**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.).

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**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?**

Our experience in Pakistan informs that while the State devises national action plans it seldom, if at all, takes broader stakeholders nor wider consultations. The DFIs do not pay attention to the State agenda while preparing their country strategies. Hence State’s vision does not become part of the strategic policies of DFIs. Neither does it translates at their portfolio or transaction level in Pakistan.

Pakistan’s national action plan on business and human rights does not cover environment. The Plan has not provided any guidelines for DFIs on environmental considerations esp. for project financing. In its absence, DFIs adhere to the conventional approach of conducting environmental impact assessment (EIA) which has seen to have very limited impact.

At the institutional level, the State does not have the capacity to integrate UNGPs Guidelines into relevant departments of the DFIs like labour/employment etc. With these capacity issues, incorporating UNGP guidelines and action plans into the monitoring frameworks is adhered only on paper. Indeed, DFIs do not capacitate state institutions on UNGPs guidelines for instance minimum wages is far behind than the living wage in Pakistan, third party contracts of employees in all formal sectors of the economy is clearly against the UNGPs guidelines. Employees are vulnerable in the hands of such inhumane legislation done by the State and DFIs do not project these issues at global scale to prevent similar practices elsewhere. Furthermore, human rights due diligence is not part of the businesses and not incorporate any state institutions at policy and regulation level. (energy projects esp. in Punjab, Pakistan).

A very significant observation in this regard are the coal-fired power plants in Pakistan and their impact on environment, human displacement. Most of these projects have deprived local populations from clean drinking water and continues to harm human health and ecology. Sadly, the State continues to ignore the plight of its citizens for foreign direct investments to meet the energy crises in the country. Further examples can be shared as a reference.

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?**

The State can use UNGP as a leverage to broadly set a framework to incorporate conventions and treaties which are ratified for DFIs assistance to finance projects in countries like Pakistan.

Due diligence processes in Pakistan for project financing do not take all stakeholder on board. In cases where they are followed, due to weakness of state institutions, consultations with the stakeholders are not taken seriously. These observations are valid particularly for infrastructure and energy projects (for instance LNG at Port Qasim, Karachi).

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.**

The State must take the private sector and market mechanisms on board to harness DFIs’ role to achieve Sustainable Development Goals (SDGs). Currently, for example, tax break and concessional loans for renewable energy projects in Pakistan are for limited time. Their scrutiny measures are very strict that allow to enter only elite businesses to enter. This hinders inclusive development for SMEs.

Second example: DFIs’ strict guidelines weaken leverages for private sector. For instance, air quality monitoring equipment that are provided by DFIs in Pakistan cannot function after their funding lifts off as the under-resourced State is unable to finance the operational and maintenance budgets. The State also lacks the human capacity to operate the equipment. DFIs strict guidelines blocks the private sector to partner. (World Bank).

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?**

The civil society in Pakistan is not engaged by the State neither by the DFIs for broader consultation. Our observations are if such consultations do take place, they do not lead to any conclusions neither do they provide feedback or engage furthermore on social impact of the projects. The State can be instrumental for developing the framework for civil society, rights holders and trade unions to document and present the case to the DIFs on the impact of project financing from the lens of human and environmental risks and threats.

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?**

NA

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?**

The State should develop, with support from DFIs, a broader framework into the justice system of the country.

**DFIs’ responsibility to respect human rights**

For instance, Pakistan Stock Exchange commits that it will ensure that the listed companies finance SDGs to meet the NDCs. It is a way of respecting the human rights and also contributing to just and equitable society in Pakistan. But PSX does not report on this aspect. Our observation tells us that DFIs also engage with PSX does not have positive influence while achieving these NDCs with respect to SDGs.

Very keen observation here is that IFIs in November 2022 developed the E&S standards for commercial banks in Pakistan in collaboration with the State Bank of Pakistan. These standards do not include human rights and over 54 chambers of commerce and industry in Pakistan collectively demand to incorporate the human rights standards into their E& S standards. While developing these standards, not a single consultation was held with private sector nor engaged the civil society of Pakistan.

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, we are aware. However, those policies do not fully adhere to UNGPs guidelines. Examples can be shared.

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?**

No, we have not seen any policies or processes by DFIs on these subjects.

1. **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?**

Challenges:

1. For majority of DFIs, esp. when they operate in developing countries like Pakistan, their only objective is how they can get the best ROI from their investments and not meeting the government’s demand on the financial considerations.

Non-financial areas such as human rights, environment and social standard are not at priority areas for DFIs. For example, energy projects in Pakistan completely ignore air quality standards (Pakistan has worse air pollution and poor air quality in the world, no DFIs nor any national institution has a clean air policy as a priority. 128,000 annual premature deaths take place in Pakistan and an exponential rise in disease burden reported by the tertiary care units). DFIs strategic positions completely compromise local populations’ right to life and in the absence of grievance mechanisms, make them more vulnerable.

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?**

NA

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?**

NA

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

NA

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?**

NA

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 orientation or gender identity, older persons, persons living in poverty or migrant workers?**

NA

1. **To what extent do DFI associations that you are aware of address human rights and sustainability issues?**
* The Association of European Development Finance Institutions (EDFI) has established an Environmental and Social Committee to oversee the implementation of environmental and social policies across its members, and to support the development of best practices in these areas. EDFI has also established a Gender Finance Task Force to promote gender equality and women's empowerment in development finance.
* Similarly, the International Development Finance Club (IDFC), which brings together 26 of the world's largest national, regional, and multilateral DFIs, has developed a Sustainability Framework that includes a commitment to respect human rights and to conduct effective social and environmental due diligence.
* The African Development Bank (AfDB), which is a regional DFI, has also developed a number of policies and initiatives aimed at promoting sustainable development and human rights across the continent, including a Safeguard and Compliance Division that is responsible for ensuring compliance with the bank's environmental and social policies.

But there is still work to be done to ensure that DFI associations effectively address human rights and sustainability issues.

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?**

NA

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?**

NA

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?**

NA

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?**

NA

1. **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?**

**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?**

NA

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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)