**Questionnaire for International Financial Institutions by the**

**UN Special Rapporteur on the situation of human rights defenders**

**Mary Lawlor, September 2020**

The UN Special Rapporteur on the situation of human rights defenders, Ms. Mary Lawlor invites International Financial Institutions to respond to the questionnaire below. Submissions received will inform the thematic report of the Special Rapporteur on the issue of killings of human rights defenders, which will be presented to the UN Human Rights Council in March 2021.

The questionnaire and related concept cote on the report are available at OHCHR website in English (original language) as well as in French, Spanish, Russian and Arabic (unofficial translations): (<https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>).

All submissions received will be published in the aforementioned website, unless the submitter clearly indicated that they did not wish to have their input be made publicly available when submitting their response.

There is a word limit of 2500 words. Please submit the completed questionnaire to defenders@ohchr.org

Deadline for submissions: **5 October 2020**

**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional. (edited for public release)

|  |  |
| --- | --- |
| Type of Stakeholder (please select one) | [x]  International Financial Institution  |
| Name of Stakeholder Name of Survey Respondent | International Finance Corporation (IFC) |
| Email |  |
| Telephone |  |
| Address |  |
| Can we attribute responses to this questionnaire to your Business publicly? | [x]  Yes [ ]  NoComments (if any):  |

**Questions**

Human rights defenders are persons, who individually or in association with others, work peacefully to promote and protect universally recognized human rights and fundamental freedoms, in accordance with the UN Declaration on Human Rights Defenders.

**1. How do you verify that true Free, Prior and Informed Consent was given before you undertake an investment in large infrastructure (extractive mining, hydroelectric dams, agribusiness, etc.)?**

IFC’s Environmental and Social Performance Standard 7 on Indigenous Peoples outlines three specific circumstances where Free, Prior, and Informed Consent (FPIC) requirements apply. Conducting the FPIC process is the responsibility of the client and IFC verifies this process.

By IFC’s definition, FPIC is both a process that entails good faith negotiations and an outcome, if successful, resulting in an agreement and evidence thereof. IFC conducts in-depth review of the client’s process to determine whether FPIC has been achieved, prior to IFC Board approval for a given investment.

IFC typically employs a combination of in-country interviews/consultation with key stakeholders/IP groups and a review of documentation to verify that FPIC has been achieved as per Performance Standard 7 requirements. To this end, IFC’s review takes into consideration a range of factors, which may include: quality of the impact analysis and assessment; evidence of iterative engagement over a sufficient timeframe, including the provision of timely and culturally appropriate information; representativeness and legitimacy of decision-making structures; capacity of IP communities to negotiate; presence of a mutually accepted process that is inclusive and free from coercion; and evidence of community concerns reflected in project design, mitigation, and monitoring; among others. The FPIC agreements should confirm consent and capture the affected communities’ broad agreement on the legitimacy of the engagement process and the decisions made.

Performance Standard 7 and its accompanying Guidance Note provide further information on IFC’s application and requirements of the FPIC process and outcome.

**2. How do you assess risks that a project might generate violent conflict or social division prior to investing, and how do you evaluate threats and restrictions on public dissent and civic space at both the project and country-level? What early warning mechanism do you follow to detect and respond to threats against human rights defenders?**

Since 2017, IFC has introduced contextual risk screening for all projects to identify country level issues that may be outside the project’s control but may impact the client’s ability to meet the IFC Performance Standards. In 2019, IFC added to this approach and launched an internal pilot of the Contextual Risk Framework which provides a more systematic approach to screening, including integrating issues related to human rights and civil liberties. The Contextual Risk Framework also includes a dimension specifically focused on reprisals, based on enabling civic space, governance, security environment, and history of reprisals. Applying this framework to analyze the context as part of IFC’s environmental and social due diligence and risk screening, helps to identify high risk environments where project stakeholders may be at risk of retaliation or human security risks that could be caused or exacerbated by the project.

**3. How do communities affected by your clients' operations know about your institution's commitment to safeguard human rights defenders and provide access to remedy?**

In 2018 IFC published a Position Statement on Retaliation Against Civil Society and Project Stakeholders.[[1]](#footnote-1) In this public statement, IFC makes clear that civil society organizations and project-impacted stakeholders must be able to provide feedback, voice opposition, and raise concerns with our clients and with IFC when necessary to ensure that environmental and social impacts in IFC-financed projects are avoided, minimized, or mitigated and that the project achieves its intended development impact. IFC values the input and views of all stakeholders, and does not tolerate any action by an IFC client that amounts to retaliation – including threats, intimidation, harassment, or violence – against those who voice their opinion regarding the activities of IFC or our clients.

IFC Performance Standards require clients to establish project-level grievance mechanisms for affected communities and workers and to disclose these as part of their stakeholder engagement process. IFC’s role is to monitor the client’s implementation of Performance Standard requirements, including the effectiveness of stakeholder engagement and grievance mechanisms. In support of clients during the current pandemic, IFC has recently published a specific client tipsheet regarding reprisals during COVID-19.[[2]](#footnote-2) This advice flags areas of elevated risk and highlights additional prevention measures clients can undertake in high reprisal risk contexts, including publishing corporate position statements on non-retaliation, incorporating additional confidentiality steps in the grievance mechanism, and undertaking reprisal-sensitive stakeholder engagement.[[3]](#footnote-3)

**4. If a human rights defender(s) or their organization is threatened in connection with your client's operations, what steps do you take to help protect them? How do you determine whether a threat to a human rights defender is connected with your client's operations, and what connections are sufficient to cause you, as an investor, to intervene?**

IFC’s commitment is to take allegations of retaliation against project stakeholders by an IFC client seriously and to follow up with our client, and other relevant stakeholders, to gather information and take any action, as appropriate and within our role as lender/investor. This may vary based on the specific circumstances, including the nature, severity, and source of the threat; available evidence; and views of the concerned stakeholders. At minimum, IFC communicates its zero-tolerance position on reprisals to the client. However, experience shows that it is often difficult to determine the source of the threats or reprisals, and in many cases IFC’s client is not the source. Threats may also emanate from a range of other sources including public authorities, police or other public security forces, members of political parties, opposing labor unions, or local community members with opposing views and interests. IFC is currently in the process of developing reprisals advice for its staff and clients, including good practice protocols to safeguard confidentiality of complainants and promote their informed consent to avoid any unintended consequences of actions taken.

**5. Has your institution ever publicly condemned an act or threat of violence, criminalization, or death to a human rights defender speaking out about a client's activities and/or impacts? (Please share examples).**

IFC uses its public Position Statement on Retaliation Against Civil Society and Project Stakeholders as an important tool for communicating our expectations to clients. Additional actions by IFC and clients to help prevent or respond to acts or threats of retaliation are tailored to the specific situation.

**6. Could you please share good practices (evidence-based) that have proved effective to respond to death threats against defenders promoting and defending human rights from the adverse impact of your clients' Business operations? Please provide examples of your work with clients to ensure proactive actions to support and protect civic space and defenders**

As part of our ongoing learning and efforts to better assess, prevent, and respond to allegations of reprisals in IFC-financed investments, it has become clear that this is a very complex and difficult issue and one that requires a collective effort among stakeholders to address. Reprisals are rarely able to be addressed by a single actor. The most effective response is often one involving collaboration among multiple parties – including complainants, civil society organizations, governments, private sector companies, and international finance institutions. In our own efforts, the most effective examples have been where IFC has clearly communicated our position on retaliation against civil society and project stakeholders to our clients and worked in close collaboration with the CAO – our independent accountability mechanism – and the relevant civil society organization to exchange information and coordinate the approach on a case-by-case basis.

1. IFC Position Statement on Retaliation Against Civil Society and Project Stakeholders, October 2018 <https://www.ifc.org/wps/wcm/connect/ade6a8c3-12a7-43c7-b34e-f73e5ad6a5c8/EN_IFC_Reprisals_Statement_201810.pdf?MOD=AJPERES> [↑](#footnote-ref-1)
2. Tip Sheet for IFC Clients: Preventing Reprisals During Covid-19 Pandemic, June 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/7959fcf5-3b4d-4da5-a252-42cc5544281f/Tip%2BSheet_Reprisals_COVID19_June2020.pdf?MOD=AJPERES&CVID=naGtY29) [↑](#footnote-ref-2)
3. Tip Sheet For IFC Clients: Preventing Reprisals During Covid-19 Pandemic, June 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/7959fcf5-3b4d-4da5-a252-42cc5544281f/Tip%2BSheet_Reprisals_COVID19_June2020.pdf?MOD=AJPERES&CVID=naGtY29) [↑](#footnote-ref-3)