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UN FORUM SERIES – Follow the Money: Using development finance to hold corporations accountable

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Two weeks ago, at the United Nations' fourth Annual Forum on Business and Human Rights, multi-stakeholder groups discussed ongoing challenges and trends in implementing the UN Guiding Principles on Business and Human Rights (UNGPs). While the discussion around business and human rights has tended to focus primarily on States and the private sector, it is beginning to explore a critical area where these two entities increasingly converge – development finance.

Why development finance matters for business and human rights

A new factsheet from the Coalition for Human Rights in Development and the International Corporate Accountability Roundtable explores the myriad reasons why development finance matters for business and human rights. Here, we'll explore just a few.

First, if you follow the money behind a corporate activity, in many cases you'll find it leads to some form of development finance – official development assistance, national and multilateral development banks, or other Development Finance Institutions (DFIs).

Development finance to the private sector takes many shapes. Development banks provide direct loans and credit lines to corporations, and can even be equity investors in private businesses. Development banks are also increasingly lending through financial intermediaries like commercial banks and private equity funds, which then "lend-on" funds to their clients. More and more, States are relying on the private sector to meet their development objectives, including through public-private-partnerships for the provision of public services or infrastructure development.

Second, the projects financed by DFIs often raise significant potential for corporate human rights abuses.

Projects often take place in countries or contexts in which the rule of law and institutional capacity regarding human rights are weak. A lack of accountability and inadequate human rights due diligence standards within DFIs creates the potential for human rights abuses by corporate actors. The International Finance Institution's (IFC) corporate clients, for instance, have recently been linked to various human rights abuses – from forced evictions to killings.

Third, with robust due diligence, development finance can help to raise the bar for corporate conduct and prevent human rights abuses.

Civil society has made significant strides over the years in securing operational policies within DFIs, especially multilateral development banks. These standards place requirements on business activities, ranging from consultation with local communities and disclosure of project information, to protections for workers and indigenous peoples.

Fourth, DFIs can provide accountability avenues for those who have suffered human rights abuses as a result of corporate activities.

Communities challenging business activities financed by development banks may be able to file a case with a bank's independent accountability mechanism to secure redress or gain leverage in negotiations. Advocates have also successfully targeted DFIs as a strategy to gain increased media attention and political traction for a given human rights campaign.

Finally the policies and standards adopted by large financial institutions like the World Bank and the IFC often have an enormous ripple effect globally.

The World Bank's resettlement policy, for example, has been adopted by governments and used by communities as a model to demand better treatment in the absence of adequate national regulations. The IFC's Performance Standards on Environmental and Social Sustainability are globally recognized good practice and serve as the basis for the Equator Principles, which have been adopted by nearly 80 banks and financial institutions.

The World Bank presently is revising its entire suite of social and environmental policies. By taking advantage of opportunities to strengthen the human rights coherence of DFIs, business and human rights advocates can influence corporate conduct at a global level.

The Guiding Principles and development finance

The UNGPs apply to both the supply and demand side of development finance in a variety of ways. States' duties to respect and protect human rights, for example, apply to States' actions as recipients of development finance, as financiers, and as decision-makers within multilateral and domestic DFIs.

Principle 4 for instance, speaks to the duty of States to take additional measures to protect against human rights abuses by business enterprises that receive substantial support and services from State agencies, including by requiring human rights due diligence. Principle 8 declares that States should ensure that government agencies and State-based institutions that shape business practices are aware of and observe the State's human rights obligations. Principle 10 declares that when States act as members of multilateral institutions that deal with business related issues, they should ensure that those institutions do not restrain the ability of member States to meet their duty to protect or hinder the ability of business enterprises to respect human rights, and should encourage those institutions to promote business respect for human rights.

National Action Plans

The UN Human Rights Council has called on all Member States to implement the UNGPs through the development of National Action Plans (NAPs), and civil society in many countries is now using the NAPs process to strengthen national regulatory frameworks for corporations. NAPs, however, also present a valuable tool for strengthening the human rights coherence of development finance.

Of the States that have completed NAPs, the majority have addressed development finance or public financial institutions in some way. Finland committed to promoting human rights within international development organizations; Sweden will encourage multilateral institutions like the World Bank to promote corporate respect for human rights; and Spain will coordinate with international financial institutions to strengthen access to remedy.

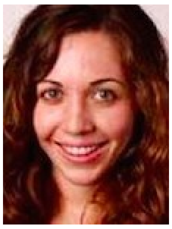
However, the potential for using NAPs to shape development finance is much greater still. As civil society organizations make recommendations for NAPs, many are including specific proposals toward this end. These include proposals that States mainstream human rights in the policies of the World Bank and other international financial institutions; ensure that international financial institutions have proper procedures and tools in place to guarantee effective remedies when abuses do occur; make certain that development banks providing credit or insurance follow the UNGPs; and require national development agencies' private sector partners to undertake human rights due diligence. The Coalition for Human Rights in Development has put together a discussion memo to provide examples and generate discussion around how NAPs can promote human rights due diligence within development banks and other public financial institutions.

A foundation for action

As development finance becomes more intertwined with the private sector, the business and human rights community can play a critical role in helping to define and strengthen human rights due diligence standards and practice within development finance. This work will involve campaigning and advocacy targeted at development finance institutions and at national governments. It will also require support for frontline communities engaged in defending their rights in the face of harmful development projects.

Working together we can reinforce our common human rights objectives and achieve greater success at holding corporations, States and DFIs accountable and ensuring that human rights are respected and protected.

Gretchen Gordon and Stephanie Mellini



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