**Open call for input**

 **“Development Finance Institutions and Human Rights”**

**Background**

The Working Group on the issue of human rights and transnational corporations and other business enterprises (“Working Group”) will present a report to the Human Rights Council at its 53rd session in June 2023 on “Development Finance Institutions and Human Rights”, which will examine the responsibility of Development Finance Institutions (DFIs) to respect human rights in line with the UN Guiding Principles on Business and Human Rights (UNGPs).

In its stocktaking exercise of the implementation of the UNGPs over the first decade since their adoption, the Working Group recognized that ‘financial actors have an unparalleled ability to influence companies and scale up on the implementation of the Guiding Principles’.[[1]](#footnote-1) With ‘financial actors’ understood here to include public DFIs as well as private sector finance institutions that often co-finance with other commercial banks and investors, these actors are central to pushing forward the realization of the UNGPs 10+ Roadmap for the next decade of business and human rights.

Considering the sustained attention that multilateral DFIs have received over the years, this report will primarily focus instead on national, sub-regional and regional DFIs, the nature of their financing of both public and private sector projects, as well as the breadth and depth of their impacts on human rights and the natural environment. In so doing, the report aims to provide practical guidance to States, DFIs, and other relevant actors on how to strengthen protection and respect for human rights through DFI financing, in line with the UNGPs.

The report will cover all three pillars of the UNGPs in the context of Development Finance Institutions and Human Rights: the duty of States to protect against human rights abuses by businesses, including when formally (or informally) linked to Institutions that provide support and services to businesses, in line with Guiding Principles 4 and 10; the responsibility of DFIs to ensure that their clients and the companies they invest in, as well as other business partners and entities in the value chain, respect human rights; and the role of DFIs in providing access to remedy to individuals and communities affected by DFI-funded projects that result in adverse human rights impacts.

This report will build on work previously undertaken by the Working Group and other organisations, such as the Office of the High Commissioner for Human Rights (OHCHR) on DFIs,[[2]](#footnote-2) as well as on relevant Working Group’s previous reports addressing issues such as the State as an economic actor,[[3]](#footnote-3) the financial sector and human rights,[[4]](#footnote-4) human rights due diligence[[5]](#footnote-5), policy coherence, and access to remedy.[[6]](#footnote-6)

Against this backdrop, the Working Group seeks the input of all stakeholders (including international organisations, national human rights institutions, civil society organisations, research centres, academia, lawyers, law firms, DFIs, businesses, industry associations, trade unions, human rights defenders, and indigenous peoples) to the questions below.

**Submission of responses**

Please send your responses to the questionnaire in Word format by email to
hrc-wg-business@un.org, indicating “DFIs QUESTIONNAIRE” in the subject line.

We kindly request that your submission be concise and limited to a maximum of 2,500 words and welcome the inclusion of links to online documents. Due to a limited capacity for translation, we also request that your inputs be submitted in English, French, or Spanish.

The deadline for submission is **3 March 2023**.

Please feel free to respond to all or selected questions as per expertise, relevance or focus of work. A separate questionnaire has been sent to all Member States. Responses received will inform the above report of the Working Group.

Unless indicated otherwise, all the responses received will be posted on the Working Group’s [website](https://www.ohchr.org/en/special-procedures/wg-business#:~:text=The%20Working%20Group%20on%20the%20issue%20of%20human,of%20five%20independent%20experts%2C%20of%20balanced%20geographical%20representation.).

**Questions**

**State duty to protect human rights**

1. What should be the role of States in ensuring international Development Finance Institutions (DFIs) respect human rights and the environment? What challenges have you observed in this regard?

Many DFIs rely on national frameworks and implementing agencies to uphold labour safeguards. Building and Woodworkers’ Internationals have for years highlighted the risk of DFI reliance on national institutions such as labour inspectorates that lack the capacity (in the form of knowledge about the safeguards, personnel and resources in petrol etc to conduct regular monitoring missions and the mandate to enforce calls for remedy) or enforcement mechanisms to uphold the labour safeguards of the DFI. We hence believe that the DFI should take a larger role in securing HR within their project implementation or provide support to weak states to ensure that they have the capacity to actively monitor an implement HR standard.

1. How do States encourage development financing activities and policies to be consistent with international human rights standards and principles and ensure that human rights risk is integrated into the due diligence processes of DFIs?

Certain states that are shareholders in DFIs usually asks for safeguards to their investments. However, they are usually only engaged on a policy level or at the maximum on the point of project approval, but they do not engage in the protecting sense when it comes to taking an active role in implementing and monitoring HR on a project level.

1. How can States harness the potential of DFIs to accomplish important policy objectives such as achieving gender equality, protecting human rights and the environment, mitigating climate change and realising the Sustainable Development Goals? Please provide examples if possible.

As a loan-taking state to ensure that the project does not just provide, for example, infrastructure, but also provides decent working and capacity-building opportunities for its population.

1. How can/should States engage with DFIs, private businesses, investors, civil society, rights-holders, and trade unions to prevent and address adverse human rights impacts caused by irresponsible development financing practices?

For shareholding states, it is important that they pressure DFI regarding effective implementation of labour safeguards in project implementations, including pushing for trade unions' access to project sites and being a part of the monitoring of the implementation of labour safeguards.

1. What are the specific human rights risks posed by DFIs to groups in the most vulnerable situations, such as women and girls, indigenous communities, human rights defenders, persons with disabilities, persons with different sexual orientation or gender identity, older persons, persons living in poverty or migrant workers?

For migrant workers and informal workers, there is a great risks to be exploited within DFI managed projects. This includes exploitative labour conditions, including forced labour, lack of access to occupational health and safety and no access to implementing their right to organise.

1. What measures should States take to ensure access to an effective remedy when DFI-supported projects are associated with adverse impacts on individuals, communities, and the environment?

States should push for more effective complaint mechanisms. At this moment, it takes more than three years to reach a report after an ombudsman's complaint through the IFC. This leads within most construction projects that the project will be finished before the finalisation of the complaint process. This means that most workers will have been enduring the abuse of their rights until the end of the project finalisation and then have left the area and cannot access any remedy.

**DFIs’ responsibility to respect human rights**

1. Are you aware of any DFIs that have existing human rights, sustainability, or environmental and social (E&S) policies? If so, how effectively do they integrate a commitment to respect human rights, as per the UNGPs?

Yes for ADB, AFDB, EIB, EBRD, IADB and WB. They have all good commitments but there is limited implementation of due diligence, monitoring and remedy.

1. Can you provide examples of any DFIs that integrate human rights due diligence (HRDD) policies and processes into their risk management system for projects?
2. In your view, what are the main challenges and opportunities for DFIs to ensure the inclusion of human rights requirements in projects and to enforce the responsibility to respect human rights among clients?

The reliance on national frameworks and institutions. The lack of willingness to intervene in clients' projects. They need to ensure labour and monitoring clauses in their loan agreements and ensure multistakeholder inclusion in inspections, such as trade unions.

1. What do you perceive to be the key similarities and differences, if any, in the human rights-related conduct of multilateral, regional, sub-regional, and national DFIs?

National seem to have greater freedom to monitor the project implementation. Regional are more willing to cooperate with stekholders such as the trade unions. The worldbank is scared of any implementation of HR monitoring.

1. Can you provide insight into how and to what extent DFIs practice human rights due diligence (HRDD) or environmental and human rights impact assessment prior to, as well as during and after, their investments?

They use external consultants to a great extent that so not have the mandate to do appropriate assessments. The DFIs also often misuse lack of findings from consultants as a prof of no infringements of HR.

Almost no DFIs do effective due diligence when it comes to labour risks before the project implementation. They instead have a standard formulation about workforce influx impact on the local community as the standard risks in all ESIA reports, but no labour management plans made with inputs from Trade unions or others with an insight on the risks in the particular sector and region.

1. How can the above-mentioned processes ensure meaningful participation of impacted communities, particularly marginalised groups and individuals in the most vulnerable situations?

Through the involvement of trade unions.

1. In your view, to what extent do DFIs impose human rights requirements on clients as a condition of financing? And are you aware of any DFI that provides technical assistance or other support to help clients become more sustainable and compliant with the UNGPs?

EBRD is the only DFI that provides effective technical assistance on Occupational Health and safety technical assistance. The others seem to have it as a clause but do not use it as leverage to ensure implementation.

1. What are the specific human rights risks posed by DFI-related financing practices to groups in the most vulnerable situations, such as women and girls, indigenous communities, human rights defenders, persons with disabilities, persons with different sexual orientations or gender identity, older persons, persons living in poverty or migrant workers?
* Health and safety risks,
* Child labour,
* Forced labour
* Lack of other fundamental rights.
1. To what extent do DFI associations that you are aware of address human rights and sustainability issues?

They are but are very defensive about it.

**Access to remedy**

1. Are you aware of any cases submitted to judicial and/or non-judicial mechanisms (e.g., NHRIs, NCPs, etc.) regarding human rights abuses involving DFIs?

We have used internal complaint mechanisms such as the OSH. And have made ILO complaints regarding labour conditions at a IFC funded project in Pakistan.

1. What is your experience engaging with avenues available to victims to bring complaints, including through grievance mechanisms, to hold DFIs accountable for human rights abuses linked to investment-related projects?

Terrible, our latest complaints to the ombudsman have all taken more than 3 years. And the final assessment have not been issued before the ending of the project.

1. What measures and/or mechanisms exist to ensure access to effective remedy when DFI-supported projects are associated with adverse impacts on communities and the environment? What measures and/or mechanisms *should* be in place?

Remedy mechanisms are lacking. There need to be an budget line in each project budget that is withhold as a security for remedy, this should be able to be used both for making remedial actions such as trainings and compensation.

1. Are you aware of any operational-level grievance mechanisms established by DFIs to address human rights concerns related to their investment? If so, are these mechanisms effective in terms of process and remedial outcomes?
2. What are the most significant challenges observed with regard to ensuring access to effective remedy for victims of human rights abuses affected by DFI-funded projects?

The timeline of the complaints processes makes it almost impossible to provide a remedy to victims of rights abuses.

**Good practices and other comments**

1. Are there any good practice examples regarding the integration of human rights issues in the activities, operations and policies of DFIs that you would like to share with the Working Group?

Yes find our study on labour rights abuses in IFI funded projects from 2018 attached.

Any other comments or suggestions about the forthcoming report are also welcome.

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1. [A/HRC/47/39](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/093/82/PDF/G2109382.pdf?OpenElement), ‘Guiding Principles on Business and Human Rights at 10: taking stock of the first decade’, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, pp.15-16. [↑](#footnote-ref-1)
2. <https://www.ohchr.org/en/development/development-finance-institutions>; <https://www.ohchr.org/en/publications/policy-and-methodological-publications/remedy-development-finance> [↑](#footnote-ref-2)
3. https://www.ohchr.org/en/special-procedures/wg-business/state-economic-actor-and-human-rights [↑](#footnote-ref-3)
4. https://www.ohchr.org/en/special-procedures/wg-business/financial-sector-and-human-rights [↑](#footnote-ref-4)
5. https://www.ohchr.org/en/special-procedures/wg-business/corporate-human-rights-due-diligence-identifying-and-leveraging-emerging-practices [↑](#footnote-ref-5)
6. https://www.ohchr.org/en/special-procedures/wg-business/access-remedy [↑](#footnote-ref-6)