental and social risks. The lack of proper due diligence and meaningful

[original/ESFFramework.pdf#page=111&zoom=80](https://www.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/world-bank-commitments-against-reprisals); Environmental and Social Standard 10, IDB, <https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-110529158-160>; Performance Requirement 10, EBRD, <https://www.ebrd.com/environmental-and-social-policy.pdf>

⁶ World Bank Commitments against Reprisals, World Bank, March 2020, <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/world-bank-commitments-against-reprisals>; IFC Position Statement on Retaliation Against Civil Society and Project Stakeholders, IFC, October 2018, https://www.ifc.org/wps/wcm/connect/ade6a8c3-12a7-43c7-b34e-f73e5ad6a5c8/EN-IFC_Reprisals_Statement_201810.pdf?MOD=AJPERES; IDB Invest’s Environmental and Social Sustainability Policy (par. 20), December 2020, https://idbinvest.org/sites/default/files/2020-05/idb_invest_sustainability_policy_2020_EN.pdf?ga=2.17170041.1778103236.1607960731-55442420.1606248622

⁷ There is a conflict of interest when a person, company or institution has two or more contradictory interests in the development of a specific action. Conflicts of interest can be personal or institutional.



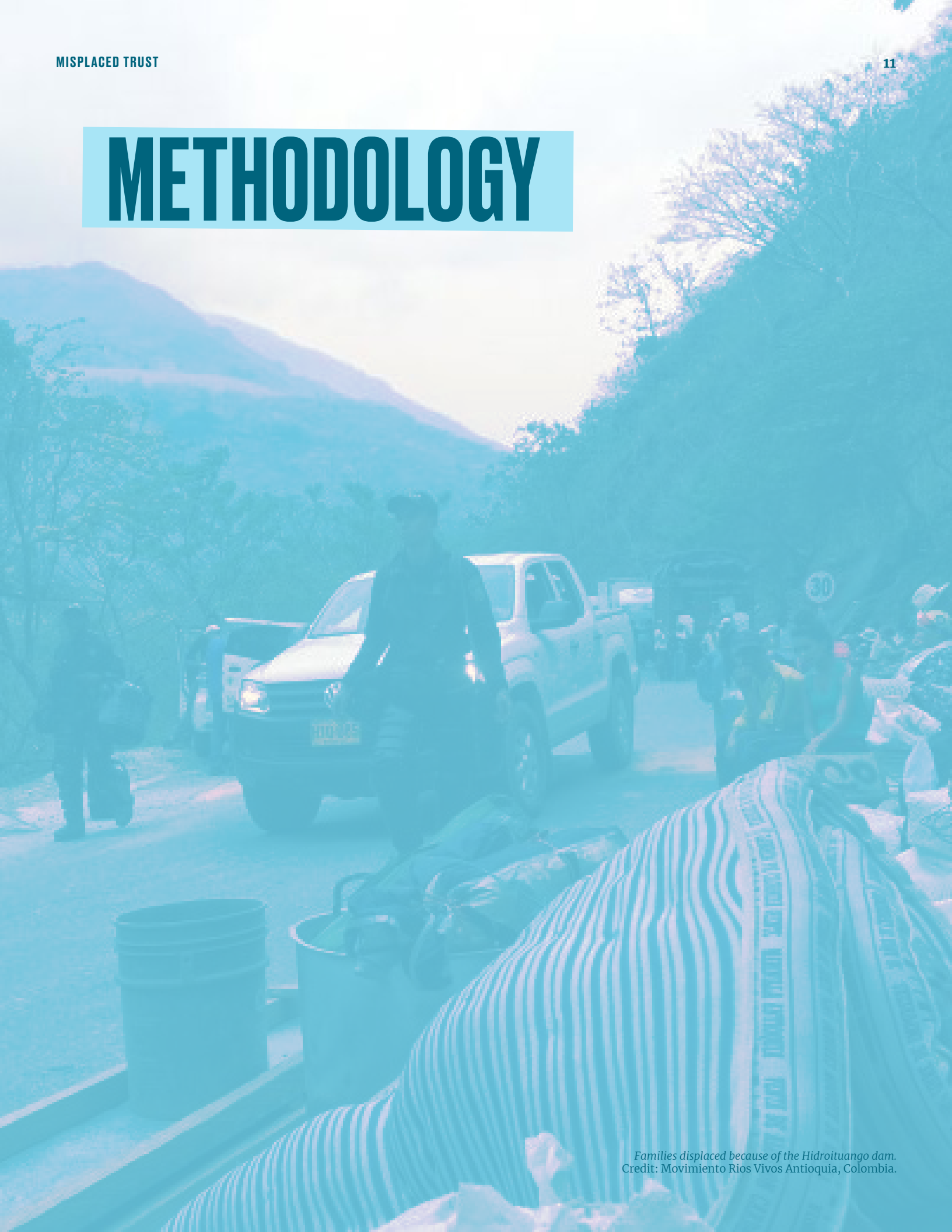
*People walking in Conakry (Guinea) during the pandemic.
Credit: Cellou Diallo.*

consultations is a key factor that can lead to the escalation of reprisals. Yet, too often development banks are merely supervising the reports provided by the clients, without accounting for the fact that clients might avoid disclosing information that could jeopardize the approval or continuity of their activities.

As outlined in the second part of this report, most DFIs — in their environmental and social policies — also have some provisions that allow for independent evaluations in specific contexts, which can be relevant for assessing and addressing retaliation risks. However, these policies are discretionary and optional, without clearly establishing how and under what conditions they must be applied.

As indicated in the recommendations, it is crucial for DFIs to assume direct responsibility for the assessment of reprisal risks and for preventing, addressing and remedying reprisals. DFIs should develop protocols and guidelines on reprisal issues that cover the entire project cycle and that should be prepared in close consultations with CSOs, in particular those specializing in human rights issues, as well as with defenders and groups that have directly experienced reprisals in the context of development projects. And most of all, DFIs should be directly responsible for implementing them, instead of relying solely or primarily on their clients for the assessment of reprisal risks, and for the prevention and response to reprisals.

METHODOLOGY



*Families displaced because of the Hidroituango dam.
Credit: Movimiento Rios Vivos Antioquia, Colombia.*

METHODOLOGY

The first part of “Misplaced Trust” consists of a review of 38 case studies, analyzing reprisals against HRDs who have opposed, criticized, expressed their opinion, or shared information about projects and activities funded by development banks. The case studies were documented by members and partners of the Coalition for Human Rights in Development in three reports: *Uncalculated Risks* (2019), *Unhealthy Silence* (2021), and *Wearing Blinders* (2022). They refer to reprisals that have affected one or more HRDs, linked to a project (or a set of linked projects) funded by one or more development banks. For each case study, we analyzed whether the client had direct or indirect responsibility for the reprisal. It is important to note that none of these cases were originally chosen for their respective reports with a lens to evaluate the client’s role. However, we chose this sample as they were cases for which we had existing information.

In total, the cases document reprisals in 27 countries⁸ and projects funded by 30 development banks.⁹ A table with a summary of the cases, as well as the reference to the reports with further info on each of them, can be found in the Annex A. For the specific sources of information analyzed for each case study, please refer to the methodology section in the relevant report.

For 30 out of the 38 cases analyzed, there was also information on the level of consultations and engagement with the affected communities. We used this information to assess whether the clients failed to conduct adequate consultations and ensure consent, as these failures can lead to high levels of social conflict and eventually contribute to reprisals.

CLIENTS’ RESPONSIBILITY

In this report, we differentiate between direct and indirect responsibility for reprisals. In 36 out of the 38 case studies analyzed, the responsibility for the reprisals can be directly attributed to the clients.

- We consider clients **directly responsible** when they – or any actor hired by them – have been involved in the reprisals by threatening, stigmatizing, slandering, denouncing, criminalizing, physically harming defenders, or generating internal divisions and instigating others to commit reprisals. We also consider the clients directly responsible when they have control or influence over the perpetrators;¹⁰ for example, when the client is a private company and the reprisals are perpetrated by security forces partially funded by them, or acting to protect their facilities/assets.
- We consider clients **indirectly responsible** when they create conditions that increase conflict and favor retaliations, such as failing to ensure consent,

bypassing meaningful consultations, or doing inadequate assessment of project risks and impacts.¹¹

In this analysis, the cases are classified according to whether the client is a country or a public institution, a private company, or a combination of actors from the private and public sectors.

When the client is a public entity – or a combination of the private and public sectors – and reprisals are perpetrated by public security forces, state agencies, or any public authority, then in this analysis we attribute direct responsibility to the client. This is also the case when the perpetrator belongs to a different state agency since we assume that if the loan or grant is assigned to a public entity, then there is a relationship of subordination, influence, control, or coordination between this entity and the other public actors responsible for the reprisals.

⁸ Armenia, Azerbaijan, Bangladesh, Brazil, Cambodia, China, Colombia, Egypt, Ethiopia, Guatemala, Guinea, Honduras, Jordan, Kazakhstan, Kenya, Mexico, Myanmar, Nepal, Nicaragua, Peru, Philippines, South Africa, Sudan, Turkmenistan, Uganda, Ukraine and Uzbekistan.

⁹ Asian Development Bank (ADB), Spanish Agency for International Development Cooperation (AECID), African Development Bank (AFDB), Asian Infrastructure Investment Bank (AIIB), Banco Nacional de Obras y Servicios Públicos (BANOBRA), Brazilian Development Bank (BNDES), Bank of China (BOC), Central American Bank for Economic Integration (CABEI), China Development Bank (CDB), Mexican Fondo de Fondos (CMIC), Development Bank of Germany (DEG), European Bank for Reconstruction and Development (EBRD), European Development Fund (EDF), European Investment Bank (EIB), Danish Export Credit Agency (EKF), EU-Africa Infrastructure Trust Fund (EU-AITF), Export Import Bank of China (China Ex-Im), Finnish Fund for Industrial Cooperation (Finnfund), Dutch Development Bank (FMO), Industrial and Commercial Bank of China (ICBC), Inter-American Development Bank

(IDB), Inter-American Development Bank Invest (IDB Invest), International Finance Corporation (IFC), German Development Bank (KfW), German Export Credit Bank (Kfw Ipex), Nacional Financiera (NAFINSA), New Development Bank (NDB), Overseas Private Investment Corporation (OPIC), Swiss Investment Fund for Emerging Markets (SIFEM) and the World Bank (WB).

¹⁰ This includes all cases where the client is aiding and abetting the parties who carry out the reprisals, or fails to prevent reprisals as a result of negligent behavior.

¹¹ According to the Business and Human Rights Resource Centre, “at least 104 cases of attacks against HRDs in 2021 stemmed from lack of meaningful consultation or FPIC or disagreements regarding social or environmental impact assessments.” See: “Human rights defenders & business in 2021: Protecting the rights of people driving a just transition”, BHRRC, 2021, <https://www.business-humanrights.org/en/from-us/briefings/hrds-2021/human-rights-defenders-business-in-2021-protecting-the-rights-of-people-driving-a-just-transition>

When retaliations are perpetrated by public security forces, private clients can also be considered responsible when the security officers are acting to protect their headquarters, buildings, facilities, and property, or they are receiving resources from them.

It is worth noting that clients should also be considered directly responsible when reprisals are conducted by their project-level grievance mechanisms, subsidiaries,

financial intermediaries' clients, consulting firms, or companies responsible for building associated facilities.¹²

Project-level grievance mechanisms, for instance, are often indicated by development banks as a possible avenue to deal with reprisals.¹³ However, this is highly problematic because they are set up and operated by the clients themselves, they have the same conflict of interests, and can be directly involved in the reprisals.¹⁴

DFIS' RESPONSIBILITY

Development banks are responsible for preventing and responding to reprisals under international human rights law, which establishes obligations on DFIs' shareholder States and the DFIs themselves.

It is incontrovertible that DFIs must – at the very least – meet the basic standards applicable to any business enterprises: to respect human rights by avoiding infringing on the human rights of others and addressing adverse human rights impacts that their activities might cause or contribute to.¹⁵ This basic responsibility applies to any financial institutions that – like any other enterprise – may be directly linked to human rights impacts through their investments.¹⁶

However, as State-owned entities, DFIs must also meet the higher standards and responsibilities applicable to States, which cannot “deploy international financial institutions to violate international law when they cannot do so in their capacity as individual States.”¹⁷ According to the UN Guiding Principles on Business and Human Rights (UNGP), States must take additional steps to protect against human rights abuses by DFIs they own or support, by requiring human rights due diligence.¹⁸

Human rights law – in addition to establishing general due diligence obligations of States with regard to the protection of the human rights of all persons – also establishes specific due diligence obligations with

regard to HRDs due to the nature of their work, their vulnerabilities, and the social impacts of threats or attacks against them.¹⁹ The UN Declaration on Human Rights Defenders states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human

IN THEIR POLICIES, MOST DFIS RECOGNIZE THE PRINCIPLE OF PARTICIPATION AND REQUIRE THE IMPLEMENTATION OF PLANS FOR INVOLVING AND ENGAGING DIFFERENT STAKEHOLDERS, A PRINCIPLE THAT CANNOT BE FULFILLED WHEN PEOPLE VOICING THEIR CONCERNS FACE REPRISALS.

rights and fundamental freedoms at the national and international levels”.²⁰

In their policies, most DFIs recognize the principle of participation and require the implementation of plans for involving and engaging different stakeholders, a principle that cannot be fulfilled when people voicing their concerns face reprisals. In addition, some development banks have established specific policies or statements where they commit to addressing retaliations

¹² Of all the cases documented, only one (Coal Projects in Bataan province) refers to projects that received DFI funding only through financial intermediary clients. All other cases involve some kind of direct financing by DFIs.

¹³ For example, “Commitments Against Reprisals”, World Bank, March 2020, <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/world-bank-commitments-against-reprisals>; “Retaliation Against Civil Society and Project Stakeholders”, EBRD, January 2019, <https://www.ebrd.com/documents/strategy-and-policy-coordination/ebrd-statement-on-retaliation.pdf>

¹⁴ See Mombasa-Mariakani Road Project (Kenya) case study in Uncalculated Risks.

¹⁵ UN Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework [hereinafter “UNGP”], United Nations, 2011, HR/PUB/11/04, principles 11, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

¹⁶ Letter of the UN Working Group on Business and Human Rights on the review of

the IFC and MIGA accountability review, March 2020, https://www.ohchr.org/sites/default/files/Documents/Issues/Business/WVG/20200304_WG_BHRLetter_IFC_AccountabilityReview.pdf

¹⁷ “Responsibility for complicity of international financial institutions in human rights violations in the context of retrogressive economic reforms”, Juan Pablo Bohoslavsky [former Independent Expert on Foreign Debt and Human Rights], July 2019, <https://www.undocs.org/A/74/178>

¹⁸ UNGP, principle 4.

¹⁹ Legal framework applicable to threats against human rights defenders: A review of the relevant jurisprudence in international law”, CEJIL, 2021, <https://cejil.org/wp-content/uploads/2021/10/Protocolo-Esperanza-FINAL-051021.pdf>

²⁰ “Declaration on human rights defenders”, UN General Assembly A/RES/53/144, December 1998, <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders>

against those who express critical opinions about their projects (see further details in the second part of this report).

In line with these obligations, DFIs are responsible for acting with due diligence in order to prevent and mitigate

reprisals in the context of their investments. They must also take actions to ensure no repetition and help provide access to remedy if reprisals do occur.



Monte Olivo Lives "No to the Santa Rita Dam".
Credit: Regeneración Radio Guatemala.

PART 1

ANALYSIS OF THE CASES OF REPRISALS

PART 1

ANALYSIS OF THE CASES OF REPRISALS

KEY FINDINGS

The cases of reprisals in the context of development projects analyzed in this chapter show that:

- 1 In all but two of the cases, clients – including state actors, private companies, and combinations of both – play a role in the perpetration of reprisals against defenders.
- 2 Reprisals where the responsibility can be attributed to the clients include threats, violent attacks, surveillance, harassment, smear campaigns, criminalization, destruction of property, strategic lawsuits against public participation (SLAPPs), dismissals from jobs, and killings.
- 3 Reprisals are typically perpetrated by public or private security forces, private companies' management and

other staff/contractors, and state and government officials supporting the projects.

- 4 Public security forces often play a role in perpetrating, contributing to or facilitating reprisals in the context of development projects.
- 5 In most cases, clients also contribute to the conditions that could have led to or exacerbated the likelihood of reprisals. For example, they often fail to disclose project risks and adverse impacts, and to provide safe spaces and channels for meaningful communication with communities to voice concerns, questions, or grievances throughout the project cycle; or they continue with the project without the clear consent of communities to proceed.

ANALYSIS OVERVIEW

This analysis focuses on two main aspects:

- the degree of responsibility of the clients in the perpetration of reprisals;
- the failings of the clients in adequately assessing social and environmental impacts, and conducting meaningful consultations, as these are key elements to assess and prevent reprisal risks.

In 36 out of the 38 cases, the client was directly responsible for at least some of the reprisals occurring in the context of their projects because they either perpetrated the attacks, instigated them, or collaborated with other actors (in most cases, state security forces) who committed them. Not all the reprisals documented in the case studies were carried out by the clients or directly connected to them, as some case studies also refer to anonymous perpetrators. However, in all cases, defenders themselves or members of their community indicate that the reprisals occurred as a result of the activism around the project, their opposition, or the fact they shared information or raised concerns about it.

There was no clear evidence of the client's direct responsibility only in two cases, although the available

information shows that the reprisals were linked to the defenders' opposition to the project.

In all cases, DFIs financing the projects delegated their responsibility under international human rights law to the clients, without adequate supervision or monitoring. By entrusting their clients to conduct key due diligence processes, development banks failed to adequately assess reprisal risks and prevent attacks, and instead ended up bankrolling violations and attacks against defenders.

BY ENTRUSTING THEIR CLIENTS TO CONDUCT KEY DUE DILIGENCE PROCESSES, DEVELOPMENT BANKS FAILED TO ADEQUATELY ASSESS REPRISAL RISKS AND PREVENT ATTACKS, AND INSTEAD ENDED UP BANKROLLING VIOLATIONS AND ATTACKS AGAINST DEFENDERS.



*Dumagat-Remontados Indigenous Peoples protesting against the Kaliwa Dam in the Philippines.
Credit: Stop Kaliwa dam coalition.*

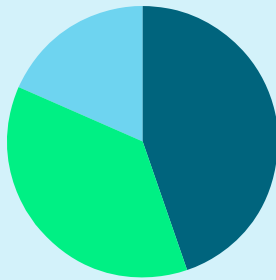
According to the reports analyzed, the two cases where hard evidence of the client's responsibility was missing were "Jirau Dam" (Brazil) and "Coal projects in Bataan" (Philippines). The defenders in both cases, however, were clearly killed as a result of their activism.

In the first case, HRD Nilce de Souza Magalhães was killed after bringing a complaint against the consortium operating the dam (ESBR). In March 2017, someone was sentenced to 15 years in prison for her murder. The investigation shifted the spotlight onto a personal conflict, but her community believes de Souza was targeted because of her activism. Other people who opposed the dam also received death threats. Moreover, the lack of due diligence in assessing the project impacts could have exacerbated social conflicts that eventually led to the reprisal.

In the second case, HRD Gloria Capitan - a community activist who had spoken out against coal projects in Bataan province - was shot dead by two unidentified men. According to the report "Uncalculated Risks", it remains unclear who ordered the attack and who was behind the anonymous threat. What is clear is that she was killed because she chose to speak out.

CASES OVERVIEW

CLIENT'S RESPONSIBILITY

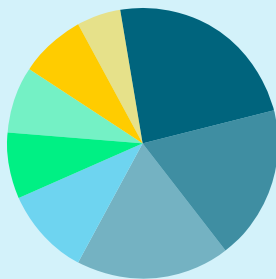


Total cases **38**

Cases where clients were directly responsible **36**

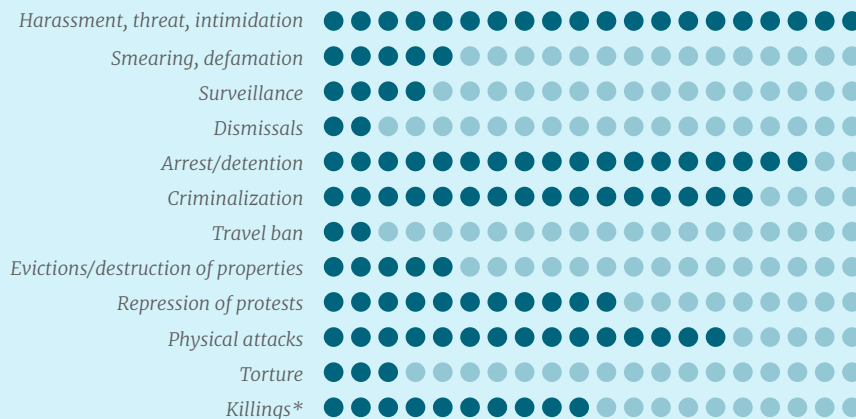
- Public clients 17
- Private clients 14
- Combination of public and private 7

SECTORS



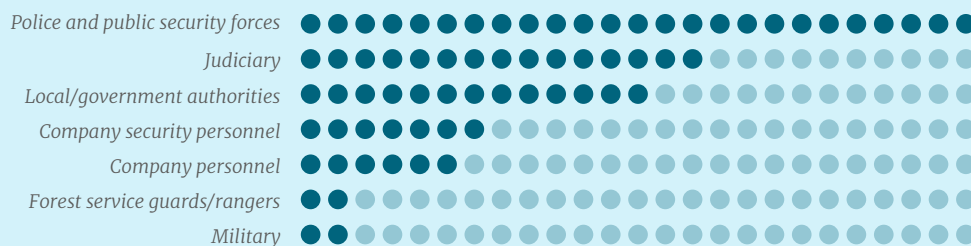
- COVID-19 response 9
- Hydro 7
- Energy 7
- Mining 4
- Agriculture 3
- Land & natural resources management 3
- Factories and infrastructures 3
- Financial services and budgetary support 2

TYPES OF REPRISALS²¹



* In total, in the 38 cases analyzed, clients were directly/indirectly responsible for the killing of at least 135 people.

PERPETRATORS



²¹ This data indicates in how many of the 38 cases this type of reprisals occurred, not the total number of attacks.

MAP OF CASES

Further information on each case, including reference to the reports where cases are analyzed, can be found in Annex A.

SYMBOLS FOR TYPE OF CLIENT

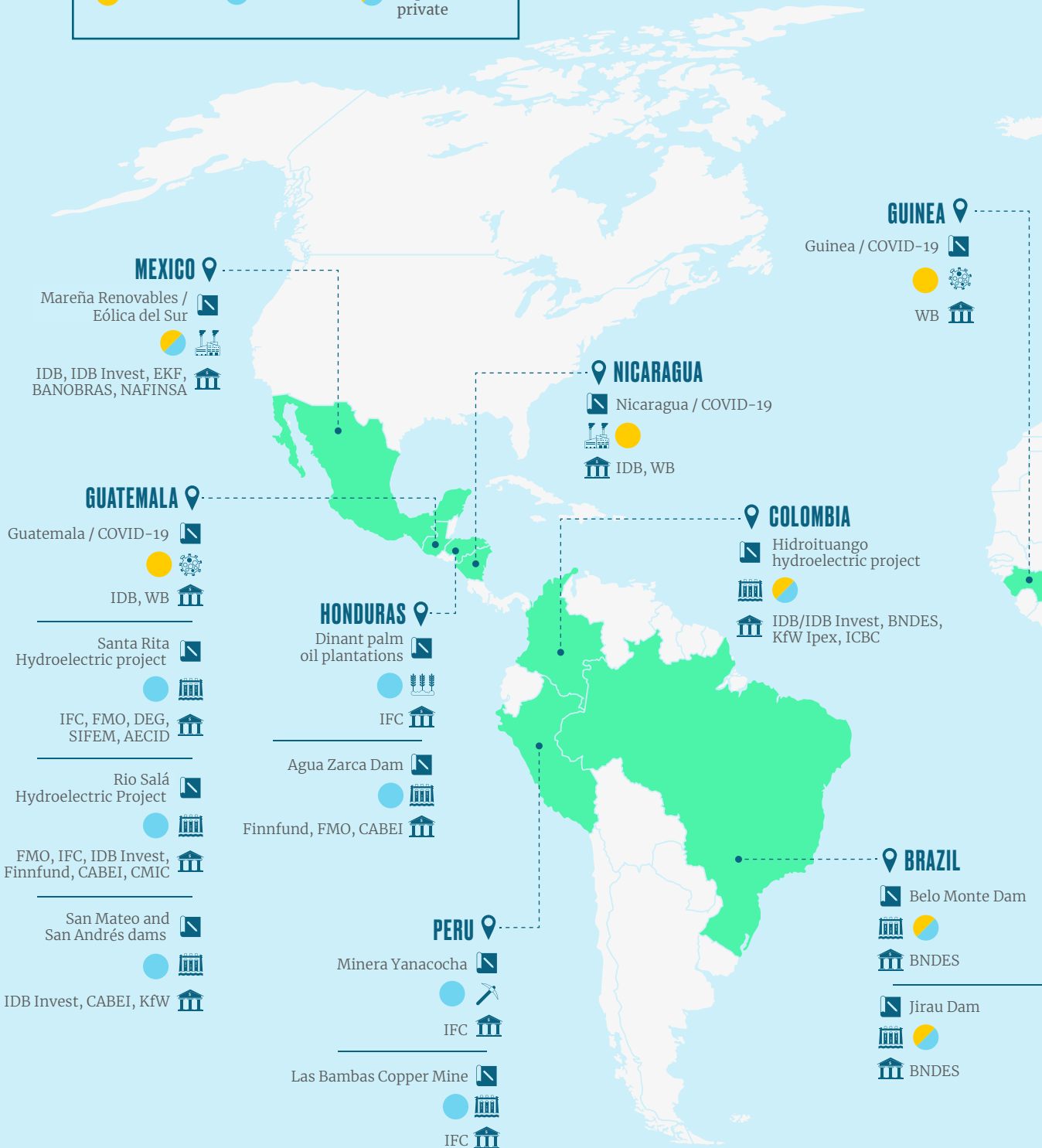
- Public
- Private
- Combination of public and private

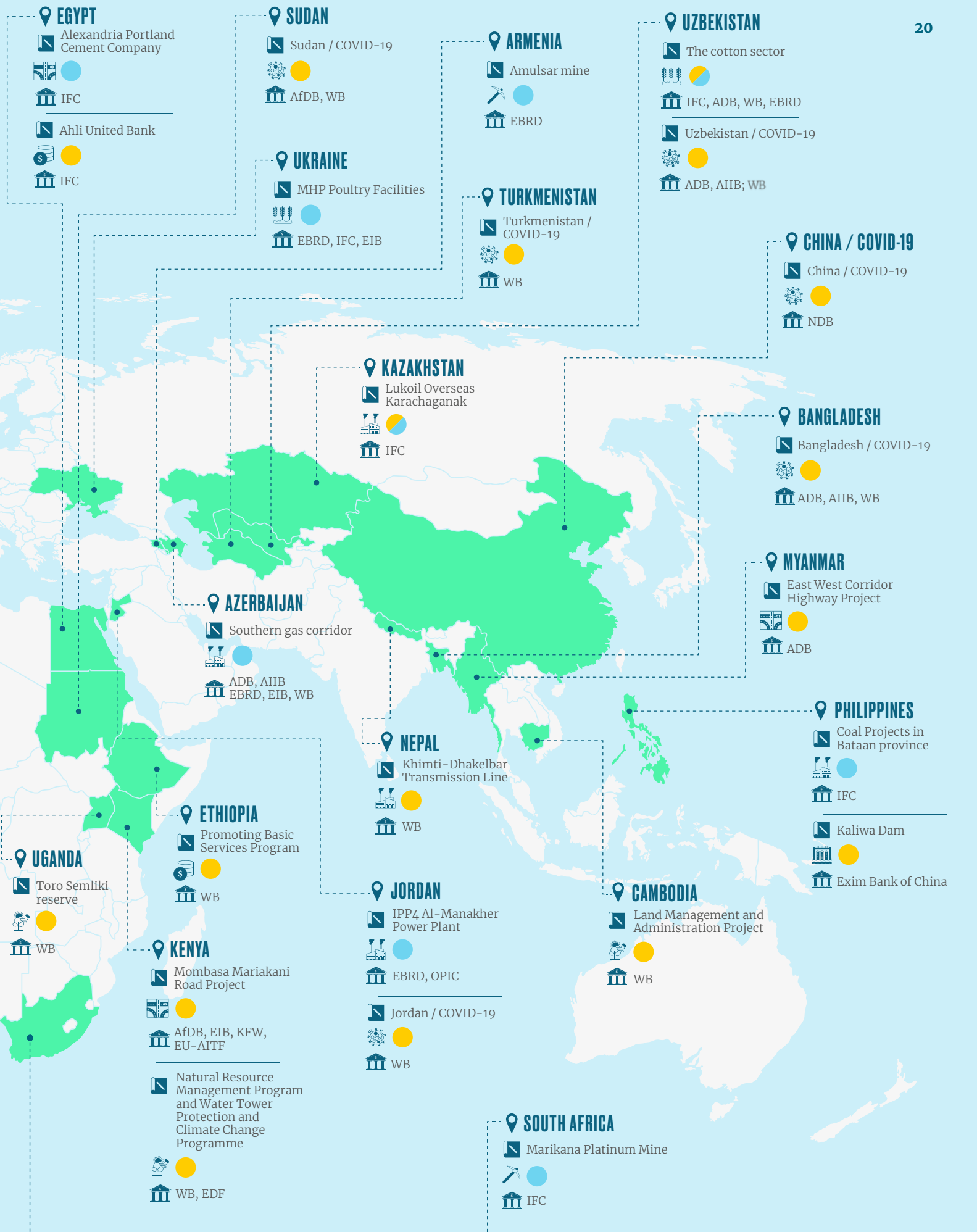
SYMBOLS FOR SECTORS

- Mining
- Agriculture
- Natural resources management
- Energy
- Infrastructure
- COVID-19 response
- Hydro-dam
- Financial support

OTHER SYMBOLS

- Country
- Project
- DFIs involved





REPRISALS IN THE CONTEXT OF PROJECTS IMPLEMENTED BY STATE ACTORS

NICARAGUA REPRISALS AGAINST DOCTORS ON THE FRONTLINE DURING COVID-19²²

In 2020, the World Bank and the Inter-American Development Bank (IDB) approved four projects to support the COVID-19 response in Nicaragua, for a total of US\$ 44.4 million and US\$ 20 million respectively. According to the available project documents, both banks failed to conduct meaningful due diligence and to ensure that people could freely speak out on aspects related to the project. They entrusted their client (Nicaragua) with carrying out all the assessments, failing to take into account that the government receiving their loan was

actively attacking those expressing dissenting views and criticizing the shortcomings of the COVID-19 response.

In May 2020, more than 700 medical professionals signed a statement criticizing the government's response to the pandemic. Many signatories to the statement were threatened, and several were dismissed from their jobs as a retaliation for speaking out against their government's inadequate response to the crisis.



*Vaccination campaign in Nicaragua.
Credit: Maynor Valenzuela.*

²² For further details on this case, see "Unhealthy Silence", pp 35 - 37.



Berta Caceres and the Rio Blanco community, Honduras.
Credit: Goldman Environmental Prize.

In 17 out of the 38 cases, the clients were state actors (including governments and state-owned companies). In all these cases, these state actors were allegedly responsible for the reprisals occurring in the context of their projects, or at least for some of them. In most of these cases, the perpetrators were police officers or other public security forces, acting to protect their government's interest in advancing the projects and to intimidate defenders criticizing or opposing the projects.²³

IN MOST OF THESE CASES, THE PERPETRATORS WERE POLICE OFFICERS OR OTHER PUBLIC SECURITY FORCES, ACTING TO PROTECT THEIR GOVERNMENT'S INTEREST IN ADVANCING THE PROJECTS AND TO INTIMIDATE DEFENDERS CRITICIZING OR OPPOSING THE PROJECTS.

The most common reprisals were threats, violent attacks, arbitrary detentions, and criminalization, often during protests against projects or policies.²⁴ Criminalization often involved the use of spurious charges, legislation

restricting the right to freedom of expression, and lengthy prison sentences.²⁵ In many cases, government officials were also threatening HRDs,²⁶ publicly smearing them and stigmatizing them. In three cases²⁷ the officials dismissed public employees; for example, in Nicaragua and Sudan defenders were fired after voicing concerns around the COVID-19 response. There were also several cases of torture and killings.²⁸

In all the cases where there was also available information on stakeholder engagement, it emerged that state clients failed to meaningfully consult with the affected communities and failed to create a safe, meaningful and inclusive environment for participation, a factor that has very likely contributed to exacerbating social conflict and escalating the risks of reprisals.²⁹ In some cases, the banks also failed to ensure the free, prior and informed consent (FPIC) of Indigenous Peoples affected by their projects. Where consent was withheld or unverified, banks failed to put the project financing on hold. There were also failures in the assessment of adverse social and environmental risks of the projects, as well as non-compliance with social and environmental standards.³⁰

²³ In only three cases the public actors who perpetrated reprisals did not include public security forces: Mombasa Mariakani Road Project (Kenya) and the COVID-19 response project in Nicaragua and Jordan.

²⁴ COVID-19 response project in Guinea and Guatemala, Land Management and Administration Project (Cambodia), and Khimti-Dhakebar Transmission Line (Nepal).

²⁵ Promoting Basic Services Program (Ethiopia), Land Management and Administration Project (Cambodia), East-West Corridor Highway Project (Myanmar), Khimti-Dhakebar Transmission Line (Nepal), COVID-19 response project in Bangladesh, China, Guatemala, Jordan, Uzbekistan and Turkmenistan.

²⁶ Mombasa Mariakani Road Project (Kenya), Land Management and Administration Project (Cambodia), West Corridor Highway Project (Myanmar), Khimti-Dhakebar Transmission Line (Nepal), COVID-19 response project in Uzbekistan, Kaliwa dam (Philippines).

²⁷ In Nicaragua, the government ordered the dismissal of those doctors who had protested against some aspects of the COVID-19 response funded by the World Bank and the Inter-American Development Bank. In Sudan, the government fired

a female civil servant for criticizing the COVID-19 response. In Myanmar, Saw Hla Ngwe was removed as village administrator reportedly for refusing to take legal action against residents for damages to a road that led to the quarry.

²⁸ Natural Resource Management Program (Kenya), Land Management and Administration Project (Cambodia), Khimti-Dhakebar Transmission Line (Nepal), Toro Semliki reserve (Uganda), Kaliwa dam (Philippines), COVID-19 response project in Bangladesh, China and Guinea.

²⁹ Promoting Basic Services Program (Ethiopia), Mombasa Mariakani Road Project (Kenya), Land Management and Administration Project (Cambodia), East West Corridor Highway Project (Myanmar), Khimti-Dhakebar Transmission Line (Nepal), Toro Semliki reserve (Uganda), COVID-19 response project (Turkmenistan), and Kaliwa dam (Philippines).

³⁰ Promoting Basic Services Program (Ethiopia), Natural Resource Management Program (Kenya), Water Tower Protection and Climate Change Programme (Kenya), Land Management and Administration Project (Cambodia), East West Corridor Highway Project (Myanmar), Toro Semliki reserve (Uganda), COVID-19 response project (Turkmenistan), and Kaliwa dam (Philippines).

REPRISALS IN THE CONTEXT OF PROJECTS IMPLEMENTED BY A COMBINATION OF PUBLIC AND PRIVATE ACTORS

MEXICO

HOW A LARGE WIND FARM LED TO WIDESPREAD REPRISALS³¹

The Eólica del Sur wind farm, in the Tehuantepec isthmus in Oaxaca, was set to be the largest in Latin America. The project received financial support from national and international financiers, including the Inter-American Development Bank (IDB), despite the opposition of the local Ikojt and Binnizá Indigenous Peoples living in the area.

When community members started protesting against the project, they faced widespread reprisals. They reported attacks by company employees, local authorities, and other project supporters. More than 40 community members were criminalized. Dozens of people were harassed, threatened, physically attacked, and lost access to electricity services and health care.

In 2017, one of the community leaders was beaten to death. In 2018, another human rights defender was shot and killed. Civil society groups believe that the murders of five other community members in 2018 are also related to the social conflict over the project.

Despite the known risks, as community members had already faced reprisals, the IDB approved US\$ 72 million in financing for the project. The IDB flagged the project as “high risk”, but nevertheless it approved the funding and failed to take action to address reprisals.

In September 2016, the IDB accountability mechanism released its investigation report, finding the bank had failed to comply with requirements to ensure good faith consultation with Indigenous Peoples. The report also found that the IDB lacked adequate guidance for situations of social conflict.



*Indigenous women protest outside the Supreme Court, October 2018.
Credit: APIITDTT.*

³¹ For further information, see Mareña Renovables/Eólica del Sur (Mexico), *Uncalculated Risks* (pp 41 - 44).



Peaceful Resistance of the Microregion of Ixquis, Guatemala.
Credit: Front Line Defenders.

Out of the seven cases where the projects were implemented by a combination of public and private actors:

- in six cases, government authorities or public security forces were directly responsible for the reprisals; in three of these cases, also the private companies implementing the project were involved.³²
- one case involved reprisals that could not be linked directly to the client, according to the available information.³³

Reprisals included harassment, threats, stigmatization, physical attacks, arbitrary detentions, and criminalization. In one case, the military police was

IN ONE CASE, THE MILITARY POLICE WAS USED AS A DE FACTO PRIVATE SECURITY FOR THE COMPANY, WHICH ALSO PROVIDED FUNDING TO PURCHASE EQUIPMENT.

used as a de facto private security for the company, which also provided funding to purchase equipment.³⁴ Reprisals that distinctively and differentially affected women defenders were also documented, such as women defenders subjected to body cavity searches³⁵ and a case of “reputational exploitation” where photos or videos were digitally manipulated to make it appear that the defender had done something scandalous.³⁶

Apart from having perpetrated, instigated or commissioned the reprisals, clients were also responsible for the lack of meaningful engagement and consultations, which increased the levels of conflict and exacerbated reprisal risks. In six of these cases, the reports also referred to the lack of consultation with stakeholders, lack of FPIC of the indigenous communities,³⁷ and deficiencies in implementing banks’ policies and assessing the risks and impacts.³⁸ In some cases, there was also a lack of compliance with the bank’s policies and commitments.

³² Khimti-Dhakekbar Transmission Line (Nepal), Belo Monte (Brazil), and Hidroituango (Colombia).

³³ Jirau Dam (Brazil), see footnote n 12.

³⁴ Belo Monte Dam (Brazil)

³⁵ Cotton sector (Uzbekistan)

³⁶ LUKoil (Kazakhstan).

³⁷ Mareña Renovables/Eólica del Sur (Mexico), Belo Monte (Brazil), Jirau Dam (Brazil).

³⁸ Hidroituango (Colombia), Southern Gas Corridor (Azerbaijan), LUKoil Overseas Karachaganak (Kazakhstan).

REPRISALS IN THE CONTEXT OF PROJECTS

IMPLEMENTED BY PRIVATE ACTORS

ARMENIA

THE REPRESSION OF DISSENT AND CRIMINALIZATION OF THE COMMUNITY PROTESTING AGAINST THE AMULSAR GOLD MINE³⁹

Between 2007 and 2016, the EBRD and IFC financially supported the development of the Amulsar gold mine near the spa town of Jermuk in Armenia, through a series of equity investments. Local communities strongly opposed the project because of the risk of toxic contamination and the serious impacts on health, the environment, and their livelihoods, which were mainly based on agriculture and tourism. The banks' investments in this project, despite the opposition of local communities, show serious failures in the HRDD process. Local communities were not adequately consulted, and their concerns, including around reprisals and repression of dissent, were left unaddressed.

These failures led to an escalation of social tension and reprisals, with those opposing the project facing harassment, threats, attacks, and criminalization. The company filed more than 20 defamation lawsuits against activists, two media outlets, and even two members of the parliament. Some of these cases are still ongoing. The company's security personnel militarized the area and threatened people; an employee from the company was also involved in a sexist online attack and surveillance against a woman human rights defender.

Both DFIs eventually withdrew from the project, but did not provide any type of remedy for the attacks that took place as a result of their failures to adequately assess and manage reprisal risks.



*Protest against the Amulsar mine in Armenia.
Credit: Ecoaction.*

³⁹ For further information, please see *Wearing Blinders*, pp. 20 - 25.



Protest over Las Bambas Mine.
Credit: Mining Conflict Observatory.

In all the 14 case studies where the clients were private companies, the reprisals were perpetrated by employees working for the companies; in 11 of them, also public security forces or public authorities were involved.

Private security guards perpetrated acts of violence against the communities, surveilled defenders, and used excessive force against protesters⁴⁰. Women HRDs experienced particular forms of violence, such as sexual harassment⁴¹ and smearing campaigns based on gender stereotypes.⁴² Militarization in the project locations also led to increased incidents of gender violence and rapes, although many of these attacks go under-reported.⁴³

MILITARIZATION IN THE PROJECT LOCATIONS ALSO LED TO INCREASED INCIDENTS OF GENDER VIOLENCE AND RAPES, ALTHOUGH MANY OF THESE ATTACKS GO UNDER-REPORTED.

In many cases, companies acted in coordination with public security forces, providing resources for them or requesting them to guard the company's properties.⁴⁴ For example, in the case of the Yanacocha mine in Peru, the company forcefully evicted a family and, together with the local police, destroyed the family's home and physically assaulted them.⁴⁵

In another case in Peru (Las Bambas mine), the police and the military made arrangements with a mining company to guard the project's area prior to a planned

general strike. They set up a police base within the mine's property and detained at least 17 people inside the mine for more than 24 hours. Some protesters were allegedly beaten and deprived of food, and two of them spent eight months in pre-trial detention before being finally released on bail.⁴⁶

In 11 cases, the police intimidated defenders, carried out arbitrary detentions, acted with violence, and used excessive force against defenders. During several of those incidents, the security forces killed and injured human rights defenders.⁴⁷

Companies also stigmatized and smeared HRDs using the press and social media,⁴⁸ used civic litigation to deter defenders from criticizing the projects,⁴⁹ and issued formal complaints that led to fines, arbitrary detentions, and lengthy prison sentences.⁵⁰

In nine of the projects implemented by private actors, there were also deficiencies in stakeholder consultation and engagement, and in the assessment of risks and impacts of the projects, including: lack of FPIC of project-affected Indigenous Peoples, failure to take into account local communities' opposition to the project, lack of information about the project impacts, and ineffective bank oversight. In one case, there was also a lack of safe working conditions, non-compliance with housing commitments for migrant workers, and insufficient wages.⁵¹ All these factors contributed to creating conflicts and increased retaliation risks against community members or workers.

⁴⁰ Dinant (Honduras), Rio Salá (Guatemala), Agua Zarca (Honduras), Yanacocha (Peru), Amulsar mine (Armenia), San Mateo and San Andrés dams (Guatemala), Marikana (South Africa).

⁴¹ Agua Zarca Dam (Honduras)

⁴² Amulsar mine (Armenia).

⁴³ San Mateo and San Andrés dams (Guatemala), *Uncalculated Risks* (p. 15).

⁴⁴ Santa Rita (Guatemala), Rio Salá (Guatemala), Agua Zarca (Honduras), Las Bambas (Peru), Yanacocha (Peru), Marikana (South Africa), Alexandria Portland Cement Company (Egypt).

⁴⁵ Yanacocha (Peru).

⁴⁶ Las Bambas (Peru).

⁴⁷ Santa Rita (Guatemala), Las Bambas (Peru), Yanacocha (Peru), Platinum mine,

Marikana (South Africa), Alexandria Portland Cement Company (Egypt).

⁴⁸ Rio Salá (Guatemala), Agua Zarca (Honduras), Amulsar mine (Armenia), San Mateo and San Andrés dams (Guatemala).

⁴⁹ Santa Rita (Guatemala), Rio Salá (Guatemala), Agua Zarca (Honduras), IPP4 AL-Manakher Power Plant (Jordan), Alexandria Portland Cement Company (Egypt), Amulsar mine (Armenia), San Mateo and San Andrés dams (Guatemala).

⁵⁰ For example, Alexandria Portland Cement Company (Egypt), Las Bambas (Peru), Rio Salá (Guatemala).

⁵¹ Marikana (South Africa). In this case, the IFC Accountability Mechanism found that the bank did not include social and labor commitments established by law in its social and environmental action plan.

PART 2

**ANALYSIS OF
DFIS' POLICIES**

PART 2

ANALYSIS OF DFIS' POLICIES

Clients have a clear conflict of interest that prevents them from disclosing retaliation risks, and from responding effectively to retaliation that they are in most cases responsible for. Yet, as outlined in the following section, banks tend to rely on client-generated information for key processes (such as environmental and social risk assessments, stakeholder engagement, and consultations with affected communities) that are key to assessing and mitigating reprisal risks, and to preventing, addressing or remedying reprisals.

CLIENTS HAVE A CLEAR CONFLICT OF INTEREST THAT PREVENTS THEM FROM DISCLOSING RETALIATION RISKS, AND FROM RESPONDING EFFECTIVELY TO RETALIATION THAT THEY ARE IN MOST CASES RESPONSIBLE FOR.

The analysis looks at the environmental and social frameworks, as well as public statements, guidelines, and any document specifically related to the management of reprisal risks, of eight of the largest multilateral development banks.⁵² This analysis doesn't include statements and protocols adopted by independent

accountability mechanisms to prevent and address retaliations.⁵³

DFIs also have other types of processes to guide their strategies and priorities, which may include components that are also relevant to the assessment of retaliation risks (such as country diagnostics). However, this report focuses on the analysis of safeguards policies at the project level, where all other assessments or processes implemented to evaluate reprisal risks should be integrated.

Finally, the analysis focuses on the standards that DFIs apply to projects they finance directly, where there is a higher degree of supervision of project risks and impacts. However, it is worth noting that DFIs apply even weaker due diligence standards for projects implemented through financial intermediaries.⁵⁴ Although safeguards still apply and project implementing actors should be compliant, the oversight is typically delegated to the intermediary, and the banks only conduct an analysis of the environmental and social management systems implemented. Moreover, the lack of information and disclosure around projects implemented through financial intermediaries means that communities are unable to identify key decision-makers to address and raise concerns about reprisal risks.

KEY FINDINGS

SPECIFIC POLICIES AND COMMITMENTS ON REPRISALS

- 1 Some DFIs (EBRD, IDB, IDB Invest, IFC and World Bank) have adopted specific documents or statements on reprisals, while others (AfDB and EIB) incorporated specific provisions on reprisals in their environmental and social safeguards.
- 2 IDB-Invest and IFC have jointly adopted specific guidance for clients, but without indicating specific procedures for the banks themselves.
- 3 The IDB adopted technical notes to support its own staff, borrowers, and executing agencies to identify and evaluate reprisal risks.
- 4 Some DFIs (AfDB, EBRD, EIB, IDB, IDB Invest, IFC and World Bank) include in their policies specific criteria related to the assessment of risks posed by the use of public or private security forces.
- 5 All policies analyzed, with the exception of the IDB technical notes, place the responsibility for key steps in the assessment of reprisal risks mainly on the client, without clearly establishing which procedures the bank staff must follow to assess reprisal risks and to prevent and respond to reprisals.
- 6 Since the assessment of project risks and impacts – as well as the identification of project-affected people and consultations with them – is generally a responsibility of the clients, bank policies do not ensure that HRDD processes can be adequately carried out, and that reprisal risks can be effectively identified and mitigated.

⁵² Some banks may have additional internal documents and guidelines related to reprisals, but this analysis is based on the publicly available documentation.

⁵³ While independent accountability mechanisms policies are highly relevant, they focus on retaliations that may occur in the context of complaints and thus are not directed to the assessment of reprisal risks in all projects, or to the prevention of

reprisals more generally.

⁵⁴ See for example: "Financial Intermediary sub-project data exposed for the first time", Oxfam Washington Office, December 2021, <https://medium.com/@OxfamIFIs/financial-intermediary-sub-project-data-exposed-for-the-first-time-eb3d1591662b>

OTHER RELEVANT POLICIES

- 1 For certain projects that affect Indigenous Peoples, most policies require their FPIC.⁵⁵
- 2 All social and environmental policies require the participation of project-affected people free of coercion and intimidation in different stages of the projects, for example, in the assessment and management of environmental/social risks and impacts, and in the design and implementation of mitigation measures.
- 3 Social and environmental policies attribute the responsibility for the assessment of the risks/impacts of the projects to the client. For specific projects in sensitive or high-risk contexts, or affecting Indigenous Peoples, the policies of all DFIs indicate that independent experts could or should be hired to conduct the assessments; however, this is generally optional, and there are no rules or guidelines to ensure the experts are truly independent.
- 4 Social and environmental policies place the responsibility for consulting with stakeholders on the client. For certain types of projects, most policies also indicate the need for stricter scrutiny by the bank, or the participation of independent third parties, but these further measures are generally optional.
- 5 In general, the banks assume the responsibility of reviewing the information produced by the clients to monitor compliance with their policies, providing technical cooperation to support the implementation of the safeguards, detecting gaps in the information, verifying that the social management plan covers the different risks and impacts of the project, and verifying the client's capacity to comply with social and environmental safeguards. The possibility of the bank making site visits⁵⁶ and engaging independent third parties to monitor different aspects of the projects is established in certain cases (ADB, AfDB, EBRD, EIB, IDB, IDB Invest, IFC and World Bank), but it is mostly discretionary.



Police in Ixquis, Guatemala

⁵⁵ The only bank analyzed that does not require FPIC is the ADB, which only requires the consent (intended as broad community support) of affected Indigenous Peoples for certain cases. On the difference between informed consent and broad community support, see "Effective Participation and Free, Prior and Informed Consent", Forest Peoples Programme, 2016, <https://www.forestpeoples.org/sites/fpp/files/publication/2016/03/fpp-fpic-not-fpicon-final.pdf>

⁵⁶ Bank staff are often claiming they have decided not to make site visits 'for fear of causing reprisals'. However, site visits are important and should be conducted in a safe way, ensuring they do not exacerbate risks, and planned in close consultation with affected communities and their allies.



Protest against the IPP4 factory, Jordan.
Credit: EASEP.

ASIAN DEVELOPMENT BANK (ADB)

SPECIFIC DOCUMENTS ON REPRISALS

The ADB has not published any specific declaration, guidance, or protocol related to reprisal risks or response to reprisals in the context of its projects.⁵⁷ The only specific guidelines are related to the protection of key stakeholders in the context of complaints submitted to the independent accountability mechanism.⁵⁸

ENVIRONMENTAL AND SOCIAL POLICY

Reprisals

The Safeguard Policy Statement,⁵⁹ approved in June 2009, only makes specific reference to retaliation risks in provisions related to the grievance redress mechanism implemented by the client at the project level.⁶⁰ It doesn't make specific reference to retaliation risks more generally, but it requires prior and informed meaningful consultations with affected persons and requires consultations to be undertaken in an atmosphere free of intimidation or coercion.⁶¹ However, the policy does not establish any procedure aimed at assessing reprisal risks in the context of the

projects, as well as procedures to prevent and respond to reprisals.

Consultations

As a general rule, the responsibility for meaningful consultations is placed on the client.⁶² The participation of ADB project teams in consultation activities is only contemplated for projects with significant adverse environmental impacts, involving involuntary resettlement or impacting Indigenous Peoples.⁶³ The policy also establishes that ADB will assure itself, through its own investigation, that broad community support for the project has been demonstrated by the Indigenous Peoples communities.⁶⁴

Assessment of risks and impacts

The responsibility of assessing project risks and impacts is attributed to the client.⁶⁵ Only assessments in the context of highly complex and sensitive projects (related to the environment, involuntary resettlement, or Indigenous Peoples) require independent advisory panels of experts not

⁵⁷ The ADB is currently reviewing and updating its 2009 Safeguard Policy Statement. Further information on the campaign led by a group of CSOs for stronger safeguards on reprisals can be found here: <https://rightsindevelopment.org/news/recommendations-to-adb-from-communities-facing-reprisals>

⁵⁸ ADB Guidelines for the Protection of Key Stakeholders during the Accountability Mechanism Process, bit.ly/4QU4SdI

⁵⁹ ADB Safeguard Policy Statement (SPS), with annexes on the Safeguards Requirements (SRs) on Environment (SR 1), Involuntary Resettlement (SR 2), Indigenous Peoples (SR 3); Special Requirements for Different Finance Modalities

(SR 4); <https://www.adb.org/sites/default/files/institutional-document/32056/safeguard-policy-statement-june2009.pdf>

⁶⁰ ADB SR 1 (par. 20); SR 2 (par. 29); SR 3 (par. 22).

⁶¹ ADB SPS (par. 32, 54). See also SR 1 (par. 19), SR 2 (par. 28), SR 3 (par. 10).

⁶² ADB SPS (par. 54); SRs: Environment (par. 19); Involuntary Resettlement (par. 28); Indigenous Peoples (par. 10).

⁶³ ADB SPS (par. 54).

⁶⁴ ADB SPS (par. 55).

⁶⁵ ADB SPS (par.73); SR 1 (par. 4); SR 2 (par. 15); SR 3 (par. 13); SR 4 (par. 2)

affiliated with the project during project preparation and implementation.⁶⁶ However, provisions for ascertaining when projects are complex or sensitive is discretionary and the development of a panel of independent advisory experts is not subject to input from affected communities or civil society, making the decision-making processes around this highly opaque.

Additionally, when the project affects Indigenous Peoples, an Indigenous Peoples' expert is required on the advisory panel.⁶⁷ For projects that involve activities in critical habitats, the client is also required to retain qualified and experienced external experts to assist in conducting the assessment.⁶⁸ In projects that involve negotiated land acquisition, the policy requires the client to engage an independent external party to document the negotiation and settlement processes, in order to address the risks of asymmetry of information and bargaining power.⁶⁹

Clients are required to submit periodic monitoring reports on the implementation of the project. For projects with significant impacts and risks, they must retain qualified and experienced external experts or qualified NGOs to verify monitoring information, and for highly complex and sensitive projects, they must use independent advisory panels.⁷⁰ Projects that affect Indigenous Peoples require the client to use dynamic mechanisms to monitor project implementation,

such as inspections and audits, to verify compliance with the Indigenous Peoples Safeguards.⁷¹

The policy defines “external experts” as experts not involved in day-to-day project implementation or supervision.⁷² This means they are not necessarily independent or external from the client. Not only can they be selected and hired by the client to monitor the project, but they can be formally and permanently employed by the borrower. The policy does not define the Independent Advisory Panel required for certain projects.

The bank's role

The ADB conducts due diligence, screens projects, specifies safeguards requirements, reviews, monitors and supervises social and environmental assessments and plans, monitors implementation and seek corrective measures to ensure compliance with the policy requirements.⁷³

Due diligence involves field visits and desk reviews.⁷⁴ The bank helps the client in building capacity to deliver the safeguards, discloses project information on the website and conducts periodic site visits for projects with adverse environmental or social impacts. For projects with significant adverse social or environmental impacts, it will conduct supervision missions with detailed review by ADB's safeguard specialists, officers or consultants.⁷⁵



*Villagers complain of noise pollution from close proximity of IPP4 Powerplant, in Jordan.
Credit: Niels Ackermann.*

⁶⁶ “Highly Complex and Sensitive Projects” are projects that ADB deems to be highly risky or contentious or involve serious and multidimensional and generally interrelated potential social and/or environmental impacts. See ADB SR 1 (par. 16); SR 2 (par. 24); SR 3 (par. 19).

⁶⁷ ADB SR 3 (par. 19).

⁶⁸ ADB SR 1 (par. 29).

⁶⁹ ADB SR 2 (par. 25).

⁷⁰ ADB SPS (par. 57); SRs 2 (par. 30); SR 3 (par. 23).

⁷¹ ADB SR 3 (par. 23).

⁷² ADB SPS, Glossary.

⁷³ ADB SPS (par. 46).

⁷⁴ ADB SPS (par. 56).

⁷⁵ ADB SPS (par. 58).



South African police and the bodies of striking mineworkers shot dead August 16, 2012. Credit: aidc.org.za.

AFRICAN DEVELOPMENT BANK (AFDB)

SPECIFIC DOCUMENTS ON REPRISALS

In its updated Integrated Safeguards System (ISS),⁷⁶ the AfDB states it is committed to “open dialogue, safe public consultation free of reprisal, timely and full access to information, and responsive grievance mechanisms.”⁷⁷

It also includes a specific annex on addressing reprisal risks,⁷⁸ stating that – when reprisal risks are identified – clients should “implement specific measures to prevent reprisals, such as using best practices in safe consultations, independent monitoring of project implementation, training, proactive community outreach, enhancing project-affected communities’ awareness of, ability to access independent grievance mechanisms, or other modifications to project design to mitigate the risks of reprisals.”

The annex, however, does not explain how reprisal risk assessment should be conducted and it places the responsibility for preventing and responding to reprisals exclusively on the client. With regards to the bank’s role, it only states that specific directives to staff will be issued on application of its commitment against reprisals.⁷⁹

⁷⁶ The AfDB Integrated Safeguards System (ISS) was initially approved in 2013 and updated in April 2023. It now includes: a Policy Statement on “An African Vision of Sustainable Development” (ISS PS), ten Operational Safeguards (OS), the Environmental and Social Policy (ESP), and the Integrated Environmental and Social Impact Assessment (IESIA). The 10 OS include OS 1: Assessment and Management of Environmental and Social Risks and Impacts; OS2: Labour and Working Conditions; OS 3: Resources Efficiency and Pollution Prevention and Management; OS4: Community Health, Safety and Security; OS5: Land Acquisition, Restrictions on Access to Land and Land Use, and Involuntary Resettlement; OS 6: Habitat and Biodiversity Conservation and Sustainable Management of Living Natural Resources; OS7: Vulnerable Groups; OS 8: Cultural Heritage; OS9: Financial Intermediaries; OS10: Stakeholder Engagement and Information Disclosure.

ENVIRONMENTAL AND SOCIAL POLICY

In the ISS, the AfDB commits to ensure – at any time during the operations life cycle – protection of all stakeholders against reprisals.⁸⁰ In particular, the ISS states that:

- the client should not retaliate against workers who participate or seek to participate in workers’ organizations and engage in collective bargaining;⁸¹
- grievance mechanisms will allow for anonymous complaints to be raised and addressed;⁸²
- meaningful consultations with affected communities must be free of manipulation, interference, coercion, discrimination, intimidation and reprisal;⁸³
- Stakeholder Engagement Plans will include concrete measures to implement the borrower’s commitments to prevent reprisals.⁸⁴

In the ISS, the environmental and social assessments cover all relevant direct and indirect environmental and social risks and impacts,⁸⁵ including socioeconomic and cultural, community social structure, gender, vulnerable groups, health, and safety among others. One of the OS applies to health, safety and security (OS4), and contains

The ISS is available at: www.afdb.org/en/documents/integrated-safeguards-system-april-2023

⁷⁷ AfDB PS (par. 5).

⁷⁸ AfDB ISS OS 10, Annex 2.

⁷⁹ AfDB ISS ESP (par. 27).

⁸⁰ AfDB ISS ESP (par. 27).

⁸¹ AfDB OS 2 (par. 20).

⁸² AfDB OS 10 (par. 31).

⁸³ AfDB OS 10, (par. 9).

⁸⁴ AfDB, ISS, OS 10 (par 18).

⁸⁵ AfDB OS 1 (par. 19, 24).

specific provisions related to the assessment of risks posed by the use of security personnel.

The policy also states that one of the different tools that can be used to undertake the environmental and social assessment is the contextual risk assessment,⁸⁶ which gathers information on limitations to meaningful consultation and free speech, including the risks of reprisals to stakeholders. With this analysis, the client can assess whether these risks have the potential to distort stakeholder engagement, to exacerbate social inequality, and to compromise the intended benefits for project-affected people.⁸⁷ However, contextual assessment is not mandatory. The policy also says that, in certain cases, this assessment can be carried out by the bank.⁸⁸

Consultations

The ISS places the responsibility for meaningful consultations and for ensuring informed consent for certain projects on the client,⁸⁹ but the bank has the right to participate.⁹⁰ In certain cases, when the environmental and social risks/impacts are high,

the borrower may be required to retain independent third-party specialists. These experts could help assist in the stakeholder identification, support the design of an inclusive engagement process,⁹¹ and be required in some Social Engagement Plans to communicate with vulnerable groups.⁹²

When the projects affect vulnerable rural minorities, the safeguard OS7 states that the bank may seek the technical advice of specialists with expertise on social and cultural groups in the project area, and that the AfDB will consult both the affected communities and the borrower.⁹³

Assessment of risks and impacts

The client is responsible for the assessment of different risks and impacts of the projects.⁹⁴ When environmental and social risks/impacts are significant, the bank will determine whether the borrower is required to retain independent third-party specialists, who will support the environmental and social due diligence on the project.⁹⁵ The



Members of the community living near the Toro Semliki Wildlife Reserve, Uganda.
Credit: Twerwaneho Listeners Club.

⁸⁶ AfDB, OS 1, Annex 1 (par. 5).

⁸⁷ AfDB, OS 1, Annex 1 (par. G - Contextual Risk Assessment). According to the draft Guidance Notes published by the bank to guide the implementation of the safeguards, situations where contextual risk is particularly relevant include, among others, areas where gross human rights abuses or systematic human rights violations exist; areas where the rule of law and governance are weak or non-existent and in areas where respect for human rights is limited or absent; and areas with severely curtailed civic space. (AfDB ISS Guidance Note, OS 1).

⁸⁸ AfDB, ESP (par. 12).

⁸⁹ AfDB ISS ESP (par. 58, 63, 64, 65); OS 1 (par. 12, 18); OS 2 (par. 20); OS 3 (par. 15, 31); OS 5 (par. 22); OS 6 (par. 18, 31); OS 7 (par. 24, 26, 30, 32, 34, 36, 42, 43); OS

8 (par. 14, 15, 23, 27, 31); OS 10 (par. 6, 8, 9, 12, 13, 15, 23, 25, 26).

⁹⁰ AfDB, ESP (par. 63).

⁹¹ AfDB, OS 10 (par. 14).

⁹² AfDB, OS 10 (par. 18).

⁹³ AfDB, ESP (par. 64, 67).

⁹⁴ AfDB ESP (par. 15, 58, 59); OS1 (par. 2, 11, 12, 19, 50, 53, 55, 56, 57, 59, 60); OS 2 (par. 41); OS 3 (par. 4, 12, 13, 15, 21, 25, 26, 28, 35); OS 4 (par. 6, 11, 12, 13, 16, 23, 28, 32); OS 5 (par. 11, 15, 25, 27, 29); OS 6 (par. 10, 11, 18, 30, 34, 37, 39); OS 7 (par. 18); OS 8 (par. 9, 15, 18, 26, 29, 31).

⁹⁵ AfDB, ESP (par. 17). The draft Guidance Notes applicable to OS 10 define general characteristics of these independent third party specialists.



The new village of Bildak in Ethiopia's Gambella region, which the semi-nomadic Nuer were forcibly transferred to and quickly abandoned.
Credit: Human Rights Watch.

involvement of independent specialists is required for high-risk projects, when the borrower has limited capacity,⁹⁶ where FPIC is required in projects affecting highly vulnerable rural minorities,⁹⁷ when offsets are proposed for adverse impacts on critical areas,⁹⁸ and for dams.⁹⁹

The client is responsible for monitoring the project implementation and reporting the information to the bank.¹⁰⁰ Third-party resettlement professionals are required to monitor the implementation of resettlement plans for projects with large-scale, complex and/or significant involuntary resettlement impacts.¹⁰¹ For projects with significant involuntary resettlement, the borrower will commission an independent completion audit of the plan.¹⁰² Where appropriate, the bank will require the borrower to engage stakeholders and third parties, such as independent experts, local communities, CSOs or NGOs, to complement or verify the monitoring information.¹⁰³ The borrower will facilitate site visits by AfDB staff or consultants acting on the bank's behalf.¹⁰⁴

The bank's role

The AfDB's roles include:

- supporting the borrower;¹⁰⁵
- carrying out due diligence;
- monitoring the environmental and social performance,¹⁰⁶ by reviewing the reports prepared by the client¹⁰⁷ and annual environmental and social audits prepared by independent consultants of the borrower, and during its own supervision missions;¹⁰⁸
- determining the project risk classification;¹⁰⁹
- disclosing environmental and social documentation prior to project appraisal;¹¹⁰
- carrying out an assessment of gender issues for every project;¹¹¹
- issuing specific directives to bank staff on the protection of all stakeholders against reprisals; sexual exploitation, abuse, sexual harassment, and gender-based violence; or discrimination on the grounds of sexual orientation and gender identity;
- where the bank deems it necessary, it may undertake a contextual risk assessment to complement its environmental and social due diligence.¹¹²

⁹⁶ AfDB, OS 1 (par. 21). In addition, for high-risk or contentious projects, the borrower may also be required to engage one or more internationally recognized independent experts, who will provide independent advice and oversight to the project (OS 1, par. 29); and when structural elements of a project or activities are situated in high-risk locations and their malfunction may threaten the safety of communities, the Borrower will engage one or more independent experts with relevant and recognized experience in similar projects, separate from those responsible for the design and construction.

⁹⁷ AfDB, OS 7 (par. 37).

⁹⁸ AfDB, OS 6 (par. 18).

⁹⁹ AfDB, OS 4, Annex 1 (par. 40, 43, 44, 45).

¹⁰⁰ AfDB ESP, par 35, OS 1 (par. 2, 11, 12, 36, 40, 41, 42, 58, 59, 60); OS 2 (par. 45); OS 5 (par. 32).

¹⁰¹ AfDB, OS 5 (par. 32).

¹⁰² AfDB, OS 5 (par. 34).

¹⁰³ AfDB, ESP (par. 71).

¹⁰⁴ AfDB, OS 1 (par. 44).

¹⁰⁵ AfDB ISS ESP (par. 2, 66); OS 1 (par. 26), OS 3 (par. 26).

¹⁰⁶ AfDB, ISS ESP (par. 2, 63).

¹⁰⁷ AfDB, ISS ESP (par. 15, 66); OS 1 (par. 2).

¹⁰⁸ AfDB ISS ESP (par. 66).

¹⁰⁹ AfDB, ISS, ESP (par. 29).

¹¹⁰ AfDB, ISS, ESP (par 62).

¹¹¹ AfDB, An African vision for sustainable development (par. 7).

¹¹² AfDB, ESP (par. 12).



A community roadblock near Las Bambas mine, Peru.
Credit: CooperAccion.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT (EBRD)

SPECIFIC DOCUMENTS ON REPRISALS

In January 2019, the EBRD approved a statement about “Retaliations Against Civil Society and Project Stakeholders”. It affirms that the EBRD does not tolerate reprisals by its clients or other project counterparties and that the bank takes credible allegations seriously.¹¹³

The statement refers to some procedures that can be used to address reprisal cases. For cases related to coercive practices under the bank’s Enforcement Policy and Procedures (EPPs)¹¹⁴ the client is subject to Enforcement Proceedings. For all the other cases, the EBRD affirms it works with clients and other relevant parties to try to address reprisals.

In the statement, the bank commits to raise the issue directly with the client or relevant party, to make EBRD’s position against reprisals clear, and take follow-

up action as and where appropriate. It also states that locally affected communities should be able to raise their concerns, without fearing reprisals, through project-level grievance mechanisms or the Project Complaint Mechanism (PCM), which is EBRD’s independent accountability mechanism.

The statement also mentions internal guidelines on the handling of allegations of retaliation for criticism and complaints related to EBRD projects, but these documents – as they are not public – have not been included in this analysis.

ENVIRONMENTAL AND SOCIAL POLICY

Reprisals

EBRD’s Environmental and Social Policy (ESP)¹¹⁵ requires the identification and management of all relevant direct/indirect environmental and social risks/impacts of the projects.¹¹⁶ It also recognizes that, in certain cases, it may be appropriate to complement these assessments with further studies focusing on specific risks and impacts, such as human rights.¹¹⁷ One of the performance requirements applies to health, safety and security risks (PR 4), risks that

¹¹³ “Statement on Retaliation Against Civil Society and Project Stakeholder”, EBRD, January 2019, available at: <https://www.ebrd.com/documents/strategy-and-policy-coordination/ebd-statement-on-retaliation.pdf>

¹¹⁴ The EPPs only apply to allegations of fraud, corruption, collusion, coercion, obstruction, theft or misuse of the bank’s resources raised by bank personnel, Board Officials and experts performing missions. See “Enforcement Policy and Procedures”, EBRD, 2017, <https://www.ebrd.com/news/publications/policies/enforcement-policy-and-procedures.html>

¹¹⁵ EBRD’s Environmental and Social Policy (ESP) and Performance Requirements (PR), 2019, available at: <https://www.ebrd.com/news/publications/policies/>

[environmental-and-social-policy-esp.html](#). The performance requirements include PR 1: Assessment and Management of Environmental and Social Risks and Impacts; PR 2: Labour and Working Conditions; PR 3: Resource Efficiency and Pollution Prevention and Control; PR 4: Health, Safety and Security; PR 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement; PR 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources; PR 7: Indigenous Peoples PR 8: Cultural Heritage

¹¹⁶ EBRD ESP PR 1 (par. 12).

¹¹⁷ EBRD ESP (par. 2.4); PR1 (par 12).

should be part of a more comprehensive assessment of reprisal risks.

The policy mentions retaliations in three instances, stating that:

- meaningful consultations in the context of the projects must be free from manipulation, coercion, intimidation, and retaliation;¹¹⁸
- the client should not retaliate against workers who participate in workers' organizations;¹¹⁹
- and in relation to grievance mechanisms.¹²⁰

Nevertheless, the policy does not establish any procedure or mechanism specifically aimed at assessing reprisal risks and preventing reprisals.¹²¹

Consultations

The policy places the responsibility for meaningful consultations on the client.¹²² It establishes that, in some cases, the bank may conduct its own public consultation activities to gauge stakeholder views,¹²³ without specifying the conditions under which the bank will conduct them.

When FPIC is required, the client must retain qualified independent experts to assist in conducting and documenting the good faith negotiations and FPIC process.¹²⁴ The policy does not specify the criteria applied to determine when an expert is independent. Since the expert will be selected and hired by the client, independence from the borrower is not ensured.

Assessment of risks and impacts

The client is responsible for carrying out an assessment of risks and impacts.¹²⁵ For example, the client is required to assess and identify project security threats for workers and communities,¹²⁶ including the risks posed by its own security arrangements and those of its contractors.¹²⁷ The client must also verify its workers providing security services have not been implicated in past abuses,¹²⁸ and assess potential risks arising from public security forces.¹²⁹

For projects that are complex or contentious, or that involve potentially significant multidimensional environmental and social risks or impacts, the client may be required to engage one or more internationally recognized independent experts. Such experts may form part of an advisory panel or be employed by the client, and will provide independent advice and oversight to the project.¹³⁰ This is discretionary for the bank, and the policy does not establish specific conditions to ensure actual independence from the client. The client is required to commission an objective and independent study to identify all communities of Indigenous Peoples who may be affected by the project, and – in consultation with them – assess the potential effects of the project on these groups and their views about the project.¹³¹ Independent experts are also required when the project could have adverse impacts on a critical habitat.¹³²

The client is also responsible for monitoring the project implementation.¹³³ For projects that could have significant adverse environmental and social risks and impacts, the bank may require the client to engage relevant external experts to perform independent reviews of the project or to monitor specific environmental and social risks and impacts.¹³⁴ Independent reviews are not mandatory but rather discretionally demanded by the EBRD, since the policy does not indicate the criteria to require them. The independence of the experts is also not guaranteed since the client is responsible for engaging them.

The bank's role

During project appraisal and monitoring, the bank reviews the client's information, provides guidance to assist the client in addressing environmental and social impacts, as well as to help identify opportunities for environmental or social benefits.¹³⁵ The EBRD may also periodically verify the monitoring information produced by the clients, through site visits by its environmental and social specialists or independent experts.¹³⁶ This is a discretionary power since the provision does not establish any criteria to determine its application.

¹¹⁸ EBRD ESP (par. 7)

¹¹⁹ EBRD ESP PR 10 (par. 7 and 20), PR 2 (par. 15).

¹²⁰ EBRD ESP PR 2 (par. 21); PR 10 (par. 29).

¹²¹ During meetings with civil society organizations, the bank's staff informed them about the existence of internal guidelines and procedures aimed at assessing reprisal risks. Since these documents are not published, they cannot be included in this analysis.

¹²² EBRD ESP (par. 2.9, 4.13); PR10 (par. 19-21); PR 1 (par. 8); PR 5 (par.16, 36, 37, 38, 39); PR 6 (par.12, 15); PR 8: (par. 9, 10).

¹²³ EBRD ESP (par. 4.13).

¹²⁴ EBRD ESP PR 7 (par.15).

¹²⁵ EBRD ESP (par. 4.8, 2.9, 4.13); PR 1 (par. 2, 4, 7); PR 2 (par. 22, 23, 25); PR 3 (par. 5, 10, 21); PR 4 (par. 16, 18, 26, 30, 32, 39, 41, 42); PR 5 (par. 9, 20, 21, 22); PR

6 (par. 5, 7, 8, 17); PR 7 (par. 1, 7, 8, 9); PR 8 (par. 11).

¹²⁶ EBRD ESP PR 4 (par. 39).

¹²⁷ EBRD ESP PR 4 (par. 40).

¹²⁸ EBRD ESP PR 4 (par. 42).

¹²⁹ EBRD ESP PR 4 (par. 41).

¹³⁰ EBRD ESP PR 1 (par. 13).

¹³¹ EBRD ESP PR 7 (par. 9).

¹³² EBRD ESP PR 6 (par. 17, 19).

¹³³ EBRD ESP PR 1 (par. 29, 31).

¹³⁴ EBRD ESP PR 1 (par. 35).

¹³⁵ EBRD ESP (par. 4.7 - 4.14, 4.18).

¹³⁶ EBRD ESP (par. 4.18).



A woman who lost farmland to a coal plant in Bataan Province confronts police officers. Credit: Derek Cabe.

EUROPEAN INVESTMENT BANK (EIB)

SPECIFIC DOCUMENTS ON REPRISALS

In 2020, the EIB published a Guidance Note on Stakeholder Engagement in EIB Operations, that includes guidance for project promoters on how to address reprisal risks. It also requires promoters to share allegations of reprisal with the EIB, when there is the consent of the affected persons, and states the bank may take follow-up action. However, it does not explain how the EIB will assess/manage reprisal risks.¹³⁷

ENVIRONMENTAL AND SOCIAL POLICY

Reprisals

The Environmental and Social Sustainability Framework (ESSF), approved in 2022,¹³⁸ consists of an Environmental and Social Policy (ESP) and Environmental and Social Standards (ESS).¹³⁹ The ESP states that the bank does not tolerate reprisals.¹⁴⁰ The ESS requires project promoters to provide information related to context-specific social risks, including risks of reprisals, in order to determine the need for an environmental and social impact assessment (ESIA),¹⁴¹ and recommends the inclusion of that information

on the ESIA report. The assessment of social aspects includes considerations of potential human rights risks, including the right to freedom of assembly and association.¹⁴² When preparing stakeholder engagement, the promoter must consider the country context and the public debate about the project and the sector, take into account any risks of reprisals, and identify groups at risk.¹⁴³

If risks of reprisals are identified, the engagement plan – “as deemed necessary by the EIB” – shall include a strategy for preventing and responding to reprisals, in particular by engaging constructively with those at risk.¹⁴⁴ The plan includes requirements related to the assessment and prevention of risks created by private and public security forces.¹⁴⁵ The stakeholder engagement plan has to provide secure fora for consulting these groups and ensuring reprisal-sensitive stakeholder engagement.¹⁴⁶ If the project is located in fragile or conflict-affected areas, or with a high incidence of human rights violations, or is implemented during a crisis that could impact consultations, the client must develop targeted consultations to ensure a safe space for stakeholders.¹⁴⁷

¹³⁷ EIB, Guidance Note for EIB Standard on Stakeholder Engagement in the EIB Operations, 2020, available at: www.eib.org/de/publications/guidance-note-for-eib-standard-on-stakeholder-engagement-in-the-eib-operations.htm

¹³⁸ The EIB is legally bound by the provisions of the Charter of Fundamental Rights of the European Union and other EU and international human rights legislation. In its ESP, the EIB affirms its commitment to respecting and promoting human rights in the project it supports and to pursuing an integrated human rights-based approach to environmental climate and social due diligence and monitoring.

¹³⁹ EIB Environmental and Social Policy (ESP), https://www.eib.org/attachments/publications/eib_group_environmental_and_social_policy_en.pdf; Environmental and Social Standards (ESS), https://www.eib.org/attachments/publications/eib_environmental_and_social_standards_en.pdf. The ESS include the following standards, ESS 1: Environmental and social impacts and risks; ESS 2: Stakeholder

engagement; ESS 3: Resource efficiency and pollution prevention; ESS 4: Biodiversity and ecosystems; ESS 5: Climate change; ESS 6: Involuntary resettlement; ESS 7: Vulnerable groups, Indigenous Peoples and Gender; ESS 8: Labour rights; ESS 9: Health, safety and security; ESS 10: Cultural heritage; ESS 11: Intermediated finance.

¹⁴⁰ EIB ESP preamble (par. 17); ESP (par. 4.5).

¹⁴¹ EIB ESS 1, Annex 1b (par. 3); Annex 2 (par. 2).

¹⁴² EIB ESS 1 (par. 7).

¹⁴³ EIB ESS 2 (par. 17).

¹⁴⁴ EIB ESS 2 (par. 30).

¹⁴⁵ EIB ESS 9 (par. 54 - 59).

¹⁴⁶ EIB ESS 2 (par. 30).

¹⁴⁷ EIB ESS 2 (par. 39).

Project promoters have to offer protection against intimidation during consultations,¹⁴⁸ and must ensure grievance mechanisms are free of reprisals.¹⁴⁹

Although the policy requires the assessment of retaliation risks and the adoption of preventive measures, the responsibility for this assessment and for the corresponding preventative strategy is attributed exclusively to the client. The policy does not regulate how the bank will assess reprisal risks, and prevent and respond to reprisals potentially carried out by their own clients.

Responsibilities for consultations

The client is responsible for stakeholder engagement with project-affected people.¹⁵⁰ When seeking funding for projects that have already started, the client is required to “demonstrate it has sought and acted upon the opinions of project-affected Indigenous Peoples”; when these requirements have not been met, the requirement is for the client to “carry out or commission an independent assessment”.¹⁵¹ Since this evaluation can be carried out by the client, independence is not guaranteed. No other provision requires the direct involvement of bank staff or independent third parties. Some provisions require the involvement of specialists,

but don’t require them to be independent from the client.¹⁵² In order to monitor the consultations, the client is only advised to implement, whenever feasible, monitoring by third parties.¹⁵³

Assessment of risks and impacts

The assessment of risks and impacts of the project is attributed to the client.¹⁵⁴ For projects that are in an initial design stage, the client has to undertake or commission an independent study by specialists to identify Indigenous Peoples, assess potential impacts, and gather their views about the project.¹⁵⁵ Where significant labour-associated risks have been identified, the promoter has to commission an independent Labour Assessment or Labour Audit.¹⁵⁶ Monitoring is also a responsibility of the client,¹⁵⁷ that may engage stakeholders and/or third parties (such as independent experts, local communities or NGOs) but this is not a requirement.¹⁵⁸ If major accidents occur, the bank may require an independent investigation.¹⁵⁹

The bank’s role

The EIB is responsible for conducting due diligence, monitoring and reviewing compliance with requirements based on the information provided by the client.¹⁶⁰ Due diligence may include:



Protest in Ixquis against hydroelectric projects, Guatemala.

¹⁴⁸ EIB ESS 7 (par. 25); ESS 9 (par. 31).

¹⁴⁹ EIB ESS 2 (par. 23, 25); ESS 9 (par. 61); ESS 8 (par. 44).

¹⁵⁰ EIB ESS 1 (par. 9b); ESS 2 (par. 3, 8, 13, 14, 15, 16, 17, 18, 26, 27, 32, 37, 39, 44); ESS 4 (par. 28); ESS 6 (par. 43, 44, 45, 50); ESS 7 (par. 25, 26, 27, 37, 39, 40, 41, 45, 46, 48, 49, 53); ESS 8 (par. 41); ESS 9 (par. 35, 60); ESS 10 (par. 20, 21).

¹⁵¹ ESS 7 (par. 39).

¹⁵² For example, EIB ESS 7 (par. 33, 36, 46).

¹⁵³ EIB ESS 2 (par. 42).

¹⁵⁴ EIB ESS 1 (par. 3, 9, 10, 11, 12, 19, 21, 23); ESS 4 (par. 5, 9, 10, 11, 30, 31, 34, 36, 37, 40); ESS 5 (par. 6, 10, 12, 15, 16, 17, 18, 20, 21); ESS 6 (par. 19, 26); ESS 7 (par. 5, 14, 15, 16, 17, 18, 20, 21, 22, 24, 31, 35, 36); ESS 8 (par. 9, 31, 47, 48, 52,

56); ESS 9 (par. 5, 14, 19, 27, 31, 35, 37, 40, 41, 43, 45, 55, 68); ESS 10 (par. 3, 11, 13, 15, 19, 20).

¹⁵⁵ EIB ESS 7 (par. 36).

¹⁵⁶ EIB ESS 8 (par. 48).

¹⁵⁷ EIB ESP 4.14; ESS 1 (par. 3, 9d, 26c, 27, 28, 31, Annex 2b); ESS 2 (par. 15, 22, 42, 44); ESS 3 (par. 12c, 18, 19); ESS 4 (par. 3, 14); ESS 5 (par. 6); ESS 6 (par. 56, 63, 64, 65); ESS 7 (par. 5, 16, 28, 29, 58, 59); ESS 8 (par. 2, 47, 48, 53, 55, 58, 60, 61); ESS 9 (par. 1, 5, 16, 24, 30, 40, 41, 67, 68); ESS 10 (par. 3, 13).

¹⁵⁸ EIB ESS 1 (par. 27); ESS 7 (par. 29, 59).

¹⁵⁹ ESS 9 (par. 65).

¹⁶⁰ EIB ESP (par. 4.14, 4.26).

- analyzing the country's context and contextual risks (including those related to human rights);
- reviewing the information provided by the client and requesting additional information;
- reviewing other available information (including local sources of knowledge related to environmental, climate and social impacts);
- categorizing projects;
- conducting site-visits and engaging with the client's staff and relevant stakeholders (including potentially affected communities);
- ensuring the findings are reflected in the application of the mitigation hierarchy;
- assessing the capacity and commitment of the client to implement the project in accordance with the policy;¹⁶¹
- providing technical assistance or advisory support.¹⁶²

members. It also lists some of the key contextual risk factors to be identified during the initial screening of projects, such as: restrictions on civic space, the track record of the project implementers, past instances of retaliations in the area, conflicts or tensions in the community, and the presence of marginalized groups among others. The technical note also suggests some relevant independent sources of information, including national and international civil society organizations, affected communities, national human rights institutions, and regional and international human rights mechanisms and procedures. This initial screening of the projects has the objective of identifying retaliation risks, their potential perpetrators, and their victims,¹⁶⁴ informing IDB's risk categorization, and how to carry out consultations.

INTER-AMERICAN DEVELOPMENT BANK (IDB)

SPECIFIC DOCUMENTS ON REPRISALS

In 2022, the IDB adopted a technical note on Reprisal Risk Management¹⁶³ to support its staff, borrowers, and executing agencies to assess retaliation risks, prevent and respond to reprisals. Among the potential sources of retaliations, the note identifies: state agencies at central and local levels, executing agencies, business partners, non-state armed groups, media, and other community

The responsibility for assessing and preventing reprisals is put jointly on the IDB, the borrowers, and executing agencies. In order to prevent reprisals, it also highlights the importance of the IDB conducting additional stakeholder engagement without the involvement of the borrower in high-risk contexts,¹⁶⁵ and identifies certain specific circumstances that can be considered as red flags that determine the need to conduct IDB-led consultations.¹⁶⁶ It also considers the possibility of requesting the support of independent third parties to defuse tensions and reduce the likelihood that reprisals materialize.¹⁶⁷



Protest against Agua Zarca, Honduras.
Credit: COPINH.

¹⁶¹ EIB ESP (par. 4.17).

¹⁶² EIB ESP (par. 4.23).

¹⁶³ IDB Technical Note (TN) on Reprisal Risk Management, April 2022, <https://publications.iadb.org/en/reprisal-risk-management>.

¹⁶⁴ IDB TN (p. 23).

¹⁶⁵ IDB TN (p. 35).

¹⁶⁶ Such as, for example: lack of representation from members of some or all affected communities; presence of security forces at consultations; how project

partners speak about project stakeholders (for example, defining them as troublemakers, anti-development, terrorists); the imposing presence of some project partners at consultations; the fact that project-impacted stakeholders express views during bilateral talks, but few, if no one, express their views in context of public consultations; clear favoritism of some community members, or some communities, that appear to be favoring the project or specific project activities subject to consultation. See IDB TN (p. 35).

¹⁶⁷ IDB TN (pp. 24, 33).



Protesters spell out “Stop Belo Monte”.
Credit: Atossa Soltani, Amazon Watch.

The technical note is an important tool in the prevention and response to retaliation, as it details some of the key steps that must be taken for risk assessment and the prevention of retaliations, identifies the executing agencies as potential sources of retaliation, requires a contextual assessment, includes sources of information independent of the client and makes the bank responsible for the evaluation of these risks.

ENVIRONMENTAL AND SOCIAL POLICY

Reprisals

The Environmental and Social Policy Framework (ESPF),¹⁶⁸ approved in 2020, states that the bank does not tolerate retaliation, such as threats, intimidation, harassment, or violence, against those who voice their opinion or opposition to an IDB-financed project or to the borrower,¹⁶⁹ and states the client should not retaliate against workers who participate, or seek to participate, in workers’ organizations and

collective bargaining. It states the IDB takes any credible allegations of reprisals seriously, and when complaints are raised, the bank works to address them with the involved parties, raising its concerns directly to the borrower or relevant party and taking follow-up action.¹⁷⁰ The policy also states that meaningful consultations and stakeholder engagement must be free of reprisals¹⁷¹ and requires grievance mechanisms to ensure people can raise complaints free of reprisals.¹⁷²

The assessment of risks and impacts includes those related to human rights,¹⁷³ considers all relevant environmental and social risks and impacts,¹⁷⁴ including those related to community safety and threats to human security through the risk of escalation of personal or communal conflict and violence,¹⁷⁵ and risks related to conflict or contestation over land and natural resources.¹⁷⁶ The policy also

¹⁶⁸ IDB Environmental and Social Policy Framework (ESPF), 2020: <https://www.iadb.org/en/mpas>. The ESPF consists of a Policy Statement (PS) and 10 environmental and social performance standards: ESPS 1: Assessment and Management of Environmental and Social Risks and Impacts; ESPS 2: Labor and Working Conditions; ESPS 3: Resource Efficiency and Pollution Prevention; ESPS 4: Community Health, Safety, and Security; ESPS 5: Land Acquisition and Involuntary Resettlement; ESPS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources; ESPS 7: Indigenous Peoples; ESPS 8: Cultural Heritage; ESPS 9: Gender Equality; ESPS 10: Stakeholder Engagement and Information Disclosure.

¹⁶⁹ IDB PS (par. 7.2).

¹⁷⁰ IDB PS (par. 7.2).

¹⁷¹ IDB PS (par. 1.3); ESS 1 (par. 32, 33); ESS 10 (par. 21, 22).

¹⁷² IDB ESS 10 (par. 28); ESS 1 (par. 39); ESS2 (par. 22).

¹⁷³ IDB ESS 1 (par. 6).

¹⁷⁴ IDB ESS 1 (par. 9).

¹⁷⁵ IDB ESS1 (par. 9 vi); ESS 4 (par. 5).

¹⁷⁶ IDB ESS1 (par. 9 viii).

contains specific provisions related to the assessment of risks posed by the use of security personnel.¹⁷⁷

The policy does not regulate how the bank will assess reprisal risks and how it will prevent those risks, but its application is complemented by a guidance note that establishes some procedures and steps related to addressing reprisals.

Consultations

The client is responsible for stakeholder engagement with people affected by the project, and for obtaining FPIC of Indigenous communities when it is required.¹⁷⁸ Depending on the potential significance of the risks and impacts, the client may be required to retain third-party specialists to assist in stakeholder identification and analysis.¹⁷⁹ The policy does not establish the circumstances under which it is necessary to involve third-party specialists, nor does it specify how to ensure they are independent from the client.

Assessment of risks and impacts

The assessment of risks and impacts of the project is attributed to the client.¹⁸⁰ The clients may be required to involve external experts to assist in the risks and impacts identification and monitoring processes, throughout the project's lifecycle.¹⁸¹ The engagement of external experts is also required when the client is considering the development of an offset,¹⁸² when FPIC of indigenous communities is required, and to assist in the assessment and protection of critical cultural heritage.¹⁸³

The client must also engage external experts, separate from those responsible for the design and construction, in order to conduct a review when structural components of the project are situated in high-risk locations and their failure or malfunction may threaten the safety of communities.¹⁸⁴

For some projects that involve involuntary resettlement, depending on the scale and complexity of physical and economic displacement, the borrower has to commission an external completion audit of the Resettlement Action Plan or Livelihood Restoration

Plan.¹⁸⁵ When projects are implemented in areas of critical habitats, in a legally protected area, or an internationally recognized area, the borrower should retain external experts to assist in the development of a mitigation plan.¹⁸⁶ The policy does not clarify which process or rules must be followed in order to ensure the experts are independent of the client.

Clients are also responsible for project monitoring.¹⁸⁷ For projects with significant impacts, the borrower has to retain external experts to verify its monitoring information.¹⁸⁸ The IDB may require the client to engage stakeholders and third parties, such as independent experts, local communities, or civil society organizations, to complement or verify project monitoring information.¹⁸⁹

The bank's role

The IDB is responsible for:

- carrying out its own environmental and social due diligence, in accordance with the standards of the ESPF and the Environmental and Social Review Procedures.
- reviewing the information provided by the client;
- providing technical assistance and guidance to the client to fulfill the ESPF's requirements;¹⁹⁰
- requesting additional information where there are gaps;¹⁹¹
- monitoring the environmental and social performance of the project;¹⁹²
- assigning the social risk classification and disclosing the environmental and social documentation produced by the client and the bank.¹⁹³

If clients do not comply with the policies, the IDB should work with them to achieve compliance, and may provide additional technical assistance and increased monitoring by the bank and/or stakeholders and third parties.¹⁹⁴ When FPIC of Indigenous Peoples is required, the IDB has to assess the outcomes of the meaningful consultations; if FPIC cannot be verified, the bank should not proceed further. The IDB can also consider adopting additional measures in its due diligence process, to obtain the information required for its decision-making processes.

¹⁷⁷ IDB ESS 4 (par. 15, 16, 17).

¹⁷⁸ IDB PS (par. 1.3, 3.7, 3.17); ESS1 (par. 28, 29, 32, 33, 34, 35, 36, 37); ESS 5 (par. 10); ESS 6 (par. 19); ESS 7 (par. 10, 11, 13, 14, 15, 20, 26); ESS 8 (par. 9, 15, 16); ESS 9 (par. 17, 20); ESS 10 (par. 3, 6, 7, 9, 10, 11, 13, 17, 21, 23, 25, 26, 29).

¹⁷⁹ IDB ESS 10 (par. 12).

¹⁸⁰ IDB PS (par. 1.3, 2.2., 3.5, 3.18); ESS 1 (par. 5, 6, 7, 8, 9, 12, 14, 21); ESS 2 (par. 24, 25, 31, 32, 33, 36, 37); ESS 3 (par. 8, 10, 11, 13); ESS 4 (par. 5, 6, 7, 9, 13, 14, 15, 16); ESS 6 (par. 6, 21, 23); ESS 7 (par. 7, 9, 12, 18, 26); ESS 8 (par. 2, 6, 7, 8); ESS 9 (par. 11, 13, 18, 21).

¹⁸¹ IDB ESS 1 (par. 21).

¹⁸² IDB ESS 6 (par. 10).

¹⁸³ IDB ESS 7 (par. 16-21); ESS 7 (par. 14); ESS 8 (14).

¹⁸⁴ IDB ESS 4 (par. 7).

¹⁸⁵ IDB ESS 4 (par. 15).

¹⁸⁶ IDB ESS 6 (par. 8).

¹⁸⁷ IDB PS (par. 3.8, 3.9); ESS 1 (par. 5, 21, 24, 26); ESS 2 (par. 31, 34); ESS 3 (par. 12); ESS 4 (par. 7); ESS 5 (par. 14, 15).

¹⁸⁸ IDB ESS1 (par. 24).

¹⁸⁹ IDB PS (par. 3.8).

¹⁹⁰ IDB PS (par. 1.5, 3.1., 3.14., 3.15).

¹⁹¹ IDB PS (par. 3.13).

¹⁹² IDB PS (par. 3.20).

¹⁹³ IDB PS (par. 3.13).

¹⁹⁴ IDB PS (par. 3.20).



Protest over Las Bambas Mine.
Credit: Mining Conflict Observatory.

IDB INVEST

SPECIFIC DOCUMENTS ON REPRISALS

In 2021, IDB Invest issued a Good Practice Note in collaboration with IFC,¹⁹⁵ to provide practical guidance to companies on how to address risks of retaliation against project stakeholders and respond to reported incidents. The guide does not establish any steps the banks themselves must take to address these risks, even though it mentions that company representatives and partners can be among the potential perpetrators of retaliation.¹⁹⁶ In relation to the role of the banks, it only states that they seek to prevent reprisals through the identification of risks, in their due diligence processes, and in the engagement with their clients and partners on environmental and social risk management for their projects.¹⁹⁷

ENVIRONMENTAL AND SOCIAL POLICY

Reprisals

In 2020, IDB Invest adopted an Environmental and Social Sustainability Policy (ESSP).¹⁹⁸ In addition, the bank applies the Performance Standards (PS) on the Environmental and Social Sustainability of the IFC (see further details in the section below).¹⁹⁹

The ESSP states that meaningful stakeholder engagement must be free of intimidation or coercion,²⁰⁰ and that IDB Invest does not tolerate retaliation (such as threats, intimidation, harassment, or violence) against those who voice their opinion or opposition to its projects.²⁰¹ It says the client cannot retaliate against workers who participate, or seek to participate, in workers' organizations and collective bargaining,²⁰² or against those who raise concerns through the grievance mechanisms.²⁰³ It also affirms that the bank takes any credible allegations of reprisals seriously and aims to address them, raising concerns directly with the client and/or other relevant party, and that it takes follow-up action when necessary.²⁰⁴

The assessment of risks and impacts includes environmental, social, and human rights aspects,²⁰⁵ including those related to community safety (eg: escalation of personal or communal conflict, and violence or contestation over land and natural resources).²⁰⁶ The policy also contains specific provisions related to the assessment of risks posed by the use of security personnel.²⁰⁷

¹⁹⁵ "Good Practice Note for the Private Sector: Addressing the Risks of Retaliation Against Project Stakeholders" (hereinafter, GPN), IDB Invest and IFC, 2021, <https://www.idbinvest.org/en/publications/good-practice-note-private-sector-addressing-risks-retaliation-against-project>

¹⁹⁶ IDB Invest & IFC GPN (p. 9).

¹⁹⁷ IDB Invest & IFC GPN (pp 6, 7).

¹⁹⁸ IDB Invest Environmental and Social Sustainability Policy (ESSP), 2021, bit.ly/3ZHbEBM

¹⁹⁹ Performance Standards on Environmental and Social Sustainability (PS), IFC,

2012, <https://bit.ly/4359YVz>

²⁰⁰ IDB Invest ESSP (par. 18); IFC PS 1 (par 30).

²⁰¹ IFC ESP (par. 20).

²⁰² IFC PS 2 (par. 14).

²⁰³ IFC PS 2 (par. 20).

²⁰⁴ IDB Invest ESSP (par. 20).

²⁰⁵ IDB Invest ESSP 1 (par. 6, 9).

²⁰⁶ IDB Invest ESSP 1 (par. 9 vi, viii); ESS 4 (par. 5).

²⁰⁷ IDB Invest ESSP (par.17); IFC PS 1 (par. 3, 7), PS 4 (par. 2).



Mountains in Yichk'isis, Guatemala.
Credit: Front Line Defenders.

One of the performance standards applies to health, safety and security risks, and requires the assessment of some risks that should be part of a reprisal risk assessment, such as risks posed by the use of security personnel, including government security forces.²⁰⁸ Despite its explicit commitments against retaliations, the policy does not establish a detailed process for comprehensively assessing retaliation risks, or for preventing and responding to retaliations.

Responsibilities for consultations

The client is responsible for consulting potentially affected stakeholders.²⁰⁹ When FPIC is required, the client must engage external experts to assist in the identification of the project risks and impacts.²¹⁰ As the IFC performance standards do not define these external experts,²¹¹ it means they may be directly appointed or hired by the client.

Assessment of risks and impacts

The policy places the responsibility for the assessment of project risks on the client.²¹² For projects with potentially significant adverse impacts or that involve technically complex issues, IDB Invest requires the application of IFC standards (see IFC section below).²¹³

The bank's role

IDB Invest conducts due diligence of proposed direct investments; when there are significant environmental or social impacts associated with the project, the bank works with its client to determine possible remediation measures.²¹⁴

Environmental and social due diligence for direct investments include:

- a review of available information, records, and documentation, including local sources of knowledge related to the environmental and social risks and impacts;
- environmental and social risk categorization of the project;
- requesting additional information when gaps are identified;
- contextual risk assessment through a review of informed consultation, participation,²¹⁵ and FPIC conducted by the client;²¹⁶
- conducting a site visit and interviews with client's staff and stakeholders, including potentially affected communities;
- monitoring the client's community engagement during implementation and evaluation of the environmental and social management plans and performance;
- development of an Environmental and Social Action Plan;
- disclosure of the project information on the website;²¹⁷
- a gender risk screening assessment for investments with potential disproportionate gender-based risks and impacts;²¹⁸
- screening and assessment of climate-related risks that may affect its investments, particularly for areas highly prone to disasters;²¹⁹
- revision of the client's monitoring reports and updates on the environmental and social commitments, taking into account information from third parties (including affected communities, stakeholders and other relevant organizations).²²⁰

²⁰⁸ IFC PS 4 (par. 12-14).

²⁰⁹ IDB Invest ESSP (par. 18, 22); IFC PS 1 (par. 26, 27, 30, 31, 32, 33); PS 5 (par. 10); PS 6 (par. 14, 20); PS 7, (par. 9, 10, 11, 12, 16, 17); PS 8 (par. 9, 14, 15).

²¹⁰ IFC PS 7 (par. 11).

²¹¹ Even though not directly applicable by IDB Invest, IFC environmental and social review procedures manual developed to apply the PS state they are experts appointed by the client to assist with its assessment or other tasks or by the bank to help with its review or supervision activities (see IFC Key terms and acronyms).

²¹² IFC ESP (par. 11, 14, 15, 21, 26, 44); PS 1 (par. 5, 7, 9, 12); PS 2 (par. 21, 23); PS 2 (par. 27); PS 3 (par. 11), PS 4 (par. 5, 6, 8); PS 4 (par. 12, 13); PS 5 (par. 32), PS 6

(par. 6, 8, 22, 24, 28); PS 7 (par. 8, 14); PS 7 (par. 22); PS 8 (par. 2, 6, 7, 8).

²¹³ IFC PS 6 (par. 26).

²¹⁴ IDB Invest ESSP (par. 31).

²¹⁵ IFC PS 1.

²¹⁶ IDB Invest ESSP (par. 32, 22).

²¹⁷ IDB Invest ESSP (par. 32).

²¹⁸ IDB Invest ESSP (par. 21).

²¹⁹ IDB Invest ESSP (par. 11).

²²⁰ IDB Invest ESSP (par. 51).

INTERNATIONAL FINANCE CORPORATION (IFC)

SPECIFIC DOCUMENTS ON REPRISALS

In 2018, IFC adopted a Position Statement on Retaliation Against Civil Society and Project Stakeholders,²²¹ stating it does not tolerate any action by a client that amounts to retaliation – including threats, intimidation, harassment, or violence – against those who voice their opinion regarding the activities of IFC or its clients. In this statement, the bank explicitly references retaliation perpetrated by its clients. The bank also affirms it takes any credible allegations of reprisals seriously. When complaints about reprisals are raised, the bank works with the clients or appropriate parties to try to address them, by raising concerns directly with the client or relevant party, making clear the bank’s position against reprisals, and taking follow-up action where appropriate. In addition to environmental and social requirements related to risk identification, stakeholder engagement, and complaint mechanisms, the bank states it is working on internal protocols and staff guidance to raise awareness and guide

action, including integrating these concerns in their contextual risk screening procedures to identify contexts that are high-risk for retaliation and violence.

In 2020, IFC published a Tip Sheet for clients to prevent reprisals during the pandemic, providing practical advice to minimize risks and flag specific issues that could be exacerbated in the context of COVID-19.²²² The Tip Sheet mentions the previous Position Statement, but no additional reference is made to the actions the bank adopted to assess the increased reprisal risks, and to prevent and respond to reprisals in the context of the pandemic.

In 2021, IFC published a “Good Practice Note for the Private Sector, Addressing the Risks of Retaliation Against Project Stakeholders”, in collaboration with the IDB Invest (see section above).²²³



Activists celebrate restoring the flow of the Amazon.
Credit: Atossa Soltani, Amazon Watch.

²²¹ Position Statement on Retaliation Against Civil Society and Project Stakeholders, IFC, 2018, https://www.ifc.org/wps/wcm/connect/ade6a8c3-12a7-43c7-b34e-f73e5ad6a5c8/EN_IFC_Reprisals_Statement_201810.pdf

²²² Tip Sheet for IFC clients: preventing reprisals during COVID-19 pandemic, IFC, 2020: <https://www.ifc.org/wps/wcm/connect/7959fcf5-3b4d-4da5->

[a252-42cc5544281f/Tip+Sheet_Reprisals_COVID19_June2020.pdf?MOD=AJPERES&CVID=naGtY29](https://www.ifc.org/wps/wcm/connect/93aac0e9-0230-4afe-98df-a916b27b440f/IDB+Invest+and+IFC+Reprisals+GPN.pdf?MOD=AJPERES&CVID=nxFSsgS)

²²³ IDB Invest & IFC GPN (pp. 6 - 7), <https://www.ifc.org/wps/wcm/connect/93aac0e9-0230-4afe-98df-a916b27b440f/IDB+Invest+and+IFC+Reprisals+GPN.pdf?MOD=AJPERES&CVID=nxFSsgS>

ENVIRONMENTAL AND SOCIAL POLICY

Reprisals

In 2012, the IFC adopted its Policy on Environmental and Social Sustainability,²²⁴ applied in conjunction with IFC's Performance Standards on Environmental and Social Sustainability.²²⁵

According to IFC's Performance Standards, meaningful stakeholder engagement must be free of external manipulation, interference, coercion, or intimidation.²²⁶ This policy also states that clients cannot retaliate against workers who participate, or seek to participate, in workers' organizations and collective bargaining,²²⁷ or against those who raise concerns through the grievance mechanisms.²²⁸

The risk assessment includes potential human rights, environmental and social risks and impacts.²²⁹ One of the performance standards applies to health, safety and security risks and requires the assessment of some risks that should be part of a reprisal risk assessment, such as those posed by the use of security personnel, including government security forces.²³⁰ Despite its explicit commitments against retaliations, the policy does not establish a detailed process for comprehensively assessing retaliation risks or preventing and responding to retaliation.

Responsibilities for consultations

The client is responsible for consulting potentially affected stakeholders.²³¹ When FPIC is required, the client must engage external experts to assist in identifying the project risks and impacts.²³² According to IFC's environmental and social review procedures manual they are experts appointed by the client to assist with its assessments or other tasks, or by the bank to help with its review or supervision activities.²³³ This means they may be directly appointed or hired by the client.

Assessment of risks and impacts

The policy places the responsibility for the assessment of project risks on the client.²³⁴ For projects with potentially significant adverse impacts or involving

technically complex issues, clients may be required to involve external experts to assist in the identification process of risks and impacts.²³⁵ This requirement is discretionary, and the policy does not clarify how to assess the independence of the experts.

The client must retain external experts to assist in assessing and protecting critical cultural heritage.²³⁶ When structural elements or components are located in high-risk areas, and their malfunction may threaten the safety of communities, the client will also engage external experts with relevant and recognized experience in similar projects, separate from those responsible for the design and construction, to conduct a review as early as possible and throughout all the stages of the project.²³⁷

The client is also responsible for monitoring the project.²³⁸ For projects with significant impacts, the client will retain external experts to verify its monitoring information (for example, when the project involves a resettlement plan, livelihood restoration, critical habitats, biodiversity offsets, and production of living natural resources).

The bank's role

IFC conducts due diligence on the level and quality of the risks and impacts identification process, carried out by its clients, against the requirements of the Performance Standards.²³⁹ Environmental and social due diligence on direct investments typically includes reviewing available information, records, and documentation related to the environmental and social risks and impacts; site inspections and interviews of client personnel and relevant stakeholders, where appropriate; analyzing the environmental and social performance of the project; identifying gaps and additional measures and actions needed to ensure the project meets the Performance Standards.²⁴⁰

IFC monitors the client's community engagement process.²⁴¹ For projects with potentially significant adverse impacts on communities or potentially adverse impacts on Indigenous Peoples, the bank

²²⁴ Policy on Environmental and Social Sustainability (ESSP), IFC, 2012, https://www.ifc.org/wps/wcm/connect/7141585d-c6fa-490b-a812-2ba87245115b/SP_English_2012.pdf?MOD=AJPERES&CVID=kilrw0g

²²⁵ Performance Standards on Environmental and Social Sustainability (PS), IFC, 2012, https://www.ifc.org/wps/wcm/connect/24e6bfc3-5de3-444d-be9b-226188c95454/PS_English_2012_Full-Documents.pdf?MOD=AJPERES&CVID=jkV-X6h

²²⁶ IFC PS 1 (par. 30).

²²⁷ IFC PS 2 (par. 14).

²²⁸ IFC PS 2 (par. 20).

²²⁹ IFC PS 1 (par. 3, 7), PS 4 (par. 2), PS 1 (par. 7).

²³⁰ IFC PS 4 (par. 12-14).

²³¹ IFC ESSP (par. 31); IFC PS 1 (par. 26, 27, 30, 31, 32, 33); PS 5 (par. 10); PS 6 (par. 14, 20); PS 7 (par. 9, 10, 11, 12, 16, 17); PS 8 (par. 9, 14, 15).

²³² IFC PS 7 (par. 11).

²³³ IFC's environmental and social review procedures manual, Key terms and acronyms, https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/ES-Proc-Manual

²³⁴ IFC PS 1 (par. 5, 7, 9, 12); PS 2 (par. 21, 23); PS 2 (par. 27); PS 3 (par. 11), PS 4 (par. 5, 6, 8); PS 4 (par. 12, 13); PS 532, PS 6 (par. 6, 8, 22, 24, 28); PS 7 (par. 8, 7, 22), PS 8 (par. 2, 6, 7, 8).

²³⁵ IFC PS 1 (par. 19).

²³⁶ IFC PS 8 (par. 14).

²³⁷ IFC PS 4 (par. 6).

²³⁸ IFC PS 1 (par. 22, 23), PS 2 (par. 25, 27); PS 3 (par. 8, 12), PS 5 (par. 14, 30), PS 6, (par. 17), PS 6 (par. 30), PS 7 (par. 21).

²³⁹ IFC ESSP (par. 12).

²⁴⁰ IFC ESSP (par. 28).

²⁴¹ IFC ESSP (par. 30).

will determine through its own investigation if the client's community engagement involves informed consultation and participation,²⁴² and leads to "broad community support" for the project.²⁴³ When FPIC is required, the bank undertakes an in-depth review of the process conducted by the client.²⁴⁴

To monitor its direct investments, the IFC reviews the information reported by the client and the updates on

the environmental and social action plan, identifies opportunities for improvement, addresses adverse impacts caused by changes in the circumstances, and works with the client to achieve compliance.²⁴⁵ When the IFC invests in extractive industries, it assesses the governance risks to expected benefits, promotes transparency of revenue payments to host governments, and requires that clients publicly disclose their payments.²⁴⁶



Mountains in Yichk'isis, Guatemala.
Credit: Front Line Defenders.

²⁴² IFC PS 1.

²⁴³ IFC ESSP (par. 30).

²⁴⁴ IFC ESSP (par. 31).

²⁴⁵ IFC ESSP (par. 45).

²⁴⁶ IFC ESSP (par. 49).



Máxima Acuña on her land, Peru.
Credit: Goldman Prize.

WORLD BANK (WB)

SPECIFIC DOCUMENTS ON REPRISALS

In March 2020, the WB adopted a statement on zero tolerance for reprisals against those who share their views about bank-financed projects, stating that “any form of intimidation against people who comment on Bank projects, research, activities and their impact, goes against our core values of respecting the people we work for and acting with utmost integrity”.²⁴⁷ The statement refers to the bank’s commitments against reprisals contained in its environmental and social policies and supporting guidance, as well as in other policies.²⁴⁸ However, none of these policies establishes specific protocols to regulate how due diligence is applied to assess and mitigate reprisal risks, or how the bank will act to prevent and address reprisals.

ENVIRONMENTAL AND SOCIAL POLICY

Reprisals

The Environmental and Social Framework (ESF)²⁴⁹ requires the identification and prevention of all social

and environmental risks generated by the projects,²⁵⁰ and establishes that consultations with interested parties²⁵¹ and grievance mechanisms must be free of coercion and intimidation.²⁵² However, the policy does not establish any procedure aimed at assessing reprisal risks in the context of the projects, as well as procedures to prevent and respond to reprisals.

Consultations

The ESF places the responsibility for meaningful consultations on the borrower.²⁵³ The direct consultation of the WB with affected people is only required to determine the applicability of safeguards related to Indigenous Peoples and Sub-Saharan African historically underserved traditional local communities.²⁵⁴ The bank can – at its own discretion – decide to support the borrower as and when required, to carry out engagement and meaningful consultations, and participate in consultations to understand and address the concerns of project-affected people.²⁵⁵

²⁴⁷ World Bank Commitments Against Reprisals, March 2020, <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/world-bank-commitments-against-reprisals>.

²⁴⁸ In addition to the ESF, other specific documents and policies mentioned in the statement are the Environmental and Social Framework Directive on Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups, the Standard Procurement Documents, the Grievance Redress Service, and the Inspection Panel and its Guidelines to Reduce Retaliations Risks and Respond to Retaliation During the Panel Process. The Good Practice Note on Addressing Sexual Exploitation and Abuse and Sexual Harassment in Investment Project Financing Involving Major Civil Works is also mentioned, but only in relation to grievance mechanisms.

²⁴⁹ World Bank Environmental and Social Framework, 2016, <https://thedocs.worldbank.org/en/doc/837721522762050108-0290022018/original/ESFFramework.pdf>. The framework includes the following Environmental and Social Standards: ESS

1: Assessment and Management of Environmental and Social Risks and Impacts; ESS 2: Labor and Working Conditions; ESS 3: Resource Efficiency and Pollution Prevention and Management; ESS 4: Community Health and Safety; ESS 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement; ESS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources; ESS 7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities; ESS 8: Cultural Heritage; ESS 9: Financial Intermediaries; and ESS 10: Stakeholder Engagement and Information Disclosure.

²⁵⁰ WB ESP (par 4.b); ESS1 (par. 28, Annex 2); ESS 4 (par. 2, 24-27).

²⁵¹ WB ESS 10 (par. 7, 10, 22).

²⁵² WB ESS 10 (par. 27), ESS 2 (par. 22).

²⁵³ WB ESS 10 (par.7); ESP (par. 53).

²⁵⁴ WB ESP (par. 54).

²⁵⁵ WB ESP (par 3.b, 53).

The policy also considers the possibility of requiring the borrower to retain independent third-party specialists, to assist in stakeholder identification and to support designing an inclusive engagement process, depending on the potential significance of environmental and social risks and impacts.²⁵⁶ However, the policy does not establish rules to ensure the independence of third-party specialists.²⁵⁷

Assessment of risks and impacts

The assessment of different risks and impacts of the projects is a responsibility attributed to the client.²⁵⁸ Depending on the potential significance of environmental and social risks and impacts, the bank determines whether the borrower will be required to retain independent third-party specialists to assist in assessing environmental and social impacts.²⁵⁹ For high and substantial risk projects, and when the borrower has limited capacity, the borrower will retain independent specialists to carry out the environmental and social assessment.²⁶⁰ The engagement of independent experts by the borrower is also required in other specific situations.²⁶¹ The policy adds that the borrower must take measures to ensure any conflict of interest is avoided, and the assessment will not be done by the consultants who prepare the engineering design, unless the borrower can demonstrate that no conflict of interest exists and such consultants include qualified environmental and social specialists.²⁶² Since these specialists

will be selected and hired by the client, who is also defining the scope of their work, there is a high risk their assessments will not be independent and comprehensive. Assistance by the bank is only contemplated in some specific cases.²⁶³

The client is also responsible for monitoring the project implementation and reporting that information to the bank.²⁶⁴ The bank will require the borrower to engage stakeholders and third parties such as independent experts, local communities or NGOs to complement or verify project monitoring information, where appropriate and as set out in the Environmental and Social Commitment Plan (ESCP).²⁶⁵ The bank can carry out field visits as part of the monitoring, facilitated by the client.²⁶⁶

The bank's role

The bank has the responsibility to review the assessment of the risks and impacts of the projects, based on the information produced and provided by the client at the different stages of the project, and can also request additional information if gaps are identified.²⁶⁷ In addition, banks are responsible for assessing risks inherent to the type of project and the specific context in which it will be developed and implemented, the capacity and commitment of the borrower to develop and implement the project in accordance with the ESS, and the significance of the gaps in information.²⁶⁸



Anastasia Mejia, woman human rights defender from Guatemala.
Credit: IM-Defensoras.

²⁵⁶ WB ESS 10 (par. 12).

²⁵⁷ WB ESS 4 (par. 8).

²⁵⁸ WB ESP (par. 15); ESS1 (par. 3, 14, 22, 23, 52); ESS 2 (par. 36, 37, 39); ESS 3 (par. 9, 12, 16, 18); ESS 5 (par. 8, 11, 20); ESS 6 (par. 10, 11, 26, 27, 29, 31); ESS 8 (par. 8, 10).

²⁵⁹ WB ESP (par. 32).

²⁶⁰ WB ESS 1 (par. 25).

²⁶¹ WB ESS 4 (par. 8); ESS 4 Annex 1 (par. 3, 7); ESS 6 (par. 17); ESS 7 (par. 24).

²⁶² WB ESS1 Annex 1 (par. 8).

²⁶³ WB ESS 2 (par. 16).

²⁶⁴ WB ESS 1 (par. 1, 14, 45, 46, 47, 50); ESS 2 (par. 18, 37, 40); ESS 3 (par. 8); ESS 4 (par. 10, 11).

²⁶⁵ WB ESP (par. 58); ESS 1 (par. 45).

²⁶⁶ WB ESS 1 (par. 49).

²⁶⁷ WB ESP (par. 32).

²⁶⁸ WB ESP (par. 33).

RECOMMENDATIONS



Dumagat-Remontados Indigenous people protesting against the Kaliwa Dam in the Philippines.
Credit: Stop Kaliwa dam coalition.

RECOMMENDATIONS

As indicated in this report, DFIs' clients are often directly responsible for the reprisals occurring in the context of their projects and have incentives to avoid disclosing information related to reprisals. Implementing zero tolerance for reprisals requires DFIs to stop entrusting their clients with reprisal risk assessment and response, unless the clients have actively worked with directly affected communities and defenders to earn their trust first. DFIs cannot uncritically delegate reprisal risk assessment and response to clients.

Instead, DFIs should develop protocols and guidelines for what they will do themselves on reprisal issues. These protocols and guidelines must cover the entire project cycle and should be prepared in close consultations with those who have directly experienced reprisals in the context of development projects, as well as with the wider community and their allies, including CSOs specializing in human rights issues.

Under these protocols and guidelines, DFI should:²⁶⁹

1. Assess reprisal risks and respond when reprisals occur

- a. Carry out an initial reprisal risk assessment, related to contexts and clients, through reprisal-sensitive consultations with communities directly affected by the project or policy. This assessment should precede any further steps on the project.
- b. Continue to independently assess reprisal risks related to contexts and clients, on an ongoing basis throughout the project lifecycle, as part of holistic human rights due diligence. Communities must be given the opportunity to actively and safely participate in this ongoing monitoring of the project.²⁷⁰
- c. Take the lead: if there are allegations of reprisals, work directly with the person or peoples facing reprisals in a reprisal-sensitive manner to respond to reprisals.

2. Strengthen capacity and incentives of bank staff, management and consultants to prevent and respond to reprisals

- a. Strengthen internal capacity to provide oversight and supervision for the implementation of environmental and social safeguards.
- b. Invest in staff capacity to independently verify information from clients to assess reprisal risks and develop protocols to respond to reprisals independently from clients. For higher risk contexts, this should include reprisal-sensitive field visits in the project preparation phase, where the banks can engage directly with communities, independently from the client.
- c. Align incentives of staff, management and consultants to avoid reprisal risks, including implementing concrete adverse consequences for inadequate due diligence or failure to respond to cases of reprisals.
- d. Build in-house capacity on reprisal prevention and response, and maintain a roster of independent experts on reprisal prevention and response, ensuring they adhere to specific guidelines to avoid conflicts of interest.

3. Align client incentives (including by implementing negative consequences) to avoid reprisal risks and respond when reprisals occur

- a. Require clients to provide greater information transparency and disclosure around reprisal risks and cases of reprisals.
- b. Align client incentives and develop capacity to prevent reprisals and support a human rights-based response to cases of reprisals.
- c. Develop consequences for clients who withhold information about reprisal risks, fail to act in good faith in response to allegations of reprisals, or actively suppress dissent. Consequences can include higher borrowing costs, blacklisting, remedy framework, etc.

²⁶⁹ A more comprehensive list of recommendations for DFIs, related to the assessment of reprisal risks and the prevention and response to reprisals in the context of development projects, can be found in the reports this analysis is based on: Uncalculated Risks (2019), Unhealthy Silence (2021) and Wearing Blinders (2022).

²⁷⁰ For more information on HRDD to avoid reprisal risks please see the recommendations in the report "Wearing Blinders".

HOW DFIS CAN ENSURE A REPRISAL-SENSITIVE ENGAGEMENT

- 1 Seek out dissenting voices and ensure that stakeholder mapping exercises explicitly identify defenders or those at risk of reprisal.
- 2 Ensure adequate conditions for the participation of women, Indigenous, and other defenders and at-risk groups free from intimidation or coercion as a prerequisite for investment, allowing defenders and marginalized groups to establish the appropriate mode of engagement for their confidential, safe and effective participation.
- 3 Ensure and verify that affected communities have access to information in languages and format understandable to them, and in a timeframe that allows them to meaningfully engage and shape decision-making.
- 4 Require and independently verify that projects have secured and maintain the free, prior and informed consent of the concerned Indigenous Peoples and other rights-holders.
- 5 In communications with staff, project partners, authorities, and the public, make clear that those who raise concerns about a project have a right to be heard, avoid stigmatization or negative labels such as “project opponents” and take every opportunity to reaffirm the important role that defenders play in sustainable, inclusive development.
- 6 Address power imbalances and support affected communities’ capacity to meaningfully engage in development processes and defend their rights.
- 7 Provide strong oversight and specific guidance and capacity building for both clients and staff regarding how to conduct and verify reprisal-sensitive stakeholder engagement, especially in restricted contexts.



*Local communities have decried the destruction of the Cauca River.
Credit: Movimientos Ríos Vivos Antioquia.*

ANNEX A: TABLE OF CASES

(IN ALPHABETICAL ORDER, BY COUNTRY)

PROJECT REFERENCE	COUNTRY	SECTOR	DFIS INVOLVED	REPRISALS (WITH DIRECT CLIENT'S RESPONSIBILITY)	ALLEGED AUTHOR OF REPRISALS	TYPE OF CLIENT	CLIENT	FURTHER INFO
Amulsar mine	Armenia	Mining	EBRD	Harassment, threats, smearing, SLAPPs, violent repression of protests	Company's security personnel, authorities	Private	Lydian International	Wearing Blinders (pp 21 - 25)
Southern gas corridor	Azerbaijan	Oil and gas	ADB, AIIB, EBRD, EIB, World Bank	Criminalization, imprisonment, travel ban	Police, government authorities	Combination of public and private	Southern Gas Corridor pipeline (partially government-owned), LUKOIL Overseas Shah Deniz Ltd	Uncalculated Risks (pp 89 - 90)
Bangladesh / COVID-19	Bangladesh	COVID-19 response project	ADB, AIIB, World Bank	Arbitrary detention, torture	Police, judiciary	Public	Bangladesh government	Unhealthy Silence (pp 22 - 24)
Belo Monte Dam	Brazil	Hydro	BNDES	Criminalization, evictions, destruction of properties, attempts to infiltrate the movement, violent repression of protests	Police, government authorities	Combination of public and private	Norte Energia	Uncalculated Risks (pp 58 - 61)
Jirau Dam	Brazil	Hydro	BNDES	-	-	Combination of public and private	Consorcio Energia Sustentável do Brasil (ESBR)	* A defender was threatened and killed. The client is likely to be responsible for the reprisals, but clear evidence is lacking. Uncalculated Risks (pp 62-63)
Land Management and Administration Project	Cambodia	Land management	World Bank	Harassment, threats, beatings, surveillance, arbitrary arrests, imprisonment, criminalization	Government authorities, judiciary, police, para-police, and district guards	Public	Cambodian government	Uncalculated Risks (pp 81 - 82)
China / COVID-19	China	COVID-19 response project	NDB	Criminalization, torture	Police, judiciary	Public	Chinese government	Unhealthy Silence (pp 25 - 26).
Hidroituango hydroelectric project	Cambodia	Hydro	IDB/IDB Invest, BNDES, KfW Ipex, ICBC	Harassment, threats, stigmatization, defamation, repression of protests, physical attacks, torture, criminalization, mass detention, surveillance	Police and district guards, parapolice, judiciary	Combination of public and private	Local government of Antioquia, Empresas Públicas de Medellín (EPM), minority shareholders	Uncalculated Risks (pp 64-66)
Alexandria Portland Cement Company	Egypt	Cement	IFC	Use of excessive police force, physical attacks, intimidation, judicial harassment, detentions	Police, judiciary	Private	Alexandria Portland Cement Company (Titan)	Uncalculated Risks (pp 67 - 68)

PROJECT REFERENCE	COUNTRY	SECTOR	DFIS INVOLVED	REPRISALS (WITH DIRECT CLIENT'S RESPONSIBILITY)	ALLEGED AUTHOR OF REPRISALS	TYPE OF CLIENT	CLIENT	FURTHER INFO
Ahli United Bank	Egypt	Financial services	IFC	Intimidation, freezing of bank account	Police, judiciary	Private	Ahli United Bank	Uncalculated Risks (pp 69-70)
Promoting Basic Services Program	Ethiopia	Budgetary support	World Bank	Arbitrary detention, criminalization	Police, judiciary	Public	Ethiopian government	Uncalculated Risks (pp 73-74)
Guatemala / COVID-19	Guatemala	COVID-19 response project	IDB, World Bank	Criminalization, arbitrary detention	Police, government authorities, judiciary	Public	Guatemalan government	Unhealthy Silence (pp 27 - 29)
Santa Rita Hydroelectric project	Guatemala	Hydro	IFC, FMO, DEG, SIFEM, AECID	Criminalization, repression of protests, militarization, threats, destruction of homes, attacks, detentions, smear campaigns, killings	Police, judiciary	Public	Ethiopian government	Uncalculated Risks (pp 73-74)
Rio Salá Hydroelectric Project	Guatemala	Hydro	FMO, IFC, IDB Invest, Finnfund, CABEI, CMIC	Harassment, defamation, smear campaigns, surveillance, criminalization, detention	Company representatives, private security, judiciary	Private	Hidrosalá S.A	Uncalculated Risks (pp 47 - 49)
San Mateo and San Andrés dams	Guatemala	Hydro	IDB Invest, CABEI, KfW	Smear campaign, militarization, threats, attacks, killings, repression of protests	Former paramilitary and military personnel as private security guards	Private	Energía y Renovación S.A.	Wearing Blinders (pp 27 - 31)
Guinea / COVID-19	Guinea	COVID-19 response project	World Bank	Repression of protests, killings	Police	Public	Guinea government	Unhealthy Silence (pp 30 - 32)
Dinant palm oil plantations	Honduras	Palm oil	IFC	Intimidation, violent attacks, killings	Company security guards in some cases acting with the military	Private	Dinant Corporation	Uncalculated Risks (pp 38-40)
Agua Zarca Dam	Honduras	Hydro	Finnfund, FMO, CABEI	Threats, surveillance, physical attacks, sexual harassment, criminalization, shootings, killing	Company representatives and employees, hitmen hired by the company, public security forces employed by the company and guarding its headquarters	Private	Desarrollos Energéticos S.A. (DESA)	Uncalculated Risks (pp 50-52)
IPP4 Al-Manakher Power Plant	Jordan	Power plant	EBRD, OPIC	Threats, arbitrary detention and interrogations, harassment	Police acting on a complaint allegedly submitted by a company representative, harassment by the company	Private	AES Levant Jordan	Uncalculated Risks (pp 71 - 72)
Jordan / COVID-19	Jordan	COVID-19 response project	World Bank	Arbitrary detention	Government authorities, judiciary	Public	Jordan government	Unhealthy Silence (pp 33 - 34)

PROJECT REFERENCE	COUNTRY	SECTOR	DFIS INVOLVED	REPRISALS (WITH DIRECT CLIENT'S RESPONSIBILITY)	ALLEGED AUTHOR OF REPRISALS	TYPE OF CLIENT	CLIENT	FURTHER INFO
Lukoil Overseas Karachaganak	Kazakhstan	Oil and gas	IFC	Harassment, threats, physical and verbal attacks, discrimination, surveillance, detention	Police, local authorities	Combination of public and private	Lukoil Overseas Karachaganak B. V. received funding for the Karachaganak Petroleum Operation B.V., a joint venture partially owned by the government	Uncalculated Risks (pp 91- 92)
Mombasa Mariakani Road Project	Kenya	Road	AfDB, EIB, KFW, EU-AITF	Harassment, threats	Government authorities	Public	Kenyan National Highways Authority (KeNHA)	Uncalculated Risks (pp 75 - 76)
Natural Resource Management Program and Water Tower Protection and Climate Change Programme	Kenya	Forest management	World Bank, EDF	Destruction of homes and property, physical attacks, shootings, killings	Forest service guards	Public	Kenya Forest Service	Uncalculated Risks (pp 77-78)
Mareña Renovables / Eólica del Sur	Mexico	Wind energy	IDB, IDB Invest, EKF, BANOBRAS, NAFINSA	Harassment, threats, arbitrary detention, criminalization, physical attacks, cut off basic services	Government authorities, police, judiciary, company representatives and employees, investors and representatives of the company union	Combination of public and private	Public private partnership by MMIF, Macquarie Asset Finance Limited and FEMSA, with funds from Mexico's FONADIN and BANOBRAS	Uncalculated Risks (pp 41-44)
East West Corridor Highway Project	Myanmar	Road	ADB	Harassment, threats, dismissals, criminalization, shooting	Security guards, government authorities, judiciary	Private	Myanmar government	Uncalculated Risks (pp 85 - 86)
Khimti-Dhakelbar Transmission Line	Nepal	Energy	World Bank	Physical attacks, arbitrary detentions, threats	Police, government authorities	Public	Nepalese government	Uncalculated Risks (pp 87 - 88)
Nicaragua / COVID-19	Nicaragua	COVID-19 response project	IDB, World Bank	Dismissal, threats	Government authorities	Public	Nicaraguan government	Unhealthy Silence (pp 35 - 37)
Coal Projects in Bataan province	Philippines	Coal	IFC	-	-	Private	Rizal Commercial Banking Corporation and BDO Unibank (FI)	<i>*A defender was threatened and killed. It remains unclear who was behind the anonymous threats and the killings, but all reports confirm the defender was killed as a result of her activism.</i> Uncalculated Risks (pp 83 - 84)

PROJECT REFERENCE	COUNTRY	SECTOR	DFIS INVOLVED	REPRISALS (WITH DIRECT CLIENT'S RESPONSIBILITY)	ALLEGED AUTHOR OF REPRISALS	TYPE OF CLIENT	CLIENT	FURTHER INFO
Kaliwa Dam	Philippines	Hydro	Exim Bank of China	Threats, killings	Police, judiciary	Public	Metropolitan Waterworks and Sewerage System (MWSS)	Wearing Blinders (pp 33 - 37)
Minera Yanacocha	Peru	Mining	IFC	Forced evictions, destruction of homes, physical attacks, repression of protests	Company security personnel, police (coordinating actions with the company)	Private	Newmont Mining	Uncalculated Risks (pp 53-54)
Las Bambas Copper Mine	Peru	Mining	IFC	Repression of protests, physical attacks, unauthorized home searches, arbitrary detentions, killings	Police (coordinating actions with the company)	Private	Consortium of MMG Guoxin International Investment and Citic Metal	Uncalculated Risks (pp 55-57)
Marikana Platinum Mine	South Africa	Mining	IFC	Repression, use of excessive force, violence and killings	Company security personnel, police	Private	Lonmin Company	Uncalculated Risks (pp 79 - 80)
Sudan / COVID-19	Sudan	COVID-19 response project	AfDB, World Bank	Threats, attempt of arrest, criminalization and dismissal	Government authorities, police	Public	Sudanese government	Unhealthy Silence (pp 38 - 39)
Turkmenistan / COVID-19	Turkmenistan	COVID-19 response project	World Bank	Criminalization, detention	Police, judiciary	Public	Turkmenistan government	Wearing Blinders (pp 39 - 43)
Toro Semliki reserve	Uganda	Conservation of Protected Areas	World Bank	Killings, attacks, threats, detentions	Uganda Wildlife Authority rangers	Public	Uganda Wildlife Authority	Wearing Blinders (pp 44 - 49)
MHP Poultry Facilities	Ukraine	Agriculture	EBRD, IFC, EIB	Undue pressure to lease land, harassment, physical attacks	Company* <i>* The company can be considered indirectly responsible for the violent attacks, as it contributed to creating divisions among the community and it is likely to have instigated violence</i>	Private	Myronivsky Hliboproduct PJSC (MHP)	Uncalculated Risks (pp 93 - 94)
The cotton sector	Uzbekistan	Textile / Agriculture	IFC, ADB, WB, EBRD	Physical attacks, arbitrary detentions, forced treatment, destruction of personal documentation & property, threats, criminalization, travel restrictions and curfews, body cavity searches, confiscation of belongings	Police	Combination of public and private	Indorama and Hamkorbank	Uncalculated Risks (pp 95 - 97)
Uzbekistan / COVID-19	Uzbekistan	COVID-19 response project	ADB, AIIB; World Bank	Harassment, physical attacks, detention, criminalization	Police, judiciary	Public	Uzbek government	Unhealthy Silence (pp 40 -42)